

“The Spanish Henri Dunant” of the Institut de Droit International, Nicasio Landa (1830–1891)

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Abstract

This article examines the life and works of Dr Nicasio Landa, the co-founder of the Spanish Red Cross, known as the “Spanish Henri Dunant”. The article begins by discussing his seminal works in the field of international humanitarian law (IHL) and the institutions, notably including the International Committee of the Red Cross, with which he worked until the outbreak of the Franco-Russian War. The article then focuses on Dr Landa’s pioneering contributions to the drawing up and application of international law instruments in the framework of the Institut de Droit International, paying special attention to his contribution to IHL and his pioneering codification efforts at the interface between epidemic diseases and

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international law. The conclusion highlights the seminal role that Dr Landa played in setting the course of an international humanitarian tradition which has largely outlived the memory we have of this hidden figure in the history of IHL.

Keywords: Nicasio Landa, origins of the ICRC, history of international humanitarian law, history of international health law, history of international law, Institut de Droit International.

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... un des plus fidèles et des plus anciens champions de la Croix-Rouge ...

“Le docteur Landa”, *Bulletin International des Sociétés de la Croix-Rouge*¹

Introduction²

The International Committee of the Red Cross (ICRC)³ and the Institut de Droit International (IDI)⁴ commemorated their respective 160th and 150th anniversaries in 2023. Only two men, Swiss lawyer Gustave Moynier (1826–1910) and Spanish military doctor Nicasio Landa (1830–91), were present in both of them since their foundation. Moynier was one of the five founding members of the International Committee for Relief to the Wounded (ICRW, from 1876 the ICRC) in Geneva in February 1863, in which he served as its longest-standing president for forty-six years (1864–1910). He was also one of the eleven founding members of the IDI in Ghent in 1873.⁵ While many academic works have been written about Moynier,⁶ Landa, who was known as “the Spanish

- 1 “[O]ne of the most faithful and oldest champions of the Red Cross.” Comité Central, “Le docteur Landa”, *Bulletin International des Sociétés de la Croix-Rouge*, No. 89, 1892, p. 41.
- 2 To the best of the author’s knowledge, accounts of Dr Landa’s life and works in languages other than Spanish are limited to two very short *in memoriams* published in French following his death in 1891. These are Comité Central, above note 1, p. 40; and M. Torres Campos, “Nicasio Landa: Notice communiquée par M. Torres Campos”, *Annuaire de l’Institut de Droit International*, Vol. 11, 1889–92, p. 76. To these, one can add an editorial note that was intended as an introduction to the reproduction of a letter written on 3 July 1873 by Dr Landa to Gustave Moynier in which Landa described the activities of the Spanish Red Cross during the Third Carlist Wars. See “Regards vers le passé: La belle figure morale du Dr. Nicasio Landa”, *International Review of the Red Cross*, Vol. 35, No. 411, 1953, p. 195. This letter had been originally published as “Espagne: La Guerre Civile: Pampelune, le 3 juillet 1873”, *Bulletin International des Sociétés de la Croix-Rouge*, No. 17, 1873, p. 34.
- 3 See e.g. ICRC, “60 Years on the Side of Humanity: A Commitment that Has Never Waned”, 16 February 2023, available at: www.icrc.org/en/who-we-are/history/160-years-humanity (all internet references were accessed in August 2024).
- 4 Marcelo Kohen and Iris van der Heijden (eds), *Liber Memorialis 1873–2023: Institute of International Law: 150 Years of Contributing to the Development of International Law – Justitia et Pace (1873–2023)*, A. Pedone, Paris, 2023.
- 5 See generally e.g. Martti Koskeniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law (1870–1960)*, Cambridge University Press, Cambridge, 2001.
- 6 See e.g. “The Role of Gustave Moynier in the Founding of the Institute of International Law (1873): The War in the Balkans (1857–1878), the Manual of the Laws of War (1880)”, *International Review of the Red Cross*, Vol. 34, No. 303, 1994, p. 544; Alphonse Rivier, “Notice historique sur l’Institut de droit international: Sa foundation et sa première session: Gand 1873”, *Annuaire de l’Institut de Droit International*, Vol. 1, 1877, p. 12.

Henri Dunant”,⁷ is by contrast a hidden and largely forgotten historical figure in the mid- to late nineteenth-century origins of modern humanitarianism and international law, both in Spain⁸ and even more so elsewhere.⁹

Nicasio Landa was the Spanish delegate at the first Geneva International Conference (Geneva Conference) in October 1863. He very actively participated in the deliberations for the Conference and immediately set himself to serving the fulfilment of its purposes, becoming co-founder of the Spanish Red Cross in July 1864. Ten years later, Landa, who in 1867 had published *El derecho de la guerra conforme a la moral* (*The Law of War in Accordance with Morality*),¹⁰ one of the very earliest works on modern international humanitarian law (IHL),¹¹ became the only original Spanish member of the IDI in 1873. Among the early works of the IDI was *The Laws of War on Land*,¹² also known as the Oxford Manual, to the drafting of which Landa directly contributed. Landa was a military doctor of medicine and surgery with extended experience in combating cholera and yellow fever epidemics in the civilian population, and in assisting wounded soldiers on battlefields in North Africa and Spain and in the Franco-Prussian war. He was also an early participant in the codification efforts at the interface between epidemic diseases and international law, being the rapporteur of the IDI’s commission on “Measures in International Sanitary Policy”¹³ and drafter of a project for an International Sanitary Convention¹⁴ in the early days of what (much later) came to be known as international health law.¹⁵

The contemporary recrudescence of military conflicts and the gloomy shadow cast by the recent global pandemic, with its over 7 million “reported COVID-19 deaths”¹⁶ globally, warrants a renewed effort to revisit the life and works of invisible or merely forgotten inspirational historical characters who were

7 Virginia Lavin and Rodolfo Mata (coord.), “Especial 150 aniversario de la Revista de Cruz Roja”, *Cruz Roja*, 2020, available at: www.cruzroja.es/especial-150-aniversario-revista/.

8 Accounts of Landa’s life and work have featured in works by Spanish historians of military medicine and the Spanish Red Cross, the latest and most extensive of which is José Javier Viñes, *El doctor Nicasio Landa (1830–1891), co-fundador de la Cruz Roja Española*, Government of Navarra and Spanish Red Cross, Navarra, 2014. By contrast, Spanish international law scholars have never devoted any specific attention to Landa’s life and works other than synoptically in connection to the fact that he was the first Spanish member of the IDI: see e.g. Jose Carlos Fernández Rozas, “Rafael Altamira: Formación, promoción y desempeño del oficio de ius-internacionalista”, *e-Legal History Review*, No. 36, 2022, p. 20.

9 See above note 2.

10 Nicasio Landa, *El derecho de la guerra conforme a la moral*, 1st ed., Imprenta Provincial, Pamplona, 1867.

11 This term is applied retrospectively, as it did not originate until 1953. See Antoon De Baets, “The View of the Past in International Humanitarian Law (1860–2020)”, *International Review of the Red Cross*, Vol. 104, No. 920–921, 2022, p. 1588, referring to ICRC, *Report on the Work of the International Committee of the Red Cross (January 1 to December 31, 1952)*, Geneva, 1953, p. 67.

12 Institute of International Law, *The Laws of War on Land*, Oxford, 9 September 1880 (Oxford Manual), available at: <https://ihl-databases.icrc.org/en/ihl-treaties/oxford-manual-1880>.

13 “M. de Landa: Rapporteur ‘Dixieme commission d’etudes – Mesures de police sanitaire internationale’”, *Annuaire de l’Institut de Droit International*, Vol. 9, 1887–88, p. 314.

14 “Onzieme commission – Mesures de police sanitaire internationale”, *Annuaire de l’Institut de Droit International*, Vol. 10, 1888–89, p. 251.

