



**Universität
Zürich** UZH

Rechtswissenschaftliche Fakultät

Swiss Legal History (Part II- Ideas in Context)

Introduction to Swiss Law

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Outline of the Lecture

- Natural Law and Law of Nations in Switzerland (17th-18 Century)
- Emer de Vattel and his *Le Droit des gens* (1758)
- Humanitarian international law and Swiss (19th century)
- Swiss Jurists and the codification of international law (19th century)



The École romande du droit naturel

French speaking part of Switzerland

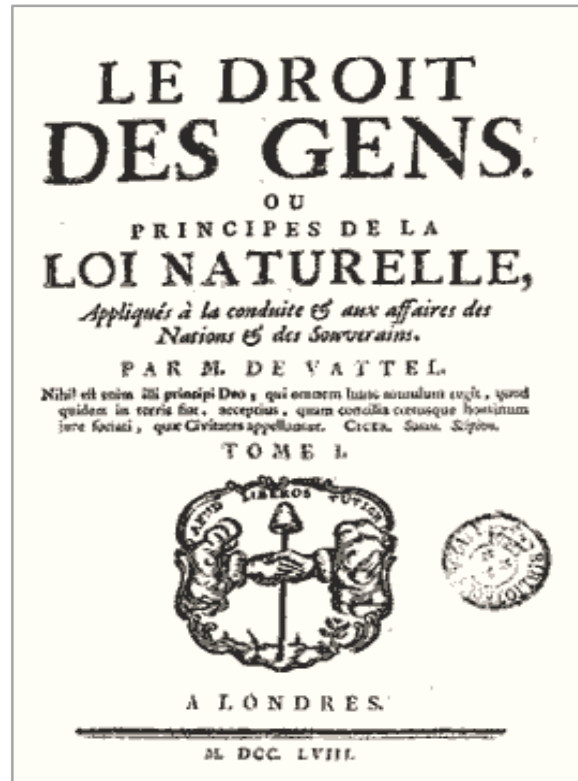
- ❖ Jean Barbeyrac (1674-1744)
- ❖ Jean-Jacques Burlamaqui (1694-1748)
- ❖ Fortunato Bartolomeo de Felice (1723-1789)
- ❖ Louis Bourguet (1678-1742)
- ❖ Emer de Vattel (1714-1767)



Emer de Vattel (1714-1767)



1758, the publication of his masterpiece



Le Droit des gens was published four years before *Le contrat social* of Rousseau and ten years after *Esprit de Loïs* of Montesquieu.



“I was born in a country of which liberty is the soul, the treasure, and the fundamental law; and my birth qualifies me to be the friend of all nations”



Central Points of Vattel's Legal Thought

- Law of Nations
- Resolution of disputes between nations
- War in due form
- Defensive war/ offensive war
- Ius in bello
- Enemies of mankind



Henry Dunant (1828-1910)





From his *A Memory of Solferino*

“Oh, how valuable it would have been [... to have had a hundred experienced and qualified voluntary orderlies and nurses! Such a group would have formed a nucleus around which could have been rallied the scanty help and dispersed efforts which needed competent guidance”.

Creation of the International Red Cross (1863)



First Geneva Convention, 22 August 1864

- ❖ relief to the wounded without any distinction as to nationality;
- ❖ neutrality (inviolability) of medical personnel and medical establishments and units;
- ❖ the distinctive sign of the red cross on a white ground

So called: Convention for the Amelioration of the Condition of the Wounded in Armies in the Field



Swiss Jurists and the codification of international law (19th century)

Ghent, 8 September 1873:

Institut de Droit International

The main objective of the Institute expressed in its *Statute* is to contribute to the progress of international law, its codification and its progressive development



Gustave Moynier (1826-1910)





Gustave Moynier (1826-1910)

Moynier took a very active role in shaping the Red Cross

He notably proposed the creation of an international tribunal to sanction breaches of the Geneva Convention (for the Amelioration of the Condition of the Wounded in Armies in the Field)

[idea of a permanent international criminal court]



Johann Caspar Bluntschli (1808-1881)





«It is substantially the same work as that which I early attempted with success at Zürich [...] with reference to private law. The principles of that work were now only transferred to the broader field of civilised states in general, and were applied to the moving stream of international relations and legal opinions».



Johann Caspar Bluntschli (1808-1881)

Das moderne Kriegsrecht (1866)

It was largely taken from the code prepared by Francis Lieber (1863) for the Federal Army in the U.S. Civil War.

It was the basis of the codification of the laws of war that were enacted at the Hague conferences of 1899 and 1907.

Bluntschli's code consisted in 862 articles preceded by an elaborate introduction dealing with the nature, objects and basis of international law, as well as the general plan of the code.



Conclusions

- Ideas in the Swiss Context
- Influence of Swiss Legal Thoughts
- Central Role of Switzerland for the History of International Law





**Thank you very much
for your kind attention!**