

In tribute to the late

FRANCESCO BERLINGIERI

(1922 - 2018)

La sua devozione al diritto marittimo internazionale



Before I begin these words, I should express my gratitude to the Executive Council of this Comité Maritime International (CMI), in the person of its President, Dr. Christopher Davis and the other members of the same, for the honor they have given me by inviting me to pronounce in this Colloquium these words in posthumous tribute to who was my great friend, Doctor and Professor Francesco Berlingieri, one of the great presidents who contributed with his tireless work to the fundamental purpose for which the CMI was founded, the international unification of maritime law.

Also and, for the same reasons, I thank the entire board of the Mexican Maritime Law Association, co-organizer of this Colloquium, in the person of its president, Dr. and Professor Ignacio Luis Melo Ruiz, whose book in his tribute, we presented last Saturday 28th of the current month in this city.

I also take the opportunity of these words, to congratulate the Italian Maritime Law Association (IMLA), for the celebration of the 120th anniversary of its foundation, to which Francesco Berlingieri lent his invaluable material and intellectual contributions, not only as its president, but as one more member, as his son Giorgio has brilliantly outlined in his article on the history of the IMLA, which you will find on the CMI website. I thank Giorgio for providing me with the informative sources to write these short words. To him, as much as he wanted it, was impossible to attend this Colloquium. However, his son Andrea is with us, who not only represents the entire Berlingieri family, but his grandfather, to whom we pay tribute today.

I would never have imagined, in May 1977, when presiding over the Venezuelan Maritime Law Association, recently founded, attending the XXXI CMI Conference in Rio de Janeiro, which was chaired by Francesco Berlingieri, that 42 years later I would have to say a words in his posthumous tribute, today here at the CMI, and, in March 2018, at the Academy of Political and Social Sciences of Venezuela.

Those of us who had the good fortune to meet Francesco Berlingieri personally, and, also those who did not, still felt his presence through his books and his works, in the international meetings where he advocated, not only the international legislative unification of maritime law, but the correct uniform interpretation of its norms, contained, not only in international conventions, but in national laws adapted to them, and to the rules, customs and customs, born of the already more than centennial unifying work of the CMI.

Therefore, it is likely to remember here the edition of Saturday, March 10, 2018, of the *Il Secolo XIX* newspaper of Genoa, Italy, which entitled on its first page, the following: "*Addio a Berlingieri, vita eroica tra guerra e diritto marittimo* " and then on page 23, they did not hesitate to describe him as "*Il padre del diritto marittimo*". This is how this important Genoese newspaper outlined the sensitive death of Francesco Berlingieri, which occurred on March 6 of last year 2018 at the age of 96, in his beloved city, Genoa, where he was born, on February 20, 1922.

It was also reviewed by such edition of the Genoese newspaper, the immense number of people, in addition to their relatives, who attended their funerals, which took place in the Church of *Nostra Signora del Carmine and Sant'Agnese*, in Genoa, where there was side of his coffin an honor guard of the Italian Navy, covered with the flag of that country. There, emotional words were pronounced, remembering, among other things, the deep love between him and his wife Anna Teresa Berlingieri-Origone, with whom he had married in 1947, who died in 2015, at the age of 91 years. From that Berlingieri-Origone union, their four children were born: Giorgio, Andrea, Paolo and Matteo. They had blessed them with eight grandchildren, Chiara, Francesca, Andrea, Giuseppe, Francesco, Anna, Pietro and Giorgio and, these grandchildren, in turn, with eight great grandchildren, Matilde, Giulia, Giorgia, Alice, Vittoria, Alberto, Oliviero and Joseph.

Francesco Berlingieri, not only was one of the most prominent jurists specializing in Maritime Law in recent years but was also an Officer of the Italian Navy. Both professions were exercised with unparalleled devotion.

In fact, he was at the Naval Academy, from 1943 to 1945, having had to participate, during the Second World War, in several military actions, for whose performance, qualified as "example of decision, courage and dedication beyond duty to the Fatherland ", the Silver Medal for Military Value was conferred.

This was only the beginning of an extraordinary life, because after receiving that deserved medal and, only at 34 years old, as a lawyer of the "*Società Italia di Navegazione*", he defended it in the trial arising as a result of the collision occurred in waters near Nantucket, between the "Andrea Doria" and the "Stockholm".

