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Teaching the Law of Nature and Nations in the Swiss Context

Simone Zurbuchen

Thanks to the pioneering studies of Philippe Meylan and Bernard Gagnebin¹, the importance of the Academies of Lausanne and Geneva for the teaching of the law of nature and nations as well the propagation of natural jurisprudence in the French language in the eighteenth century has long been recognized². In 1976 Alfred Dufour coined the term *école romande du droit naturel*, usually translated into English as ‘Swiss school of natural law’, when accounting for “the continuity, the scale and the unity of the literary production and of the underlying teaching” that was achieved by “the focus on translation, commentary, compilation and popularization [...] of the main works of the representatives of the German school of modern natural law”³. Dufour identified three characteristic features of the *école romande*: first, the French language; second, the influence of reformed Christianity; and third, its receptiveness to major currents of European philosophy⁴. Among the key figures of the *école romande* mentioned by Dufour, only two taught natural law, namely Jean Barbeyrac in Lausanne (1711-1717) and Jean-Jacques Burlamaqui in Geneva (1723-1739). Louis Bourguet, Fortuné-Barthélemy de Félice and Emer de Vattel contributed in various ways to the literary production of the Swiss school⁵. Besides Barbeyrac’s translations of Pufendorf, Grotius and Cumberland, and Burlamaqui’s courses on natural law, the most important publication is no doubt Vattel’s *Le droit des gens* (1758), which heavily relies on Christian Wolff’s writings on the law of nature and nations⁶. Although Jean-Jacques Rousseau cannot be included in the *école romande*, since he adopted a highly critical stance against modern natural law, his *Discourse*

¹ Philippe MEYLAN, *Jean Barbeyrac (1674-1744) et les débuts de l’enseignement du droit dans l’ancienne Académie de Lausanne. Contribution à l’histoire du droit naturel*, Lausanne : F. Rouge & Cie S.A., Librairie de l’Université, 1937; Bernard GAGNEBIN, *Burlamaqui et le droit naturel*, Genève : éd. de la Frégate, 1944.

² One should, however, not forget that natural law was also taught in the French language at the Law Faculty of the University of Strasbourg. See Marcel THOMANN, “Theorie und Praxis der ‘Menschenrechte’ an der Rechtsfakultät Strassburg im 18. Jahrhundert”, in Gottfried Baumgärtel et alii (ed.), *Festschrift für Heinz Hübner zum 70. Geburtstag am 7. November 1984*, Berlin : Walter de Gruyter, 1984, p. 313-324, and, more recently, Olivier JOUANJAN (ed.), *Bicentenaire de l’Université de Strasbourg, Annales de la Faculté de Droit de Strasbourg* 9, Strasbourg : PUS, 2008.

³ Alfred DUFOUR, *Le mariage dans l’école romande du droit naturel au XVIII^e siècle*, Genève : Georg & Cie S.A., Librairie de l’Université, 1976, p. 9 (my translation). See also Simone ZURBUCHEN, “§11. Das Naturrecht in der französischen Schweiz”, in Johannes Rohbeck and Helmut Holzhey (ed.), *Grundriss der Geschichte der Philosophie. Die Philosophie des 18. Jahrhunderts*, vol. 2 : *Frankreich*, Basel : Schwabe, 2008, p. 182-203, 210-212, and eadem, “Das Prinzip des Naturrechts in der *école romande du droit naturel*”, *Jahrbuch für Recht und Ethik* 12, 2004, p. 189-211.

⁴ DUFOUR 1976, p. 9-35.

⁵ On Bourguet see Sophie BISSET, “Exploring the parameters of the *école romande du droit naturel* in the *Journal helvétique*: the case of Louis Bourguet’s ‘Four letters on Leibniz’”, in Séverine Huguenin and Timothée Léchet (ed.), *Lectures du ‘Journal helvétique’, 1732-1782*, Genève : Slatkine, 2016, p. 315-328. De Félice notably published a new, enlarged and commented edition of Burlamaqui’s courses on natural law : *Principes du droit de la nature et des gens*, Yverdon, 1766-1768, 8 vol. For further information see Jean-Daniel CANDAU, “Fortunato Bartolomeo de Felice”, in *Historisches Lexikon der Schweiz (HLS)*, with further references, url : <http://www.hls-dhs-dss.ch/textes/d/D27679.php>, accessed 08.08.2016, and Simone ZURBUCHEN, “Das Naturrecht in der *Encyclopédie d’Yverdon*”, in Jean-Daniel Candau et alii (ed.), *L’Encyclopédie d’Yverdon et sa résonance européenne. Contextes – contenus – continuités*, Genève : Slatkine, 2005, p. 191-215.

⁶ Emer de VATTEL, *Le droit des gens, ou Principes de la loi naturelle, appliqués à la conduite et aux affaires des Nations et des Souverains*, Londres [i.e. Neuchâtel], [Abraham Droz], 1758. See Emmanuelle JOUANNET, *Emer de Vattel et l’émergence doctrinale du droit international classique*, Paris : A. Pedone, 1998.

on *Inequality* (1755) and his *Social Contract* (1762) certainly deserve to be mentioned⁷, as do Louis de Jaucourt's numerous contributions to the *Encyclopédie* of Diderot and d'Alembert⁸, as further illustration of the importance the Swiss school attained beyond a narrow circle of teachers, translators, commentators and popularizers.

Except in the context of the *école romande*, natural law as an academic discipline in Switzerland has never been studied in its own right. This paper sums up the available research results and provides an overview intended as basis for further research. More detailed information is available on the website *Lumières.Lausanne*⁹. In order to keep the material manageable, I will confine my present study to the period up to the Helvetic Revolution, and I will include only information related to the teaching of law, mainly the law of nature and nations. It deserves, however, to be mentioned that at some of the Swiss schools the teaching of natural law continued into the nineteenth century, in Lausanne even up to the very end of the century.

Before I get to the main topic, let us have a quick look at the educational institutions in the old Helvetic confederation and in the allied republic of Geneva. Five out of the ten Swiss universities that exist today originated in the fifteenth and sixteenth centuries. In Basel, a university (with four faculties) was founded in 1460. Zurich, Berne, Lausanne and Geneva established, at the time of the Reformation, high schools for educating theologians. This type of school, which was later imitated in France (schools of Huguenots) and in Germany (reformed high schools), built on the Latin school (*Lateinschule, collège*) and introduced students to the study of theology via the teaching of the disciplines of the traditional arts faculty. In Berne, Lausanne and Geneva, the schools were called 'Academies', whereas the one in Zurich was called 'Collegium carolinum' or simply 'Carolinum', since it was reputedly founded by Charles the Great¹⁰. In the century of the Reformation, these institutions were integrated into the broader academic world thanks to the appointment of professors from abroad and partly also to the reception of a considerable number of students from Germany, France and the Netherlands. Despite modest reforms and the creation of new chairs for natural sciences, history or law in the seventeenth and eighteenth centuries, higher education in the Swiss context became provincial. Professors were mainly recruited among the local elite. In response to the demand for proper education for future politicians, Berne established in 1787 the Political Institute, which was conceived after the model of the German *Ritterakademie*¹¹. It was, however, closed down in the wake of the invasion of Napoleon's army in 1798¹². A similar institute was founded in Zurich in 1806. It survived until 1833, when the University was founded. In Berne, the old Academy was newly founded as the University in 1834. The Universities of Geneva and Lausanne date from 1873 and 1890. Despite far-reaching reform initiated at the time of the

⁷ On Rousseau and modern natural law see Robert DERATHE, *Jean-Jacques Rousseau et la science politique de son temps*, Paris : J. Vrin, 1979, and, more recently, Gabriella SILVESTRINI, "Rousseau, Pufendorf and the eighteenth-century natural law tradition", *History of European Ideas* 36, 2010, p. 280-301.

