# Universal Society, Commerce and the Rights of Neutral Trade: Martin Hübner, Emer de Vattel and Ferdinando Galiani[1]

Koen Stapelbroek

Erasmus University Rotterdam &
Helsinki Collegium for Advanced Studies

*Martin Hübner, Emer de Vattel and Ferdinando Galiani acted as political functionaries on behalf of three of Europe's lesser powers during the second half of the eighteenth century. They considered the deplorable condition of the interstate system through different historical outlooks on the legal customs of international trade. Consequently, they suggested different problems to lie at the core of eighteenth-century global conflict and proposed different natural law theories as ways to capture and remedy the essential moral and political tensions between war and trade. Underlying their legal ideas on the neutrality of trade in wartime and the containment of military conflict Hübner, Vattel and Galiani deployed rival visions of the future of the European state system and its economic functioning on a global scale. This article outlines their respective views on the subject of the neutrality of trade against the backgrounds of their general political thought, eighteenth-century international relations and the wider development of the political treatment of principles of universal morality between the outbreak of the Seven Years' War and the end of the War of the American Independence.*

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## Universalism and the Neutrality of Trade

During the second half of the eighteenth century, international trade suffered from the violent consequences of the assimilation of commerce into the Anglo-French struggle for global hegemony. When commerce assumed this new political status the antonymous relations between trade and war, and wealth and power, also moved to the centre of legal debate where they presented a major challenge and inspired natural law thinkers to develop their views into a new direction. It was generally recognised that in modern Europe, the rise of international commerce had increased living standards and connected people living in different states to each other by means of markets. Yet, at the same time, one also generally realised that these new relations between nations were historically constructed in such a way that they created a tense political situation in which conflict between states always threatened to lead to a degeneration of international commercial society into a state of war.[2]

While European states were embroiled in this new kind of struggle for hegemony, a number of political thinkers devised schemes to limit the belligerent excesses that accompanied this development. Applying the discourse of natural law to the eighteenth-century practice of international politics, these writers employed different ideas of universal morality, justice and exchange to build their models of international stability. In this article some of the views of three of these authors, Martin Hübner (1723–1795), Emer de Vattel (1714–1767) and Ferdinando Galiani (1728–1787), on the subject of neutrality and trade are compared against the backgrounds of their general political thought, eighteenth-century international relations and the wider development of the political treatment of principles of universal morality between the outbreak of the Seven Years' War and the end of the War of the American Independence.

There are a number of grounds for comparing these authors – while other eighteenth-century figures could easily have been included as well, as the discussion about neutrality and trade extended through the whole of Europe and had a great many subtle and original writers contributors coming from different national contexts. Hübner, Vattel and Galiani all were political functionaries, acting on behalf of three of Europe's lesser powers. They all used natural law as a tool to approach the deplorable condition of the eighteenth-century state system, which they played out at the level of ideas about neutrality and trade. Furthermore, they all put forward – longer or shorter – histories of natural law thinking and were highly critical of earlier views: all of them suggested that ideas of natural law had to be radically modified to avoid the problems that the eighteenth-century Westphalia treaty based state-system ran into and that seemed impossible to put to rest. Most importantly, underlying their respective visions of reformed natural law thinking and

2 These conditions and the different ways in which eighteenth-century writers responded to the problem of 'Jealousy of Trade' are discussed in Hont 2005.

political practice Hübner, Vattel and Galiani deployed rival visions of the future of the European state system and its economic functioning on a global scale. These views, that remain to be reconstructed as a much larger project than is the scope of this article, underpinned their legal ideas on the neutrality of trade in war and the containment of military conflict. As such, these ideas on how to protect the neutrality of trade in wartime represented, as I argue, the first step to the development of a new reformed inter-state system.

Therefore, the aim of this article is not so much to compare the ideas of three thinkers on human nature to see how universalism could be asserted and be denied in the middle of the eighteenth century (i.e. modernity), but rather to explore how universalist ideas served in different ways to assist in overcoming the painful predicament of modern economic and political competition leading to all-out global warfare.

## Martin Hübner: The Underdeveloped Law of Nature in the International Sphere

The first-ever theoretical work devoted to the rights of neutral states to maritime trade was published by Martin Hübner, a hitherto understudied Danish political writer, who was intellectually well-connected and influential at court.[3] Hübner dedicated his earlier works to Johann Hartwig Ernst Graf von Bernstorff – one of the architects of Danish foreign policy, who is not to be confused with any of the later members of the Bernstorff diplomatic dynasty, which put a great mark on Danish foreign policy in the second half of the eighteenth century.

Hübner had a curious relation with England, where he was *assesseur* of the Royal Society. One of the first works with his name on the cover (at least on its second edition)[4] was entitled: *Le politique danois, ou, L'ambition des Anglais démasquée par leurs pirateries: ouvrage dans lequel on recherche laquelle des deux nations de la France ou de l'Angleterre, a dérangé par ses hostilités l'harmonie de l'Europe, & où l'on prouve aux Souverains de quelle importance il est pour eux d'abattre l'orgueil de ce people*. The work, which was first published in 1756 in Copenhagen (according to the title page),[5] was an outright attack on English foreign policy, which the author saw through the lens of its maritime strategies that he associated with piracy: "It is not easy to get rid of the idea, of which one has been convinced for

3 The Kongelige Bibliothek at Copenhagen owns a fair number of unpublished manuscripts and letters by Hübner, some of which discuss commercial and financial topics.

4 Hübner's authorship of this work was questioned by some contemporaries, see below.

5 The work had a second edition, "revised and augmented by the author" also published in Copenhagen in 1759.

sixty years now, that France wants to instate a universal monarchy. But France has looked at her neighbours with great envy for so long now, that one can see now that it is the English who try to persuade others that France has ambitions greater than they can be."[6] The threat of universal monarchy came from England, not from France. The author compared the English to Roman rhetoricians who twisted the truth and considered their capacity to do so a mark of virtue. While they accused the French of aspiring to universal monarchy, the English themselves violated the laws they tried to impose on the behaviour of the French. Moreover, this behaviour did not remain restricted to the violation of any laws of nature that might be supposed, but extended itself to the violation of signed treaties, which was the reason for the outbreak of the Seven Years' War. The author of the *Politique danois* justified that Danish politicians took a stand against the Machiavellian strategies of deceit and modern conquest employed by the Brits and not passively comply with them in the face of the most powerful state in the world.

In 1757–1758, Hübner published his *Essai sur l'histoire du droit naturel*, which according to the title page was published in London. As the title indicated, the work was an outline of the history of natural law. Hübner declared in the preface that (like so many eighteenth-century thinkers) he had set out to develop a new and original system of international law based on the actual history of humankind: a conjectural history of modern national and international government informed by the true principles of natural jurisprudence. However, his ambitions had been thwarted by the circumstance of the outbreak of Seven Years' War, which Hübner explained, made him feel obliged to prematurely publish the imperfect first part of his main work, a *histoire du code de l'humanité*, as a separate text that showed how the universal principles of humanity could be gleaned from the history of humankind.[7]

The telling first words of this first part of a larger project work echoed its political aspirations and were clearly written with an eye on international relations: "your majesty: natural law is the science of sovereigns." For Hübner, natural law was a tool for understanding the true guidelines for political leadership and the objects of good politics. Wise politicians "far from aspiring to sad laurels, bought with the blood of subjects" aimed at consolidating peace and believed in the glory of honest industry to wealth and power.[8]

From the start of the work Hübner explained that his findings suggested that the wise government of empires took place through the self-government of its rulers. States had to train themselves in a form of self-discipline that spread from

6 Hübner 1756, 18.

7 Hübner 1757, xvii–xix.

8 Hübner 1757, vii–ix.

the moral self-understanding and self-control of its rulers to the entirety of social relations. The government of moral self-assessment was crucial. Politicians had to overcome their base natural passions and incorporate them into a higher quality set of acquired moral guidelines. Without this kind of self-discipline nothing stood in the way of self-deceptive conquest and ambition.[9]

