The Vital String of Mankind – Sociability and the Foundation of Natural Law and Universal Rights

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What is humanity? This article explores how competing Enlightenment interpretations of the psychological foundations of sociability coincided with rivaling understandings of how sociability structures human action, a rivalry with important consequences for how universal rights are understood. Crudely put, there is an opposition between those who view sociability as a natural form of universal brotherhood founded on sentiments that precede all pragmatic calculations and a view where all other-regarding actions must ultimately be explained in terms of the egoist interests of the individual. The latter view appears in conjunction with an understanding of rights as centrally preconditions for commerce and trade between egoists, while the former approach is associated with a degree of suspicion of trade as an engine for the moral progress of mankind: a view that comes with an idea about human rights as moral limits rather than practical preconditions for trade and commerce. The main authors discussed are Samuel Pufendorf (1632-1694), Jean Barbeyrac (1674-1744), and Emer de Vattel (1714-1767).

Introduction

[A]ll laws of society, & all our duties to other men, weather general or particular, derive from the principle of sociability as from their source. Such is the foundation of all human sagacity, the spring of all the purely natural virtues, & the principle of all morality and of all civil society. /…/ The spirit of sociability must be universal; human society embraces all men that one can enter into commerce with, since they are founded on relations that all men have in common, in consequence of their nature and situation.¹

¹ Dideot 1995, 53.
In the Eighteenth century, a widely shared consensus held that all universal moral laws and all that is universally true about civil society depend on the principle of sociability. Thus in the article ‘société’ of Denis Diderot’s *Encyclopédie*, the author (Diderot himself) affirms that all purely natural moral distinctions derive from sociability so that all men’s duties towards other men come from this source. In this article, I will pay particular attention to the idea of sociability as a universal attitude or sentiment that each man should cultivate towards other men. Where does such a ‘should’ stem from? Do all human beings have a capacity to recognize each other as beings worthy of a certain modicum of respect, entailing some distinct set of rights? In other words, are universal moral, political and legal norms based on a natural moral insight about the need for other-concern? Some eighteenth century thinkers, as we will see in this paper, did think that this is the case. Such ideas were however often in tension with a more rationalist and egoist approach to sociability as a set of behavioural patterns and norms that are adopted because they are thought to promote the individual’s own advantage. Such approaches suggest that sociability should be viewed more as a dictate of calculating rationality, a rationality that recommends polite sociable interaction as a lubricant for commerce. Is sociability egoism or benevolence, or is the opposition between the two an illusion?

**Sociability Derived From Egoism**

If Eighteenth century thinkers generally referred to sociability as the source of all universal norms and rights, they were equally agreed on whence the language of sociability had come. The centrality of sociability as the foundational concept in the discussion came from the natural law theorists, who were probably the first group of thinkers to receive the emblem ‘socialist’, misleading as that may turn out to be in some ways. Especially the French translations of Hugo Grotius’s and Samuel Pufendorf’s works on natural law became the handbooks of Enlightenment anthropology, making the notion of sociability a standard theme in discussions of morality and politics. According to Pufendorf’s famous definition, the foundational law of nature is that each should seek to promote sociability. On the face of it, this focus on sociability allowed Pufendorf and others to make universal claims about both civil law and international legal norms without partiality. Sociability is important to all human beings irrespective of religious allegiance; it is a neutral foundation for universal normative claims. This idea of sociability became the cornerstone of political theory and reflections on international law in the Enlightenment.

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2 Kirk 1987, 119.


4 For a well researched discussion of sociability in Pufendorfian natural law, see Hochstrasser 2000, 40-71.
While the idea of human sociability aspires to the status of an impartial universal foundation for ethics and politics, it clearly has roots in Christian, and in Pufendorf’s case specifically Lutheran, theological traditions. Pufendorf clearly strives to naturalise the pessimism of his Lutheran Christian anthropology. Human beings are fundamentally flawed and corrupted, so that sociable action always comes at the price of coercion or considerable effort. Human beings are not very interested in procuring the advantage of others: their primary motivation is always to care for their own well being. Humans are particularly intent on their own survival and will readily forsake all other humans and God himself to save their skin, as Pufendorf explains in his major opus De jure naturae et gentium (henceforth JNG):

Certain it is, whatever a Man doth for others, he never forgets himself; and Satan (in Job) well expres'd the common Temper and Inclination of Mankind, when he said Skin for Skin, and all that a Man hath, will he give for his Life.6

For Pufendorf, there is no doubt that human beings are corrupt, as he indeed often points out. Humans should strive for sociability, for benevolence towards all other men, but their corrupt and fundamentally unsociable or perhaps anti-sociable nature often prevents this. To be sociable, men should both withhold from harming others, and engage in some benevolent other-regarding actions that could come under the heading of neighbourliness in traditional Christian ethics. Sociability is equated by Pufendorf with ‘Benevolence towards all Men’, and with ‘Common Love’ or ‘general Friendship amongst Men, from which no Person is excluded …’8 It is not difficult to recognize this love as a secular version of the traditional agapê of Christian social ethics.

Pufendorf’s diabolic anthropology seemed to many readers to propound a theory explaining sociability as the strategic choice of an egoist whose final solidarity is with satisfying his own individual needs and desires. This interpretation of Pufendorf and of modern natural law became prominent in eighteenth century debates. One of the most striking features about this constellation is how it puts emphasis on the tension between sociability as a sentiment natural to mankind, a general other-regarding

5 For an articulation of how Pufendorf’s natural law theory relates to his Lutheran background, see Saastamoinen 1995, 38-43.

6 JNG II.3 §14 Samuel Pufendorf, De jure naturae et gentium (JNG), ed. Quotations from the original Latin refer to Pufendorf 1998. English translations (unless expressly my own) are from Kennett’s translation Of the Law of Nature and Nations to which page numbers also refer.

7 The classical reference for the discussion of man’s ‘unsocial sociability’ is Kant’s ‘Idea for a Universal History. The original has ‘ungesellige Geselligkeit’; see Kant 1983, 37. This is typically translated as ‘unsociable sociability’, see e.g. Kant 1991, 44. Pufendorf (the same goes for Hobbes and most other participants in seventeenth and eighteenth century debates on human inclinations) does not so much describe humans as unsocial, that is, as uninterested in other human beings, but rather as envious, greedy, lustful, and generally inclined to actions that result in conflicts and strife – he thinks of humans as having anti-social, rather than unsocial, tendencies.

8 JNG II.3 §15, §17, 109, 111.
love, and self-love as the ultimate explanation of human action. Egoism is often assumed to provide the explanation for why individuals see sociable other-regard as something to pursue. Like Satan on Job, so Pufendorf reinterprets, it seems, all human love (weather of God or fellow humans) as ultimately an expression of self-love. And if Pufendorf does not explicitly and consistently defend such an anthropology, other eighteenth century theorists of natural law and human nature did. The following quote is perhaps unusually straightforward, but in no way exceptional: it exemplifies one of the main ways of interpreting the sociability principle.

Man is by nature sociable: society is natural for him, even necessary, if he is to pass his life happily. This is why the judicious GROTIUS has taken this sociability of man for the foundation of natural law.9

This quote is from Emer de Vattel's 'Essai sur le fondement du droit naturel', an early and important (but relatively neglected) text by the famous author of the Droit des Gens. While the quote testifies to the common perception of sociability as the foundation of natural law, it also raises questions. Clearly, Vattel subscribed to the idea that the natural laws are norms that make social life possible. But Vattel also seems to suggest an explanation, here, for why human beings are sociable in the first place, or why they desire social life. Human beings strive to live happily, and social life is a necessary part of the means to happy life. Thus when human beings act sociably towards each other, their real aim is not that of advancing sociability or of doing good to others, but that of securing their own advantage.