⁸ See Simone ZURBUCHEN, "Jaucourt, Republicanism, and Toleration", in John Christian Laursen (ed.), *New Essays on the Political Thought of the Huguenots of the Refuge*, Leiden : Brill, 1995, p. 155-169.

⁹ Projet "Le droit naturel en Suisse (1625-1850)", Université de Lausanne, url: <http://lumieres.unil.ch/projets/droit-naturel>, version du 20.08.2018.

¹⁰ Ulrich IM HOF, "Die reformierten Hohen Schulen und ihre schweizerischen Stadtstaaten", in Erich Maschke and Jürgen Sydow (ed.), *Stadt und Universität im Mittelalter und in der frühen Neuzeit*, Sigmaringen : Jan Thorbecke Verlag, 1977, p. 53-70.

¹¹ On this kind of institution, see Katharina BEIERGROESSLEIN and Iris von DORN, "Natural Law for the Nobility? The Law of Nature and Nations at the Erlangen *Ritterakademie* (1701-1741)", in Simone Zurbuchen (ed.), *The Law of Nations and Natural Law 1625-1800*, Leiden : Brill, forthcoming.

¹² See Ferdinand ELSENER, *Die Schweizer Rechtsschulen vom 16. bis 19. Jahrhundert unter besonderer Berücksichtigung des Privatrechts*, Zürich : Schulthess, 1975, p. 60-68.

Helvetic Revolution, the idea to found a national university or to institute a decentralized system of national schools was never realized¹³.

With regard to the teaching of law, the University of Basel and the Academy of Geneva are the most interesting cases, since both institutions were well-known centres of humanistic learning in the sixteenth century¹⁴. The Academy of Geneva is the only one of the theological schools where law had been taught more or less permanently since the Reformation. In Lausanne, Berne and Zurich jurisprudence was introduced only when the law of nature and nations had become prominent. In this context, the law school founded in 1763 in the Catholic canton of Fribourg deserves to be mentioned, as it introduced courses on natural law, partly based on Protestant sources¹⁵. The law school constituted one of the pillars of the University of Fribourg when it was founded in 1889.

Berne, Zurich and Basel

I begin the overview with the Academy of Berne, where the first law professor was appointed in 1679, no doubt with the intention to introduce the study of jurisprudence to future rulers of the republic of Berne, whose education was officially entrusted to the Academy in the school regulations (*Schulordnung*) of 1616. This professor was Johann Caspar Seelmatter (1644-1715), who had studied theology in Berne and later served as honorary professor of the law of nature and nations at Leiden University. In Berne, he taught *jus naturae*, *jus gentium* and *jus publicum* until 1686. Seelmatter is most likely the author of the "Summary instruction on what a patrician, or politician in Berne needs to know"¹⁶, originally attributed to Samuel Frisching (1638-1721), whose father was in possession of the manuscript. Although very brief, the instruction is interesting in that it explains that natural and civil law have to be taught to prepare the politician for administering justice and pronouncing judgement, while public law and politics have to be taught to instruct him how to rule, and the law of nations has to be taught to enable him to negotiate with other nations in affairs of peace and war¹⁷.

After Seelmatter's departure, the teaching of law was interrupted until 1709, when the councils and burghers of the republic of Berne decided to create a chair of jurisprudence¹⁸. Johann Rudolf von Waldkirch from Basel was appointed to the chair in 1718, to return to his home town only four years later, probably because he had very few students in Berne and got a more attractive position at the law faculty in Basel. Nothing is known about his teaching in Berne, but I will have more to say about Waldkirch in the context of his professorship in Basel. On occasion of Waldkirch's departure, the school council launched a discussion about the proper organization of the law curriculum, with the aim of attracting a sufficient number of students by combining the teaching of Justinian's Institutes, i.e., civil law, with study of the statute of the city of Berne, with *historia patriae* and with *jus publicum helveticum*. The council also thought about introducing a doctorate degree. The Bernese government rejected, however, the proposal of a two-year curriculum and opted for a one-year course for the teaching of the

¹³ Sebastian BRÄNDLI-TRAFFÉLET, "Vom scheinbaren Zwiespalt des Realismus und Humanismus : zur Modernisierung der höheren Bildung in der Schweiz", *Traverse : Zeitschrift für Geschichte* 9, 2002, p. 15-28, here p. 15-21.

¹⁴ For Basel see Andreas STAEHELIN, *Geschichte der Universität Basel 1632-1813*, Basel : Helbing & Lichtenhahn, 1957, p. 302-305. For Geneva see Charles BERGEAUD, *Histoire de l'Université de Genève : l'Académie de Calvin 1559-1798*, Genève : Georg & Cie, Libraires de l'Université, 1900, p. 87-93, 277-312.

¹⁵ See below, "Fribourg".

¹⁶ "Summarische Anweisung dessen so einem Patrici oder Politico zu Bern sonderlich zu wüssen nöthig", reproduced in *Berner Zeitschrift für Geschichte und Heimatkunde* 13, 1951, p. 53-54.

¹⁷ Barbara BRAUN-BUCHER, *Der Berner Schultheiss Samuel Frisching 1605-1683. Schrifttum, Bildung, Verfassung und Politik des 17. Jahrhunderts auf Grund einer Biographie*, Bern, 1991, p. 124-154.

¹⁸ I refer here and in the rest of this paragraph to ELSENER 1975, p. 34-60.

Institutes and of Pufendorf's *De officio hominis et civis*. In 1723, Niklaus Bernoulli (the son of the famous mathematician Johann Bernoulli) was appointed, but he left only two years later.

Again, the government rejected the recommendation of the school council, this time to create two chairs of jurisprudence. The law professor was instructed to give public lessons on *jus civile* and private ones on *jus naturale* during the first year, and the second year the other way round. Moreover, public disputations had to be organized once a month. From 1726 to 1748 the chair of jurisprudence was held by Gottlieb Jenner¹⁹, and from 1748 to 1763 by Sigmund Ludwig Lerber, who, although he did not hold any academic degree, was chosen out of more than ten candidates – among them B at-Philippe Vicat, a jurist from Lausanne, who had obtained his doctorate degree at the University of Basel²⁰. Lerber started his course in 1748 with the *Praelectio de fontibus iuris patrii*²¹. He later participated in the prize competition organized by the Academy of Dijon in 1754, on occasion of which Rousseau wrote the *Discourse on Inequality*. In contradistinction to the latter, Lerber argued that natural law authorized inequality as a divine institution²². Later law professors were Daniel von Fellenberg (appointed 1763), the author of an important book on the principles of legislation²³, Karl Ludwig Salomon Tscherner (appointed 1777)²⁴ and Gottlieb Walther (appointed in 1778 to teach civil law and the history of Bernese law). As mentioned above, the Political Institute for the education of young patricians was founded in 1787. While jurisprudence was part of the curriculum until 1792, the law of nature and nations was not included²⁵. In sum, with the exception of Seelmatter's "Summary instruction", we have little knowledge about the teaching of natural law at the Academy of Berne. The most talented Bernese intellectuals were more interested in the science of legislation²⁶. The relationship between the principles of this science and modern natural law no doubt deserves closer examination.