Francesco Berlingieri is part of the history of modern maritime law. He attended his first CMI conference in Naples in 1951.

After the "Torrey Canyon" incident in 1967, when the IMO commissioned the CMI to study the liability for oil pollution damage resulting from spills from tankers, Francesco Berlingieri, contributed to the CMI International Sub Committee, which was chaired by Lord Devlin. That work was decisive for the 1969 CLC Convention and the 1971 Fund, whose drafts were drawn up at the 1969 Tokyo Conference.

Later, Francesco Berlingieri reached the Presidency of the CMI, a position he held from 1976 to 1991. On this last date, he was appointed President *Ad Honorem*, a position he held until his death. He was also honorary president of the Italian Maritime Law Association, and Doctor Honoris Causa of the Universities of Bologna, Antwerp and Athens. He had, in addition, very outstanding work, since 1954, in the teaching of maritime law as Professor of the University of Genoa.

His work as a lawyer led him to act before the English Commercial Court Committee, from 1977 to 1999, for whose work and, in recognition of his important role in the unification of maritime law, Queen Elizabeth II granted him the title of Honorary Officer of the Order of the British Empire.

The delivery, dedication and devotion of Francesco Berlingieri to the CMI, and therefore to the unification of Maritime Law, is difficult to review in a few words. More than a personal dedication, it is a family bulwark. Making use of the historical investigation of the presence of the Berlingieris in the CMI, from 1900 to the present day, made by who was our President, Karl-Johan Gombrii, to which he made the same reference in the tribute he was paid In Genoa, in 2017, there was a young maritime lawyer from Genoa, named Francesco Berlingieri, attending the CMI Conference in Paris in 1900, who when he was to preside the Italian delegation, at the Copenhagen Conference in 1913, with him, in that Italian delegation, was a young lawyer by name, Giorgio Berlingieri. Then, in 1959 at the Rijeka Conference, in addition to this Giorgio Berlingieri, another young Genoese lawyer, named Francesco Berlingieri, attended and, in 1977 at the Rio de Janeiro Conference, the latter being Francesco, president of the CMI, another young Genoese lawyer, named Giorgio Berlingieri, attended. That is, they were already or had been involved with the CMI, two Francesco and two Giorgio. One of them, Francesco, is to whom we pay this posthumous tribute and the other one, Giorgio, is our former Vice-President who could not attend this symposium. The other two, Francesco and Giorgio, are the grandfather, great-grandfather and great-great grandfather of the young lawyer Andrea Beringieri, who today is with us and. Finally, our esteemed Giorgio Berlingieri, is currently president of the Italian Maritime Law Association (AIDM), and Vice-President for Italy of the Ibero-American Institute of Maritime Law, having been until October of last year, First Vice-President of the CMI. Therefore, we can say that the Berlingieri caste, which has dedicated its life to working with the CMI in the international unification of maritime law, has remained alive, not only with Giorgio, but also with Andrea.

Returning, to the tireless work that Francesco Berlingieri did for the Italian Maritime Law Association, he assumed its presidency in 1982, when he moved his headquarters from Rome to Genoa. Immediately and, in that same year, he organized the CMI Venice Colloquium of 1982. Then, he organized an Assembly of the same in Genoa, on June 27 1992, preceded by a conference on contemporary issues related to maritime transport, jointly coordinated with Ricardo Monaco, then president of UNIDROIT.

Another event that, with these roles organized, also in Genoa, was a Seminar that took place from September 21 to 25, 1992, on the liability for marine oil pollution damages. The Seminar was followed by two meetings of the CMI Executive Council, with the adoption of a new Constitution of the same.