Each individual has for his general and first motive, his own advantage, and this motive makes the obligation of which he is capable: it is the constant principle of his determinations, against which it would be absurd to pretend that he can ever act. But society being useful to him, and even necessary, and such society being unsustainable without laws or general rules observed by all its members, he is obligated in virtue of his own advantage to observe them.10

Vattel is here at pains to bring out the egoist nature of his account. He is not content with saying that other-regarding actions do in fact make for a happy life. His ambition is to show that all other-regarding actions and feeling are in fact produced by a desire for self-gratification. Thus in a Lettre à Mademoiselle de M***. sur les Sentiments délicats, généreux & desintéressés (letter to Miss de M*** on delicate, generous, and disinterested sentiments), Vattel explains how ‘... all those

9 Emer de Vattel, Loisir philosophique, ou pièces diverses de philosophie, de morale, et d'amusement, (henceforth Loisir), 24. This collection contains several important early texts by Vattel ranging from some of Vattel's most thoughtful philosophical articles to strikingly playful and adventurous pieces on the morality of games, on artifice in women, ending with a few cheerful drinking songs.
10 Loisir, 25.
sentiments that are called generous and delicate, all the actions that seem the most disinterested, come only from our self-love, from this love that each individual has naturally and essentially for himself.” If somebody asks why a person helps the needy, or why somebody sacrifices her own advantage to serve another person’s, the answer must, Vattel believes, come in terms of interests that this individual has. In fact, only self-love can explain that individuals act at all. It is also self-love which explains why human beings strive to be sociable to each other. Vattel thus binds himself to a theory of self-love where even self-sacrifice must ultimately be explained in terms of private advantage. In the case of obedience to natural laws commanding benevolent other-regarding actions that do not directly benefit the individual, Vattel thinks belief in a benevolent divinity solves the riddle: temporal sacrifices will be rewarded beyond the grave. He also quotes approvingly a passage by Leibniz, where the German philosopher holds that altruism is possible only for people who believe in sanctions in the afterlife. Self-sacrifice is ultimately always a self-interested action, too.

Vattel does not view self-love as an expression of how human beings are evil or perverse. Men’s natural inclinations are, as Vattel explains in an article ‘Lettre sur les moyens de répondre aux objections des Manichéens contre les perfections de Dieu’, fine. Self-love is a general inclination given to man by his creator, and this inclination makes men strive towards their own happiness. There is nothing evil in this. Self-love is simply the primitive underived desire that motivates every human action. It leads us to strive for our own utility or advantage, that is, ‘all that can truly contribute to the perfection of our Soul, or our Body, & to our well-being in this world, …’. Vattel ends by declaring: ‘It is thus utility that is the general and primitive principle of all our determinations.’ A similar approach to sociability and egoism is evident in the writings of Jean-Jacques Burlamaqui, a Genevan natural law professor whose Principles of Natural and Politic Law remained influential both in Europe and in North America well into the nineteenth century. Like Vattel,

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Burlamaqui also made self-love and desire for happiness the true *primum mobile*, as he put it, of all human action.¹⁹

**Neighbourly Love Is Mere Conceit**

The idea that sociable concern for others has its foundation in self-seeking motives was not restricted only to Vattel’s early and more philosophical works, but is repeated in his *Droit des Gens*.²⁰ Nor is Vattel’s concern with deriving other-regarding sociability from self-regarding egoism an isolated phenomenon. This appeared on the contrary to be one of the main prevailing trends in moral and political philosophy. According to many eighteen century thinkers, the idea of sociability as a strategy for self-serving individuals came directly from Pufendorf. Pufendorf’s theory was a Trojan horse that smuggled in toxic Hobbist principles. This viewpoint was articulated elegantly by Francis Hutcheson:

His [Hobbes’s] grand view was to deduce all human actions from Self-Love: by some bad fortune he has overlooked every thing which is generous or kind in mankind; and represents men in that light in which a thorow knave or coward beholds them, suspecting all friendship, love, or social affection, of hypocrisy, of selfish design or fear. The learned world has often been told that Puffendorf had strongly imbibed Hobbes’s first principles, […] hence it is that the old notions of natural affections, and kind instincts, the sensus communis, the decorum, and honestum, are almost banished out of our books on morals; we must never hear of them in any of our lectures for fear of innate ideas: all must be interest, and some selfish view; ….²¹

Hutcheson is not alone in seeing Pufendorf as a follower of Hobbes and as a theorist of natural egoism as the source of all sociability. The same interpretation has in fact been defended by historians of early modern ideas (e.g. Tuck and Hont). And one can easily agree that Pufendorf flirts with egoist language. Both in the *De jure*
naturae et gentium and in his shorter best-seller, *De officio hominis et civis* (or *On the Duties of Man and Citizen*), Pufendorf presented as the foundational principle of natural law ‘that every man ought, as much as in him lies, to preserve and promote society: that is, the welfare of mankind.’\(^{22}\) In both books he also surrounded this principle with anthropological discussions emphasising human helplessness and their need for cooperation; at the same time, he also portrayed humans as having disrupting anti-social inclinations. This makes cooperation between humans both a necessity for survival, the only possible source for the various luxuries that humans crave, and a dangerous enterprise. In order for such cooperation to be possible, men need to be sociable towards each other. Among the quotes that Pufendorf adduces to buttress his claim, one became a great favourite in eighteenth century debates on sociability. This quote was also included in the *Encyclopédie* article *société* and is from Seneca’s *De Beneficiis* IV.18.\(^{23}\) In the eighteenth century English translation of Pufendorf’s *De jure naturae*, the passage is quoted as follows:

> By what other means are we preserv’d, but by the mutual Assistance of Good turns? This Commerce and Intercourse of Kindnesses, adds Strength and Power to life, and, in case of sudden Assaults, puts it into a better Condition of Defence. /.../ Take away this [society], and you cut asunder the Band of Union, the Vital String of Mankind.\(^{24}\)

The passage is from Seneca’s discussion of gratitude for gifts, but characteristically, the *Encyclopédie* follows Pufendorf’s choice in quoting parts of the passage only, turning Seneca’s reflections on gratitude into a general observation about human society. Seneca’s argument has two steps: first, that ingratitude disrupts an exchange of ‘offices’ and of benevolent actions that form the basis for society, so that without gratitude, individuals would stand alone without the much needed help of other men. The second part of Seneca’s argument is to deny that such utility would form the reason why gratitude is something to be desired in itself. In the French and English translations of Pufendorf, as in the identically delimited quote in the *Encyclopédie*, the argument is instead that ‘commerce or intercourse of kindnesses’ (*ce commerce de bienfaits qui [rend] la vie commode* in both French translations) renders life more commodious. Men are thus, it seems, sociable because they need commerce for their survival. A paragraph later in his chapter on sociability as the foundational principle of natural law, Pufendorf explains the Biblical injunction ‘love thy neighbour’ by saying that humans tend to reciprocate, so that treating others badly will have adverse consequences for yourself.

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22 Pufendorf, *De officio* I.3 §9, 56.
23 Diderot 1995, tome 17, 252.
24 JNG II.3 §15, 109.
Indeed Reason plainly informs us, that whosoever hath a hearty desire for his own Security must not, cannot neglect the Care of his Fellows. For, since our Safety and Happiness depend for the most part on the Benevolence and on the Assistance of others, and since the Nature of Men is such, that for Benefits conferr’d they expect a return of Kindness, and when no such return is done, refrain from farther Favours: no Person in his Wits can stick so close to the Pursuit of his separate Advantage, as to devest himself of all regard to the rest of the World: But rather the more rationally he loves himself, the more earnest he will be in endeavouring by Good turns to procure the Love of other Men.25

In paragraph eighteen, we find a further remark to the effect that ‘The aim of Sociability is /…/ that through a commerce of help and services, each can the better tend to his own interests.’ Taken together with some similar remarks in §10 of the same chapter, (and overlooking for the moment passages that point in a different direction) one can easily make Pufendorf into a theorist of sociability as a strategy for the crafty egoist. This is coupled with a language where sociability is thought of as a form of neighbourly love and benevolence, or as Pufendorf put it in §18, as ‘Common Love’, or ‘a general Friendship amongst Men, from which no Person is excluded, unless he hath rendered himself unworthy of it by Monstrous Villanies’.26 Unlike ‘particular friendships’ this ‘common society’ is universal. Within the context of a discussion on the Biblical injunction to neighbourly love, this ‘common love’ appears to take on the role of a secularised version of the Christian virtue of brotherly love (agape). This leads one to think of sociability as a genuine concern for the wellbeing of the other person, of potentially any other person. Such care cannot, if genuine, be based on egoist conceit: the brother whose help is calculated can hardly be regarded as brotherly in any genuine sense, nor can his actions be seen as actions of benevolence or love even in a very attenuated sense of those words. And yet, even when introducing a language of universal friendship as the vital string of mankind, Pufendorf waters his language down by suggesting that only private love is based on human nature and inclination, whereas ‘common love’ has its foundation in ‘considerations of the Profit it [i.e. sociable cooperation] would bring.’27