As in Berne, the law of nature and nations became prominent in Zurich in the last decades of the seventeenth century. From 1689 onwards, Johann Heinrich Schweizer, pastor and professor of Greek at the local school, taught a private course on Grotius' *De iure belli ac pacis* on the basis of the compendium he wrote of this work²⁷. The latter was published in three Latin versions (two in 1689 and

¹⁹ Jenner obtained his doctorate degree at the University of Leiden under Johann Ortwin Westenberg. See Gottlieb JENNER, *Dissertatio juridica inauguralis de acquisitione bellica*, Lugduni Batavorum : apud Samuele Luchtmans, 1725.

²⁰ B at-Philippe VICAT, *Dissertatio iuridica inauguralis de postulando seu de advocatis*, Basileae : typis Friderici Ludovici Meyeri, 1737. The probatory lecture he presented at the Academy of Berne has also been published : *Praelectio de successione testamentaria ex jure naturali, civili & statuario*, Bernae : ex Officina Typogr. Illustriss. Reip. Bernensis, 1748. Yet another candidate for the post was Carl Emanuel ROSSELET, who defended in 1740 the dissertation *De legibus civilibus in genere, exhibens earum naturam & indolem, introductionem, & necessitate* under the presidency of Gottlieb Jenner. Jenner also presided over Joseph Fran ois Burnand's dissertation, *Dissertatio iuridica, de vi private, licita ac prohibita*, Bernae : ex Officina Typogr. Illustr. Reipubl. Bernensis, 1732.

²¹ Sigmund Ludwig LERBER, *De fontibus iuris patria*, edition secunda, Lipsiae & Bernae : apud Societatem Typographicam, 1795.

²² Lerber's discourse has been reprinted in Roger TISSERAND (ed.), *Les concurrents de J.-J. Rousseau   l'Acad mie de Dijon pour le prix de 1754*, Vesoul : Imprimerie nouvelle, 1936, p. 47-62. His name was registered as 'M. Lerbert, professeur en droit   Berne'.

²³ Daniel von FELLEBERG, *Entwurf der allgemeinen Grunds tze der Gesetzgebung*, Frankfurt & Leipzig : [s.n.], 1777. As founder of the Patriotic Society and a member of both the famous Economic Society of Berne and the Helvetic Society, Fellenberg played an important role in the intellectual life of Berne.

²⁴ One of Tscherner's important publications is his book on justice and torture : *Abhandlung  ber die Frage : Beleidiget die Peinigung die Gerechtigkeit? und f hret sie zu dem Endzweck, auf den die Gesetze zielen?*, Bern : B. F. Fischer, 1785.

²⁵ On the Political Institute see ELSENER 1975, p. 60-68. The main innovation at this institute was the reception of Kant's philosophy via the teachings of Johannes Ith and Philipp Albert Stapfer. See Martin BONDELI, *Kantianismus und Fichteanismus in Bern. Zur philosophischen Geistesgeschichte der Helvetik sowie zur Entstehung des nachkantischen Idealismus*, Basel : Schwabe, 2001.

²⁶ Besides Fellenberg's *Entwurf*, see on the same subject also Georg Ludwig SCHMID VON AUENSTEIN, *Principes de la l gislation universelle*, Amsterdam : Marc-Michel Rey, 1776, 2 vol.

²⁷ On the content and significance of the compendium, see Claudio SOLIVA, "Der kleine Grotius von Z rich. Zum Studienbuch des Johann Heinrich Schweizer  ber des Hugo Grotius *De Jure Belli ac Pacis*", in Louis Carlen and Friedrich Ebel (ed.), *Festschrift f r Ferdinand Elsener zum 65. Geburtstag*, Sigmaringen : Jan Thorbecke, 1977, p. 233-243. Schweizer also wrote a compendium of natural philosophy, *Compendium physicae Aristotelico-Cartesianae, in usum tironum methodo erotemata adornatum, cui praefigitur breve & succinctum philosophiae theoreticae theatrum*, first published in Amsterdam in 1685, and the same year also in Basel under a slightly different title. Although the title suggests otherwise, it was a defense of Cartesian natural philosophy. Its

the third in 1694) and later translated into German in 1718²⁸. This publication needs to be seen in close connection with the discussions organized by the three learned societies, or *collegia privata*, which existed in Zurich from 1679 to 1709 and are acknowledged today as the very first such German-language bodies. The foundation of these *collegia* was to some extent indebted to the many activities of two orthodox but open-minded and highly cultivated professors at the Carolinum, Johann Heinrich Hottinger and Johann Heinrich Heidegger, who can both be seen as early transmitters of Grotius' *De jure belli ac pacis* to the German-speaking world. The latter introduced at the Carolinum courses for *civilium artium studiosi* and presided over two disputations on themes related to the law of nature and nations²⁹.

While Schweizer's compendium was rejected as a manual (the first Swiss one) for legal training at the public school³⁰, the Carolinum, the law of nature and nations as well as public law played an important role in the discussions organized by the *collegia privata*³¹. The most prolific contributor to debates about natural law was Johann Caspar Escher (1678-1762), who in 1696-1697 studied the works of Grotius and Pufendorf with Gerard de Vries (1648-1705) at Utrecht University, where he also defended his dissertation *Exercitatio politica de libertate populi*³². Despite the initiative taken by Escher in the early eighteenth century to profoundly reform the Zurich school system and the curriculum, as well as similar later projects, only modest changes were introduced in 1716, in 1724 and again in 1775. The main innovations concerned the teaching of natural sciences, of mathematics and of Swiss history. According to the public curriculum established in 1724 for politicians (in contradistinction to theologians), the law of nature and nations (on the basis of Pufendorf's *De officio*) had to be taught by the professor of ethics, who was then Johann Jakob Ulrich, and only one hour per week was allocated. The reform plan of 1775 granted two hours for the teaching of natural law, in the philosophy class. Besides Schweizer's compendium, no valuable sources on the teaching of natural law in Zurich are known³³.

Since the University of Basel had a faculty of law with a long pedigree, and where it was of course possible for students to obtain a doctorate degree, one might expect that natural jurisprudence became much more important there than in the theology schools at Berne and Zurich. While this seems indeed to be the case, the law faculty in fact lost much of its attraction after the beginning of the eighteenth

publication in Zurich was prohibited by the board of censors. See Hanspeter MARTI, "Aristoteles und Descartes. Orthodoxie und Vorurteilskritik am Beispiel des Physiklehrbuchs des Zürcher Professors Johann Heinrich Schweizer (1646-1705)", in Hanspeter Marti and Karin Marti-Weissenbach (ed.), *Reformierte Orthodoxie und Aufklärung. Die Zürcher Hohe Schule im 17. und 18. Jahrhundert*, Wien : Böhlau, 2012, p. 147-163.