15 See David P. Fidler, *International Law and Infectious Diseases*, Oxford University Press, Oxford, 1999.

16 According to the World Health Organization’s “WHO Covid-19 Dashboard”, available at: <https://data.who.int/dashboards/covid19/deaths?n=c>.

associated with the “emergence of professional fields of international law within distinct national contexts”.¹⁷ This springs from a realization that the “history of individual people” is a necessary complement to both the “history of concepts and the history of events”¹⁸ for a fuller and more nuanced picture of the historical development of international law and of the modern origins and evolution of international humanitarianism.¹⁹

Two main factors account for why Dr Landa’s seminal contributions to the modern foundations of IHL and international health law have remained overlooked in the global history of international law. First, the hegemony of English as science’s contemporary universal language among international lawyers has been translated into a selective history of international law in which the spotlight is repeatedly put on household names while many notable characters in the history of international law, including women, have been cast to its spectral margins.²⁰ Second, in a field which, as Randall Lesaffer notes, did not “blossom into a significant sub-branch of legal history until the very end of the twentieth century”,²¹ Landa’s invisibility is compounded because he was not a lawyer. Historians of international law remain newcomers in the history of medicine, and particularly in the history of military medicine, in connection with the role that war surgeons, like Landa and Dr Louis Appia,²² played in the birth of IHL.²³ Landa in particular, as we shall see, was among the earlier proponents of the extension of “neutral” status to wounded soldiers in all military conflicts and to those assisting wounded soldiers in civil wars, and also of the extension of the First Geneva Convention to civil wars. This seminal contribution in Dr Landa’s case also extended to the foundations of international health law.²⁴

- 17 Nehal Bhuta “A Thousand Flowers Blooming, or the Desert of the Real? International Law and Its Many Problems of History”, in Randall Lesaffer and Anne Peters (eds), *The Cambridge History of International Law*, Vol. 1: *The Historiography of International Law*, Cambridge University Press, Cambridge, 2024, p. 101. A good illustration is Frederic Megret and Immi Tallgren (eds), *The Dawn of a Discipline: International Criminal Justice and Its Early Exponents*, Cambridge University Press, Cambridge, 2020.
- 18 Bardo Fassbender and Anne Peters, “Introduction: Towards a Global History of International Law”, in Bardo Fassbender and Anne Peters (eds), *The Oxford Handbook of the History of International Law*, Oxford University Press, Oxford, 2012, p. 11.
- 19 See e.g. Amanda Alexander, “A Short History of International Humanitarian Law”, *European Journal of International Law*, Vol. 26, No. 1, 2015, p. 109.
- 20 Immi Tallgren (ed.), *Portraits of Women in International Law: New Names and Forgotten Faces?*, Oxford University Press, Oxford, 2023.
- 21 Randall Lesaffer, “Scope, Scale and Humility in the History of International Law”, in R. Lesaffer and A. Peters (eds), above note 17, p. 3.
- 22 See e.g. R. Ottaviani, D. Vanni, M. G. Baccolo and P. Vanni, “Louis Appia (1818–98): Military Surgeon and Member of the International Committee of the Red Cross”, *Journal of Medical Biography*, Vol. 19, No. 3, 2011, p. 117. See, also Gustave Moynier and Louis Appia, *La guerre et la charité: Traite théorique et pratique de philanthropie appliquée aux armées en campagne*, Librairie Cherbouliez, Geneva, 1867.
- 23 Wolfgang U. Eckart and Philipp Osten (eds), *Schlachtschrecken – Konventionen Das Rote Kreuz und die Erfindung der Menschlichkeit im Kriege, Neuere Medizin- und Wissenschaftsgeschichte*, Vol. 20, Centaurus Verlag & Media, Herbolzheim, 2011.
- 24 See e.g. David P. Fidler, “The Globalization of Public Health: The First 100 Years of International Health Diplomacy”, *Bulletin of the World Health Organization*, Vol. 79, No. 9, 2001.

After this introductory section, the present article is divided into two main sections. The first section contextually examines the life and works of Landa, including his social milieu and formal education, and provides a general description of the main events in his professional career, his seminal works in the field of IHL (including his *El derecho de la guerra conforme a la moral*), and the institutions, notably including the ICRC, with which he worked until the outbreak of the Franco-Russian War. The second section focuses on Dr Landa’s subsequent pioneering contributions to the drawing up and application of international law instruments in the framework of the IDI, paying special attention to his contribution to IHL and his groundbreaking codification efforts at the interface between epidemic diseases and international law. The conclusion highlights the seminal role that Landa played, despite not being a lawyer, in setting the course of the international humanitarian tradition in Europe, which has largely outlived the memory that international lawyers have of this hidden figure in the history of IHL.

Landa’s presence at the creation of the ICRC and the Spanish Red Cross (1830–70)

Nicasio Landa y Alvarez de Carballo was born in Pamplona, the capital of the northern Spanish province of Navarre, on 11 October 1830. He was the son of Rufino Landa Albizu (1801–62), a highly reputed doctor who authored several medical works and served as the chair of anatomy in the short-lived Royal School of Medicine, Surgery and Pharmacy of Navarre (1829–38).²⁵ Soon after Landa’s birth, Navarre, a traditionalist province, became one of the main epicentres of the three devastating dynastic Carlist Wars that took place in Spain and largely shaped Landa’s vocation for a military medical career and his manifold contributions to humanitarian causes from early in his life.²⁶ Landa’s father, despite siding with the liberals, was castigated for having attended wounded Carlist soldiers during the First Carlist War (1833–39).²⁷ This early example of Landa’s father encapsulates what Antonio Cassese described, with reference to the inception of the ICRC inspired by Henri Dunant’s *Un souvenir de Solferino* (1862), as the “exclusively humanitarian spirit – the wounded and the sick had to be cared for, regardless of whether they were friends or foes”.²⁸ Almost four

25 “Landa Albizu, Rufino”, *Aunamendi eusko entziklopedia*, available at: <https://aunamendi.eusko-ikaskuntza.eus/es/landa-albizu-rufino/ar-84798/>.

26 The Carlist Wars confronted the Northern and rural-based ultra-Catholic, legitimist and foralist supporters of the pretender Don Carlos, brother of King Ferdinand VII (1784–1833) against the dynastic rights of Ferdinand’s daughter, Isabella II (1830–1904) in alliance with liberal urban-based constitutionalist forces. See e.g. Josep Carles Clemente, *Breve historia de las guerras carlistas*, Nowtilus, Barcelona, 2011.

27 Radio Television Española, “Historias de la medicina, Nicasio Landa”, 18 November 2014, available at: www.rtve.es/play/audios/historias-de-la-medicina/historias-medicina-nicasio-landa-18-11-14/2864666/.

28 Antonio Cassese, “Current Challenges to International Humanitarian Law”, in Andrew Clapham and Paola Gaeta (eds), *The Oxford Handbook of International Law in Armed Conflict*, Oxford University Press, Oxford, 2014, p. 5.

decades later, during the Third Carlist War (1872–76), the Battle of Oroquieta (1872) in Navarre marked the first intervention in a battlefield by the Spanish Red Cross. This intervention was led in the field by Landa himself, who had been the Spanish Red Cross's inspector-general since 1867.²⁹

Landa was educated in Pamplona (BA in philosophy, 1846) and then at the Central University of Madrid, where he obtained a BA (1850) and a licence (1854) in medicine and surgery. After his graduation, he spent several months attending victims of an epidemic of cholera (1854–55) in Navarre and was appointed as civil auxiliary doctor in a military regiment in recognition of his services. In October 1856, he obtained his MD in medicine and surgery in Madrid, with a dissertation on “Consideraciones acerca de la influencia de la civilización en la salud pública” (“Considerations on the Influence of Civilization on Public Health”),³⁰ and just a few months later, aged 26, he successfully passed the public examination to become an inspector in the Health Corps of the Spanish Army.³¹ After some regimental appointments in Pamplona and Saragossa, Landa returned to Madrid, where he founded and directed the military health journal *Memorial de Sanidad del Ejército y Armada* (*Health Journal of the Army and Navy*)³² and also wrote a booklet aimed at improving the nutrition of soldiers in the Spanish Army.³³ In late 1859, he volunteered to accompany the Spanish troops in the Hispano-Moroccan War (1859–60).³⁴

Triggered by local tribal skirmishes around the Spanish historical enclave of Ceuta in North Africa, the Hispano-Moroccan War, or the so-called “War of Tétouan”, was the first of several short Spanish military campaigns in Morocco that culminated in the more protracted Rif War in the early 1920s.³⁵ The Hispano-Moroccan War turned out to be a trying and largely disorganized eight-month colonial conflict, during which Landa intervened as war surgeon in multiple military clashes. He also served in a widespread epidemic of cholera, which became the main source (70%) of the approximately 7,000 wartime deaths

29 Enrique Samaniego Arrillaga, “Nicasio Landa: Vasco universal”, *Boletín de la Real Sociedad Bascongada de Amigos del País*, Vol. 59, No. 2, 2003, p. 614.