In Eighteenth century discussions of natural law and universal political principles, sociability was thus often thought of, both by critics and proponents of ‘socialism’, as founded on self-regarding sentiments or on self-love. The universal brotherhood or general friendship that exists between all human beings is founded on a pragmatic rational conviction that other-regarding action will on the whole be

25 JNG II.3 §16, 111.
26 JNG II.3 §16, 111. The original has amor commune and amicitia generali, 152.
27 JNG II.3 §15, 109.
more beneficial to the individual agent. Vattel pushes this approach to its logical extreme when he argues that all shows of affection or goodwill are ultimately based on egoist calculations, a view that would make love (weather towards an individual or humanity) a lie, a stratagem invented by the crafty egoist within every human being. Ultimately, this would make sociability into a strategic tool for gaining more useful things, more preferred utilities.

As a philosopher, I would have to say that the above-described approach to sociability contains a serious paradox. The paradox consists in a willingness both to use a language of benevolence and brotherhood, and at the same time to explain that this language is actually a mere façade, a thin veneer painted over the ugly reality of self-love that rules human action in reality. The implication, if put squarely, is that love and benevolence are a lie, or a posture and a strategic conceit. In Vattel, this claim clearly extends into the realm of private individual love as well: for other thinkers (like Pufendorf), the point would apply more specifically to universal friendship or to sentiments of humanity towards other human beings in general, but the basic tension remains the same. More importantly for the topic of this paper: if sociable sentiments are only ploys with an instrumental use as stepping-stones towards private advantage, then the same must go for the norms and rights deduced from sociability. Deriving human rights from the need to cultivate sociability would, on such a scheme, imply a derivation of rights from the utility that these have in advancing satisfaction of the individual's needs. Some might nod at this with unthinking approval, but in fact this is quite a problem for any serious philosophy of rights. If acting sociably means restraining one's liberty in other-regarding actions so as to guarantee an order of things that provides for my own wellbeing and security, then harming another person's interests whenever I cannot be made to suffer for it would be quite all right: in what sense would such a theory be a rights theory at all? This problem was in fact observed by Pufendorf, who argued that a country who has gained such supreme power as to not have to fear any reprisals from other nations would still have a duty to respect other countries rights. If this is true, then the commitment to sociability must go beyond a mere commitment to personal gain.

**Sociability as Respect**

For many eighteenth century critics of the natural law tradition the tendency to derive sociability from egoism was a Hobbist legacy and a problem. After Bernard Mandeville published his infamous ‘Fable of the Bees’, arguing that it is precisely egoism that makes individuals contribute to the common good, this criticism

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29 JNG II.3 §16.
became increasingly prominent, and for many Pufendorfian natural law now appeared as a step on the way between Hobbes and Mandeville, as we have seen. A similar understanding of the natural law tradition is aired by Fénelon: the natural law tradition that Grotius and Pufendorf represent is criticised for making morality into an artificial thing, derived from egoism. But this interpretation of what early-modern natural law theory is all about was not unanimously accepted in the eighteenth century. In fact, the most widely read and much-discussed mediator of natural law theory in the eighteenth century, worked actively to repudiate the egoism-interpretation of natural law. This mediator was Jean Barbeyrac, whose French translations and Latin editions of Grotius and Pufendorf became the single most influential running commentary and explanation of natural law theory for the eighteenth century audience. Barbeyrac's comments spread a distinctive variant of natural law theory that was as much discussed by e.g. Vattel and Hübner as were the theories of Grotius and Pufendorf. Vattel's efforts to articulate a theory of sociability based on self-love were in fact written in direct reaction to and as a critique of Barbeyrac's approach to sociability and natural law.

When Pufendorf posits the principle of sociability as the foundation of natural law in *De jure naturae*, Barbeyrac introduces a footnote that discusses the charge that Pufendorf deduces sociability from egoism. He discusses the criticism in relation to observations made by the German law professor Titius, who argues that Pufendorf derives sociability from individual advantage: men need to be sociable because they crave the utility that social cooperation can bring. This would correspond to the interpretation of many of Pufendorf's critics. Barbeyrac quite easily disproves of this claim. He could have done so by referring to any of a wide variety of paragraphs in Pufendorf, but chose to simply refer to the preceding paragraph. While that paragraph does contain Pufendorf's comment on the Devil's anthropological insights, it also puts that anthropological comment clearly in context. 'If we have put self-love at the forefront in our examination of human nature', Pufendorf explains, 'this is not because we would pretend that one should always prefer one's own advantage to that of others, or have only in view one's own interest, independently of that of others.' Egoism does not explain Pufendorf's

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30 'Barbeyrac', Voltaire explains, 'is the only commentator cherished as superior to the author he comments on.' Voltaire, ‘Lettres à sa mgr le prince de *** sur Rabelais et sur d’autres auteurs accusés d’avoir mal parlé de la religion chrétienne’ (p. 505), where one chapter is devoted to discussing whether Barbeyrac was or not an enemy of Christianity.


32 The edition I use for Barbeyrac's footnote remarks is Pufendorf, *Le droit de la nature et des gens*, (henceforth *DNG*) is from 1740 and contains both the original notes from 1706 and all later additions and emendations made by Barbeyrac; English translations are my own. The work discussed by Barberac is Titius, *Observationes in Samuellis L. B. de Pufendorf De Officio Hominis et Civis Juxta Legem Naturalem libros duos*. 
normative theory: it only provides a general psychology, and it is in this sense that
Pufendorf confirms the Devil’s views.\footnote{JNG II.3 §15.}

The Devil is right to say that men \textit{de facto} often act with private advantage
as the main motive. But as Barbeyrac repeatedly points out, Pufendorf makes a
sharp distinction between natural law as a moral duty on the one hand, and the
motives that make humans obey those same laws on the other. We can indeed,
Barbeyrac admits, perceive that our individual long-term advantage demands that
we act socially. But this does not explain why we morally \textit{ought} to do so. To explain
this, we must draw on the realisation that God our Creator clearly intended for us
to do so, a thing that is clearly visible in the fact that he made humans such that
the human race can survive and prosper only if humans act socially. Sociability
as Pufendorf discusses it in his natural law theory is thus a duty rather than an
inclination. Once the obligation to further sociability has been explained, one can
also discuss how humans are brought to act in ways that conform to the laws of
sociability. In this, psychological egoism again has its say. Utility, Barbeyrac notes,
does add ‘a motive, and a strong motive for persuading us to practice them [the
duties of natural law] in actual fact.’\footnote{DNG II.3 §15 note 5.} Similarly in §18 of the same chapter, Pufendorf
explains how the utility of the natural laws is not their foundation. A man ought not
to harm other men, and admittedly doing so would typically be disadvantageous
to himself as well in the long run: yet this latter fact is not the reason why he ought
to refrain from harm, Pufendorf explains. In the next paragraph he affirms that a
person could indeed abide by the principles of sociability simply because they are
useful, but that this is not what is meant by saying that one obeys these principles
as laws of nature.\footnote{JNG II.3 §18, 248.} Pufendorf therefore does not in fact derive sociability from
private advantage.