²⁸ Johann Heinrich SCHWEIZER, *Hugonis Grotii Jus belli et pacis, in Compendio Institutioni Scholasticae aptatum & subinde casigatum*, Francofurti : apud Johannem Davidem Zunnerum, 1689 ; *Idem*, Tyguri : [s.n.], 1689 ; *Jus naturae et gentium, ex Hugonis Grotii nobili, de bello et pace, Opere, methodo erotematica, in usum studiosae pubis, traditum*, Tiguri : Davidis Gessneri, 1694 ; *Hugo Grotius Vom Kriegs- und Fridens-Recht In welchem Das Recht der Natur und der Völcker vorgestellt : und Zugleich der Haupt-Grund zum Civil- Stadt- und Erb-Recht einer Republik oder Staats geleyet wird*, Zürich : Gessnerische Truckerey, 1718.

²⁹ Christoph WERDMÜLLER, *Quaestiones politicae de imperio et subjection*, Tiguri : typis Michaelis Schaufelbergeri, 1667 ; Johann Rudolf HOFMEISTER, *Disputatio politica de justificis belli causis*, Tiguri : typis Davidis Gessneri, 1671 ; see Michael KEMPE, Thomas MAISSEN, *Die Collegia der Insulaner, Vertraulichen und Wohlgesinnten in Zürich 1679-1709*, Zürich : Verlag Neue Zürcher Zeitung, 2002, p. 39-49.

³⁰ According to KEMPE, MAISSEN 2002, p. 199, the Church council (*Kirchenrat*) criticized the compendium as "repulsive doctrine", as "Dutch innovations". These authors do, however, not provide evidence for this. Given that Schweizer's compendium on natural philosophy was criticized by the then existing board of censors (see note 27 above), the same body may as well have pronounced against the Grotius' compendium.

³¹ KEMPE, MAISSEN 2002, p. 198-206, 212-228, 233-238.

³² Johann Caspar ESCHER, *Exercitatio politica de libertate populi*, Trajecti ad Rhenum : ex Officini Francisci Halma, 1697. New edition with introduction and German translation : Werner WIDMER, "Johann Caspar Escher : *Exercitatio politica de libertate populi*. Politologische Studie über die Freiheit des Volkes", *Daphnis* 37/3-4, 2008, p. 547-626.

³³ ELSENER 1975, p. 76-77.

century³⁴. While there is some fairly detailed information about the teaching of the law of nature and of nations, there seem to be no lecture notes available, which would have shown what the courses looked like. The only valuable piece of evidence is Johann Rudolf von Waldkirch's book of 1711, which comprises annotations of Pufendorf's *De officio* as well as two compendia, one on natural jurisprudence, put together on the basis of Pufendorf's work, and another one on moral and practical philosophy³⁵. As I mentioned above, Waldkirch was professor of law in Berne before he returned to Basel in 1722, where he lectured publicly about Heinrich von Cocceji's *Iuris publici prudentia* (1722-1727), and privately about Grotius (1726)³⁶.

Waldkirch's work testifies to the integration of the law of nature and nations in the law and philosophy curriculum at the University of Basel. Since 1537, the law faculty had comprised three chairs of Roman law (one for the Pandects, one for the Codex and one for the Institutes – Waldkirch occupying the last). In 1706 the discipline of law was officially extended to include canon law, feudal law and public law, although there is evidence that these subjects had already been taught in the seventeenth century³⁷. The same year, the law of nature and nations was incorporated into the chair of ethics at the faculty of philosophy. Basel thus followed the faculty pattern commonly adopted by the universities in southern Germany. As early as 1666/1667, the jurist Simon Battier, at the time professor of rhetoric, announced a lecture on *Controversiae circa jus publicum, Naturae et Gentium illustriores*. In 1687 Sebastian Faesch, professor of the Institutes, announced that he would point out the natural law foundation of the principles of civil law, and in 1695 Johannes Wettstein, professor of ethics, announced for the first time a public lecture on Pufendorf's *De officio*. The first public lecture on Grotius' *De jure belli ac pacis* was announced by Johann Jakob Battier, professor of the Institutes, in 1706. After 1706, the law of nature and nations was regularly taught by the professor of ethics, though occasionally also by law professors³⁸. The best-known of the ethics professors who lectured on Pufendorf was Andreas Weiss, who – as his disciple Isaak Iselin observed³⁹ – must have particularly impressed his students⁴⁰. Weiss held the chair of ethics from 1734 to 1747, when he succeeded Jakob Vitriarius as professor of public and private law at the University of Leiden⁴¹. His successors as ethics professor at the University of Basel were Johann

³⁴ Staehelin points out that the number of students was decreasing. Students from northern Germany, who used to study in Basel in great numbers, were only partially replaced by the Swiss ones and those from southern Germany. The law faculty took on a propaedeutic character. See Andreas STAEHELIN, *Geschichte der Universität Basel 1632–1818*, Basel : Helbing und Lichtenhahn, 1957, p. 88-89, 305-306.

³⁵ Johann Rudolf von WALDKIRCH, *Annotata atque exempla illustrantia in Samuelis L. B. de Pufendorf libros duos de officio hominis et civis adornata labore et studio*, Basileae : Joh. Rod. Thurnisiorum Fratrum, 1711.

³⁶ STAEHELIN 1957, p. 300.

³⁷ *Ibidem*, p. 290-292.

³⁸ *Ibidem*, p. 295-296. Emanuel Zaeslin held the chair of ethics from 1714 to 1727. We know about two unsuccessful candidates for the chair in 1727 (E. König and A. J. Buxdorf), which was given to Jacob Hermann, the well-known mathematician, who then returned to his home town, Basel. See Emanuel KÖNIG, *Cogitata de iure naturali et moribus hominum quae vacante professione iur. nat. & ph. Moralis ad diem 14. Novembris M DCC XXVII [...] discutienda offert*, Basileae : typis E. & I. R. Thurnisiorum fratrum, 1727 ; August Johann BUXDORF, *Dissertatio de officiis erga mortuos ratione sepulturae atque famae quam [...] pro vacante professione philosophiae moralis atq. iuris naturae et gentium ad. d. 24. Octobr. a. MDCCXXVII publice atque placidae competitorum disquisitioni submittit*, Basileae : typis I. L. Brandmylleri, 1727.

³⁹ Isaak Iselin was one of the outstanding Swiss political writers of the eighteenth century. His works are now available in a commented edition : Isaak ISELIN, *Gesammelte Schriften. Kommentierte Ausg.*, Basel : Schwabe, 2014-2018, 4 vol. See also Béla KAPOSSY, *Iselin contra Rousseau. Sociable Patriotism and the History of Mankind*, Basel : Schwabe, 2006.

⁴⁰ Besides Weiss' own doctoral dissertation – *Dissertatio iuridica de usu aequitatis in interpretatione legum*, Basileae : typis Ioh. Henrici Deckeri, 1737 – we know of two dissertations (*pro gradu magisterii*) he presided over : Joh. Henricus BURCARDUS, *Disquisitio philosophica de iure victoriae*, Basileae : typis Friderici Ludovici Meyeri, 1738 ; Joh. Bernhardus MERIAN, *Dissertatio philosophica de autoxeiria*, Basileae : typis Johannis Pistorii, 1740. For further information on Weiss see Werner KUNDERT, "Andreas Weiss (1713-1792), Professor des Naturrechts und des öffentlichen Rechts in Basel und Leiden", *Tijdschrift voor rechtsgeschiedenis [Legal history review]* 49, 1981, p. 101-126.

⁴¹ STAEHELIN 1957, p. 219-220.