30 Nicasio Landa and Alvarez de Carvallo, “Consideraciones acerca de la influencia de la civilización en la salud pública”, Imprenta del Colegio de Sordo-Mudos, Madrid, 1856.

31 For a discussion on facets related to the military career of Nicasio Landa, see the two consecutive articles by Juan Ramón Navarro Carballo, “El subinspector médico de primera Don Nicasio de Landa y Álvarez de Carvallo”, *Sanidad Militar: Revista de Sanidad de las Fuerzas Militares de España*, Vol. 46, Nos 3 and 4, 1990, pp. 366 and 469 respectively.

32 *Memorial de Sanidad del Ejército y Armada*, 1858–1860, available at: <https://bibliotecavirtual.defensa.gob.es/BVMDefensa/es/consulta/registro.do?id=150407>.

33 Nicasio Landa, *Memoria sobre la alimentación del soldado, necesidad de mejorarla y reglas que deben observarse para la confección de los ranchos en guarnición y en campaña*, Imprenta de Manuel Álvarez, Madrid, 1859.

34 See Juan Iturralde y Suit, “Apuntes necrológicos, el doctor Landa”, *Euskal-Erria: Revista Bascongada*, Vol. 24, 1891, pp. 341–342.

35 See e.g. Pablo La Porte, “‘Rien à ajouter’: The League of Nations and the Rif War (1921–1926)”, *European History Quarterly*, Vol. 41, No. 1, 2011, p. 66; Nathaniel Berman, “The Appeals of the Orient: Colonized Desire and the War of the Rif”, in Karen Knop (ed.), *Gender and Human Rights*, Oxford University Press, Oxford, 2004, p. 195.

among the Spanish Army,³⁶ and further became the “doctor in chief of the first hospital steam ship in the world”,³⁷ which was charged with transporting wounded soldiers to the Spanish mainland. The Treaty of Wad Ras in April 1860 forced economic reparations on Morocco and further minor land concessions to Spain in Ifni. These were expanded and consolidated in the Berlin Conference (1884–85), together with new concessions in Western Sahara and Equatorial Guinea in Central Africa.³⁸

Landa’s commitment to the regulation of the means of war and to the amelioration of assistance to wounded soldiers and civilians was born from his early first-hand war experience as a military doctor during the Hispano-Moroccan War, after which he published a vivid account of his experiences of the conflict in *La campaña de Marruecos: Memorias de un medico militar (The Campaign of Morocco: Memoirs of a Military Doctor)*.³⁹ Dedicated to the mothers of Spanish soldiers in the war, in this memoir Landa raised some of the humanitarian concerns he later developed in his work on IHL and international health law, including his criticisms of the use of excessively pernicious munitions, in particular the newer “cylindrical-conical projectile” used by the Spanish Army, which “destroys everything in its path”, compared to the older “spherical projectile” that already sufficiently served the purpose of “disarming or disabling the enemy”.⁴⁰ Landa also highlighted the many administrative and staff-related hurdles that often got in the way of good care of the wounded soldiers⁴¹ and the deficiencies in the means of transporting injured and cholera-sick soldiers by sea.⁴² After the war and a series of new regimental appointments in Madrid and Pamplona in 1861 and 1862,⁴³ Landa was again appointed to render his medical services during an epidemic of yellow fever in the Canary Islands in 1863, about which he published a new memoir that same year.⁴⁴

Aged 32 and by then a surgeon-captain, Landa was appointed, due to his distinguished service record surveyed above (and probably also due to his good knowledge of foreign languages, including French, English and German),⁴⁵ as the Spanish delegate to the Geneva Conference in October 1863. The minutes of the Conference show that Landa participated very actively in its deliberations,

36 Joan Serrallonga Urquidí, “La guerra de África (1859–1860): Una revisión”, *Ayer*, Vol. 29, 1998, p. 157.

37 Oscar Gonzalez García, “El vapor de ruedas ‘Cid’: De pionero de la navegación comercial a vapor a primer vapor hospital”, *Sanidad Militar: Revista de Sanidad de las Fuerzas Armadas de España*, Vol. 72, No. 3, 2016, p. 243.

38 See e.g. Matthew Craven, “Between Law and History: The Berlin Conference of 1884–1885 and the Logic of Free Trade”, *London Review of International Law*, Vol. 3, No. 1, 2015, p. 31.

39 Nicasio Landa, *La campaña de Marruecos: Memorias de un medico militar*, Imprenta de Manuel Alvarez, Madrid, 1860.

40 *Ibid.*, p. 81.

41 *Ibid.*, pp. 48, 49, 53, 63, 64. See also J. R. Navarro Carballo, above note 31, pp. 470–472.

42 *Ibid.*, pp. 97–98.

43 For details, see J. R. Navarro Carballo, above note 31, p. 360.

44 Nicasio Landa, *Viaje a las Islas Canarias [A Trip to the Canary Islands]*, Imprenta de El Correo de Navarra, Pamplona, 1863.

45 J. R. Navarro Carballo, above note 31, p. 469. See references to different translations that Landa made of materials related to military medicine from foreign languages, below notes 61 and 131, and also a reference to his prologue to the first translation of Edgar Allan Poe’s works in Spanish, below note 139.

providing numerous detailed comments on the drafting of its articles.⁴⁶ Inspired by his first-hand experience that “the appearance of a battlefield is one of those paintings that you have to see to get a fair idea of it”,⁴⁷ he was a proponent of extending “neutral” status to those wounded in war,⁴⁸ a provision which was adopted in the second recommendation of the conference’s resolutions.

Following the Geneva Conference, in which the establishment of “national relief societies for wounded soldiers” was proposed and the basis for their activities laid down, Landa, as M. S. G. Enrich recalled early on, “was charged by the Geneva Committee ... to institute in Spain the relief society, a goal towards which he directed all his efforts from the moment he returned to his motherland”.⁴⁹ Back in Spain, after reporting back to the Spanish government in his role as representative of the Spanish Military Health Corps in the Geneva Conference,⁵⁰ Landa contacted the Order of Saint John of Jerusalem and a preparatory council was established in May 1864.⁵¹ By Royal Decree on 6 July 1864, the Spanish Assembly of the International Committee for the Relief of the Wounded in War on Land and Sea⁵² was established as a public utility foundation, just one day after Landa had already founded its first regional committee in Pamplona on 5 July. This variation in the official name of the Spanish committee, from “wounded soldiers”⁵³ (“blessés militaires”) to those “wounded in war” (“heridos en campaña”), potentially extended its scope of application to civilians (and, more broadly, to civil wars, as would in fact happen during the Third Carlist War (1872–76) just a few years later), while the explicit reference to both “sea and land” (“de mar y tierra”) specifically extended it to naval warfare with the consequence that, just a few years later, during the aforementioned military conflict, a naval vessel sailed for the first time under the flag of the Red Cross during the Battle of Cartagena in October 1873.⁵⁴ Soon afterwards, on 22 August 1864, Spain, which was represented during the diplomatic conference in Geneva

46 Landa’s interventions can be found in *Compte rendu de la Conférence internationale réunie à Genève les 26, 27, 28 et 29 octobre 1863 pour étudier les moyens de pourvoir à l’insuffisance du service sanitaire dans les armées en campagne*, 2nd ed., ICRC, Geneva, supplement to *Bulletin International des Sociétés de la Croix-Rouge*, No. 137, 1904, pp. 34–41, 63, 64, 69, 72, 74, 78, 84, 85, 88, 91, 97, 101, 103, 104–105, 113. Landa also provided a review of the Conference in Nicasio Landa, “La conferencia internacional de Ginebra”, *Revista de Sanidad Militar Española y Extranjera*, Vol. 1, 1864, p. 10.

47 *Compte rendu*, above note 46, p. 35 (“L’aspect d’un champ de bataille est un de ces tableaux qu’il faut voir pour s’en faire une idée juste”).

48 Landa’s suggestion was adopted in the second recommendation of the Geneva Conference. See “Resolutions of the Geneva International Conference, Geneva, 26–29 October 1863”, Recommendation (b), available at: <https://ihl-databases.icrc.org/en/ihl-treaties/geneva-res-1863/recommendations?activeTab=undefined>.

49 M. S. G. Enrich, “Histoire de la croix rouge en Espagne”, *Bulletin International des Sociétés de Secours aux Militaires Blessés*, No. 23, 1875, pp. 126–127.