Barbeyrac’s own views on sociability are articulated in more detail in his edition
of Grotius’s \textit{De jure bell ac pacis} (henceforth \textit{JBP}), which we must now turn to.
There we find Grotius arguing:

Now amongst the Things peculiar to Man, is his Desire of Society, that is, a certain
Inclination to live with those of his own Kind, not in any Manner whatever, but
peaceably, and in a Community regulated according to the best of his Understanding;
which Disposition the Stoicks termed Oikeiôsin. Therefore the <xvi> Saying, that every

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\textit{DNG II.3 §15 note 5.}
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\textit{JNG II.3 §18, 248.}
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Creature is led by Nature to seek its own private Advantage, expressed thus universally, must not be granted.\textsuperscript{36}

Grotius’s ‘Prolegomena’ to the \textit{JBP} revolves around Carneades’s charge that justice is a chimera because it does not accord with private advantage. In his reply, Grotius not only shows that an enlightened egoist should promote justice – he also argues that justice is not in fact derived from egoism. To do this, he mobilises a set of mostly stoic ideas about a natural human inclination to social life. Human beings, Grotius explains, do not only seek their own advantage, but have a natural disposition towards ordered social life, and this Grotius connects to the stoic \textit{oikeiôsis}-theory. This, on Grotius’s reading, is an idea about the natural fellowship of men. Men, the main claim is, have a natural non-egoist inclination or desire to live together in an orderly manner. What are the implications of such a view?

Barbeyrac embellishes Grotius’s preface with a number of quotes from ancient authors. Most of these serve to emphasise the idea of sociability as a pre-rational natural inclination to care for other human beings. When Grotius argues that men have a natural desire for society or for ordered life together with other men, Barbeyrac quotes Cicero to the effect that ‘no Man would chuse to live in absolute Solitude, even though he might enjoy an Infinity of Pleasures’.\textsuperscript{37} Barbeyrac adds a reference to Lord Shaftesbury as a critic of the Epicurean view of man defended by Hobbes (and to some extent by Pufendorf). When Grotius, in §7, notes how even some animals ‘forget a little the Care of their own interests’ and ‘shew a Concern for those of their Species’, Barbeyrac brings in more quotes to mark this behaviour as a type of natural friendship between beings of the same species.\textsuperscript{38} In another footnote, Barbeyrac explains, against some misunderstandings, how Grotius uses his examples of animals only to ‘affirm that the Principle of Sociability has so real a Foundation in the Nature of Man, that we find some faint Tracks of it even amongst irrational Animals, in regards to those of their own Species’.\textsuperscript{39} Sociability is thus pre-rational and not derived from any utilitarian considerations whatsoever. This is also Barbeyrac’s own understanding of the matter, as he explains in a later footnote to the same paragraph. This footnote comments on Grotius’s reference to Plutarch’s discussion of sympathy in a young child, and here is Barbeyrac’s view:

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\item 36 Grotius, \textit{JBP}, Prolegomena §6, 79-81. For English quotes, I use the eighteenth century translation mainly elaborated by John Morrice but using Barbeyrac’s French translation and Latin edition of Grotius as starting points; this text \textit{The Rights of War and Peace}, has recently been reedited and published with an introduction by Richard Tuck at the Liberty Fund, Indianapolis 2005.
\item 37 Barbeyrac, \textit{JBP} Prolegomena §6, note 1.
\item 38 Op. cit., §7 and §7 note 1.
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As to the Thing itself, I think it very probable that, though the Principles and Maxims of the Law of Nature cannot be deduced from the Behaviour of Children, at an Age when their Inclinations act with most Freedom, which our Author indeed does not insinuate, there is still great Room to believe, that notwithstanding the infinite Diversity of Tempers, such Dispositions as are contrary to Humanity, are rather the Result of a bad Education and Custom, than of a natural and invincible Inclination; so that it may be maintained that all Men, even before they arrive to Years of Discretion, have the Seeds of Sociability, which consequently are founded in human Nature, and have no Dependence on a View of Interest, which is all our Author designs to advance.40

All of this gives a pretty clear understanding of where Barbeyrac stands on the sociability issue. The desire for social life cannot be reduced to a desire for goods that can be obtained through cooperation. Instead, humans have a natural inclination and desire for social life that precedes rational reflection and all utilitarian considerations. This goes both against the ethical egoism of Vattel and against the psychological egoism that characterises much of Pufendorf’s thinking. Where Pufendorf describes men as naturally unsocial and short-sighted egoist that need a lot of education to become sociable, Barbeyrac views sociable action as the natural state and unsociable behaviour as a product of corrupting traditions. If this natural care is most immediately directed towards members of one’s own family or local community, rational reflection will show that it must be extended to the whole human race. A mature human being will therefore, as stoic doctrines indeed presupposed, see the whole of mankind as members of the same family, and as entitled to the same concern or care for their wellbeing, but without basing this insight on utilitarian concerns of any sort.

For Reason, which is peculiar to Man, and which is more natural to him than the Desire of Society, of which we find some Traces in Beasts, clearly teaches us that it is not proper to confine Sociability and Affection to a small Number of Persons, or to one single Community; but that it ought, in some Manner or other, to extend to all Men, or to all of our own Species; on whom it is equally diffused by Virtue of the Design of Nature, and on the Account of their being naturally all alike and equal.41

For Barbeyrac, then, the universality of sociability as a demand does not stem from the advantages that can be gained for individuals or even for mankind as a whole through acting sociably. The demand to treat other persons socially comes from the simple fact that they, too, are human beings and in this naturally my equals and worthy of being treated as such. In other words, for Barbeyrac there is both a natural pre-rational inclination to sociable care for others, and a natural

expression of the same in the recognition of other humans as deserving sociable behaviour from me: as deserving a basic sort of respect including respect for their universal human rights.\(^{42}\) Lack of respect for other persons expressed in unsociable attitudes and behaviour must thus be explained as results of bad education, prejudice, and other corrupting factors. Naturally, mature human beings see sociable behaviour as the norm.

Barbeyrac’s understanding of sociability and natural law differs from those of Grotius and Pufendorf in several ways that can only be hinted at here. Thus Barbeyrac argues, quite differently from Pufendorf, that the natural laws are available as aesthetico-ethical judgements to all human beings irrespective of either ideas about the divinity or about utility: good actions have an intrinsic and natural beauty and honesty to them independently of ideas about utility or God.\(^{43}\) Barbeyrac nevertheless views ideas about a commanding divinity as crucial for an account of moral obligation in the full sense of the word, and suggests that the natural human inclination to sociability is yet another proof that God has in fact imposed a duty on all men to be sociable towards each other, as Pufendorf had argued.\(^{44}\)

Barbeyrac’s account of the laws of sociability thus has much in common with Pufendorf’s. While he agrees with, say, Aristotle, Cicero, Grotius (as Barbeyrac reads him) and Shaftesbury in holding that humans are sociable by nature, even to the point of being naturally infused with a sense of what sorts of actions agree with the demands of sociability, Barbeyrac also agrees with Pufendorf that the natural laws are not about what human beings are inclined to or desire to do, but about what God commands them to do. To be clearer on sociability, Pufendorf should not have started with discussions about human helplessness and need of society. Barbeyrac suggests to replace that deduction with one starting from the observation ‘that God has put in the world beings that are similar to myself, and that he has made us equal; that he has given to all of us a strong inclination to live in society’.

Vattel, like Burlamaqui before him, sides with Leibniz in viewing all human action and thus also all obligation to sociable behaviour as in some sense founded on self-love.\(^{45}\) Barbeyrac’s account by contrast sets forth sociability not only as an absolute command given by the Creator but also as a natural recognition that every human being quasi instinctively has, of other human beings as equals and as deserving

\(^{42}\) It would be the task for a separate paper to show and explain how and why such respect does not conflict with the conviction that slavery as a social institution can be justified, and that treating a slave as in some sense property is not in conflict with respect for equal humanity.

\(^{43}\) Barbeyrac, \textit{DNG} II.3 §10 note 6.

\(^{44}\) \textit{Op. cit.}, §15 note 5.

\(^{45}\) For a large scale and very exciting discussion of the confrontation between the philosophies of Leibniz and Pufendorf, see Hunter 2001; see also Korkman, 2003, 195-225.
equal treatment. For Barbeyrac, then, sociability is both natural and normative but in either case not derived from or dependent on self-love. The point of sociable behaviour is therefore also not in the advancement of egoist motives. Philosophically speaking, this approach makes more sense of the notion of sociability as a genuine form of other-regard, and does not, in secularising it, relegate the Christian ideal of brotherly or neighbourly love that it translates, to the realm of cunning deceit. This would seem to constitute a serious advantage for Barbeyrac’s approach. International law, natural law, and human rights, would also from this perspective appear to constitute moral limits and categorical legal restraints on egoist actions, making for a more credible approach to rights language.