Hübner's outlook on the history of humankind and the law of nature resembled the views of earlier eighteenth-century Christian moral philosophers.[10] This history had two parts that were divided by the Fall. With the Fall individuals (and thereby human nature as a whole) had lost their God given knowledge of the law of nature, but in the course of history had recovered this knowledge over time, across the world, by trial and error and accumulated learning. The universal principles of the law of nature and nations, which were essentially the same thing in Hübner's perspective, could be grasped through the contemplation of nature and through interaction with other human beings. Understanding of these principles and acting upon it reflected itself in greater human happiness and higher levels of civilisation. Hübner was not a lover of the heroism of antiquity and self-abnegating virtues, nor was he against improvement of the arts and higher material living standards that humans might enjoy as a result of the accumulation of the rules of civilisation. Yet, he was highly suspicious of the ways in which political management of society and of the economy could distort the natural human learning process. The unregulated and uncontrolled condition of the international realm made him particularly aware of the vulnerability of the natural learning process by which human nature was capable of regaining paradise. The threat this condition posed to the whole of humanity was related to a twofold problem: Hübner pointed out that as yet, while the civilisation of separate societies had come a long way since the Fall, no knowledge of any law of nature had developed that regulated the interaction between states, let alone a legal basis for inter-state action that could be easily learned. The second problem was that states in the absence of an integrative law of nations based on knowledge of the law of nature had started to compete with each other and recognised no limits to their own rights to use force against members of other societies. Thus, the unfortunate uncoupling of the development of the law of nations from that of the law of nature had led to a situation where the two became opposite forces. The lack of self-control of rulers and their societies in the international realm could easily subvert all the achievements of human nature in separate societies and destroy peace, tranquillity, trade and civilisation. The dominance of this problem in the modern world made it the greatest threat to human civilisation. This was why Hübner from the start of his treatise characterised the law of nature at the outbreak of the Seven Years' War as "a science of sovereigns" who had not yet developed themselves as scientists.

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9 Hübner 1757, ix–xvi.

10 For a typical example, see chapter 2 of Stapelbroek 2007, which discusses the conjectural history of humankind formulated by the Roman-Neapolitan cleric Celestino Galiani.

In part one of the *Essai sur l'histoire du droit naturel* Hübner accepted that Grotius had perfected (or rather formalised) the law of nature a great deal, but the problems of the eighteenth century made clear where its weaknesses lay. Grotius had been far too erudite, rhetorical and ancient, and had not appreciated the consequences of what was the basis of Hübner's idea of progress: that variations in human positive law can be reduced by seeing that they all are, and must be, instances of natural law, which has universal value. Nonetheless, despite being built on this confusion, from Grotius onwards natural jurisprudence evolved and shaped an implicit value system both for individuals and for societies that measured the quality of human actions and corresponded to immediate punishments and rewards through natural forces. Yet, faced with the acute challenge of silencing the threats of eighteenth-century inter-state commercial competition there was an imperative need for international law to be improved and put on its proper footing of natural law.

The similarity between the aim of Hübner's project and that of physiocracy, the French political economic reform movement also known as that of the *économistes*, led by François Quesnay and the Marquis de Mirabeau, was noticed by Nicolas Baudeau, the once anti-physiocrat who became one of the most loyal disciples of the sect of Quesnay. In 1767, Baudeau published three long reviews of the *Essai sur l'histoire du droit naturel* in his well-known journal the *Ephémérides du citoyen*, which by then had become a physiocratic journal. The tone of the reviews was sarcastic: "those who are familiar with modern expressions need to know that Mr Hübner is Danish" is one of the first comments by Baudeau. But through the sarcasm coming from a devoted follower of Quesnay the character of Hübner's work comes out. The reviewer agrees with Hübner that man is a pleasure-seeking animal, whose instinctive behaviour needs correction by means of a number of rules of conduct: these are natural laws. These laws, as was also part of the doctrine of the French *économistes*, can be derived from the history of mankind: they are always the same everywhere and the more a nation follows them the happier and wealthier it is. Positive laws, for Baudeau as well, are directly related to natural laws.

Yet, within this frame, the physiocratic perspective differed almost entirely from Hübner's. The first set of Baudeau's criticisms of the *Essai sur l'histoire du droit naturel* regarded ancient history. Baudeau would have liked to see more examples from hermetic writings, not just from Greek and Roman antiquity.[11] Baudeau also did not share Hübner's criticisms of Sparta and his view of property laws, but in his review in the *Ephémérides* left unexplained why exactly not. Baudeau's more serious objections, however, concerned Hübner's insistence on the progress in the "governing of the passions" and the superiority of modernity over ancient times.

11 It seems that Baudeau was arguing that it would be useful to consider classical and earlier ancient writings from the perspective of physiocratic doctrine.

Here, Baudeau commented that a similar attack on ancient virtue can nowadays be found in Shaftesbury.[12] Yet, Baudeau argued, the emergence of increasingly modern sociability after the Fall required a good deal more than simply the passing of time. The history of human nature, according to Baudeau looked very different from the simple ascendance that Hübner supposed and was much more muddled and covered in bloodshed.[13] Likewise, to overcome the problems of eighteenth-century commercial competition between states and to get human nature on the right track again, after being exposed to the corruptions of luxury and artificial inequality imposed by Colbertist political economy, a lot more active reforms given in by scientific truths taken from "physical" "self-evident" facts were required than a simple – even if radical – correction of international legal practice. From Baudeau's point of view, Hübner was a typical mid-eighteenth-century natural sociability theorist who thought that people's pleasures and culture were interrelated in such a stable form that any political problems that rulers might have came from their abuse of power in the international realm, not at least as much from an inherited problem of modern commercial culture that lay at the foundations of inter-state relations and represented a far more profound politically imposed conflation of the true principles of commerce.[14] Moreover, although Hübner was right to say that laws did not really come from convention and that treaties cannot really be obligations, be universal, or have perpetual power unless they have natural bases,[15] it was the case, according to Baudeau, that in arguing against his predecessors and pointing out their *droit chimerique,*"[16] Hübner had been more successful than in arguing the self-evident truth, which was what lay at the basis of physiocracy.

Baudeau's conclusion was that Hübner had based himself too uncritically on the idea that among nations there were universal natural bonds and laws. Hübner had naively suggested that humans were naturally sociable and had extended this idea to the realm of international law, much like the natural lawyer Christian Wolff had done, according to Baudeau.[17] Hübner's views stood in shrill contrast with the physiocratic idea of the international order and the kind of reform that was required to settle the European peace problem. The physiocratic take on the state of

12 Baudeau 1767, part II, 117–118.

13 See Sonenscher 2007, 189–222 and 2002 for a reconstruction of the physiocratic take on human history. See also Longhitano 1999.

14 Baudeau 1767, Part II, 119. Consequently, from Baudeau's perspective the differences between Grotius and Hübner did not matter so much anymore: Like Grotius, Hübner had wanted to write a code of humanity, but where Grotius had failed (and both Hübner and Baudeau agreed he had) because of a number of circumstances, his views at least represented the spirit of the age, whereas Hübner, Baudeau argued, had not done any better, but still felt entitled to criticise Grotius for his erudition and his empirical method "to prove laws by quoting ancient sources".