50 Landa was appointed by Royal Decree on 2 October 1863. On his report, see further J. R. Navarro Carballo, above note 31, pp. 472–473.

51 M. S. G. Enrich, above note 49.

52 “Asociación internacional de socorro a heridos en campaña de mar y tierra”, Real Decreto de Su Majestad la Reina Doña Isabel II, 6 July 1864.

53 Eduardo de No Louis, “L’Espagne et le droit humanitaire de la guerre: Quelques considerations”, *International Review of the Red Cross*, Vol. 49, No. 577, 1967, pp. 5–7.

54 *Ibid.*, p. 10.

(as required by diplomatic practice) by José Heriberto García de Quevedo, the Spanish Queen’s resident minister to the Swiss Confederation, became the fifth State signatory to the First Geneva Convention.⁵⁵ As later noted by Max Huber, one of the ICRC’s presidents from 1928 to 1944, the Convention, when it entered into force in 1865, extended “the protection of the individual into the structure and theory of public international law”.⁵⁶

After his initial remarkable contribution to the foundation stone of the modern laws of war, Landa devoted himself to serving the aims of the ICRW. In 1865, to meet one of the aims of the Geneva Conference, which included the “amelioration of assistance and evacuation devices”⁵⁷ for wounded soldiers among its purposes, Landa published *El mandil de Socorro (The Relief Apron)*.⁵⁸ This document outlined the design of an original device to remove wounded soldiers from the battlefield which was adopted by the health corps of a number of armies. In the same vein, Landa published *Transporte de heridos por vías ferreas y navegables (Transport of Injured Persons by Railway and Navigable Routes)*⁵⁹ in 1866. In 1867 Landa attended the first International Conference of the Red Cross, held in Paris,⁶⁰ as a delegate of the Spanish National Society, and further published a long report on the Swiss military health corps.⁶¹ In the same year, he also published his major work, *El derecho de la guerra conforme a la moral*,⁶² which he later extended in its two further editions.⁶³

Landa’s conception of the right to wage war in his book was a very restrictive one, as he considered that the only legitimate war was one based on the “natural law of self-defence”, exercised in accordance with “the manner in which the morality of individuals consents to [it]”, and that “the extension of this right should be always proportional to necessity”, with the resulting obligation that States are obliged to use the means that produce the “minimum harm compatible with [their] security”.⁶⁴ Furthermore, Landa echoed in his book the

55 Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, 22 August 1864, available at: <https://ihl-databases.icrc.org/en/ihl-treaties/gc-1864?activeTab=historical>.

56 Max Huber, “La Croix-Rouge et l’évolution du droit international”, in Max Huber, *La pensée et l’action de la Croix-Rouge*, ICRC, Geneva, 1954, p. 34.

57 J. R. Navarro Carballo, above note 31, p. 476.

58 Nicasio Landa, *El mandil de socorro*, Imprenta de Munoz Sabater, Pamplona, 1865.

59 Nicasio Landa, *El transporte de heridos y enfermos por vías férreas y navegables: Hospitales flotantes, trenes y hospitales*, Imprenta de Alejandro Gómez Fontenebro, Madrid, 1866.

60 *Conférences internationales a Paris: Sociétés de secours aux blessés militaires des armées de terre et de mer, 1867*, Commission Générale des Délégués, 1867, available at: https://library.icrc.org/library/docs/AF/AF_1552_01.pdf.

61 Nicasio Landa, “Informe sobre la organizacion sanitaria del ejercito suizo”, *Revista de Sanidad Militar y General de Ciencias Medicas*, Vol. 4, 1867.

62 N. Landa, above note 10.

63 Nicasio Landa, *El derecho de la guerra conforme a la moral*, 2nd ed., El Correo Militar, Madrid, 1870; Nicasio Landa, *El derecho de la guerra conforme a la moral*, 3rd ed., Murillo, Madrid, 1877, available at: <https://bvpp.mcu.es/es/consulta/registro.cmd?id=443443>.

64 N. Landa, 3rd ed., above note 63, p. 42. This reference is also present in the first edition of *El derecho de la guerra*, above note 10, and thus predates the 1868 St Petersburg Declaration Renouncing the Use, in Time of War, of Explosive Projectiles Under 400 Grammes Weight, 29 November/11 December 1868. See also Jon Arrizabalaga, “Acción humanitaria y derecho de guerra: Las contribuciones de Nicasio Landa (1830–1891)”, in Ignacio Suay Matallana, Carmel Ferragud, Josepl Barona Vilar and José Ramón

projects for perpetual peace of the Abbé de Saint-Pierre and Immanuel Kant around an “association of all nations”⁶⁵ as the only possible alternative to “the supreme and imperious law of necessity” (“la ley suprema e imperiosa de la necesidad”).⁶⁶ This was, in Landa’s view, the ultimate cause and justification of war because of the lack of an international court or tribunal authorized to pass judgments and duly instituted to apply them and to use the power of its members against those opposing them.⁶⁷ Alongside his early echoing of the notion of the domestic analogy in international law, which underlies the (albeit always imperfect) attempt at transposition of the organs of the liberal State via the establishment of international organizations to the international plane, but similarly inspired by both Christian theology and, in particular, Kant’s idea of a universal history with a cosmopolitan purpose,⁶⁸ it was Landa’s view that

[i]f today nationalities are gathering together to form great kingdoms, tomorrow the races will merge into vast empires, and at last these too will be aggregated, in obedience to the great law of the unity of our species to build the *unum ovile et unus pastor* which is the goal towards which humanity is marching through time, its eternal coefficient. Then, yes; then, war will have finished its providential mission and that scourge will disappear from the world as the words “frontiers” and “foreigners” will be erased in all languages.⁶⁹

However, because Landa was well aware that such an envisioned utopia was, indeed, very far away in the future (“the next generation has little hope to reach its dawn”),⁷⁰ he suggested that “what can be done and therefore should be done” in the face of the phenomenon of war is

to hinder its action by any means, large or small, that can lead to that object, to wrap it in transparent nets, to put golden obstacles to make its movements more and more difficult: to impose on it advice that practice and time will make into sacred laws, such is the tactic to be followed.⁷¹

Conceived against this background, and with such purpose, *El derecho de la guerra conforme a la moral* is divided into five books, with each (except for the fifth) in turn subdivided into five chapters. Book I, “Prolegomena on War”, consists of chapters entitled “Of War in General” (Chapter 1), “Justice in War” (Chapter 2), “Conduct of War” (Chapter 3), “The Beginning of War” (Chapter 4) and “The Enemy”

Bertomeu Sánchez (eds), *Ciencia, medicina y ley*, XVIII Congreso de la Sociedad Española de Historia de la Medicina, Valencia, 2022, p. 243.

65 N. Landa, 3rd ed., above note 63, p. 12.

66 *Ibid.*, p. 9.

67 *Ibid.*, pp. 9–10, 12.

68 Immanuel Kant’s *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht* was first published in the *Berlinische Monatsschrift* IV, 11 November 1784. See further e.g. Martti Koskenniemi, “On the Idea and Practice for Universal History with a Cosmopolitan Purpose”, in Bindu Puri and Heiko Sievers (eds), *Terror, Peace and Universalism: Essays on the Philosophy of Immanuel Kant*, Oxford University Press, Oxford, 2007, p. 122.

69 N. Landa, 3rd ed., above note 63, pp. 13–14. See also J. R. Navarro Carballo, above note 31, p. 477–478.

70 N. Landa, 3rd ed., above note 63, p. 15.

71 *Ibid.*, pp. 15–16.