Before discussing the idea of rights further, we must first look at how the concept of universal rights was embedded, by thinkers like Vattel, into a history of human progress. The historical explanation of sociability also offers a set of complementing perspectives on the question of how love and self-interest relate to each other.

**Capitalism As The Engine of Providence**

The egoist element of Pufendorf’s theory of sociability can easily be accommodated with a line of scholarship that goes back at least to Hirschman and Pocock in the 1970’s. According to Hirschman, many eighteenth century authors were keen to emphasise the beneficent effects of commerce and trade. Hirschman sums up their approach in the term ‘*doux commerce*’. The ‘*doux commerce*’ theorists, Hirschman argues, did not only claim that trade is the engine of economic growth and welfare, but also of moral or cultural progress. Pufendorf’s discussion of sociability as a polite and well-ordered exchange of goods and services can easily be read in that light. Thus, according to Pierre Rosanvallon, Pufendorf takes part in a transformation of the debate on society where the language of social contract is gradually replaced with a language of the market. Hobbes’s focus on an economy of war and peace is replaced with an economy of benevolence and interest. Ultimately, Rosanvallon argues, the market (as expressed in an increasingly globally applied terminology of commerce and trade) came to explain the birth of the social.

Some elements of the development suggested by Rosanvallon can be found already in Pufendorf’s theory. These elements have been discussed by e.g. Istvan Hont, who connects Pufendorf’s supposedly egoist derivation of sociability with a theory of moral progress. For Hont, Pufendorf’s ‘*commercial sociability*’ is a key element in the German natural law professor’s vision of cultural progress from

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46 This aspect of Hirschman’s thought has recently been emphasised by Dickey 2004, 272-273.
47 Rosanvallon 1989, 15.
a state of helpless primitiveness towards increasing cooperation and, gradually, increasing sociability. The first aims of such cooperation were, as Hobbes’s discussion of the state of nature illustrates, simple survival, or as Pufendorf approvingly sums up the doctrine: ‘the bare Care of our private Safety commands the Observation of Social Laws, since we cannot ensure our own Persons without their Assistance and Protection.’ What made men keep going for more cooperation and increasing commerce was their desire for superfluities. Ultimately then, it is the human propensity for superfluous desires, for luxuries, that drives men unendingly to more commercial cooperation. Through this increased commerce they also become increasingly cultivated, or increasingly polite and well-mannered, and thus Pufendorf’s ‘commercial sociability’, as Hont calls it, constitutes a crucial key to an emerging explanation of progress in the history of human civilization.

In the eighteenth century, the idea that commerce plays a civilizing role came more to the fore than it did in seventeenth century natural law theory. Was Pufendorf’s work central to this development? Many scholars seem to think so, and in fact the central term ‘doux commerce’ is often said to be introduced by Jean Barbeyrac in his French translations, using the term to explain Pufendorf’s socialitas or sociabilitas. Be that as it may, commerce is clearly a central part of the discussion on sociability in Pufendorf’s theory, and it became increasingly central in the French discussion in the eighteenth century. The term commerce covered a wide spectrum of human interaction, and was, in the eighteenth century, used very broadly and inclusively: yet, economic transactions remained the core example of all the modes of exchange that make up human sociable life, as the Encyclopédie article Commerce exemplifies: commerce, it explains, is ‘reciprocal communication. [The concept] is applied in particular to the communication that men make between themselves of the productions of their lands and their industry.’ This reciprocal communication, which is assumed to start from needs and desires in the individuals, brings men together and make them adapt to each other’s expectations: they become sociable, they develop a love for each other. This inserts sociability

48 Pufendorf, JNG II.3 §16, 110.
49 Hont 2005, 172.
52 Dickey 2004, 272-3, Rosenblatt 1997, 93, Larrère 1992, 37. Only in Larrère study is the claim backed up with an actual quotation, incidentally from the Seneca quote that we have discussed above. Unfortrtunately for Larrère, the Latin ‘mutua inter homines officia’ is translated by Barbeyrac as ‘services mutuels que nous nous rendons’ and the French ‘commerce de services’ stands for Seneca’s ‘beneficiorum commercio’. Thus at least in this instance it is not true that Barbeyrac would translate sociabilitas with ‘doux commerce’, and in fact I have yet to find an instance where he does so.
53 Veron de Forbonnais, article ‘Commerce’ in Encyclopédie, vol.3, 690. Veron de Forbonnais was a French economist known as a supporter of ‘Colbertist’ economic policy, where international trade is viewed as the engine of economic advancement.
into a historical framework that resonates in the writings of numerous Enlightenment writers, not least in Immanuel Kant’s discussions of the history of mankind.

In his essays on the history of humankind, Kant gives international law a historical framework. International legal arrangements are brought about, he explains, as a result of strife, competition and quarrelling. While the agents themselves do not aim for sociable actions, while the common good is not their goal, their actions nevertheless generate sociability-enhancing norms and institutions as compromises or as means that allow individuals to acquire benefits for themselves. Nature has a hidden providential plan, and men’s egoist inclinations are wheels in that plan. Kant’s observations build on a trend in Enlightenment thought to emphasize the pacifying significance of trade, commerce and economic competition. Thus, in Diderot’s *Encyclopédie*, we read:

> Divine Providence, which created nature, has desired, by the variety she imparts on it, to make men dependent on each other: the Supreme Being has instigated these connections, so as to bring people to remain at peace with and to love each other. Thus the interests and passions of men enter into the inalterable order of eternal decrees.54

The basic and not unusual message of the article is to emphasize how commerce and especially international trade creates ties between humans, making their need for necessities and their desire for luxuries a source for cooperation. Slowly, through, humanity is civilized by trade: learning to cooperate for profit, egoists end up trading out of the pure pleasure of socializing. Trade thus puts the divine wheels of providence in motion: through the unfolding of the hidden divine plan, egoists will compete in kindness and become transformed into loving caring good human beings in the process. The traditional Christian story about the remaking of human nature is here transposed into a secular register, but the basic chord remains the same. It is still man himself who, as Kant also famously argues, remains the end of history: not man, of course, as he empirically often is found, aggressive, egoist and unsociable, but man as he can become, as he must become through the beneficial effects of trade and commerce. It is the very egoist neediness of original human nature that will drive forth the loving caring peaceful true humanity.

The historical approach to sociability discussed above is also present in Vattel’s discussions about international law, and it complicated the discussion about sociability and egoism in interesting ways. In his *Droit des gens*, Vattel insists that help between nations works best when it is motivated by the ‘pure

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54 Forbonnais, *Commerce*, 690.
source’ of love and friendship between different nations. Civilized countries, like enlightened persons, develop a set of other-regarding sentiments that translate self-love into a desire to honourably help others, to show affection and love. This also works to their own advantage, Vattel hastens to add, not wanting to abandon the basic assumption that egoist interests are still best served by sociable action. Presumably, if this were not the case, then (even civilized) states would cease to socialize. This approach introduces an element of doubt into Vattel’s theory. Vattel repeatedly deplores how in actual fact decision-makers pay little attention to other-regarding love and selfless acts expressing ‘humanity’. Decision-makers are perhaps not always fully convinced that this will serve their best interests. This seems to introduce a characteristic question-mark into the secularized providential history of mankind. Will commerce between egoists lead to peace and love and the remaking of man? In the increasingly evident absence of divine interventions and miracles, it seems increasingly plausible to suggest that human history is open to tragedy just as much as to a happy ending. If so, then perhaps sociable love will never be part of human nature after all?