Heinrich Falckner, who held the chair from 1749 to 1760⁴², and Johann Heinrich Ryhner, who continued the teaching of natural law from 1760 to 1802. He used Waldkirch's compendium⁴³.

To complete the overview of Basel, let us also mention Pierre Roques (1685-1748), whom Meylan identified as a disciple of Barbeyrac⁴⁴. Like the latter a Huguenot refugee, Roques was pastor at the French Church in Basel. Besides theological works, he also published four sermons in two works entitled *Les devoirs des sujets* and the *Traité des tribunaux de judicature*⁴⁵.

Geneva and Lausanne

Since Burlamaqui stands out as the first professor of natural law in Geneva, who taught the law of nature and nations on the basis of Barbeyrac's translations of Pufendorf's works, it is easy to overlook the fact that the Academy of Geneva had had an illustrious school of law since the time of the Reformation. Famous teachers there were François Hotman (1524-1590) and Denis Godefroy (1549-1622) and Jacques Godefroy (1587-1652). It is most likely that two of the Geneva law professors began to teach the law of nations on the basis of Grotius' *De iure belli ac pacis* in the last quarter of the seventeenth century⁴⁶.

The situation was different at the Academy of Lausanne. In the late seventeenth century, two of the professors occasionally lectured on natural law⁴⁷, but the first chair of law was the one Barbeyrac held from 1711 to 1717, before he obtained his doctorate degree in law at the University of Basel and moved to Groningen. Since the Academy of Lausanne had succeeded in appointing an outstanding law scholar in Barbeyrac, who had by then acquired renown throughout Europe, one might expect that his appointment would mark the beginning of a success story. This is, however, not the case. Thanks to the detailed studies conducted by the law historians of the University of Lausanne⁴⁸, we know that the teaching of natural and civil law in eighteenth-century Lausanne was rather a fiasco. The lack of law students certainly helps to explain why Barbeyrac accepted the chair offered to him in Groningen, especially when taken together with the absence of a decent library he eloquently complained about when he was working on his French edition of Grotius' *De iure belli ac pacis*, and with the troubles he witnessed over the *Formula consensus* – i.e., the confession of reformed faith (1675) vigorously enforced in Lausanne by the Bernese authorities, to which the Pays de Vaud, with its capital Lausanne, was subjected until the Helvetic Revolution⁴⁹.

It is noteworthy that the difficulties in organizing the study of law the Academy of Lausanne was facing cannot simply be attributed to the Bernese government. In fact, it was the reeve Jean-Rodolphe Sinner who in 1708 proposed to the senate of the Academy the creation of a chair of jurisprudence, first, because of the need to train at home those young Vaudois intending to become lawyers, instead of

⁴² Falckner replaced Weiss, who was granted the option to return to Basel when he left for the Netherlands. See Johann Heinrich FALCKNER, *Cum cathedra summi viri Andreae Weisii vacaret [...] suam de nonnullis philos. moral. et iur. nat. et gent. capitibus sententiam*, Basileae: typis Ioh. Henrici Deckeri, 1749.

⁴³ STAEHELIN 1957, p. 201.

⁴⁴ MEYLAN 1937, p. 187, note 2.

⁴⁵ Pierre ROQUES, *Les devoirs des sujets expliqués en quatre discours*, Basle: E. & J. R. Thourneisen, 1737; *Idem, Traité des tribunaux de judicature, où l'on examine ce que la religion exige des juges, des plaideurs, des avocats et des témoins*, Basle: Imprimerie à la Chasse, 1740.

⁴⁶ Jakob Vitriarius and Bénigne Mussard – see below.

⁴⁷ Jean-Pierre Dapples in a course on ethics and Jean-Pierre de Crousaz in private lessons.

⁴⁸ The most important study is Jean-François Poudret, "De l'enseignement du droit naturel à celui du droit positif", in Jean-François Poudret et alii (ed.), *L'enseignement du droit à l'Académie de Lausanne aux XVIII^e et XIX^e siècles*, Université de Lausanne, 1987, p. 5-52. See also MEYLAN 1937, p. 9-28, 159-183.

⁴⁹ MEYLAN 1937, p. 85, 104-108.

sending them abroad, and, second, to attract the fees of rich students from abroad. The senate of the Academy accepted this reasoning and spoke in favour of a teacher who would explain, above all, the local law of Lausanne and of the Pays de Vaud. Since it would, however, have been difficult to assign the teaching of positive law a proper place in an Academy dedicated to the training of Protestant theologians, and since this branch of law would not have attracted students from abroad in any case, the Bernese authorities decided to create a chair of Roman civil law and history. In the end, the appointment of Barbeyrac was decisive in giving the chair a different orientation and it was established as the chair of natural law, public law and history⁵⁰.

Barbeyrac had no success with his teaching. His public courses on natural law and on history, which he taught in French, attracted few students, and his private courses only a small number, mainly from abroad. This failure was most likely due to a lack of interest on the part of the local public, but also to the fact that a single chair in law was insufficient for those young Vaudois who wanted to study law in their home town. Since it was impossible to obtain a degree at the Academy of Lausanne, the most talented among them went instead to the University of Basel (Gabriel Seigneux de Correvon, Charles-Guillaume Loys de Bochat, Béat-Philippe Vicat) or to a German university, notably in Marburg (Abram-Daniel Clavel de Brenles) and later in Tübingen⁵¹.

I am not going to discuss in any detail the difficulties Barbeyrac's successors encountered with their teaching. It suffices to note that in 1740, when Charles-Guillaume Loys de Bochat, Barbeyrac's immediate successor, left the Academy, the chair was redefined : history was abolished, and the new professor had to teach the law of nature and nations and civil law. The Bernese government recommended that natural law be taught on the basis of Pufendorf's work, and civil law on the basis of Justinian's Institutes. The redefinition of the chair as well as measures taken to restructure the teaching proved to be unsuccessful. For this reason, natural law was later included in the philosophy curriculum, that is, it was downgraded to an elementary course in morals preparing students for the study of theology. Substantial changes occurred only in 1806, when the canton of Vaud was created by the Acte de médiation. From then onwards, the Academy had two chairs of jurisprudence, one of Roman law (which was compared with the civil law of the canton), the other of natural law⁵².

It is interesting that the question of what language law had to be taught in in Lausanne caused numerous debates throughout the eighteenth century. While the language at the Academy was Latin, French had replaced Latin in juridical practice since the sixteenth century. The language issue was first addressed in 1708, that is, before the creation of the chair Barbeyrac was to hold. In an article he must have sent to the Bernese authorities, Gabriel Olivier, an experienced civil servant, advocated French. Two of his arguments are especially interesting. First, many of the young Vaudois would need additional training for them to be able to take law courses in Latin ; it would be problematic to impose on them the cost of these courses and to prolong thereby their studies. Second, the use of Latin would not attract more students from abroad, especially Germany, as some would believe. This was certainly wrong in the case of the Bernese, for they would have better knowledge of French than of Latin, and if they wanted to apply for post within the judiciary of the Pays de Vaud, they needed to get acquainted with the local law and juridical practice. With regard to students from Germany, it would not be justified to sacrifice local interests to them. Why should Lausanne hire expensive professors from abroad to teach foreign law to foreigners, compensated only by the small profit the inhabitants of Lausanne would gain by accommodating them? And besides, it could not be expected that a great number of Germans would

⁵⁰ Poudret 1987, p. 8 ; Meylan 1937, p. 26-28.