(Chapter 5). Book II, “Duties towards the Peaceful Subjects of the Enemy”, contains chapters entitled “Right over the Life of the Population” (Chapter 1), “Right over the Freedom of the Population” (Chapter 2), “Right over the Property of the Population” (Chapter 3), “Of the Contribution to War” (Chapter 4) and “Of Property at Sea” (Chapter 5). Book III, under the title “Duties towards the Enemy”, contains chapters entitled “Right over the Life of the Enemy” (Chapter 1), “Means of Harming the Enemy” (Chapter 2), “Right over the Freedom of the Enemy” (Chapter 3), “Duties towards Injured Enemies” (Chapter 4) and “Rights over the Property of the Enemy” (Chapter 5). Book IV, “Duties towards Non-Enemy Aliens”, consists of chapters entitled “Duties towards Allies” (Chapter 1), “Of Neutrality” (Chapter 2), “Duties of the Neutral” (Chapter 3), “Rights of the Neutral” (Chapter 4) and “Of Armed Neutrality” (Chapter 5). To conclude, Book V, under the title “On the End of War”, examines aspects related to “Dealings with the Enemy” (Chapter 1), “Re-establishment of Peace” (Chapter 2) and “Annexations” (Chapter 3).⁷²

Although remaining faithful to its original structure, Landa expanded the book in its second edition in 1870 and considerably in its third augmented edition in 1877. The third edition included the addition of new paragraphs inspired by his new wartime experience during the Third Carlist War, and also referred to the 1863 Lieber Code,⁷³ to the French translation⁷⁴ of Johann Kaspar Bluntschli’s *Das moderne Kriegsrecht der civilisirten Staaten*,⁷⁵ and to the Brussels Declaration (“Project for an International Declaration concerning the Laws and Customs of War”) of 1874.⁷⁶ Landa also included an appendix containing the declaration that the IDI had addressed to the belligerents in the Russian-Turkish War (1877–78). Together with the Lieber Code and Bluntschli’s *Das moderne Kriegsrecht der zivilisierten Staaten*,⁷⁷ the publication of *El derecho de la guerra conforme a la moral* made it one of the earliest expositions on modern IHL in international legal history. Although Gustave Rolin-Jaequemyns published an early review of *El derecho de la guerra*,⁷⁸ because Landa never delivered on his promise to prepare a French edition of the book and it has never been translated, the book has remained almost completely unknown outside a very small, erudite circle in Spain.

Consequently, the book’s influence should be measured by reference to other important early international law works in Spanish. These include

72 N. Landa, note above 10.

73 Francis Lieber, *Instructions for the Government of Armies of the United States in the Field*, General Order No. 100, 24 April 1863 (Lieber Code), available at: https://avalon.law.yale.edu/19th_century/lieber.asp.

74 Johann Kaspar Bluntschli, *Le droit international codifié*, trans. M. C. Lardy, Librairie de Guillaumin, Paris, 1872.

75 Johann Kaspar Bluntschli, *Das moderne Kriegsrecht der civilisirten Staaten*, 2nd ed., C. H. Beck, Nördlingen, 1872. This is the largely expanded edition of Johann Kaspar Bluntschli, *Das moderne Kriegsrecht der zivilisierten Staaten: Als Rechtsbuch dargestellt*, 1st ed., Nördlingen, C. H. Beck, 1866.

76 Adam Roberts, “Foundational Myths in the Laws of War: The 1863 Lieber Code, and the 1864 Geneva Convention”, *Melbourne Journal of International Law*, Vol. 20, No. 1, 2019, p. 158.

77 See above note 75.

78 Gustave Rolin-Jaequemyns, “El derecho de la guerra conforme a la moral, por el doctor Nicasio Landa”, *Revue de Droit International et Legislation Comparee*, Vol. 9, 1877, p. 431.

Concepción Arenal's *Ensayo sobre el derecho de gentes* (1879), which has long been considered "the most original Spanish work in the field of international law published during the nineteenth century".⁷⁹ This treatise by Arenal (1820–93), who was a celebrated humanitarian thinker, social reformer and pioneer of women's rights and feminism in Spain, owes much to Landa's book, to which she constantly refers in particular in its Chapter VIII on "Hostile Relations" (by far the longest of the chapters in her book).⁸⁰ Arenal was also one of Landa's most committed collaborators in the Spanish Red Cross. She served as secretary-general of its ladies' section, which was established in 1869,⁸¹ and later worked with wounded soldiers as director of a field dressing station for soldiers from both camps during the Third Carlist War.⁸² Another sign of the deep influence of Landa's book in Spain can be gleaned from the Marqués de Olivart (1861–1928),⁸³ whose *Tratado de derecho internacional público y privado* is considered one of the very first general treatments of both public and private international law in Spanish.⁸⁴ Elected to the IDI in 1888, de Olivart, who was the owner of an extensive library "that has long been regarded as the most complete collection of works relating to international law and diplomacy" worldwide in the early twentieth century,⁸⁵ highlighted that both Landa's early treatise on the laws of war and *Tratado elemental de derecho internacional marítimo*⁸⁶ by Ignacio de Negrín (1830–81) provided "the first foundations of a scientific renaissance" of international law studies in Spain in the late nineteenth century.⁸⁷ This "scientific renaissance" would, in turn, largely influence the works of Spain's first "professional" generation of international law academics.⁸⁸

79 Edwin Montefiore Bochard and Thomas Waverly Palmer, *The U.S. Library of Congress' Guide to the Law and Legal Literature of Spain*, Library of Congress, Washington, DC, 1915, p. 132.

80 Concepción Arenal, *Ensayo sobre el derecho de gentes*, Imprenta de la Revista de legislación, Madrid, 1879. Its Chapter VIII is over 120 pages long (pp. 77–200). For a detailed analysis, see Ignacio de la Rasilla, "Concepción Arenal and the Place of Women in Modern International Law", *Tijdschrift Voor Rechtsgeschiedenis*, Vol. 88, No. 1–2, 2020, p. 211.

81 Spanish Red Cross, "¿Quién fue Concepción Arenal y por qué su figura es tan importante?", 8 March 2023, available at: www2.cruzroja.es/web/ahora/-/quien-fue-concepcion-arenal.

82 See, further, Jon Arribabalaga, "The 'Merciful and Loving Sex': Concepción Arenal's Narratives on Spanish Red Cross Women's War Relief Work in the 1870s", *Medicine, Conflict and Survival*, Vol. 36, No. 1, 2020, p. 41.

83 On de Olivart, see Antonio Blanc Altemir, *El Marqués de Olivart y el derecho internacional (1861–1928): Sociedad internacional y aportación científica*, Institut d'Estudis Ilerdencs, Lerida, 2000. For further details, see Ignacio de la Rasilla, *In the Shadow of Vitoria: A History of International Law in Spain (1770–1953)*, Brill Nijhoff, Leiden, 2018, pp. 122–123, 148.

84 Marqués de Olivart, *Tratado de derecho internacional público y privado, extractado y traducido de las obras de Calvo, Bar, Neumann etc., con extensas notas y un bosquejo del derecho internacional privado español*, Fernando Fe, Madrid, 1886.

85 De Olivart's personal library was purchased by the Library of Harvard Law School in 1911. See "The Acquisition of the Olivart Collection by Harvard Law School", *The Green Bag*, Vol. 24, 1912, p. 233.

86 Ignacio de Negrín, *Tratado elemental de derecho internacional marítimo con varios apéndices que contienen la legislación interior, los tratados de España y otros documentos*, Imprenta de M. Ginesta, Madrid, 1873.

87 "Note par M. d'Olivart sur les publications recentes relatives au droit international parues en Espagne", *Annuaire de l'Institut de Droit International*, Vol. 11, 1889–1892, p. 480.

88 See, further, Ignacio de la Rasilla, "El estudio del derecho internacional en el corto siglo XIX español", *Rechtsgeschichte: Legal History*, Vol. 21, 2013, p. 48. Also available in English as Ignacio de la Rasilla,

Besides his written works on the theory and practice of military medicine and IHL, Landa’s contributions during these years also extended to founding and directing the journal of the Spanish Red Cross. Following in the footsteps of the first issue of the *Bulletin International des Sociétés de Secours aux Militaires Blessés* (established in 1869 in Geneva),⁸⁹ Landa founded, funded, directed and became the main contributor to *La Caridad en la Guerra (Charity in War)*⁹⁰ in Pamplona in April 1870. This was published with the subtitle *Anales de la Asociación Internacional de Socorro a los Heridos (Annals of the International Association of Relief to the Wounded)* and the Latin motto “Hostes dum vulnerati fratres” (“Enemies when wounded become brothers”).⁹¹ In the same year, the outbreak of the Franco-Russian War (1870–71) marked the first time that the ICRW had participated in an international conflict. The war was also the first time that the Spanish Red Cross had collected and (with the help of Landa, who volunteered to travel as its international delegate to visit war hospitals and assist wounded soldiers) distributed humanitarian aid in foreign countries.⁹²

Landa’s contributions to the work of the Institut de Droit International on international humanitarian law and international health law (1871–91)

The Franco-Prussian war was a crucible from which, in view of both the lack of respect by the parties during the war for the 1864 Geneva Convention⁹³ and the shortcomings of that convention, the IDI was founded in September 1873. Landa was the only Spaniard to receive an invitation to join its inaugural meeting in Ghent.⁹⁴ This invitation has been attributed to the publication of his *El derecho a la guerra conforme a la moral* in 1867, the second edition of which was

“The Study of International Law in the Short Spanish Nineteenth Century”, *Chicago-Kent Journal of International and Comparative Law*, Vol. 13, No. 2, 2013, p. 122.