Personally, I cannot help but wonder if Vattel is entirely sincere. If the only reason why humans ‘morally’ ought to practice the duties of humanity (as Vattel’s early writings clearly state) is because this serves their private advantage, then the slightly more general formulations in the Droit des Gens serve only to mask a theory that is, at heart, much more securely based in an egoist psychology than it appears. The historical account of sociability would seem to offer little more than a socio-psychological explanation for the fact that human beings sometimes do seem to act on and think in terms of friendship and benevolence. The reason why such behaviour is practiced would still be the same as in the egoist story as described above: the point would still be to provide advantages to the agents involved. But with the intervention of a history of sentiments, the individuals would learn to misinterpret their own actions, would learn to believe in love and benevolence while the point of the exercise would in fact be advantage. Love would no longer be a conscious lie but a form of culturally induced self-deceit. And truly, if some of the formulations quoted above from Vattel and Pufendorf are taken at face value, the historical emergence of an increasingly ‘pure’ commitment to sociability (an increasing degree of love and benevolence) can hardly be taken to express growing wisdom but rather a growing alienation from the hard truth about egoism being the source and foundation of all sociable action. God’s plan for mankind, evoked in the quote from the Encyclopédie article given above, would appear to consist in making humans misunderstand their own nature to a point where they imagine they act out of love while in truth their actions remain (and never can be

55 Vattel, Droit des gens II.1 §12, 265; see also §§9-10 of the book’s introductory chapter or ‘Préliminaires’, which contains a circumspect version of Vattel’s derivation of the duties of sociability from private advantage discussed earlier; 4-7.
anything but) purely self-regarding. Since some will remain who pierce the veil of collective self-deceit and who consequently understand better than submit to the veneer of polite well-behavedness, the culture of sociable love produced by egoist trade will even at best provide only a quite unstable set of lies to uphold a strained world peace. In the end, a commitment to an egoist reading of Pufendorf will, even in the historicized version here discussed, end up with the problem of Carneades. If sociability (and through it, natural law) are based on egoist calculations, then the natural laws can constitute serious categorical limits to egoist action only for a fool.

**Imperialist Sociability**

If modern natural law is taken to begin with Grotius, as Pufendorf certainly claims it does, then natural law does indeed begin with an author deeply interested in international trade. Grotius worked for many years as the lawyer and official apologist of the *Dutch East India Company*, and this fact does seem to explain some of his views. A century later, Barbeyrac was similarly employed by the same company, providing the official explanation for the company’s privileged access to trade in the ‘new world’. And an increasing focus on trade-related issues is indeed obvious if we look at eighteenth century treatises on natural law, or on other legal and political issues. The *Droit des Gens* of Vattel is a good example with its innumerable discussions of how issues related to international trade should be decided according to ‘droit des gens’.

The increasing prevalence of trade as a theme in eighteenth century political thought has some concrete historical reasons. In the eighteenth century, the European pecking order was no longer decided by military prowess alone, but through trade. The immense profits that the Dutch drew from robbing and colonising and trading with peoples outside of Europe momentarily made this small and formerly politically rather insignificant country one of the European superpowers and gave the British a position as world power that it has retained ever since. To some observers it did indeed look like civilized countries had shifted from warfare to relatively peaceful trade, and that prosperity and friendly manners were the result. It was perhaps not so strange, in this context, to argue that commercial cooperation might have a civilizing effect that leads to increasing politeness of manners.

Trade or commerce was thus for early Enlightenment thinkers a process that would both increase the economic and military prowess of a country, and that would at the same time enhance the sociability of human interrelations. To promote increasing trade and commerce could thus be seen both as rational (egoistically speaking) and as morally right. If natural law commands us to promote sociability,

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56 Tuck 1999, chapter 3.
and if sociability is best promoted through increasing commerce, then doing the latter is also a universal duty. Such an argument would seem to provide a justification for Western imperialism and colonialism: by bringing a more commerce-oriented way of life to the New World, Europe would again stand as the Agent in history, helping humankind towards true fruition. That such arguments were in fact used in the eighteenth century is quite clear. Elements of such justifications are in fact found already in Grotius. Grotius, as Richard Tuck has explained, argues that civilized agricultural settlers (colonists) have a right to settle on the hunting grounds of indigenous populations who did not practice agriculture. The indigenes who did not work the land but only roamed on it did not thereby acquire any property rights in the land. The new settlers, by working the land, became its true proprietors. If the indigenous hunter-gatherers later tried to reclaim their lands from the settlers, the latter had a full right to defend themselves against the hunters who were, for Grotius, the ones behaving badly.57

In his discussion of private property rights, Vattel provides an even clearer formulation than Grotius did. His explanation for the institution of property was in itself pretty traditional.58 When humans multiplied and the simple productions of the earth no longer sufficed, the more far-sighted realized that they must take some portion of the earth for their own and mould it by their own industry. They did so by renouncing to other parts of the earth and by adding their own work to the goods they took. Property is thus a historical event that modified human interrelations in important ways, and in ways that are beneficial to the commercial sociability and cooperation of mankind. Property leads to trade and trade leads to increased sociable interaction and ‘doux commerce’. But progress does not always come evenly. What if some peoples (like an indigenous non-European population of, say, North America) were to refuse to submit to the institution of private property? Could they then be attacked on the grounds that they stand in the way of progress towards sociability? According to Vattel, they can.

Suppose that a part of mankind, preferring an errant and rude existence, were to oppose themselves to such dividing up. Once mankind had multiplied and distanced itself from the first simplicity of life, ownership in common had become unsuitable to men and private property had become necessary for them to work towards their perfection. Since men have a right to what is necessary for their perfection, they would also have had the right to repulse those who would have wanted to oppose themselves to an equitable division that harms no person.59

57 Tuck 2005, xxxvii.
58 Vattel presents it in his critique of Wolff’s analysis on the topic in Questions du droit naturel, 71-72.
59 Vattel, Questions, 71-72.
Private property is thus an essential step towards commercial sociability as Pufendorf had described it, and towards increasing prosperity. Should some barbarian people refuse to take land for their own, their mode of life could rightfully be ‘repulsed’, as Vattel puts it, by more civilized nations. In this sense at least, commercial societies would have a right to forcibly export not only the practices of trade based on private property, but also the moral framework of commercial sociability that underpins a capitalist way of life. This is not because the norms that underpin a culture of commerce and trade are universal, and in some respects they are not. The institution of property for example is only introduced at a specific stage in the development of a culture. The real reason why property rights can be imposed by force on nomadic peoples is because the future demands it. Without this institution, the human race cannot reach the felicity that it aspires to. God, as we have seen, has a plan for mankind, and trade is the wheel that allows the plan to unfold. Those who oppose the clockwork of human progress must be forced into the fold or eliminated. They must, as Vattel explains, be forced to accept a Western language of rights as a precondition to making them part of the history of trade and progress. Their unwillingness to submit to the institution of private property makes them opponents of the divinely ordained universal history of mankind.

What I suggest is therefore that thinkers like Vattel did indeed, in spite of the various reservations they expressed concerning European imperialist expansion based on religious or ideological grounds, defend a forced expansion of a trade-oriented capitalist economy to all parts of the world. The justification for this endeavour came in terms of a history of humankind that can today appear as little more than a slightly secularized version of a Christian universalist history where all humans have a duty to assist the unfolding of a providential plan to regenerate human nature. Europe stood in his history, as Christianity did for crusaders and as the West for many today, as the unquestioned evidence of a progress of humanity that all must be made part of.

One could also approach the question of the historical place and role of sociability from another angle. For the traditional Christian story, remaking human nature so as to qualify man for divine forgiveness and salvation, was the end of history. In the secularised version, the point of making human beings sociable can no longer be disentangled from the aim of producing material wealth through cooperation and especially through trading goods produced by agriculture or manufacture. Love (or sociability) is not an end in itself: it is invented for business. This would seem to make sociability into the ideological superstructure that a ‘capitalist’ market, in the Weberian sense, needs. The requirement to live sociably could be re-read

60 Weber defined capitalism in terms of an orientation towards work as an engine for trade or market exchange, where a pre-capitalist approach to work would focus on relations between master, apprentice, guild etc. See Love 1991, 36.
as a requirement to conform one’s actions to the needs of productive commercial cooperation. By implication, the language of individual duties and rights fostered by the natural law theorists would ultimately be the expression of an effort to reorganize human interrelations as market relations. The universal duties and rights of man and citizen would be duties and rights that individuals need to assume in order to enable profitable commercial interaction between them. In this sense, Pufendorf and modern natural law would become the apologists of an early capitalist understanding of human interrelations.