⁵¹ Poudret 1987, p. 8-9.

⁵² *Ibidem*, p. 10-17 ; Meylan 1937, p. 159-183.

come to Lausanne, since they had their own distinguished universities where they could study in Latin. Should they come to Lausanne, they should do so with the intention to learn French⁵³.

Olivier's statement persuaded the Bernese government that at least some classes could be taught in French, including Barbeyrac's courses on natural law and on history, but by 1740 the rules of the Academy dictated that natural as well as civil law had to be taught in Latin. It seems, however, that the Lausanne professors did not follow the rules. This can at least be concluded from the lecture notes in French of Béat-Philippe Vicat, appointed in 1741⁵⁴.

The teaching of natural and civil law in the eighteenth century was more successful in Geneva. As we have already seen, civil law had been a well-established teaching subject since the Reformation. The institutional standing of the chair of jurisprudence remained, however, uncertain, since it was not mentioned in the statutes of the Academy. Indeed, the teaching of civil law was interrupted for twenty years after the death of Jacques Gaudefroy (1587-1652). It was resumed in the last quarter of the seventeenth century thanks to Philipp Reinhard Vitriarius and Bénigne Mussard, who served as honorary professors of civil law. In the wake of the many reforms introduced by Jean-Robert Chouet, professor of philosophy from 1669 to 1686 – who later entered into the government, created the senate of the Academy and also proposed to transform the latter into a university in 1708 – the study of law was reorganized: the new rules of 1711 obliged law students to enrol in the *Matricule des avocats* before they were called to the bar as lawyers. To be admitted to the bar, they had to have studied law for three years either at the Academy or at a university abroad, and to have good knowledge of local law. For this reason, the teaching of law at the Academy was enlarged and entrusted to two professors instead of a single one⁵⁵. The Academy experienced, however, a crisis in the period of civil unrest from 1734 to 1738. Two distinguished representatives of the Geneva law school were directly involved in the political debates in the city: Jean-Jacques Burlamaqui and Pierre Mussard. Both were members of the committee charged by the Small Council, which was in the hands of the ruling elite, to draw up a report in response to the petition the Geneva bourgeoisie had submitted to the government in 1734 in order to reclaim the former prerogatives of the General Council of the republic. The committee famously supported the intransigent position of the government⁵⁶.

Seen from Lausanne, the political unrest put Geneva into a pitiful situation and made Lausanne its unique rival in the French-speaking Protestant world, the privileged location of an Academy apt for expansion. This was the idea of Loys de Bochat, at the time professor of natural law and history at Lausanne, and his close friend Gabriel Seigneux de Correvon, who was also a lawyer. The latter drafted a report on the advantage of transforming the Academy of Lausanne into a university, in which he also developed arguments deemed to invalidate the objections circulating against such a project. In a letter to Bourguet, Loys de Bochat pointed out that the Bernese government was ready to set up a committee to discuss the proposal and that a number of influential patricians were ready to support it. The hope that the project might be realized vanished quickly, however, when the act of mediation of 1738 put an end to the political unrest in Geneva. The councils of the city of Lausanne were in any case not in favour of the project, since they opposed the idea of having in their city an institution with prerogatives similar

⁵³ POUURET 1987, p. 21-27.

⁵⁴ On Vicat's courses, see below.

⁵⁵ BORGEAUD 1900, p. 505-520.

⁵⁶ On Burlamaqui's expertise see Helena ROSENBLATT, *Rousseau and Geneva. From the First Discourse to the Social Contract, 1749-1762*, Cambridge: Cambridge University Press, 1997, p. 88-158.

to those of the German universities, which in their view constituted something like a state within the state⁵⁷.

Compared with the literary production related to the teaching of the law of nature and nations in Berne, Zurich and Basel, the output of the *école romande* is impressive. Since Barbeyrac's and Burlamaqui's teaching and works are well known and need in any case to be dealt with elsewhere in their own right, I am going to focus here on the lesser-known professors and writers who contributed to the popularization of the law of nature and nations. The first to consider is Charles-Guillaume Loys de Bochat (1695-1754), Barbeyrac's immediate successor as professor of law and history at the Academy of Lausanne⁵⁸. Loys de Bochat studied law in Lausanne under Barbeyrac before he moved to the University of Basel, where he defended his dissertation *De optimo principe* in 1717⁵⁹. In the same year, the chair of law and history at the Academy of Lausanne became vacant, when Barbeyrac left to take up the chair of law at the University of Groningen. Loys de Bochat was granted a stipend, which allowed him to study abroad, before he began to teach in his home town. He gave his inaugural lecture in February 1719⁶⁰.

As professor in Lausanne, he became well known for his public courses on history. Indeed, in 1733 the public natural law course was replaced by the course on ecclesiastical history. In his private courses, which took up several hours a day, Loys de Bochat dealt with natural and civil law. In 1725, he became assessor of the local law court. When in 1740 he was appointed *lieutenant baillival* (*Untervogt*, that is, a local substitute of the reeve), he renounced the chair at the Academy. In addition to his public positions, Loys de Bochat also functioned, together with his friend Gabriel Seigneux de Correvon, as one of the main editors of the *Bibliothèque italienne ou Histoire littéraire de l'Italie*, published in Geneva by Marc-Michel Bousquet from 1728 to 1734, and he also became an influential member of the Société du comte de la Lippe, a local society founded in 1742 in Lausanne that took care of the education of the young earl Simon August von Lippe-Detmold⁶¹. I have dealt at more length elsewhere with two of his other projects⁶²: first, his comprehensive defence of the Swiss practice of mercenary service abroad, published as part of the three-volume edition *Ouvrages pour et contre les services militaires étrangers* of 1738⁶³; and second, the new and highly original Latin edition of Grotius' *De iure belli ac pacis*, published in 1751-1752 by the publishing company Marc-Michel Bousquet & Cie⁶⁴, founded in Lausanne

⁵⁷ Henri PERROCHON, "Un savant d'autrefois : Ch.-G. Loys de Bochat (1695-1754)", *Revue historique vaudoise* 49, 1941, p. 29-33.

⁵⁸ On Loys de Bochat and his numerous activities, see Jacques Abram Daniel CLAVEL DE BRENLES, *Eloge historique de Monsieur Charles Guillaume Loys de Bochat*, Lausanne : Antoine Chapuis, 1755, also published in *Nouvelle Bibliothèque germanique*, vol. XXVII, part 2, 1755, art. I, p. 225-274; MEYLAN 1937, p. 159-171; PLOUDRET 1987, p. 29-38.

⁵⁹ Charles-Guillaume LOYS DE BOCHAT, *Dissertatio inauguralis juridica de optimo principe*, Basileae : typis Friderici Lüdij, 1717.

⁶⁰ *Idem*, *Oratio inauguralis Qua probatur dari leges naturales*, Genevae : typis Fabri & Barrillot, 1719.

