

## **Rui Barbosa and International Law**

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One hundred years ago, when Argentina celebrated the first centennial of its independence, the Brazilian government designated Senator Rui Barbosa as its representative at the festivities. In addition to participating in the official ceremonies, Rui Barbosa was invited to lecture at the School of Law of the University of Buenos Aires, where he delivered one of the most important speeches in the history of International Law in Brazil. Given the contribution of his reflections to the building of the legal doctrine that supports the essence of Brazilian foreign policy, as well as to the affirmation of the values and principles of diplomacy defended by Itamaraty, it is worth recalling some of the fundamental concepts of that conference, which are still valid to this day.

In 1983, the Casa de Rui Barbosa published a definitive text of that lecture, "The Modern Concepts of International Law", translated from Spanish, which was, for a long time, called the "Duty of the Neutrals". Barbosa was already well-known in Argentina, where he had lived between 1893 and 1894, while escaping from the Floriano government's pursuit due to his defense of the insurgents of the Armada movement. After retelling the most relevant episodes in the Argentinian pro-independence itinerary – which began in 1806, advancing in 1810 and definitively legitimized at the Congress of Tucuman, on 9 July 1816, when the country's autonomy from Spain was proclaimed – Rui Barbosa quotes Juan Bautista Alberdi, who condemned the cult of the State as a "denial of individual freedom" in the pamphlet "The Omnipresence of the State".

He then gets to the crux of his discourse: the formal condemnation of the use of force, represented by the violation of Belgium's neutrality by German Empire troops, in complete disrespect of the principle discussed a few years prior, at the Second Hague Peace Conference, where Barbosa had been chief of the Brazilian delegation. His words in defense of this principle were very clear: "Among those who break the law and those who abide by it, there is no admissible neutrality. Neutrality does not mean doing nothing; it means being impartial; and there is no impartiality between what is right and what is unjust. (...) The right is not imposed (...) with the weight of the armies. It is imposed, and better so, with the pressure of the peoples. (...) There is no such thing as two morals, the doctrinal and the practical. The moral is only

one: the one of human conscious, which does not waver to distinguish between right and strength”.

This Rui Barbosa conference was recalled by Chancellor Oswaldo Aranha in 1942, precisely at the moment when Brazil saw itself confronted by the extension of the European war on the American continent, therefore, urging the country to assume its full responsibilities in regard to the principles of international Law, and in agreement with the duties of hemispheric solidarity. Germany had, once again, violated Belgium’s neutrality in order to invade France. Aranha’s stance – who had welcomed Barbosa as a young student in Rio de Janeiro when the jurist disembarked upon his return to Brazil – was decisive so that, unlike Argentina, which was then controlled by the Group of United Officers and was empathetic to the Axis, Brazil would adopt a stance compatible with the doctrinal construction initiated by Barbosa. Aranha’s stance was also decisive to Brazil’s being in accordance with the national interests, in both hemispheric and global contexts, in face of the brutal disrespect to international Law committed by the Nazi-fascists powers within Europe and outside it.

Twenty years later, Chancellor San Tiago Dantas, one of the great defenders of the juridical thinking of Brazilian diplomacy, stressed the importance of the principle of non-intervention in internal issues of other states, which was then on the agenda in the pan-American conferences and meetings regarding the Cuban case. Other Brazilian jurists and diplomats throughout the century, such as Raul Fernandes, Afrânio de Melo Franco, Afonso Arinos, and Araújo Castro, participated in this doctrinal and pragmatic construction of values and principles of Brazilian diplomacy. One must recognize, however, that Rui Barbosa was one the people responsible for the contribution of the great political and legal guidelines that today fully integrate the patrimony of Brazilian diplomacy.

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