15 Baudeau 1767, Part II, 143.

16 Baudeau 1767, Part II, 139–141.

17 Baudeau 1767, Part II, 143.

European societies in the mid eighteenth century was that all modern nations were punished for their deviation from the natural order of things and for not following the natural order of economic progress. Nations nor individuals were naturally sociable and both had to be kicked back into their natural physical shape. The state that first found back its natural shape would automatically rise to greatness and enforce the same model onto other states. Whereas Hübner believed in the civilising effects of modern commerce and urged that politicians adopted its true principles in the international sphere, the physiocratic counterpoint resided in an updated version of the French anti-modern agriculturalist movements of the late seventeenth and early eighteenth century that were a reaction to Colbert's political economy.[18]

Hübner's image of the history of humankind lay also at the basis of an article he published in 1759 (even though it was written in 1757–1758)[19] in the *Journal de commerce* entitled *Reflexions impartiales sur le droit des nations belligerantes de saisir les batimens neutres*.[20] Although humankind within separate groups and nations had gone through the general movement of a gradual ascent of moral knowledge through reflection and commercial sociability, with regard to other nations knowledge of the law of nature had remained greatly underdeveloped. In his 1759 article, Hübner was concerned with the fact that neutral trading nations were seen to be trying to sustain war out of motives of profit. This was the opposite of what the law of nature dictated were the duties of neutral states in war and what the historical proved was the optimal way to minimise the harm done to the interest of humankind by conflict. As a general rule, the positions adopted by neutrals were first and foremost to be conducive to the restoration of calm and peace, which benefited all states.[21] Neutrals had to isolate war and restrict their commerce with belligerents in some ways, certainly not extend it and thereby exploit and amplify conflict. If this general rule was adopted, whenever states saw themselves forced to measure their powers against each other, much of their commercial contacts with other states had to be interrupted while they were at war. As soon as it was decided who was the strongest the war was over and with minimal damage commercial exchange between all states could resume.

However, going against these insights, the principles of which could be deduced from history, modern diplomacy and naval courts had given rise to an altogether different and misguided practice aimed at the definition both of rules of equal treatment of belligerents by neutrals and of rules that stipulated which goods

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18 See Rothkrug 1965, Sonenscher 2002 and 2007.

19 See the introduction of *De la saisie des batimens neutres, ou Du Droit qu'ont les Nations Belligérantes d'arrêter les Navires des Peuples Amis Dedica a son excellence Monseigneur le baron de Bernstorff* , which was published in 1759 Hübner, 1759b, iii–iv.

20 Hübner 1759, 39–66.

21 Hübner 1759, 45.

neutrals were not allowed to trade in altogether in times of war. According to this practice, in which positive law and treaties were dominant, justice and impartiality resided in determining when goods came to fall under the term contraband and under what conditions they could be free for neutrals to trade with. But how could a state that had natural resources ever justly be banned from selling iron to another state that was at peace with everyone, even if iron was used to make guns, Hübner objected?[22] The consequence of uncoupling neutrality from natural law, Hübner believed, was an inlet for power politics into the realm of international law. The invention of the term contraband itself was a corruption of the idea of neutrality from the point of view of Hübner's idea of natural law and made it subject to a struggle of national interests over the rights of belligerents and neutrals. The very emergence of this perverse struggle Hübner attributed to the "modern custom" of "jealousy of trade" that made states so envious of each other's commerce that they forgot about considering the development of their own economies in their proper perspective.[23] In that context, the English depredations of neutral vessels in the Seven Years' War was inspired by the Machiavellian intention to make sure that neutral states would not profit and relatively become wealthier and more powerful than even the belligerent that won the war as a result of staying out of that war.

Whereas with regard to civil law individuals had learned to live by the laws of nature, the modern practise of commercial warfare threatened to throw humankind back into a Hobbesian state of nature, or rather a post-diluvian absence of knowledge of the law of nature.[24] In so far as rulers had at all come to grips with the law of nature in international relations their knowledge had developed very slowly and had been hindered by a reluctantly on the part of rulers to accept it, which is why they had throughout history emphasised the chimerical distinction between utility and justice.[25] Yet, the well-being of European states and the "honour of humanity" dictated the abrogation of the custom of the seizure of neutral ships which in reality was destitute of any form of justice.

The article by Hübner in the *Journal de commerce* served to create a platform and audience for his larger treatise that was published in two volumes later in 1759 [although perhaps it was antedated] in The Hague, entitled *De la saisie des batimens neutres, ou Du Droit qu'ont les Nations Belligérantes d'arrêter les Navires des Peuples Amis Dedica a son excellence Monseigneur le baron de Bernstorff*. The work was translated a few times in the rest of the eighteenth century and remained influential throughout Europe during that period, particularly

22 Hübner 1759, 48.

23 Hübner 1759, 53.

24 Hübner 1759, 56–57.

25 Hübner 1759, 64.

during the War of the American Independence.[26] Notably, there was an Italian edition published in 1778 in Genoa under the title *Del sequestro de' bastimenti neutrali ovvero: del diritto che hanno le nazioni belligeranti d'arrestare i bastimenti de' popoli amici*. When Ferdinando Galiani published his *Dei doveri dei principi neutrali* in 1782 (which I will discuss below), he identified Hübner as his direct predecessor, just like he had identified Jean-François Melon in his first work *Della moneta* as the best political economist until then. The *Saisie des batimens neutres* would be influential across Europe both for Hübner's general outlook on commerce and neutrality and for his practical proposals, especially his suggestion that an international prize court was required as a partial remedy for the time being to discourage belligerent nations from capturing neutral ships.[27] Practically speaking, only if the jurisdiction over arrests of ships in full sea could be removed from national courts it could eventually be possible to put neutrality on the right footing afterwards. To enable that option it was necessary to break down the artificial legal barriers connecting warfare and trade that Europe's dominant states (mainly Britain, and previously the United Provinces) had created, that Grotius's natural law thought had not prevented and that was about to plunge the whole of European civilisation back into the darkest epochs in human history.

The immediate reception of the *Saisie des batimens neutres* in the context of the Seven Years' War was also coloured by its different stance towards the international political relations of the time, compared with that in the *Politique Danois*. A reviewer of the work for the *Journal œconomique* of 1760 agreed with Hübner's perspective on neutrality in the *Saisie des batimens neutres* and considered it the best treatment of the topic, written by a subject of a truly neutral court. However, the reviewer also noticed a divergence between the message of the work to reject the struggle over rights of belligerents and neutrals and pave the way for a reintroduction of natural law into international law and the plea for action against Britain and the assertion of extensive rights of neutrals in the *Politique Danois*. Ruling out the possibility that the *Saisie des batimens neutres* was a skilfully dressed up attempt to support the aims that inspired the *Politique Danois*, the reviewer declared he refused to believe, on conceptual as well as on stylistic grounds, that the author of *De la saisie des batimens neutres* really was the same person that wrote the *Politique Danois*, which took such a radical anti-English position and was far from truly neutral.[28]

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26 Hübner's influence was greatest during the time of the War of the American Independence. His name, for instance, appeared prominently in the pamphlet debate surrounding the Dutch discussions about whether or not to join Catherine the Great's League of Armed Neutrality.

27 This idea became an important part of Hübner's legacy. See for example Holland 1921, 190.

28 Ere Nokkala has drawn my attention to another instance where Hübner's authorship of the *Politique Danois* was questioned. The German Johann Heinrich Gottlob von Justi, in his *Die Chimäre des Gleichgewichts der Handlung und Schiffahrt*, of 1759, argued that it was not Hübner, but the French publicist Jean-Henri Maubert de Gouvest who had written the *Politique Danois,* which to me seems highly plausible. See Adam 2006, 83, note 71, who claims that the attributions by Justi (and Kaeber) to Maubert were false and that the author really *was* Hübner.

## Emer de Vattel: The Mistaken "Perfection" of the International Order[29]

The legacy of Emer de Vattel within the history of international law is far greater than that of Hübner. The character of Vattel's views also has been subject to frequent discussion, at the end of the eighteenth century, as well as in the beginning of the twentieth century – when the outbreak of World War I and the effective collapse of the rights of neutral states in the context of submarine warfare was considered the final blow to Vattel's vision of international order.[30] Presumably because Vattel was the most influential eighteenth-century natural law theorist and because his work has in the past been interpreted among so many different lines and was associated with so many ideological directions, scholarly attention for his works has recently grown. Here, I only want to discuss a number of points and put these next to the previous discussion of the basic views of the history of humankind and the eighteenth-century problem of neutrality and trade by Martin Hübner.