⁶¹ The minutes of the meetings of this society have been preserved in the University Library of Lausanne. Transcripts are available on the website *Lumières.Lausanne* : <http://lumieres.unil.ch/fiches/biblio/4213/>. Of particular interest for the study of the law of nature and nations are the minutes of assemblies 8 and 30 (*La balance du pouvoir en Europe*), and of assemblies 32, 34, 35, 37, 40, 53 (discussion of Johann Jakob Schmauss' *Dissertationes juris naturalis, quibus principia novi sytemati huius juris, ex ipsis naturae humanae instinctibus extruendi, proponuntur*, Goettingae, 1740). On the discussion of the balance of power, see Simone ZURBUCHEN, "Théorie de la guerre juste et balance du pouvoir en Europe", in Béla Kaposy *et alii* (ed.), *L'Europe en province : la Société du comte de la Lippe (1742-1747)*. *Actes du colloque organisé à l'Université de Lausanne du 25 au 26 juin 2009*, Lausanne : Lumières.Lausanne, 2013, url : <http://lumieres.unil.ch/fiches/biblio/5687/>.

⁶² Simone ZURBUCHEN, "The Lausanne Edition of Grotius' *De iure belli ac pacis* (1751-1752) : The Law of Nations in the *Ecole romande du droit naturel*", in Simone Zurbuchen (ed.), *The Law of Nations and Natural Law 1625-1850*, Leiden : Brill, forthcoming.

⁶³ Charles-Guillaume LOYS DE BOCHAT, *Ouvrages pour et contre les services militaires étrangers*, Lausanne, Genève : Marc-Michel Bousquet & Cie, 1738, 3 vol. See MEYLAN 1937, p. 207-210.

⁶⁴ Hugo GROTIUS, *Hugonis Grotii de iure belli ac pacis libri tres*, Lausannae : sumptibus Marci-Michaelis Bousquet, & Sociorum, 1751-1752, 5 vol.

in 1736 on Loys de Bochat's initiative⁶⁵. This Lausanne edition is particularly interesting because it comprises Heinrich von Coccej's commentaries, which were first published in Breslau (Wratistavia) as *Grotius illustratus* (1744-1752), and twelve dissertations of Samuel Cocceji, Heinrich's son.

Loys de Bochat's successor in Lausanne was B at-Philippe Vicat (1715-1770). He was appointed professor of natural and civil law in Lausanne in 1741. As we have already seen, he was an unsuccessful candidate to the chair of jurisprudence at the Academy of Berne in 1748. In Lausanne, he resumed the teaching of natural law his predecessor had replaced by ecclesiastical history. His lecture notes as well as the notes taken by one of his students have been preserved in the University Library⁶⁶. The *Traite du droit naturel & de l'application de ses principes au droit civil et au droit des gens*, posthumously published in four volumes in 1777⁶⁷, is clearly based on the lectures Vicat gave from 1741 to 1770 at the Academy of Lausanne. Although he barely mentions any sources or works of reference, it seems that Vicat developed his course on natural law mainly on the basis of Christian Wolff's doctrine of the law of nature and nations.

Vicat's successor as chair of natural and civil law in Lausanne was Jacques Abram Daniel Clavel de Brenles (1717-1771), who had been judged too young when he competed (with Vicat) for the chair in 1741. Clavel de Brenles defended his doctoral dissertation on the law of nations in Marburg around 1740⁶⁸. We also have the text of his inaugural lecture at the Academy of Lausanne⁶⁹ and his translation of Johann Christian Claproth's *Grundriss des Rechts der Natur* (Goettingen, 1749), published in Lausanne in 1771 under the title *Principes du droit naturel*⁷⁰. Since the translation lacks a preface, it remains unclear for what reasons Clavel de Brenles deemed Claproth's treatise worthy of translation. Neither do we know whether he intended to use the treatise for his teaching, because he died just a few months after taking up his position.

Yet another unsuccessful candidate for chair of jurisprudence in Lausanne, who competed with Vicat in 1741, was Jean Georges Pillichody (1715-1783) ; he defended his doctoral dissertation on natural law, the law of nations and civil law at the University of Basel in 1734⁷¹. Despite the failure to obtain the chair, he contributed to the popularization of natural law by his didactic presentation of instructions given by a father to his son. This book, *Le droit naturel d'un p re   son fils*, was published in two volumes in 1769. Christian Dapples (1740-1801), the last of the Lausanne professors who taught natural law in the eighteenth century, is unimportant.

Compared with Lausanne, the literary output of the Geneva law school is more modest, at least if we set to one side Burlamaqui's courses and the publications related to it. Although we do not know for sure that Philipp Reinhard Vitriarius lectured on Grotius while he was professor of law at the Academy (1675-1682), it is worth mentioning his *Institutiones juris naturae et gentium [...] ad methodum Hugonis*

⁶⁵ On the publishing company see Silvio CORSINI, "Vingt-cinq ans d' dition et d'imprimerie   Lausanne au si cle des Lumi res : le libraire Marc-Michel Bousquet, 1736-1761", *Revue historique vaudoise* 120, 2012, p. 23-53 ; Philippe MEYLAN, "Grands projets   l'academie de Lausanne il y a deux cent ans", *Revue de th ologie et de philosophie* 28, 1940, p. 2-30.

⁶⁶ Louis Andr  LAGARDE, *Cours de droit naturel par M. Vicat*, copi  pour Fran ois Reboul, [Lausanne], [s.d.], Biblioth que cantonale et universitaire de Lausanne (BCUL), Ms. IS 4029 ; B at Philippe VICAT, *Abr g  de droit naturel*, BCUL, Ms. IS 4480.

⁶⁷ First published in Lausanne : Soci t  typographique ; Yverdon : Soci t  litt raire et typographique, 1777 ; other edition Lausanne : Jul. Henri Pott, 1782.

⁶⁸ Abrah. Daniel CLAVEL DE BRENLES, *Dissertatio juris gentium inauguralis de exemptione legatorum, a fore criminali ejus ad quem missi sunt*, Marburgi Cattorum : typis Phil. Casim Muller, [s.d.] ; other edition : *Specimen methodi demonstrativae ad jus gentium applicatae, De exemptione legatorum, a foro criminali ejus ad quem missi sunt*, Marburgi Cattorum : apud Philippum Casimirum Mullerum, 1741.

⁶⁹ *Discours inaugural de Mr. le Professeur de Brenles*, Lausanne, 1770, BCUL, Ms. IX 1915 XXX g3.

⁷⁰ Johann Christian CLAPROTH, *Principes du droit naturel, traduit de l'allemand de Mr. J. C. Claproth*, Lausanne : J. Pierre Heubach, 1771.

⁷¹ Jean Georges PILLICHODY, *Dissertatio inauguralis de iure naturali gentium et civili*, Basileae : Iohannes Pistorius, 1734.

Grotii, first published in 1692 and re-edited several times, once in Lausanne, in 1745⁷². Bénigne Mussard (1657-1722) lectured privately on Grotius towards the end of the seventeenth century⁷³, but except for a few dissertations and disputations he presided over⁷⁴ no publications or manuscript sources of his related to the law of nature and nations are known. His son Pierre (1690-1767), who served as honorary professor of natural and public law from 1719 to 1722, left behind his inaugural lecture, published in 1720⁷⁵. Jean Cramer (1723-1783), who held the second chair of jurisprudence in parallel with Burlamaqui's, specialized in Roman law and did not publish on the law of nature. This is also true of Burlamaqui's and Cramer's immediate successors, Pierre Lullin (1712-1789) and Pierre Pictet (1703-1768). Lecture notes for two courses on natural law taught by Pierre Prévost (1751-1839) and by Jean-Antoine Cramer (1757-1818) later in the century have so far never been explored and need examination⁷⁶. The same remark applies to the four dissertations on the law of nature the famous theologian (and close friend of Barbeyrac) Jean-Alphonse Turretini (1671-1737) published in 1737 as part of his *Cogitationes De theologia naturali*. Turretini held the chair of ecclesiastical history (1697-1737) and of theology (1705-1737) at the Academy of Geneva⁷⁷.