Francesco, during his long life, did not cease his extraordinary activity in the search for the uniformity of maritime law. From there, it is important to mention his contribution in the drafting work of the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, later approved as "Rotterdam Rules", being delegate of the Italian Government to UNCITRAL and attending the sessions of the same in New York and Vienna. From his performance, in the UNCITRAL Project on the Rotterdam Rules, nothing better than bringing here the words of Kate Lannan, a UNCITRAL official, contained in his article "Francesco Berlingieri: The Gentleman Diplomat", inserted in the book published in his tribute in 2010, which brought together the essays of 90 academics from all over the world, on the occasion of his eighty-eight birthday (*Scritti in Onore di Francesco Berlingieri*). Kate points out that, "*Professor Berlingieri has left his mark not only on the Convention itself but on so many of us associated with the Rotterdam Rules and with their negotiation in the international area. His professionalism, his unflagging enthusiasm, his tireless efforts, his diplomacy and his willingness to compromise to achieve the greater good are recognized by us all*".

For all of this at the Seminar in his honor, held in September 2017 in Genoa, the CMI recognized his high merit, in the plaque that they delivered there, which reads as follows:

“Francesco Berlingieri, member of the Executive Council from 1972, President from 1976 to 1991, President Ad-Honorem since 1991, in recognition and gratitude for his service and devotion to the CMI”.

He was Editor-in-Chief of the renowned maritime publication “*Il Diritto Marittimo*”, and, until a few years ago, the person in charge of the CMI publications: Newsletter and Yearbook.

On January 10, 2001, the International Maritime Law Institute (IMLI), of the International Maritime Organization (IMO), conferred on him the title of Honorary Professor in International Maritime Law in recognition of his contribution to the international maritime legal community.

He was one of the members of the group of experts appointed by the already deceased, Director General of the International Maritime Organization (IMO), Chandrika Prasad Srivastava, to write in 1988 the draft of the First "SYLLABUS" of the International Maritime Law Institute (IMLI).

He published many articles and books, being his textbook "Berlingieri on Arrest of Ships", a mandatory reference by numerous generations of lawyers, insurers, professors and students of maritime law.

Before finishing, with everyone here gathered in this beautiful and modern mega-metropolis of Mexico City, externalizing our tribute to whoever was one of our prominent presidents, I want to remember that we are only a few days from October 8 of this year, date in which five hundred years of the entrance to it will be fulfilled, when it was called "Mexico-Tenochtitlan" and was the capital of the Aztec empire, of the conquering and adventurous hosts of Hernán Cortes, who were dazzled before the sight of the same, which was a city, for the time, larger than Naples and Constantinople (the ancient Byzantium, today Istanbul), considered the largest in the European world of that year of 1519.

For this reason and, since we are in Ibero-America, makes sense that we make a brief relationship of the contacts that Francesco Berlingieri had with our Ibero-American world, for the support of our associations of maritime law and our countries, because he was a true friend and collaborator in the work of unification of International Maritime Law.

I will begin with his visit to Madrid in 1955, representing for the first time the Italian association at the XXIII CMI conference where the so-called "Madrid Draft Convention of Limitation of Shipowner Liability" was approved, which in 1957 was signed in Brussels as Limitation of Owners of Sea-going Ships a substitute for the 1924 Brussels Convention, given the problems posed by the limitation of liability, both in terms of setting the limits of liability, and in the inclusion of all those that could eventually be considered beneficiaries.

In May 1977, as I said at the beginning of these words, Berlingieri went to Rio de Janeiro to preside over the XXXI CMI Conference, an opportunity in which we met and began our friendship. In that conference, the first one and only one CMI conference held in a Latin-American country, two draft conventions were approved, on matters to which he showed a great devotion, one on Jurisdiction, Choice of law and Recognition and Enforcement of Judgements in Collisions Matters, and, the other, on Off-Shore Mobile Craft. It appears than the next CMI Conference to be held in a Latin-American country will be in 2024 in Rio de Janeiro also.

After his visit to Rio de Janeiro, Francesco Berlingieri, the same 1977, was in Caracas, to give some lectures at the Faculty of Law and Political Sciences of the Central University of Venezuela, together with other great jurists, members and executives of the CMI, already deceased, José Domingo Ray, Nicholas J. Healy and Kaj Pineus.

In Caracas, he honored us with two magnificent presentations. One about the foundation and the works that had been imposed by the CMI, and the other on what, by that date was only a Draft Rules to regulate the liability of the carrier of goods by sea, in order to replace the “The Hague-Visby Rules”, the today “Hamburg Rules”.