The idea of a natural and inalienable right to life, liberty and the pursuit of happiness, as the American Declaration of Independence has it, or to property, as the French Déclaration des droits de l’homme et du citoyen has it, acquire some new meanings when approached from this perspective. The universal right to property is not only a right of each citizen against the state or against other citizens. It is also a right of the colonizers to take land inhabited by nomadic and other pre-agricultural populations. It is a right to spread a way of life in which human interrelations are primarily relations between individuals engaged in a commercial enterprise. And it contains a corresponding duty for all human beings to submit to the logic of commerce and trade, as the foundational form of sociable interaction. In this sense at least, the form that Enlightenment universalism about sociability often took was one that supported the colonial and imperialist European policies of the time.

While Vattel replaces the (already traditional) right to property with a right to pursue perfection, a move that Jefferson later copies, the meaning is the same. Property, as the above quote makes clear, is a necessary condition for advancing one’s perfection, and a necessary step in the progress of mankind. This is why this and other human rights are universal: because without them, a world of trade would not be possible. For Vattel, the human right to pursuit of happiness contains a right for civilized countries to invade and to forcibly bring populations that lead a nomadic existence into the fold of commercially oriented progress. The importance of natural law or of international law is that they constitute a set of legal norms and rights that allow trade (as the engine of progress) to work its wonders. Natural law thus reveals itself as not so much a historical constant, but as something that emerges by degrees as human civilization advances: or, as the Danish natural law theorist Hübner put the matter:

Although Natural Law, as to its principles, may be as old as the human species, & derives its existence from no human speculations, there is no doubt that these same principles have been better or less well developed, explained, and arranged, accordingly

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61 That such a rearranging was taking place in the Enlightenment era has long been argued by scholars; thus Rosanvallon argues that explanations involving the market came, in the latter part of the eighteenth century, to replace theories of social contract as explanations of how society works; see Rosanvallon 1989, 15.
as people have flourished in less or more enlightened centuries; or, which comes to the same thing in some way, accordingly as they have applied themselves less or more to the cultivation of their minds.62

The institution of private property appears, from such a perspective, as a very modest first step in search of what Hübner terms ‘the veritable Legal System of Humanity’ (le veritable Droit de l’Humanité).63 It is not entirely clear to what extent international law can be disentangled from such a project and from the imperialist connotations it carries. What is clear however, is that this does not constitute the only available approach to international law even within the ‘sociability’ approach to natural and international law. From other perspectives, human rights as expressions of sociable other-concern have a very different foundation and also a very different role in organising human life.

**Rival Sociabilities**

In some respects, the story about progress of international law and natural law constitutes a less secure but pretty clear continuation on a central theme in Pufendorfian natural law. Pufendorf’s discussion of how states were created provided an influential source of ideas about cultural progress through implementation of legal arrangements. According to Pufendorf, human beings can be of great help to each other, but their anti-social inclinations and outright wickedness also make them terrifying. Already in a state of primitive society, men were able to counter some problems in their existence. They were capable of inventing some simple medicinal cures, clothing, habitations, fire, weapons, agriculture, and so on. But they could not defend themselves against each other, and so the wisest among them saw the need to create civil societies or states, with a sovereign power to rule them.64 Pufendorf also elaborates on this topic in his description of the state of nature, arguing with Hobbes that if men had not created a civil society, they would have been doomed to a life of poverty, insecurity, passions, wars, solitude and barbarity. Life in the state (becoming an image of modern life as contrasted with barbarity) offers peace, prosperity ‘la douceur du Commerce’, politeness, friendship and sciences.65 The state, in short, makes a progress of increased

62 Hübner, *Essai sur l’histoire du droit naturel* I.1 §2. 13. Hübner’s book as a whole sets out to provide a history of natural law in a twofold sense, incorporating the increasingly popular genre of cultural world history or history of mankind with the established tradition of histories of natural law theory from ancient Greek thinkers to modern times – the latter being a genre where Barbeyrac’s historical preface to his 1706 French translation of Pufendorf’s *JNG* constituted the trend-setting example.


64 *JNG* VII.1 §7.

65 *JNG* II.2 §2 translation from Barbeyrac in *DNG*. 
commercial sociability possible, and this makes life happier and safer all around. The discussion on international trade and legal arrangements securing a structure for it are little more than an elaboration on this theme. In the context of a discussion on international law however, the discussion now had implications not for the European state system only, but for the world as a whole.

Not all agreed with the optimistic view on how trade and economic growth relate to cultural developments. Barbeyrac never denied that the natural laws in fact are useful and that they do make commercial cooperation possible. Barbeyrac did however attack the assumption that increased trade and commerciality would bring both wealth and virtue. In the state of natural simplicity, Barbeyrac holds, men would not have developed their present craving for luxuries, and therefore their simpler needs would have been relatively simple to satisfy. This being the case, the only reason for attacking another would be extreme malice. Barbeyrac's point is not to claim that men in the state of nature were innocent and good. But he does oppose the view that cultural development towards more refined methods of cooperation and production would make life more sociable and better: there is much to say for the contrary hypothesis. In the state of natural simplicity, there would be none of the very pronounced inequalities that are typical of modern societies. In the state of natural simplicity, one would never see the sorts of powerful monsters that prowl in the higher strata of modern society, and who never need to fear the consequences of their actions because they can buy their way out. Certainly nobody in the state of nature would be in a position to give so free a vent to his passions as these, nor would their passions ever have consequences on the same scale. As for riches, they are both unnecessary for happy life and quite unevenly distributed in modern societies. How about douceur de commerce and politesse, then? Barbeyrac's reply is worth quoting.

Behind these fine names one often hides vanity, drunkenness, folly, pedantry, uncontrolled passions and ingenious cheating. But if there is something good, it could also exist in the state of nature.

In spite of his pre-Rousseauian critique of modernity, Barbeyrac does not claim that the state of nature is better or more sociable than civil society. In fact, he admits the opposite is true, or that the state can indeed help curb human malice. What Barbeyrac clearly does not accept is the simple account of human progress that Pufendorf’s contrast between primitive barbarity and civilized sociability entails. Barbeyrac's own understanding of sociability is by comparison remarkably a-historical. Men in the state of nature would be quite as capable of sociable action as men in civilized

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66 Barbeyrac, DNG VII.1 §7, note 1.
67 Barbeyrac, DNG II.2 §2, note 17.
societies, nor is the increasing sophistication of human interaction brought on by increasing commerce and trade any guarantee for moral progress. This a-historical approach is further emphasised by Barbeyrac’s insistence that men normally have a sense of what common decency demands of us in our interaction with other human beings, thus making sociability not the product of sophisticated culture but of simple innate human sociability. The demands of justice are thus neither calculated from a desire for advantage nor products of trade-driven progress. Thus, even when defending the trading rights of the Dutch East India Company, Barbeyrac does so by suggesting that the opponents of this company err by pursuing ‘the illusions of Self-Love and Interest’ against ‘the demands of all simplicity, kindness, and good faith’. He does not strive to justify norms of international law by arguing for their utility, but by using the language of a moralist.

Pufendorfian natural law thus provided a resource for conflicting Enlightenment anthropologies. For some, the ‘vital string’ uniting human beings with one another, stems from a basic inclination that precedes rational reflection and that feeds into human cognition as some form of natural sympathy with or care for the wellbeing of others, as discussed by Barbeyrac in his footnotes to Grotius’s *De jure belli* especially. This vision of sociability is also linked to the claim that human beings ‘naturally’ recognize each other as worthy of equal respect. For Barbeyrac, this has immediate implications at the level of a human rights discussion. Every human being, Barbeyrac argues, has a natural and inalienable right to self-governance in religious matters. Acting sociably towards other human beings implies respecting this right and this equality. Not respecting such a right ruptures the vital string of mankind, and this is something that every normal human being will recognize. For Vattel on the other hand, the vital string of mankind is based not on natural sympathy but on a culture of politeness that emerges from and remains in harmony with the individual’s concern for his own wellbeing. Human rights consequently form elements in a legal structure needed to make a profitable exchange of goods and services possible. Crudely put, liberty-rights provide a way of structuring human existence so as to make a functioning capitalist market possible.