Emer de Vattel was a Prussian citizen by birth, but came from the Swiss region of Neufchatel.[31] Vattel had a diplomatic career not in Berlin, but in the minor German power of Saxony. In later times the main message of his 1758 magnum opus *Le droit des gens, ou principes de la loi naturelle, appliqués a la conduite et aux affaires des nations et des souverains* has often been construed as an ingenious way of selling out international law to power politics. Yet, thanks to recent scholarship these judgements themselves are now increasingly seen as a product of their own ideological backgrounds, which has paved the way for a much better and richer understanding of the subtleties and authentic meaning of Vattel's main work.[32] Having said that, Vattel still can be placed in line with his predecessor Cornelius Bynkershoek, who attempted to radically redevelop the Grotian law of nature approach in favour of one based on, or rather in accordance with, the *jus gentium*, politeness, diplomacy and the balance of power. Bynkershoek's shift from natural justice to the actual workings of politics as the central point in international legal theory created the conditions that in the Seven Years' War made the law of neutrality subject to debate between decisions by governments of neutral states

29 For my presentation of Vattel's political and moral thought in this section I am indebted to discussions with Petter Korkman and to Isaac Nakhimovsky's unpublished paper, 'Commercial Neutrality and Vattel's Vision of a European Commonwealth', which he delivered at a workshop on 'Neutrality in the Eighteenth Century' that I organised in Rotterdam, November 2005. A modified version of that paper was published as Nakhimovsky 2007. For Korkman's views on Vattel, see his paper in this volume.

30 See Jouannet 2004.

31 See Vattel 1747 and 1757; The introduction of Vattel 2008 by Béla Kapossy and Richard Whatmore contains a concise biography of Vattel's life and career.

32 See e.g., Jouannet 1998.

and naval courts of belligerents.[33] By urging the Dutch government to adopt a more assertive approach towards claiming rights to trade with other neutral states as well as with belligerents, Bynkershoek paved the way for a far-reaching reform of international law. By removing the Grotian legal veil, which drew upon a basic theory of justice between individuals, from the inter-state sphere Bynkershoek contributed to the creation of a legal void with regard to the neutrality of trade that had to be dealt with, in order to immunise the tendency of small military conflicts to spiral off into all-out warfare.

In as much as Vattel followed Bynkershoek, his aim was not to restrict or minimize the logical relationship between the law of nature and international law to create space for new right claims. Instead, I will argue that the purpose of Vattel's *Droit des gens* was to explain in an altogether different way, one, how the international order that existed could be considered in accordance with the law of nature, and, two, how the principles of the law of nations were to be understood in order to have any hopes that eventually international law and politics might be reconciled. Or, as the reviewer of the *Journal de Commerce* in 1759 formulated it: "Mr Vattel considers the principle objects of Good Government, of the Arts, Agriculture and Commerce through the principles of the Law of Nature, on which the good government of these matter that are important both domestically and abroad needs to be based."[34]

Vattel has often been seen (though much less so by contemporaries than by later international lawyers and modern historians) as providing a dissimulating perversion of the ideas of Christian Wolff, the Prussian moral philosopher who Vattel himself declared to be following to a large extent and whose ideas he said to intended to publicise in a "wider circle of readers."[35] However, Vattel's declared adherence to Wolff's view may have to be taken more seriously, possibly as a recognition on the part of Vattel that Wolff's outlook on human sociability was the one that best described the basics of how the international realm could form a sustainable entity without requiring all that much intervention, arbitration and coercion. For Vattel, Wolff's theory of sociability showed, against Wolff's own conclusions, how human nature well-understood provided a substantial basis for improvement of the international environment of trade politics.[36] Although Vattel emphasised the fundamental flaw in the traditional parallel between individuals living under a civil law and the multitude of states that existed in the world, which, as historians have often stressed, naturally led to a minimal conception of natural sociability, he still felt that the divided nature of humankind did not call for a superstate legislative

33 See Akashi 1998 and Helfman 2005.

34 *Journal de commerce* 1759, 141–142.

35 Nowadays, Vattel is mainly seen as a critic of Wolff e.g., Tuck 1999. For Vattel's adherence to Wollf, Vattel 2008, III: 6a.7a.

36 This is how I read Vattel 1762.

force, or the development of strongly regulative public law that resembled in its strictness the construction of justice through civil law.[37]

At the beginning of his career as a writer, Vattel published numerous short(er) works on a wide range of moral subjects.[38] In these writings Vattel developed an intriguing notion of individual self-interest. Vattel held a strong belief that the principle of self-interest by itself was a sufficient motive to produce sustainable social interaction. Whereas many contemporaries adopted ideas of self-interest that required an additional element or countervailing principle to make self-interested motives socially feasible, Vattel argued that there was nothing that gave people as much pleasure as helping each other.[39] The Christian notion of benevolence did not exist in his system, since self-interest did not need to be counteracted. People derived higher order pleasures and utility from being altruistic. In the course of this process they simultaneously improved their pleasure and developed increasing social cohesion. Through the other-regarding sentiment of pleasurable altruism, people "perfected" themselves and grew into tightly connected groups of persons, or nations. The manner in which Vattel argued his position was in tune with the style and content of the most advanced moral philosophers of the time who mixed technical concepts of motivational psychology with playful examples to argue out their positions. Here Vattel distinguished himself from those thinkers who might with more reason be accused of Epicureanism. The key to Vattel's understanding of self-interest lay in its developmental aspect. As soon as individual basic needs were satisfied, pleasure automatically became sociable, since it could not be increased but by involving the ideas of others.[40] Humans had a natural yearning for "perfected", super-instinctive or civilised, self-interest. "Perfection" implied reflection and therefore itself provided a mechanism that checked the social quality of human behaviour. Here, Vattel's views were close to the views developed by a number of sophisticated Christian moral philosophers across Europe – as he himself recognised in his declared following of Wolff for example.[41] Moreover, apparently in agreement with these philosophers, Vattel also recognised that the development of higher order pleasures could lead a society in the wrong direction, where pleasures were at odds with the law of nature and were not matched by the actual workings of the natural and social world, which made them false pleasures. However, in the

37 See Tuck 1999 and Nakhimovsky 2007. Cf. the review of the *Droit des gens* in the *Journal de commerce* 1759 which understood Vattel's project in the same way, yet still equally as an attempt to justify the British abuses of the neutrality of trade.

38 See Vattel 1747 and 1757. The introduction of the new edition of *The Law of Nations*, by Béla Kapossy and Richard Whatmore gives an overview and bibliography of Vattel's early works.

39 The idea comes out repeatedly and strongly from the first five essays of Vattel 1747.

40 This was the central point of Vattel's moral philosophy that was a prominent part of his early writings Vattel 1747, 1757, that would inspire his anti-Rousseauian views and that was echoed in the *Droit des gens* 2008.

41 See Vattel 1762 and 2008.

defining of what was required for a society to retain its stability and accordance with the law of nature, Vattel set much greater store by the self-equilibrating mechanisms of human nature than many Christian thinkers whose views led to a certain degree of moralising calls for political guarding of the virtue of the nation. In his early writings on moral subjects Vattel flirted with sceptical tropes and explained through clever sociological observations how games were a socially productive pastime and how people were naturally inclined, as a form of socially stabilising self-deceit, to believe in the afterlife.[42] The flipside of this argument within the field of moral philosophy was that, according to Vattel, to explain society it was "more natural and more solid" to start with the human urge to strive for happiness, rather than with a metaphysical theory of moral obligation.[43] Thus, Vattel objected to the structure of Wolff's moral philosophy, since it started with an idea of moral obligation, instead of an analysis of how human happiness came about. Subsequently, Vattel was able to follow a different route in identifying the conditions that monitored social outcomes of individual interest-seeking. In this way Vattel could present himself as a follower of Wolff and keep a safe distance from moral sceptical forms of Epicureanism, even though he did not need to adopt Wolff's rich view of moral obligation as the formal starting point of his natural sociability theory.