Fribourg

The law school in Fribourg was founded in 1763 for training the sons of the ruling patricians in law and politics. Although the council of the city intended to institute two chairs of jurisprudence, only one was created, in 1763. The first professor of civil law was Josef Anton Greissing, who had studied law at the University of Salzburg. The teaching of canon law was entrusted to the Jesuits, who directed the local theological school, the Collegium St Michael, founded in 1582. The first teacher of canon law was Philipp Gerbl, who also resumed Greissing's teaching of civil law because the latter left Fribourg in 1765 due to disagreements with his superiors. Gerbl resigned when the order of Jesuits was closed in 1773. The first noticeable professor at the law school was Tobias Barras. A former law student at this school, he obtained a stipend to complete his studies at the University of Vienna, where he defended his doctoral dissertation in 1775⁷⁸. Appointed to the newly founded chair of law, Barras taught the law of nature (on the basis of the works of his teacher in Vienna, Karl Anton von Martini), civil law (on the basis of the first two books of Johann Gottlieb Heineccius' *Elementa juris civilis secundum ordinem Institutionum*, first published in 1725), as well as the law of nations and public law⁷⁹.

Like in the reformed cantons, the law school in Fribourg was closed in the wake of the invasion of Napoleon's army. It was re-instituted in 1812. In 1827 the curriculum was reorganized. While the

⁷² Philipp Reinhard VITRIARIUS, *Institutiones juris naturae et gentium [...] ad methodum Hugnis Grotii, in Opere suo de Jure Belli ac Pacis, conscriptae & aucta [...]*, new edition with notes by David Ludovicus Vullyamozius, Lausannae : apud Antonium Chapuis, 1745.

⁷³ BORGEAUD 1900, p. 507. On Vitriarius' teaching see BORGEAUD 1900, p. 386-389.

⁷⁴ Joh. ARESKINE DE ALVA, *Disputatio juridica de sponsalibus et nuptiis*, Genevae : apud fratres de Turnes, 1698 ; Jacobus MESTREZATIUS, *Theses juridicae de mutuo*, Genevae : typis Vincentii Miege, 1705 ; Joh. STEENLACK, *Disputatio juridica de acquirendo rerum dominio*, Genevae : typis Fabri et Barillot, 1717.

⁷⁵ Pierre MUSSARD, *De usu et praestantia juris naturalis oratio inauguralis*, Genevae : apud Fabri et Barillot, 1720.

⁷⁶ Georges DU PAN, *Cours de droit naturel et principes du droit politique tirés des leçons de l'avocat Prévost*, [s.l.], 1773-1774, Bibliothèque de Genève (BGE), Ms. Cours univ. 389 ; ANONYME, *Juris naturalis excerpta, extrait des leçons de Jean-Antoine Cramer*, [s.l.], 1790-1791, BGE, Ms. Cours univ. 230.

⁷⁷ Jean-Alphonse TURRETTINI, *Cogitationes et dissertationes theologicae*, Genevae : Barillot & Filii, 1737, vol. 1, p. 245-316. The dissertations on natural theology were translated into English by William Crawford, A.M., Belfast : James Magee, 1777.

⁷⁸ Tobias BARRAS, *Dissertatio inauguralis juridica De jure accrescendi quam exantlatis ex omnigena jurisprudentia quatuor examinibus rigorosis auctoritate, et consensu*, Vindobonae : Literis a Ghelenianis, 1775.

⁷⁹ ELSENER 1975, p. 134-157 ; Stefan KÖLBENER, "Die Rechtsschule", in René Pahud de Mortanges (ed.), *250 Jahre Recht in Freiburg. Ein Blick auf die Geschichte der Rechtsschule und der Rechtswissenschaftlichen Fakultät der Universität Freiburg (1763-2013)*, Zürich : Schulthess, 2013, p. 9-17.

teaching of general natural law was entrusted to the Jesuits, who had been recalled to Fribourg in 1818, the professor at the law school had to teach natural private law, natural public law (including the law of nations) as well as Roman law (the last being compared with the law of the canton and the *code civil*). Jean-François Marcellin Bussard, who held the chair of law from 1827 to 1853, initially taught his courses on the basis of Burlamaqui and Heineccius but later used his own *Eléments de droit naturel privé*, an elementary book in which he accounted for the development of the science of natural law in Germany up to Kant and his followers⁸⁰. Thus, in the nineteenth century natural law was taught and developed on the basis of a greater variety of authors and works than previously. It is, however, remarkable that manuals pertaining to the Protestant tradition of natural law (Burlamaqui, Heineccius) were officially recommended as teaching materials in the Catholic canton of Fribourg.

Conclusion

The aim of this paper has been to provide an overview of the teaching of the law of nature and nations in the Swiss context up to the Helvetic Revolution and an account of the printed as well as the manuscript sources available in Swiss libraries and archives. It is interesting to note that the creation of new chairs of jurisprudence at the Academies of Lausanne and Geneva was not a pioneering deed, but needs rather to be seen in the context of a broader initiative to reform the curriculum at Swiss educational institutions. The creation of chairs of jurisprudence, where they did not yet exist, was clearly due to the demand of the political authorities to teach disciplines specifically addressed to the sons of the ruling elite in order to prepare them for political office. As we have seen, with the exception of the Catholic canton of Fribourg, all of the Swiss schools introduced the law of nature and nations into the curriculum either in the seventeenth or at the beginning of the eighteenth century. While natural law was prominent in the early Enlightenment period, civil law (i.e. Roman law and local law) remained a constant concern throughout the eighteenth century. In most cases, scholars who studied the law of nature and nations either on their own or at a university abroad took the initiative to teach the subject in their home institutions. With the exception of the University of Basel and to some extent also the Academy of Geneva, which rendered the study of law compulsory, all of the Swiss schools had problems attracting enough law students and in establishing a coherent curriculum for them.

While the importance of the Academies of Lausanne and Geneva needs to be relativized with regard to the teaching of the law of nature and nations, the *école romande du droit naturel* remains outstanding in its literary production. This paper has largely passed over the publications of Barbeyrac, Burlamaqui and Vattel, who secured the Swiss school its international standing, in order to focus on little-known professors and writers and their works, which have not received sufficient attention. In particular, the Lausanne edition of Grotius, Loys de Bochat's defence of the Swiss practice of mercenary service abroad as well as the Bernese publications on the science of legislation certainly deserve further study. Moreover, writings on natural law such as those of Pierre Roques or Jean-Alphonse Turretini also need close examination. Last but not least, the compendia of Pufendorf's and Grotius' works may become suitable objects of comparative studies.

⁸⁰ Jean-François Marcellin BUSSARD, *Eléments de droit naturel privé*, Fribourg : L.-J. Schmid, 1836, §§ 8-9, p. 5-7. On the development of the Fribourg law school in the nineteenth century see ELSENER 1975, p. 345-349 ; KÖLBENER 2013, p. 16-17.

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