Historically, the two competing visions of sociability provide alternative ways of secularising a Christian universalist language of brotherhood or neighbourly love. Philosophically speaking, both secularised languages have their advantages and problems. The language of cultural progress through competition and cooperation provides an interesting and influential account of universal moral and legal norms as functional elements in society. This transfers the question of universal norms from individual ethics to the sphere of social science, where e.g. human rights become a functional element in a macro-level structure that forms the emergent ‘vital string of mankind’. This account requires only what many would consider

68 Barbeyrac, *Defense du droit de la compagnie Hollandoise des Indes Orientales*, 120.
a very minimal moral psychology by making benevolence and complex sociable sentiments into phenomena that emerge from the (supposedly) more simple and fundamental egoist psychology postulated as the *primum mobile* of humans and other animals alike. But this approach also, if consistently defended, entails that other-regarding sensitivity is ultimately either a calculated masquerade or culturally induced collective self-deceit. Neighbourly care, universal brotherhood, or ‘common love’ are a lie that the social scientist intellectual can and should pierce. The vital string of mankind appears superficially as love but is in fact either egoism or mere self-deception. As lubricants for international trade, human rights and international law have a functional utility for mankind as a whole, but in this very articulation of their universality, these norms also acquire a more problematic feature. If for example the care for others expressed in respect for human rights is only a veneer that I need to secure my own advantage – if this is what sociability is really and truly about – then I must, as a smart policy-maker, be ready to ruthlessly ignore that veneer when my advantage suggests it. If sociable other-regard is a useful trade-enabling lie, then the smart thing is to use it only when it in fact is advantageous for me, for my trade possibilities. Apart from the harshness of such an account of human nature, and apart from how insubstantial it makes international law, this approach also seems confused at the level of moral psychology. By using a language of love and friendship, Pufendorf evokes ideas of concern for the wellbeing of others. If genuine, such concern is conceptually distinct from self-regard. If, as Vattel suggests, all other-regarding expressions are ultimately based on self-love, then these expressions do not amount to what a normal human being would count as expressions of love. To be entirely consistent, Vattel and those agreeing with his approach to Pufendorfian natural law would have to admit that the language of love is for them as a whole (and not only in the sphere of international law) mere verbiage. Only some very melodramatic songs would agree with that position. Alternatively, the Vattelian should purge his theory of all references to sociability as a form of friendship, benevolence etc.

Of course it would also remain possible to argue that Vattel and others were sincere in their hope for cultural progress that would begin with self-seeking egoism and end with universal benevolence and other-regard. Perhaps the twentieth century has seen its variants also of such belief in the civilizing force of capitalist exchange and competition. Taken as such, the jubilant early Enlightenment story of how spreading capitalism will bring peace and love to the world as a whole stands on one side as a modern variation on Christian universalism, a new formally pacific crusade to bring all of humanity into a universal history led by the (Christian) West. In that picture, international law in general and human rights in particular appear as devices in the self-understanding of a colonising imperialist Europe. The invention of human rights in the Enlightenment period would constitute a replacement for the more traditional justification of Western expansion in terms of spreading the true religion made increasingly suspect by the internal quarrels within Christianity. While
arguing that violence is illegitimate as a means of spreading a religion or a culture as such, a new justification would now arise: the indigenous populations who are not willing to become absorbed in the expanding West could now be met with violence on account of their unwillingness to respect the legal form of Western possession, for their unwillingness to submit to the institution of private property itself. But again it is not purely on historical grounds that such a theory looks suspect: the very gist of what I have called the social science argument about sociability is to explain how love is a phenomenon produced by root forces that are and remain more ‘real’ and substantial than love. Even on its own understanding, the Vattelian proclamation of love for the others out there, the ones to be integrated into the history of human progress, must in reality be a ruse to conquer the world for profit.

The alternative approach to sociability articulated by Barbeyrac is also not free from ambiguities. From the outset, the critics of the social science account operate with what looks like a heavier moral psychology. The realization that the other should be treated with a distinct sort of respect is here a part of individual ethics, and must apparently have sources within the individual psyche. Love of other human beings would seem to be a natural phenomenon, and would as such require some sort of explanation. Barbeyrac does not seem to give any such explanation, but simply notes that the sentiments of humanity are natural to men unless destroyed by corrupt traditions, passions and prejudice.69 While this makes Barbeyrac's approach less articulate, it connects with important trends in eighteenth century thought where British sentimentalists and thinkers like Rousseau on the continent begun to emphasise pity, compassion and sympathy as natural sentiments. But even without a detailed psychology or such other-regarding sentiments, Barbeyrac's assumption that care for others is a distinct sort of thing not triggered by rational calculations about advantage does make more sense of the idea of sociability as a form of universal friendship. Every human being can recognize other human beings as deserving a basic friendship from me as expressed in acts of common decency, and all easily agree that acts of friendship that emanate from a calculated egoism are mere posturing instead of the real thing.

The approach that Barbeyrac favours also underpins another approach to international law and human rights. Inalienable rights are not explained through their functionality for social interaction and cooperation, but constitute moral limits that carry serious weight also when respecting them is in fact impractical, as Barbeyrac makes quite clear in his discussion on religious minorities.70 Every normal (uncorrupted) adult human being will easily recognize that dealing sociably

69 Barbeyrac re-emphasizes this point in the anonymous review that he wrote of his own, see his ‘Suite de l’Extrait du Traité de la Morale des Peres’ in Bibliothèque raisonnée des savans de l’Europe I.2 §5, 320-322.

70 Barbeyrac, Traité de la morale des pères, chap. 9, §33, 181
with other human beings implies according them certain quite minimal universal rights. The vital string binding mankind together is not based on self-interest, but is a naturally felt demand for other-regard. This secularization of Christian agape does seem to better retain a sense of genuine benevolence. To the extent that Barbeyrac’s theory articulates an idea of military intervention on grounds of human rights, this is articulated as a moral crusade against persecution. Barbeyrac’s stance on international law and human rights can thus be regarded as a variant of a moralistic approach: they constitute categorical moral imperatives that limit men’s self-seeking aspirations. They are, as to their form, universal and self-evident because being human and recognizing others as humans implies a recognition of such rights. As to their contents, the rights demanded by sociability are for Barbeyrac mainly the respect for the other’s need to articulate his or her own religious views. In this sense, Barbeyrac’s respect for sociability implies a very limited set of moral limits. Although human beings are naturally free and equal, Barbeyrac does not view slavery as unnatural or as against the demands of sociability. The fact that humans are free and equal by nature does not mean that they could not be parts of hierarchical arrangements in social life as dictated by civil law. Barbeyrac makes only a few restrictions to what aspects of human liberty and inequality no laws can annul, and this is the context in which his arguments about inalienable human rights should be read. Barbeyrac’s emphasis on self-governance comes within the context of early Enlightenment discussions on religious minorities, and articulates his conviction that the Huguenots had a self-evident and inalienable right to freedom of religion in France while retaining the idea that Catholics should not be tolerated by Protestant authorities due to their dangerous commitment, as Barbeyrac sees it, to the inhuman dogma of intolerant persecution. Human liberty of conscience, as a human right, is a moral absolute that serves for Barbeyrac as an invective and call for violence against the Catholics. This does not alter the fact that his version of ‘socialist’ universalism is philosophically less confused than the view he combats.

71 Thus according to Barbeyrac, Protestant rulers would be entitled to team together and wage war on countries (like Italy and Spain) that allow the Inquisition: had such a suggestion been taken seriously it would no doubt have entailed a second thirty years war in Europe. Barbeyrac, Traité de la morale des pères, chap. 9, §33, 181.

72 Hobbes and Pufendorf reject natural slavery, and Locke had brought up a right to defend one’s liberty against one who would usurp an absolute power over me. Barbeyrac quotes Locke (DNG II.5 §19 note 2, 340-341) and on the whole agrees with Hobbes and Pufendorf, but he has no objections (the same could be shown for Locke) against slavery as instituted by civil law.

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