Where Vattel with regard to the perfection of individuals argued for the utility of sociable self-interest, so he saw the perfection of states as focused on appropriate economic development. In a long review of the *Droit des Gens*, published in 1759 in the April and May issues of the *Journal de Commerce* – the same journal where Hübner published his article that introduced his *De la saisie des batimens neutres* – it was remarked that Vattel's natural law theory matched his economic ideas of "the true principles .. of the most natural order".[44] Within this order Vattel attached a primary importance to agricultural development, not to modern commerce and luxury, which had since the later seventeenth century taken centre stage in political efforts to spur economic growth. States could rise to greatness, and all states together benefit from each other's greatness in a commercially friendly political Balance of Power system if agriculture was generally accepted as the key to national economic growth. The *Journal de commerce* made much of the central

42 See Vattel 1747, but especially 1757, which contains a number of apparently free reflections on ancient and modern moral philosophical tropes that show a great deal of Vattel's ideas on sociability.

43 Quoted in *Journal de Commerce* 1759, 5: "Il est donc plus naturel & plus solide, de prendre le soin de notre félicité pour l'objet de notre prémiere & plus générale obligation; puisque l'amour de nous-mêmes étant notres prémier mobile, & l'obligation n'étant autre chose que la connexion du motif avec l'action; l'obligation de travailler à notre bonheur est la prémiere, la plus générale, & même le fondement de toutes les autres."

44 *Journal de commerce* 1759, 141.

role of agriculture in Vattel's *Droit des Gens* and came close to identifying him explicitly as a latent radical anti-Colbertist.[45]

The theoretical problem that Vattel started his *Droit des gens* with must be seen in this light. In the opening pages of his main work, Vattel criticised the entire history of natural law discourse and professed his allegiance to Wolff, who had insisted that natural law had to be adopted as a moral code for states, just like it was generally regarded at the level of individuals. Vattel argued that the parallel could neither be loose, like Grotius had allowed it to be as a result of which the "common consent of mankind" was the source of a mere "Arbitrary Law of Nations;" nor be too strict and mirror the form of law that regulated the behaviour of citizens in the state, like Wolff had suggested who wanted to see the natural law for states as "the civil law … of a great republic (*civitatis maximæ*) instituted by nature herself, and of which all nations of the world are members".[46] For Vattel, there was no necessary contradiction in that there was a real, non-voluntary connection of political decision-making to the law of nature, but that at the same time it could absolutely not be denied that states were independent, sovereign and had the kind of rights and liberties that made the international order look like a state of nature. In eighteenth-century Europe, inter-state rivalry became a problem only because the politically engendered mistaken economic "perfection" of societies had led to the imperfect integration of nations in their relations towards each other.

Vattel was very aware of the reality this situation created and of the necessity to somehow change it. At the same time, there was nothing *legally* wrong about the system in which the conflict had arisen and escalated. Natural law discourse should not be bent to fit the reality of the Seven Years' War. Rather the political economy of states had to be corrected and realigned with what the *Journal de Commerce* saw as Vattel's view of a natural "perfection" of nations. Likewise, Vattel gave numerous examples of rights of belligerents that fit with his system and that led to big controversies (and gave Vattel an undeserved reputation in later times). Yet, the real problem was the unnatural competition between states that had arisen because their economies had not developed and integrated with each other in the way they should have, as a result of which belligerents used rights to interfere with other states' trade that otherwise they would never have been tempted to use. Vattel, it seems, saw states behaving in the international realm the way individuals would who had been over socialised and made sensitive to pride, dignity and honour, without possessing lower order socialised selfish faculties.

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45 *Journal de commerce* 1759, 152–155.

46 See the preface of Vattel 2008; see also *Journal de commerce* 1759, 137–141. Cf. the introduction of Vattel 2008 and Tuck 1999, 192.

Vattel's diagnosis that the international order was not well-constructed and sufficiently integrated was his explanation for why the natural interest-seeking of states wandered in territories where their actions became self-defeating. Yet, how could it be changed? The easy answer was that a new outlook on the character of natural law for states was required to develop to be able to eventually overcome the problem of a perverse states system. Yet, that was no solution. Vattel, as a clever observer of societies, including international society, knew what luxury, jealousy, economic nationalism and manufacturing competition were and did not believe that agricultural supremacy would instantly rise to turn around the reality of international relations. To cope with the state of affairs and pave the way for a brighter future by limiting the present abuses of natural rights Vattel (like Hübner) decided that, since it was agricultural development that really mattered to start with, it was best to devise a law of neutrality that separated trade in higher end – mistakenly presumed to be directly "perfecting" – goods from the more essential and fundamental need based trade of subsistence goods.[47] The first kind of trade remained subject to all the natural rights that states had to interfere with each other's commerce; the second was to be considered an inviolable realm of natural, politically neutral, exchange between individuals. To that end, Vattel attempted to distinguished needs from luxury, thereby going against the grain of the by then generally accepted presupposition within the eighteenth-century luxury debate that it was impossible to define "real needs" from superfluous consumption without taking away the very grounds for the existence of trade.[48]

Vattel's reluctance to interfere directly with the most prominent legal problems of neutrality and trade at the time already earned him the reputation of someone who failed to protect trade against the excesses of warfare. The second part of the review of the work by the *Journal de Commerce* (of May 1759) from the start was highly critical of Vattel's *Droit des gens*. It argued that on Vattel's account the freedom to act upon one's needs to protect one's own interest, that Vattel recognised in international law, gave states like England the right to destroy – in a neo-Machiavellian way – the commerce of neutral states. The reviewer concluded that Vattel, despite his "formal" recognition of the importance of trade for the law of nature and the progress of nations did not come to any legal political solution that was an improvement upon the actual practice that turned Europe into an arena of economic warfare.

Although this judgement of Vattel's *Droit des gens* by a contemporary is representative of the way in which the work has been received throughout centuries, it does not do justice to Vattel's outlook on the issues he was dealing with. Further

47 For the argument that Vattel's views on the interstate system derive from his ideas on luxury see Nakhimovsky 2007.

48 For a masterful cross-section of the luxury debate of the first half of eighteenth century see Hont 2006.

comparison with Hübner on the basis of this argument (which is beyond the scope of this article), would probably show Vattel as equally concerned as Hübner with the reform of a situation that unfortunately arose in the eighteenth century when political and commercial reasonings collided. Still, in the course of the War of the American Independence the names Vattel and Hübner figured as two reference points used by opponents arguing about the rights and duties of neutral trade. A rather different angle on problems of neutrality and trade was provided by the Neapolitan Ferdinando Galiani, who discussed the matter from a historically based perspective on the history of humankind.

## Ferdinando Galiani: The Primitive Warlike Customs of Maritime Commerce

In 1751 Ferdinando Galiani published his first major work *Della moneta* on the nature of commercial society and the consequences this had for the possibilities for the reform of the Neapolitan economy.[49] His most famous work was the *Dialogues sur le commerce des bleds* (1770, Paris), an incisive critique of the ideas underpinning a major attempt to reform the French economy and get rid of the state debt by means of a radical liberalisation of the grain market.[50] Galiani's last work *Dei doveri dei principi neutrali*, of 1782 (Naples), in comparison, is much less studied and has as yet not been recognised as an important contribution to the European debate on trade, war and neutrality at the time of the War of the American Independence.[51] Galiani himself wrote in a letter about the work when it was in progress that it "will be boring up to the point that one will think that Wolff or Pufendorf is the author." Yet, even if its sometimes technical language and detailed engagement with previous legal views went against Galiani's own stylistic taste, the work contains original ideas about the history of maritime trade since antiquity in connection to the legal aspects of eighteenth-century commercial rivalry that remain to be discovered.

The publication of *Dei doveri dei principi neutrali* must be seen in a number of contexts: the Neapolitan struggle to preserve its fragile independence and set up a foreign trade, the emergence of Russia as a great power and the diplomatic shifts in the post-Seven Years' War era increasing the pressure on the Mediterranean, and the launch of a League of Armed Neutrality in 1780 by the Russian Empress Catherine the Great.[52] The combination of these factors resulted in a novel situation for Neapolitan foreign trade politics that Galiani responded to. Thirty years earlier,

49 See Stapelbroek 2007.

50 See Galiani 1958. For the context of the work see Kaplan 1976. The best study of the *Dialogues* is still Venturi 1960, although I disagree with its conclusions: see the epilogue of Stapelbroek 2007.