89 See e.g. Daniel Palmieri, “To Inform or Govern? 150 Years of the *International Review of the Red Cross*, 1869–2019”, *International Review of the Red Cross*, Vol. 100, No. 907–909, 2018, p. 71.

90 Landa used for the journal the title of a pamphlet written in the service of the Red Cross in 1868: Nicasio Landa, “La caridad en la guerra”, G. Estrada, Madrid, 1868. This was translated into Dutch as Nicasio Landa, “Menchenliefde en oorlog”, trans. F. W. N. Suringar, J. van Raalen & Zonen, Rotterdam, 1868.

91 In 1871, Landa’s journal was transferred to Madrid, where it kept its original title but adopted the subtitle *Boletín Oficial de la Asamblea Española (Official Bulletin of the Spanish Assembly)*. In 1896 it became *La Caridad en la Guerra*, and in 1898 it took its definitive title, *La Cruz Roja*. See V. Lavin and R. Mata (coord.), above note 7.

92 See E. Samaniego Arrillaga, above note 29, pp. 617, 618. See also J. Iturralde y Suit, above note 34, p. 346; M. S. G. Enrich, above note 49, pp. 128–130.

93 Gustave Moynier, “La Convention de Genève pendant la guerre franco-allemande”, *Bulletin International des Sociétés de Secours aux Militaires Blessés*, No. 14, 1873, p. 51.

94 Five other Spaniards joined the IDI’s ranks throughout the rest of the nineteenth century: Rafael María de Labra y Cadrana (1878), Manuel Torres Campos (1885), Ramón María de Dalmau de Olivart (Marqués de Olivart) (1888), José Maluquer y Salvador (1891) and Vicente Romero y Girón (1891). For the complete list of Spanish members until 2021, see J. C. Fernández Rozas, above note 8, p. 71. Ambassador Ramón Piña y Millet (elected in 1911) and Nicasio Landa remain the two only Spanish IDI members who did not hold a law degree.

published, as noted above, in 1870.⁹⁵ It probably also owes much to the fact that Landa's work on behalf of the Geneva Committee and the Spanish Red Cross had long been highly appreciated by Gustave Moynier, who became a paramount figure in the founding of the IDI. However, Landa's appointment to the military corps of the liberal army during the Third Carlist War and his position as inspector-general of the Red Cross (since 1867) did not allow him to attend its inaugural meeting in person. Therefore, although Landa was not among the IDI's so-called "founding members", he remains one of the thirty-nine original members of the IDI and its first member of Spanish nationality.⁹⁶ In fact, just two months before the establishment of the IDI in July 1873, Landa had sent a detailed letter from Navarre to Moynier, which was then published in the *Bulletin International des Sociétés de Secours aux Militaires Blessés* in October 1873.⁹⁷ In the letter, Landa made reference to the first humanitarian intervention under the flag of the Spanish Red Cross during the battle of Oroquieta in 1872, which was also the first recorded intervention by the Red Cross in any civil war. The extension of the activities of the ICRW to civil wars was one of the long-term aspirations of Landa, who had published "La caridad en las guerras civiles" in Spanish in 1873, a text which also appeared translated into French in the *Bulletin International des Sociétés de Secours aux Militaires Blessés* in 1875.⁹⁸ If, as Eyal Benvenisti and Doreen Lustig have recalled, Landa was one of the earliest campaigners for the application of the First Geneva Convention to civil wars,⁹⁹ the participation of the Spanish Red Cross in the Third Carlist War provided, according to Moynier, "precedents of high value, which must be remembered in order to invoke them, if necessary, in similar circumstances".¹⁰⁰

Landa's new wartime experiences only added to his acumen and commitment to humanitarian causes.¹⁰¹ These and others informed his contributions to the IDI until his death in 1891. Besides taking part in the regular IDI activities,¹⁰² Landa's manifold contributions to its early works included several "communications" or

95 See *ibid.*, p. 20.

96 The list of thirty-nine original members elected in 1873 is available at: www.idi-iil.org/en/libermemorialis-1873-2023. See also Peter Macalister-Smith, "Bio-Bibliographical Key to the Membership of the Institut de Droit International 1873–2001", *Journal of the History of International Law*, Vol. 5, No. 1, 2003, p. 77.

97 The text of Landa's original letter was published twice by the *International Review of the Red Cross*, first in 1873 as "Espagne: La guerre civile", and then in 1953 as "Regards vers le passé", above note 1.

98 Nicasio Landa, "La charité dans les guerres civiles", *Bulletin International des Sociétés de Secours aux Militaires Blessés*, No. 4, 1875, p. 175. This was a translation from Nicasio Landa, "La caridad en las guerras civiles", *La Gaceta Popular*, No. 249, 1873.

99 Eyal Benvenisti and Doreen Lustig, "Monopolizing War: Codifying the Laws of War to Reassert Governmental Authority, 1856–1874", *European Journal of International Law*, Vol. 31, No. 1, 2020, p. 156, citing N. Landa, "La charité", above note 98. This tangential reference is one of the very few references to Landa that one may find in recent international legal literature.

100 Comité Central, above note 1, p. 42 ("des precedents de haute valeur, dont il faut se souvenir pour les invoquer au besoin dans des circonstances analogues").

101 For details, see J. J. Viñes, above note 8.

102 See e.g. "Extrait du procès-verbal de la 4e séance plénière, tenue à Turin le 48 septembre 1882, sous la présidence de M. Pierantoni" (with a mention of Landa's assistance to the "Projet de règlement international des prises maritimes (Rapporteur M. de Bulmerincq)"), *Annuaire de l'Institut de Droit International*, Vol. 6, 1882–83, p. 178.

short reports in different areas ranging from “recent publications on international law in Spain” in the late 1870s¹⁰³ to a report on the incorporation of many new IHL concepts from the 1864 Geneva Convention, the Brussels Declaration and the Oxford Manual into the new Spanish military criminal code of 1884.¹⁰⁴ Landa had been a long-standing campaigner for reform of the Spanish military criminal code,¹⁰⁵ in particular regarding granting neutral status to anyone assisting rebel wounded soldiers in civil wars, an action criminalized in Spain since 1820 and under which Landa’s own father, a doctor like him, had been castigated during the First Carlist War.¹⁰⁶ The inclusion of this reform in the Spanish Public Order Law of 1870, and then in the new military criminal code in 1884, which was unique at the time in comparative law terms, owes much to Landa’s efforts.

Landa’s work for the IDI also included contributions to different IDI commissions on the regulation of the laws and customs of war, among other subject areas. Equipped with extensive wartime experience, Landa was one of the drafters of the *Manual on the Laws of War on Land* in 1880, led by Gustave Moynier.¹⁰⁷ As a member of the commission on the regulation of laws and customs of war, Landa also contributed to “the international law of railways in the case of war”, which was later extended to also include the regulation of “telegraphs and telephones in the case of war”.¹⁰⁸ Furthermore, Landa collaborated with the commission which drew up the first regulation on the rights of aliens and political asylum,¹⁰⁹ and he also presented a project on the classification of crimes against the laws of war according to the Brussels Declaration in 1878.¹¹⁰ In the latter, Landa typifies the corresponding crimes into six categories (“usurpation of functions”, “illegal exaction”, “abuse of authority”, “armed robbery”, “murder” and “act of betrayal”), identifying a list of corresponding actions fitting each criminal type.¹¹¹

103 “Rapport de M. Landa sur la littérature recent du droit international en Espagne”, *Annuaire de l’Institut de Droit International*, Vol. 3–4, 1879–80, p. 148.

104 “Nouveau code pénal militaire espagnol: Communication de M. de Landa”, *Annuaire de l’Institut de Droit International*, Vol. 8, 1885–86, p. 293.