In his conference about the CMI, Francesco Berlingieri, told us that “the requirement of an international uniformity of Maritime Law has always been present over the centuries, and this is evidenced by medieval and Nordic medieval codifications, and in the special jurisdiction recognized in England to the Admiralty Court, which did not apply the Common Law but the Merchant Law, whose formation clearly showed the uniformity requirements of Maritime Law and whose origin was based on Roman Law.”

These Journeys constituted the engine by which they began to develop studies of modern maritime law in Ibero America.

In 1980, he visited us again to participate in the first event, supported and sponsored in a Latin-American country by the CMI, similar to the one that is inaugurated today, here in Mexico City, held in Margarita Island, Venezuela. In that international event, he spoke about the differences between Mortgages of Latin origin, and the common law Mortgage.

On the occasion of the CMI XXXIII Conference, held in Lisbon in May 1985, a group of Ibero-American lawyers attending it, which Francesco Berlingieri presided, with his approval was subscribed what we call the "Lisbon Declaration", of which I was one of its drafters, sponsoring the Creation of a Private Association of Ibero-American Associations with the purpose of promoting the unification of maritime law in our region. That statement was the seed that gave birth to the Ibero-American Institute of Maritime Law (IIDM), whose Constituent Assembly, convened by the then President of the Spanish Association of Maritime Law and who was a prominent member of the CMI, José Luis Goñi Etchevers, was held in the city of Seville, in October 1987. Francesco Berlingieri as president of the CMI attended that Constituent Assembly, as a guest of honor, offering us words of greeting and good wishes to the nascent Institute.

At the beginning of 2001, Francesco Berlingieri, was admitted as a Corresponding Member by Italy of the Academy of Political and Social Sciences of Venezuela, presented for this purpose, an Essay on “The International Maritime Law Conventions and their role in domestic law” in which states its philosophy of the necessary unification of maritime law with these words, “... *My firm and deep conviction is that it is necessary to continue the efforts... in favor of a uniform maritime law. It is no more useful that the rules that regulate the institutes of maritime law are similar, that the same rules are applicable in the different ordinances. Only through international conventions of uniform material law can this result be achieved... the ratification of a convention is certainly not enough - and sometimes even necessary - to ensure uniformity*”.

This journey of Francesco through Latin America was not only his, always accompanied by his beloved Anna. Ignacio (Nacho) and Ana Luisa Melo, hosts of this event remember with much affection and nostalgia the tourist visit of both, where they were accompanied, more than 45 years ago, to Taxco and Acapulco.

As you can see from that journey of Francesco through our Latin American countries, his contribution through his leadership, in the search for the uniformity of international maritime law, was undoubtedly invaluable. But he was not only present in our countries in this titanic work, but he did so in almost all other CMI member countries. Just to remember one of his last efforts is the database on Maritime Jurisprudence which the University of Singapore had already implemented.

To finish this posthumous tribute to Francesco Berlingieri, it is necessary to point out that he was a great human being, a gentleman, a true English Lord. His treatment was always kind, receptive, and, along with his beloved wife Anna, they were great hosts at the CMI events and conferences, so we must bring up the communication, which on March 6, 2018, our former president, The Australian lawyer, Stuart Hetherington, sent to all the titular members, announcing his death, where he highlighted his great work, developed during his long and fruitful life, in the interest of the unification of international maritime law, remembering some of his virtues, the of being, as had highlighted in 2010, Kate Lannan, on the occasion of the celebration of her 88 years, a *"Consummate Gentleman Diplomat"*.

The time that has been granted to me to present this posthumous tribute to Francesco Berlingieri, is not enough to review the great legacy he left us in his stubborn work in the unification of maritime law, but I do not want to miss to remember his visionaries and still present words, pronounced in Caracas in 1977, when referring to the future of the CMI said that it depended on its constant sensitivity to economic legal problems that arise or may arise, and above all to competition and devotion to the cause of the unification of Maritime Law that all its members have always demonstrated, that they have dedicated and continue to dedicate the best of themselves to the cause of the international unification of Maritime Law.

Finally, and to conclude, using the headline of the Genoa newspaper "*Il Secolo XIX*", of March 10, 2018, "*quando muore una <<leggenda vivente>>, rimane la leggenda*".

Thank you very much for your attention.

Luis Cova Arria

Mexico City, September 30, 2019