51 The best study of the work so far is Diaz 1968.

52 The standard work on the diplomatic history of the first Armed Neutrality is De Madariaga 1963.

in *Della moneta*, Galiani had argued that rather than to embark on great foreign trade projects Naples should try to modernise its agriculture, find fish in the Mediterranean and explore the possibility of extending trade to the East by cutting through the isthmus of Suez. For the rest it was best to wait for new opportunities. Trade in the Mediterranean was aggressively dominated by France and England and Naples would be blown out of the water if it tried to mix with these powers. Yet, at the height of the War of the American Independence Russia had become a dominant power in Eastern Europe and explored possibilities for accessing the Mediterranean and for setting up trade there. Because Russia did not have a large enough merchant fleet itself, it had an interest in keeping shipping tariffs low. In her efforts to turn the Mediterranean into as much of a neutral trade zone as possible, Catherine II found an ally in Galiani, who since the late 1770s had become an influential figure at court and wrote a number of foreign policy advice documents in which he explored new possibilities for setting up foreign trade.[53]

In the autumn of 1780, Catherine II issued a declaration including five principles of Armed neutrality that served to justify the armed defence of neutral ships against belligerent powers. The real purpose and envisaged functioning and effects of the declaration have remained an enigma ever since. Catherine's claim, that goods on board of ships sailing under flags of neutral powers would be protected by the armed powers of these states, met with wonder, in her own court, as well as in European diplomatic circles. Between 1780 and 1783 all principal European powers, apart from England, announced their adhesion to the League. Although given in by Russia's interest as a rising commercial power to access the Baltic and the Mediterranean and often suspected to be an anti-British ploy or an attempt by Catherine to manipulate the existing Balance of Power, the League of Armed neutrality was also considered across Europe as an alternative peace plan.[54]

Among the states that joined the League was Naples, where the main architect of the accession was Ferdinando Galiani. To justify the Neapolitan position adopted in 1783, Galiani had published in the previous year *Dei doveri dei principi neutrali*, in which he gave an historical account of the conditions that caused the uncertain development of modern natural law discourse and the European treaty system. In reality, Galiani's perspective on eighteenth-century commercial rivalry and international politics in *Dei doveri dei principi neutrali* was based on his juvenile theory of sociability and the history of humankind. In a number of lectures he gave as a teenager he explained that "love drives and gives life to the commerce

53 All of Galiani's foreign policy advice texts (which are preserved by the *Biblioteca della Società Napoletana di Storia Patria* [BSNSP] and the *Archivio Nazionale* in Naples) that have been published are collected in Galiani 1999.

54 I am hoping to be able to publish some of my research on this topic in the near future to show the different perceptions across Europe, and indeed America, of the meaning and the significance of the first Armed Neutrality.

of mankind."[55] Loves were primitive simple feelings that were "always excited involuntarily, and often also in spite of ourselves."[56] Through "a capacity" in the brain "to connect separate and distinct ideas," loves evolved into attitudes towards the world that governed man's perception of reality.[57] Love shaped individual self-interest, which was not essentially an anti-social (selfish) category, as both Hobbesian and Christian thinkers maintained, but rather an aspect of psychological development. Galiani had a sceptical idea about how these loves generated social interaction, group feeling, religion and governed the commercial monitoring of political power through ideas of admiration, wealth, honour, luxury and inequality: when natural loves were threatened to be frustrated people were able to divert them onto another object. It was central to the human emotional system to form self-deceptive opinions that suppressed one's real loves, making it impossible to ever have them again in their single natural form. Galiani used various cognates to describe self-deceit (*inganno, ingannar se stesso, il proprio inganno* as well as *menzogna*) and various terms to signal its epistemic characteristics (*illusione, falsità, inganno utile e innocente*) to define a kind of false perception that man developed in pursuit of his "loves" and to prevent them from remaining unsatisfied.

The duality of natural and social love enabled Galiani to present self-deceit as a positive key to understanding morality and explain its emergence without presupposing either any innate virtuous or self-interested capacity in man. In the process Galiani had devised a notion of self-interest that he felt more accurately reflected the causes of human pleasure than any previous notion. Since self-interest was an expression of a subjective desire-led false world view of individuals, its configuration changed along with people's self-deceit and had much greater flexibility than any idea of self-interest that hinged on any innate virtuous or selfish capacity. Moreover, crucially, this theory of the development of the human passions fit neatly with Galiani's historical perspective of the development of societies and their institutions since antiquity. In other words: Galiani's moral philosophy was designed to explain the history of humankind. In fact, in the late 1740s Galiani's project (which he abandoned when he realised his ambitions had been to large) was to write a work entitled 'The Art of Government' that fully integrated these two approaches into one narrative.[58]

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55 See Stapelbroek 2007, chapter 4.

56 The manuscript is in the BSNSP, xxxi.a.9. ff. 91–100. References are to Galiani 1975, apart from a few differences where the text transcribed by Diaz and Guerci does not include minor deletions and insertions in the manuscript.

57 Galiani 1975, 691–692.

58 See Galiani 1999, 1–3, which unfortunately does not represent the typological structure that Galiani put into his description of the history of humankind.

In 1751, in *Della moneta*, Galiani transformed this moral-historical understanding of the development of commercial societies into a political economic vision for the future of Naples in the international system. In the core chapter of the book, he explained that the value of money at any point in time ultimately derived from principles that were part of human nature itself; money was certainly not a human invention by which people deliberately changed the societies they lived in. It emerged naturally out of the gradual modification of people's loves into social ideas of value that inspired commercial interaction. Money did not emerge by agreement and its existence was not reliant on promises, trust, or any additional moral capacity of self-restraint. If this had been different commerce could never have become central to modern societies.

Galiani defended commercial sociability on the grounds that it was the outcome of the historical progress of human nature, which was a process that realised its own objective moral criteria. He argued vehemently that societies that had come to be ruled by money were less corruptible by politics than earlier forms of society. The complex non-linear and often-interrupted history of money was directly related to the rise and fall of states in both antiquity and modernity and the development of cultural characteristics of the dominant societies in the course of time. Throughout history people constantly reshaped their fictional moral beliefs, thereby gradually creating the mental preconditions for commercial society.[59]

This historical and moral philosophical perspective was the background from which Galiani considered trade and the interstate system around 1780 and evaluated the prospects for Naples to become a major Mediterranean trading power and take over the trade of other Italian states in the region. The main threat to Galiani's vision was interference by Europe's dominant states, but these were kept at bay by Russia's Catherine the Great, who had far greater interests in cleaning up the trade of the South-East Mediterranean and to get rid of pirates and privateers. To signpost the purpose of the work, Galiani (who was a brilliant classicist) inserted a large number of epigraphs into the chapters and parts of *Dei doveri dei principi neutrali* that were taken from ancient South-Italian writers who glorified the peaceful trade and prosperity in the South-East Mediterranean and the Dardanelles strait that lay at the bedrock of modern European civilisation. These epigraphs are the link between the policy advice documents written by Galiani and the main argument of *Dei doveri dei principi neutrali*, a diagnosis of the eighteenth-century hindrances to the further progress of humankind by being able to immunise trade from the vicissitudes of war.

In *Dei doveri dei principi neutrali* Galiani complained that the significant problems in integrating the logics of trade and power in eighteenth-century interstate politics

59 Galiani 1963, 26–27.

had not just emerged because of the apparent difficulty of determining the precise rules of their respective limits and interrelations. In political and legal discourses of the time there was great uncertainty as to what moral principles of human nature were the right ones and how obligation to comply with the rules of justice could be politically enforced. According to Galiani however, the neutrality of trade could only have become the central problem of international politics because the casuistic style of reasoning that natural lawyers deployed in their arguments on the rights and duties of belligerent and neutral states in wartime had *created* these uncertainties, thereby amplifying the actual problem. The original cause of the situation in international politics that had emerged was not to be found through any of the available combined political, legal and moral analyses of human nature and reconstructions of where its development had gone wrong. These intellectual exercises themselves had given rise to a myriad of groundless distinctions that confused and misrepresented the real problem. Galiani insisted that the issue at hand was much simpler than that, and that its resolution did not require a moral education or grand reform of humankind and its leaders either. What had happened was that since the collapse of the Roman Empire dominant states in Europe had frequently given in to the temptation to take recourse to ancient maritime customs which subsequently had become engrained in the legal practices of European states.