105 E. de No Louis, above note 53, pp. 3–4.

106 Radio Television Española, above note 27.

107 “Manuel des lois de la guerre sur terre: Les lois de la guerre sur terre: Manuel publié par l’Institut de droit international”, *Annuaire de l’Institut de Droit International*, Vol. 5, 1881–82, p. 157. See also “Rapport de M. Moynier”, *Annuaire de l’Institut de Droit International*, Vol. 5, 1881–82, p. 251; Nicasio Landa, “La Universidad de Oxford: Artículo del 11 de setiembre del presente año, publicado por don Nicasio Landa, describiéndola, i haciendo un breve resumen de las tareas del Instituto del Derecho Internacional”, *Anales de la Universidad de Chile*, Vol. 57, 1880, p. 688.

108 “Réglementation des lois et coutumes de la guerre: Droit international des chemins de fer, des télégraphes et des téléphones en cas de guerre”, *Annuaire de l’Institut de Droit International*, Vol. 9, 1887–88, p. 13. See also “Rapport of M. Moynier”, *Annuaire de l’Institut de Droit International*, Vol. 10, 1888–89, p. 206 (noting Landa’s contributions, pp. 218–219)

109 See, generally, Rygiel Philippe, “Does International Law Matter? The Institut de Droit International and the Regulation of Migrations before the First World War”, *Journal of Migration History*, Vol. 1, No. 1, 2015, p. 1.

110 Nicasio Landa, “Droit penal de la guerre: Project de classification des crimes et délits contre les lois de la guerre, selon la déclaration de Bruxelles”, *Revue de droit international et de législation comparée*, Vol. 10, 1878, pp. 182–184.

111 *Ibid.*

Landa's third area of contributions to the IDI as rapporteur on measures on international sanitary policy deserves separate attention. He examined the tension between public health, on the one hand, and commerce, on the other, regarding land and maritime quarantine.¹¹² This is a topic on which Landa drafted a "project for an international sanitary convention", which he argued was "founded on the irrefutable basis of experimental science".¹¹³ In order to do this, Landa traced a parallel between the method used to draft the First Geneva Convention and the "system of international sanitary policy", with the aim of identifying in the latter the "vexatious dispositions that modern science has recognized as ineffectual" and the "useless rigours a treaty could request States to renounce".¹¹⁴ On the basis of Landa's study of a number of bilateral international sanitary treaties, domestic laws on quarantine, and expert opinions and recommendations by international sanitary conferences and international medical congresses,¹¹⁵ the draft international treaty that Landa proposed highlighted a need to ease the stringent conditions to which those "not showing indubitable symptoms of a contagious or epidemic disease" were subjected at borders between States while leaving a greater margin of appreciation to States regarding merchandise and storage buildings on the condition that adequate notice of these more severe measures was provided to international traders in advance.¹¹⁶

If, indeed, as W. F. Bynum notes, "medical internationalism has in one sense only a rather short history and can be said to have emerged in the mid-late nineteenth century",¹¹⁷ Landa, who brought to bear his first-hand medical experience in combating cholera and yellow fever epidemics in both peacetime and wartime on his work on the interface between international law and sanitary policy regarding epidemic diseases, should be regarded as one of the very earliest medical legal internationalists. This is apparent in his argument that the mandate of the IDI could indeed include reliance on "scientific knowledge" as a means for the "triumph of the principles of justice and humanity" in relations among nations.¹¹⁸ Although the IDI abandoned the project after Landa's death in 1891, a separate first international sanitary convention was approved and ratified by fourteen nations just one year later in Venice in 1892 with an exclusive focus on the spread of cholera,¹¹⁹ "one of the classic regime's 'big three' infectious

112 "Dixième commission d'études – Mesures de police sanitaire internationale. Rapporteur: M. de Landa", *Annuaire de l'Institut de Droit International*, Vol. 9, 1888, p. 314.

113 "Onzième commission – Mesures de police sanitaire internationale", *Annuaire de l'Institut de Droit International*, Vol. 10, 1888–89, p. 251.

114 *Ibid.*, p. 253.

115 *Ibid.*, pp. 253–256

116 *Ibid.*, p. 257.

117 W. F. Bynum "Policing Hearts of Darkness: Aspects of the International Sanitary Conferences", *History and Philosophy of the Life Sciences*, Vol. 15, No. 3, 1993, p. 422.

118 "Dixième commission d'études", above note 112, p. 314. See, further, an exposition of the founding principles of the IDI in "Fondation de l'institut de droit international", *Bulletin International des Sociétés de la Croix-Rouge*, No. 18, 1874, p. 99.

119 *Protocoles et Procès-verbaux de la Conférence sanitaire internationale de Venise inaugurée le 5 janvier 1892*, Impr. Nationale de J. Bertero, Rome, 1892.

diseases”,¹²⁰ alongside plague and yellow fever. This was the first international treaty adopted as a result of the work of international sanitary conferences since the first one was held in Paris in 1851 (reflecting “the conclusion of major European States that the international spread of infectious diseases could no longer be handled as a matter only of national governance”¹²¹), and it is widely recognized as the “origin point of international health law”.¹²² Landa, whose expertise in the medical treatment of cholera began, as we have seen, at a very early age, had been attending some of the international sanitary conferences, like the one held in Rome in 1885, and reporting on them to the IDI.¹²³

Besides his contributions to the work of the IDI in the late 1870s and the 1880s, the very strenuous civil war in Navarre, in which Landa participated in his double capacity as military doctor and inspector-general of the Red Cross on many battlefields and even endured the siege of its capital city for several months, gave Landa many first-hand experiences to apply in his writing about improving military medicine,¹²⁴ including with different technical innovations.¹²⁵ Soon after the war, in 1878, Landa retired from the Spanish Military Health Corps with the equivalent rank of colonel¹²⁶ to devote himself to the practice of medicine, becoming director of the military hospital of Pamplona (1883–86) and then director of military health inspection for Navarre (1886–91).¹²⁷ During the 1880s, he continued making contributions to the improvement of military health corps¹²⁸ and participating in international conferences¹²⁹ including the Third International Conference of the Red Cross in 1884.¹³⁰ He also produced official

120 David P. Fidler, “From International Sanitary Conventions to Global Health Security: The New International Health Regulations”, *Chinese Journal of International Law*, Vol. 4, No. 2, 2005, p. 330.

121 *Ibid.*, p. 329.

122 A. R. Houston, “Applying Lessons from the Past in Haiti: Cholera, Scientific Knowledge, and the Longest-Standing Principle of International Health Law”, in Mark Eccleston-Turner and Iain Brassington (eds), *Infectious Diseases in the New Millennium*, Springer Nature, Cham, 2020, p. 82.

123 “Conclusions adoptées par la conférence sanitaire internationale de Rome (1885) (communiquées par M. de Landa)”, *Annuaire de l’Institut de Droit International*, Vol. 8, 1885–86, p. 233. The second and third international sanitary conventions, which were approved in Dresde in 1893 and Paris in 1894 respectively, focused in turn on “keeping ‘Asiatic cholera’ out of Europe”. Soon afterwards, States began setting up international health organizations at the regional level, beginning with the Pan-American Sanitary Bureau in Washington in 1902, which is considered the world’s first international public health organization. In 1907, the establishment of the Office Internationale d’Hygiene Publique in Paris marked the founding of the world’s first universal health organization. See D. P. Fidler, above note 120.

124 For a detailed account, see J. J. Viñes, above note 8, pp. 121–203.

125 See e.g. Jon Arrizabalaga and Juan Carlos Garcia Reyes, “Innovación tecnológica y humanitarismo en el traslado de heridos de guerra: El informe de Nicasio Landa sobre un nuevo sistema de suspensión elástica de camillas (Pamplona, 29 mayo 1875)”, *Revista História, Ciências, Saúde – Manguinhos*, Vol. 23, No. 3, 2016, p. 887.

126 J. R. Navarro Carballo, above note 31.

127 M. Torres Campos, above note 2, p. 77.

128 Including Nicasio Landa, *Estudios sobre táctica de sanidad militar del servicio sanitario en la batalla*, Imprenta Alejandro Gomez Fuentenebro, Madrid, 1880; Nicasio Landa, *El servicio sanitario en el sitio y defensa de plazas*, Servicio Tipografico de Ricardo Fe, Madrid, 1887.

129 Landa was the representative of Spain at the International Sanitary Conference in Vienna in 1874 and the Conference of Military Health in Paris in 1878. See M. Torres Campos, above note 1, p. 78.