The counterpoint, for Galiani, to the proper regulation of trade in the international arena was Rome, not just the Empire, but also the republic that grew out of extensive tribal warfare in the Mediterranean. Rome once had considered itself the only civilised nation in the Mediterranean, because it had transformed the exercise of primitive aggression towards other tribes into a more structured professional military approach, which defined the superiority of Roman society and gave it a moral and legal right over the entire world.[60] Where other tribes plundered ships in the Mediterranean driven by natural passions of revenge and desire for bloodshed, Rome did the same inspired by a superior ideology of empire and conquest, which gave it a series of self-declared rights and entitled it to the goods of other tribes. In this way, driven by the ideological cultivation of warlike national animosity into a cult of republican virtue, Rome became rich and powerful and only collapsed when its military customs towards the outside world became too civilised to match the primitive aggression of neighbouring tribes.

Throughout *Dei doveri dei principi neutrali* Galiani inserted a number of historical sketches of the ways in which powerful states in European history since the later middle ages crushed treaties that created order in the interrelations of trade and war (like Louis XIV scuffed the Treaty of the Pyrenees of 1659, just

60 Galiani 1942, 423–433.

when it had effectively created a stable European public law)[61] and used force to violate the trade of smaller states, notably trade republic. To justify their actions the more powerful states used the Roman legal precedent (even though that legal perception only recognised the existence of one nation) to assert the primacy of their own military-political aims over the commercial motives of other nations. In this way Galiani depicted the modern history of humankind, just like he had done in his first work *Della moneta*, as a difficult and constantly frustrated series of attempts of the mechanisms of commercial exchange to break free from ever-backfiring abuses of political force.

At the same time, just like Hübner had accused trade republics of not being neutral, so Galiani saw the recent history of the controversies involving the United Provinces and Great Britain as an equally perverse product of the confusion about the rights of neutral states to trade with belligerents. Being neutral, Galiani explained, was the political equivalent of the normal exercise of any degree of "natural friendship" that had developed between people. Referring to the sympathy in the United Provinces for American Independence, Galiani called the Dutch "false neutrals", whose "occult" ideas of "friendship" serve to "foment and support the rebels".[62]

In sum, Galiani argued that the perseverance of primitive customs of maritime warfare in the practice of privateering that was accepted and by and large defended in the works of Grotius, Bynkershoek and Vattel harmed all commercial states. Whereas land war had been civilised in the course of time, the opinions of natural lawyers and national courts on the law of the sea reflected ancient warlike passions, neglected the effects of commerce on the progress of humanity and left space to neutrals and belligerents alike for the abuse of maritime commerce.

Despite the fact that huge progress had been made within the history of mankind since the middle ages, further development, particularly the integration of commercial societies, from Galiani's point of view, was blocked by the fact that international law and the treaty system had emerged not as independently as they should have from religious ideas, national ideologies and the primitive customs of maritime strife. For Galiani, the madness of the crusades – a recourse to ancient warlike virtues inspired by Christian ideas –was directly comparable to the forces that urged European rulers to turn to war against merchant republics, manipulate commercial treaties by means of force and allow privateers and pirates to disturb the trade carried on by smaller states whose increasing wealth triggered sentiments of jealousy and hate in rulers of territorial states.[63]

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61 Galiani 1942, 353–363.

62 Galiani 1942, 290–292.

63 Galiani 1942, 353–363.

If Galiani, to grasp the real problem of neutrality and trade, favoured the perspective of a historical outlook on maritime commerce and its customs over a general moral, legal and political analysis of human nature and its development, this did not mean he did not have any general theory of justice and natural law. From the outset Galiani was hugely critical of all natural lawyers before him, who he saw as essentially still followers of Grotius. Among those criticised were Vattel, Bynkershoek, the Cocceji brothers, Pufendorf, Barbeyrac and even Hübner (whose ideas Galiani felt were closest to his). Galiani argued that even those writers (Vattel and Hübner) who had genuinely attempted to curb the abuse of power politics in the realm of international trade had focused their basic idea of moral obligation too much on the principle of justice and neglected beneficence as a source for civilising the anarchical society of states. Galiani did not accuse these authors of Epicureanism or Hobbesianism; instead their well-meaning characters had predisposed them too much to the juridical chimera of a stable international order based on the principle of justice. After sketching the whole history of natural law thought since Grotius as a Kantian parade of 'sorry comforters', Galiani argued that rather than to concentrate on correcting Grotius's theory of justice, it was necessary to rehabilitate the idea of beneficence – the equivalent of his early notion of morality through self-deceit – as the source of an international society of sovereign states.

To illustrate the imbalances that had developed in the discourse of natural law Galiani pointed to the fact that the idea of "contract" that natural lawyers so frequently used in their treatment of strict justice, properly considered, was originally a term that meant the same as "society", so a natural form of relative friendship creating moral obligations, not a term that denoted the express declaration of political promises.[64]

Galiani's purpose was to construct a natural law theory that conformed to the way human beings and states committed themselves to particular moral ends without presenting them as qualitatively at the same level as formal political declarations and instances of strict justice. In the opening chapters of *Dei doveri dei principi neutrali* (and recurrently throughout the book) Galiani defended the significance of the principles of beneficence and universal society and argued that people were naturally sociable. Yet, he was eager to distinguish his views from any kind of cosmopolitanism that stipulated that it was natural for people to have an equal amount of fellow-feeling, compassion and friendship for the whole of humankind. Being human was not the same as behaving in an unnaturally altruistic manner

64 Galiani 1942, 236; on the same page the League of the Armed neutrality is mentioned for the first time and is presented not as a way to extend the rights of neutrals or dispute the validity and importance of strict justice itself, but as a political and moral claim that beneficence and friendship in the modern world translated into a precise idea of being truly neutral. The first Armed neutrality, Galiani wrote, came as unexpected "light from the skies."

like Don Quixote, so Galiani illustrated his point.[65] Beneficence, as Galiani defined it, was a resultant natural love or friendship depending 1.] on the closeness to the person involved in a struggle (or a state involved in war), 2.] the degree to which the situation of the friend felt emotionally as meriting help and 3.] the extent to which any help offered would actually make a difference.

If natural law theory, and the body of ideas about the rights of neutral states to trade in wartime in particular, were to be redeveloped along the lines he proposed, Galiani believed it would be possible to dispense with the many artificial and entirely meaningless technical distinctions that had crept into discussions of the principles of justice. It was because writers had failed to develop international politics along the right lines, Galiani bitterly joked, that the only Enlightenment that he could see as a result of the political thought of the age was caused by the "blazes of warfare" that coloured the skies over Europe at night.[66]

Thus, Galiani agreed in a sense with Vattel that the political problem of the European state system was not a strictly legal one. The problem was not, as Hübner may be taken to have argued, that there was a need for an international institution with coercive powers or a set of legal principles that forced states to comply with rules of strict justice. Yet, Galiani was also a great critic of Vattel's legal-political vision that formally discharged states from performing duties that ensued from the principle of beneficence; Vattel's natural law views were too close to Grotius's ideas. Next to that, Vattel's attempts to pin down the limits between good and bad luxury and determine where the perfection of human nature produced politically and commercially dysfunctional aims went against the grain of Galiani's general approach. From Galiani's point of view, Vattel's thinking about the development and integration of commercial societies imposed a kind of preconceived teleological image of the progress of human nature onto the actual problem at hand.

In tune with his historical views, for Galiani the problem of the neutrality of trade from war had a rather simple solution. It would be sufficient if the discourse of natural law and the international treaty system and maritime customs were to be cleared from those residual elements that stemmed from the time when maritime commerce had been a confused mix of piracy, plunder and unregulated avarice. The question was simply how to erase the lasting impression that this history had made onto the development of European public law. Here Galiani presented as the League of Armed neutrality as having exactly that purpose. Catherine the Great's initiative. Galiani believed, was not an anti-English ploy or an early stage of a plan to set up a supranational state (as in later times has sometimes been

65 Galiani 1942, 38.

66 Galiani 1942, 241.

supposed) but a carefully devised attempt to repair some of the most damaging historical construction errors in European international relations and public law.

## Armed Neutrality and International Commerce

What defined the League of Armed Neutrality, from Galiani's perspective, was its spectacularly ambitious yet highly elegant attempt to impose an alternative logic of maritime commerce in wartime upon the existing inter-state system. Rather than simply extending the rights of neutrals, and limiting the rights of belligerents to disrupt trade, its aim was to realign trade and war by universalising the commercial treaty system and civilising naval warfare. Galiani, it seems, genuinely hoped that Catherine's League of Armed Neutrality would eventually result in a new global political equilibrium in which small states like Naples could more easily preserve themselves. This interpretation would be in line with Galiani's efforts since the 1770s to reorganise Neapolitan foreign politics.

The trigger for Galiani to formulate his own theory of natural law, which was by itself a rejection of a great deal of that discourse, was Catherine the Great's League of neutrality. Catherine's project and its revival by Paul I in 1800 are now generally regarded as unsuccessful because they failed to protect the neutrality of its members – first in the outbreak of the Fourth Anglo-Dutch War (1780–1784) and later in the wars of the Napoleonic aftermath of the French Revolution. The more interesting questions are how Armed neutrality was perceived at the time, from different perspectives, as a solution for a distinctive problem and how the history of global trade, war and Empire after the Vienna settlement connects with the problem of the neutrality of trade in the eighteenth-century state system. Comparing the rival perspectives of eighteenth-century political thinkers and officials like Hübner, Vattel and Galiani can serve as one of the initial steps towards regaining the authentic understanding that eighteenth-century observers had of the challenges and limits related to the integration of the supposedly inherently opposed political and economic logics in the construction of a long-term viable global order.

# References


Adam, Ulrich 2006. *The Political Economy of J.H.G. Justi.* Oxford: Peter Lang.

------- 1998. *Cornelius Van Bynkershoek: His Role in the History of International Law*. The Hague-Boston: Kluwer.

Baudeau, Nicolas 1767. Review of Hübner's *Essai sur l'histoire du droit naturel*, *Ephémérides du citoyen* 1767. Part I, 97–160; Part II, 113–192; Part III.

De Madariaga, Isabel 1963. *Britain, Russia and the Armed Neutrality of 1780.* London: Macmillan.

Diaz, Furio 1968. L'abate Galiani consigliere di commercio estero del Regno di Napoli. *Rivista storica italiana*, 80, 854–909.

Galiani, Ferdinando 1942. *Dei doveri dei principi neutrali verso i principi guerreggianti, e di questo verso i neutrali, libri due.* G.M. Monti (ed.). Bologna: Zanichelli.

------- 1958 (1770). *Dialogues sur le commerce des bleds.* Fausto Nicolini (ed.). 2 vols. Milan-Naples: Ricciardi.

------- 1963 (1751). *Della moneta e scritti inediti.* Alberto Caracciolo & Alberto Merola (eds.). Milan: Feltrinelli.

------- 1975. *Opere*. F. Diaz & L. Guerci (eds.), Illuministi Italiani. Vol. V. Milan-Naples: Ricciardi.

------- 1999. *Scritti di politica economica*. F. Cesarano (ed.). Lanciano: Rocco Carabba.

Helfman, Tara 2005. Neutrality, the Law of Nations, and the Natural Law Tradition: A Study of the Seven Years' War. *Yale Journal of International Law* 30, 549–86.

Holland, Thomas Erskine 1921. *Letters to "The Times" upon War and Neutrality (1881–1920), with some commentary* (3rd edition). London: Longmans, Green and Company.

Hont, Istvan 2005. *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective*. Cambridge MA: Harvard University Press.

------- 2006. Luxury and commerce. In *The Cambridge History of Eighteenth-Century Political Thought*. M. Goldie & R. Wokler (eds.). Cambridge: Cambridge University Press. 379–418.

Hübner, Martin [Jean-Henri Maubert de Gouvest] 1756 (2nd ed. 1759). *Le politique danois, ou, L'ambition des Anglais démasquée par leurs pirateries: ouvrage dans lequel on recherche laquelle des deux nations de la France ou de l'Angleterre, a dérangé par ses hostilités l'harmonie de l'Europe, & où l'on prouve aux Souverains de quelle importance il est pour eux d'abattre l'orgueil de ce people*. Copenhagen.

------- 1757–8. *Essai sur l'histoire du droit naturel*. 2 vols. London.

------- 1759. Reflexions impartiales sur le droit des nations belligerantes de saisir les batimens neuters. *Journal de commerce* (November), 39–66.

------- 1759b. *De la saisie des batimens neutres, ou Du Droit qu'ont les Nations Belligérantes d'arrêter les Navires des Peuples Amis Dedica a son excellence Monseigneur le baron de Bernstorff.* 2 vols. The Hague.

------- 1778. *Del sequestro de' bastimenti neutrali ovvero: del diritto che hanno le nazioni belligeranti d'arrestare i bastimenti de' popoli amici*. Genoa.

Jouannet, Emmanuelle 1998. *Emer de Vattel et l'émergence doctrinale du droit international classique*. Paris: Pedone.

------- 2004. La critique de la pensée classique durant l'entre-deux guerres: Vattel et Van Vollenhoven. *Miskolc Journal of International Law*, 1, 45–63.

*Journal de commerce* 1759. *Review of Vattel's Droit des gens* (April & May), 137–169, 35–63.

*Journal de commerce* 1760. *Review of Hübner's De la saisie des batimens neutres* (March, April & May), 89–126, 46–70, 53–76.

Kaplan, Steven Laurence 1976. *Bread, Politics and Political Economy in the Reign of Louis XV*. 2 vols. The Hague: M. Nijhoff.

Longhitano, Gino (ed.) 1999. Marquis de Mirabeau & François Quesnay, *Traité de la monarchie*. Paris: Harmattan.

Nakhimovsky, Isaac 2007. Vattel's theory of the international order: Commerce and the balance of power in the Law of Nations, *History of European Ideas*, 33, 157–173.

Rothkrug, Lionel 1965. *Opposition to Louis XIV: The Political and Social Origins of the French Enlightenment*. Princeton: Princeton University Press.

Sonenscher, Michael 2007. *Before the Deluge: An Essay on the Intellectual Origins of the French Revolution*. Princeton: Princeton University Press.

------- 2002. Physiocracy as a Theodicy. *History of Political Thought* 23, 326–339.

Stapelbroek, Koen 2007. *Love, Self-Deceit and Money: Commerce and Morality in the Early Neapolitan Enlightenment*. Toronto: University of Toronto Press.

Tuck, Richard 1999. *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. Oxford: Oxford University Press.

Vattel, Emer de 1747. *Le loisir philosophique ou Pièces diverses de philosophique, de morale et d'amusement*. Genèva.

------- 1757. *Poliergie ou mélange de literature et de poësie*. Par M. de V.*** Amsterdam.

------- 1762. *Questions de droit naturel et observations sur le Traité du Droit de la nature du M. le Baron de Wolff par M. de Vattel.* Bern.

------- 2008 (1758). *The Law of Nations*. Béla Kapossy & Richard Whatmore (ed. & intr.). Indianapolis: Liberty Fund.

Venturi, Franco 1960. Galiani tra enciclopedisti e fisiocrati. *Rivista Storica Italiana* 72, 45–64.