130 *Troisième Conférence internationale des Sociétés de la Croix-Rouge tenue à Genève du 1er au 6 septembre 1884: Compte rendu*, 1884, available at: https://library.icrc.org/library/docs/CI/CI_1884_RAPPORT.pdf.

reports on his visits to foreign academies of military health and on his attendance at international conferences.¹³¹

Although Landa is still sporadically remembered in Spain for being a co-founder of the Spanish Red Cross and also the first Spanish member of the IDI,¹³² he has remained a hidden figure in the history of IHL elsewhere. This has been the case despite the various references to him contained in the early years of the *Annuaire de l'Institut de Droit International* and the *Bulletin International des Sociétés de Secours aux Militaires Blessés*.¹³³ Some of these references are related to the fact that, as Enrich noted back in 1875, “we cannot write the history of the origins and development of the Spanish section [of the Sociétés de Secours aux Militaires Blessés] without encountering the name of Doctor Landa at every step”.¹³⁴

Landa also served as the corresponding member of the Royal Academies of Health and History in Spain and Archaeology in France, and was decorated multiple times both abroad and in his own country during his lifetime.¹³⁵ Besides his international legal humanitarian work, he also made various remarkable contributions to epidemiology¹³⁶ and literature¹³⁷ (including as author of the prologue to the first translation into Spanish of an anthology of the writings of Edgar Allan Poe in 1858¹³⁸), as well as to the folklore,¹³⁹ archaeology¹⁴⁰ and history¹⁴¹ of Navarre. Besides his written works, the contributions of Dr Landa,

131 Nicasio Landa, “La academia de sanidad militar de Netley”, *Gaceta de Sanidad Militar*, Vol. 6, No. 139, 1880, p. 505.

132 Landa and the Argentinian Carlos Calvo (1824–1906) were also the IDI’s only native Spanish-speakers until the appointment of Rafael María de Labra (1840–1918) to the IDI in 1878. De Labra was a noted campaigner for the abolition of slavery in the remnants of former Spanish empire in the Americas. See e.g. Rafael María de Labra, *La abolición de la esclavitud en el orden económico*, Sociedad Abolicionista Española, Imprenta de J. Noguera, Madrid, 1873.

133 Other than those mentioned above, see also “La trousse Landa pour le premier pansement”, *Bulletin International des Sociétés de la Croix-Rouge*, No. 20, 1874, p. 223.

134 M. S. G. Enrich, above note 49, p. 128 (“On ne peut faire l’histoire de l’origine et du développement de la section espagnole sans rencontrer a chaque instant le nom du docteur Landa”).

135 A list of Landa’s nineteen decorations, including nine of civil character and ten military ones, of which five are from foreign countries, is included in J. R. Navarro Carballo, above note 31, pp. 360–361.

136 José Javier Viñes, “El Dr. D. Nicasio Landa, médico oficial en la epidemia de cólera de 1854–1855”, *Anales del Sistema Sanitario de Navarra*, Vol. 23, No. 1, 2000, p. 85.

137 See e.g. Nicasio Landa, *Los primeros cristianos de Pompeiopolis: Leyenda de San Fermin*, Imprenta de Joaquín Lorda, Pamplona, 1882; Nicasio Landa, “Una visión en la niebla: Los guerreros euskaldunas”, *Euskal-Erria: Revista Bascongada*, Vol. 13, 1885, p. 517.

138 Edgar Allan Poe, *Historias extraordinarias precedidas de un prólogo crítico biografico por el Doctor Landa*, Imprenta de Luis García, Madrid, 1858. See, further, Pedro Salinas, “Poe in Spain and Spanish America”, in *Poe in Foreign Lands and Tongues: A Symposium at the nineteenth annual commemoration of the Edgar Allan Poe Society of Baltimore*, January 1941, available at: www.epoe.org/PAPERS/psblctr/p119411.htm.

139 “Landa Alvarez de Carballo, Nicasio”, *Gran Enciclopedia de Navarra*, available at: www.encyclopedianavarra.com/?page_id=12639.

140 See e.g. P. Ozcáriz Gil, “Nicasio Landa y su aportación a la Historia Antigua de Navarra: Sobre la lectura y transcripción de las inscripciones romanas de Gastiáin”, *Cuadernos de Arqueología de la Universidad de Navarra*, Vol. 21, 2013, p. 335.

141 See e.g. Nicasio Landa, “Datos sobre el Arte Cristiano de Navarra”, *Euskal-Erria: Revista Bascongada*, Vol. 18, 1888, p. 218; Nicasio Landa, “Reseña histórica del valle y Universidad de Lana”, *Revista del Antiguo Reino de Navarra*, Vol. 1, 1888, p. 157.

who died of bronchopneumonia, aged 61, in Pamplona on 11 April 1891, also spanned the founding and direction of several journals,¹⁴² the setting up of several charitable institutions in Pamplona¹⁴³ and even laying the foundations for Navarre’s first psychiatric hospital.¹⁴⁴

Conclusions

This article has briefly revisited the life and works of a completely overlooked central figure of the early days of the professionalization of international law and the first steps of the ICRC and the IDI in the mid- to late nineteenth century. Nicknamed the “Spanish Henri Dunant”,¹⁴⁵ Landa’s legacy includes solid contributions, as we have seen, to the practice and study of military health law and seminal ones to the foundations of modern IHL in particular, but also, albeit more tangentially, to those of international health law. Contrary to other historical international legal figures of the nineteenth century, whose life and works have been repeatedly historized, occasionally in hagiographical terms,¹⁴⁶ a combination of the dominance of English in international legal history and the fact that he was not a lawyer have largely left Landa in the margins of the annals of the history of international law, and even IHL. However, Landa’s legacy in laying the foundations of international legal developments in the late nineteenth century and his historical representativeness in this context are sufficiently conclusive. Besides his *avant-la-lettre* contributions to IHL, which included, as we have seen, being one of earlier proponents of the extension of “neutral” status to wounded soldiers in both international and civil wars as well as to those assisting them in both cases, and being a champion of the application of the First Geneva Convention to civil wars, Landa’s “human-centred” approach to international law was also apparent in his attempts to reduce the constraints imposed by epidemic quarantines on individuals.¹⁴⁷ However, perhaps the measure of why the figure of Dr Landa is finally worth rescuing from historical obscurity in an international legal discipline that has had far more than its fair share of armchair scholarship was best captured by

142 Including the *Memorial de Sanidad* (see above note 32) and *La Caridad en la Guerra* (see above note 91). Landa also served as director of the *Revista Euskara* from 1878 to 1883.

143 J. J. Viñes, above note 8.

144 Javier Aztarain Diez, *El nacimiento y consolidación de la asistencia psiquiátrica en Navarra, 1868–1954*, Government of Navarra, Pamplona, 2006, p. 111 (annexing Nicasio Landa, *Proyecto de un manicomio agrícola del Doctor Nicasio Landa*, 1868), available at: <https://tinyurl.com/u7wzbcun>.

145 See V. Lavin and R. Mata (coord.), above note 7. See also Angel Roman, “Landa, El Dunant español”, *Cruz Roja*, July 1989, p. 13.

146 Aoife O’Donoghue, “Bluntschli, C’est Moi? International Legal History and Hagiography”, *Transnational Legal Theory*, Vol. 15, No. 1, 2024, p. 67.

147 Anne Peters and Tom Sparks (eds), *The Individual in International Law: History and Theory*, Oxford University Press, Oxford, 2024.

Concepción Arenal in her *Ensayo sobre el derecho de Gentes* in 1879. In this rare book, which stands out as “the first treatise on international law in the modern sense ever published by a woman”,¹⁴⁸ Arenal characterized Nicasio Landa as “one of the most humane men who has ever walked the battlefields”.¹⁴⁹

148 I. de la Rasilla, note above 80, p. 211.

149 C. Arenal, above note 80, p. 108 (“Landa, uno de los hombres más humanos que han recorrido los campos de batalla”). For a parallel between the collaboration of Arenal and Landa as pioneers of health social work in the late nineteenth century in Spain and the emergence of health social work in the early twentieth century through the collaboration of Richard Cabot and Ida Cannon at Massachusetts General Hospital, see Francisco Idareta Goldaracena, “Concepción Arenal: Pionera del trabajo social sanitario en España”, *Áreas: Revista Internacional de Ciencias Sociales*, Vol. 44, 2023, p. 119.