

The European Heritage in Economics and the Social Sciences
Series Editors: J. G. Backhaus · G. Chaloupek · H. A. Frambach

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Samuel Pufendorf and the Emergence of Economics as a Social Science



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The European Heritage in Economics and the Social Sciences

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The European heritage in economics and the social sciences is largely locked in languages other than English. Witness such classics as Storch's *Cours d'Economie Politique*, Wicksell's *Finanztheoretische Untersuchungen* and *Geld, Zins und Güterpreise* or Pareto's *Trattato di Sociologia Generale*. Since about 1937, partly caused by the forced exodus of many scholars from the German language countries and the international reactions to this event, English has become the undisputed primary language of economics and the social sciences. For about one generation, this language shift did not result in a loss of access to the European non-English sources. However, after foreign language requirements were dropped as entry prerequisites for receiving the PhD at major research universities, the European heritage in economics and the social sciences has become largely inaccessible to the vast majority of practicing scholars. In this series, we hope to publish works that address this problem in a threefold manner. An aspect of the European heritage in a language other than English should be critically documented and discussed, reconstructed and assessed from a modern scientific point of view, and tested with respect to its relevance for contemporary economic, social, or political discourse. We welcome submissions that fit this bill in order to make the European heritage in economics and the social sciences available to the international research community of scholars in economics and the social sciences.

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Editors

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Introduction



Günther Chaloupek and Hans A. Frambach

Abstract The emergence of economics as a social science, which was substantially influenced by the emancipation of thinking about economic phenomena from medieval theology, is part of the emergence of a rationalist world view with its understanding of natural phenomena in terms of cause and effect, instead of purpose inherent in the substance of things. Central to the new world view is the concept of law as a force independent of human intention applicable to external physical nature and to human nature. In the spirit of the Baconian sentence *scientia est potentia*, knowledge of such laws brings with it the power to influence the course of events according to desired goals.

Keywords Emergence of modern economic thought, Enlightenment, Natural law, Rationalism, Mercantilism

The emergence of economics as a social science, which was substantially influenced by the emancipation of thinking about economic phenomena from medieval theology, is part of the emergence of a rationalist world view with its understanding of natural phenomena in terms of cause and effect, instead of purpose inherent in the substance of things. Central to the new world view is the concept of law as a force independent of human intention applicable to external physical nature and to human nature. In the spirit of the Baconian sentence *scientia est potentia*, knowledge of such laws brings with it the power to influence the course of events according to desired goals.

In the Middle Ages, theorizing about economic phenomena, such as property, price formation, money, interest etc., which were discussed with considerable

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analytical sophistication, was embedded in a theological context. In the Modern Age, the view of the Scholastic theologians that norms which govern social actions of men are based on divine commandments was replaced by a new philosophy of nature, which came to underlie the thinking about social and economic phenomena. Under this new perspective, social relations were considered under the aspect of causal relationships based on the physical or psychical nature of man. At the same time, the doctrine of ‘natural law’, in the sense of ‘natural jurisprudence’, came to dominate thinking about institutions and laws upon which the organization of society and the state is based. ‘The distinction between laws of a causal type and laws of a normative type was, as a rule, not strictly observed’ (Pribram 1983, 60).

As a consequence of the new social thinking, it came that the order of society was perceived as being based on a ‘social contract’, somehow concluded by men, which increasingly replaced the medieval view of a divine hierarchy of estates with its traditional structure and institutions. The ultimate goal of the social order was now derived from human nature. If the Scholastics had not denied the relevance of human instincts seeking individual advantage in social action, in the modern world view it was up to human action to design and establish a rational social order through which the behaviour of individual agents would be guided in a way that ensured a best possible result for the whole. Thus, on the one hand, there was a major step towards an individualist perspective in social thinking, which was, on the other hand, at the same time placed into the context of a collective entity – the modern absolutist state. It was the supreme goal of the state, and the duty of its regent, to pursue the realization of the ‘Common Weal’.

Explicitly, the change of the *Zeitgeist* is manifest in the writings of philosophers, who presented their views on social and economic phenomena in the form of systems of natural jurisprudence, as was the case with Hugo Grotius and Samuel Pufendorf, or empiricist philosophy, as represented by Thomas Hobbes and John Locke. Except for Locke, discussion of economic issues occupies only rather small parts of their works. In this respect, their focus is on theoretical problems, such as property, price formation, money, interest, whereas specific recommendations on policy issues are few and unsystematic.

Hugo Grotius (1583–1645): *Mare liberum* 1609, *De jure belli ac pacis* 1625
 Thomas Hobbes (1588–1679): *Leviathan* 1651
 Veit Ludwig von Seckendorff (1626–1692): *Teutscher Fuerstenstaat* 1656
 Samuel Pufendorf (1632–1694): *Elementa jurisprudentiae universalis* 1660,
De jure naturae et gentium 1672, *De officio* 1673
 John Locke (1632–1704): *Second treatise of government* 1689
 Baruch/Benedict de Spinoza (1632–1677): *Tractatus theologico-politicus* 1670
 Johann Joachim Becher (1635–1682): *Politischer Discurs* 1668
 Philipp Wilhelm von Hoernigk (1638–1712): *Oesterreich über alles wann es
 nur will* 1684
 Gottfried Wilhelm Leibniz (1646–1716): *Nouveaux Essais sur L’entendement
 humain* 1704, *Essais de Théodicée* 1710, *Principes de la nature et de la Grâce
 fondés en raison* 1714, *La Monadologie* 1714 (public. date 1720)

In contrast, mercantilist and cameralist authors usually show little concern about the philosophical and methodical fundamentals of their treatment of economic problems. Unlike the philosophers and theoreticians of natural jurisprudence, they were primarily interested in discussing practical issues of politics and economic policy. The main content of their books, e.g. the works of Seckendorff or Becher, consists in the discussion of concrete issues, resulting in detailed policy recommendations how to promote economic and social welfare, not least as a means to enhance the power of their state in the concert of nations at a time when nation states took shape on the European continent and in England.

But at least implicitly, their writings reflect the new voluntaristic approach in social thinking that social and economic relations and the goals pursued in human action could be thoroughly understood by the power of human reason and could therefore be shaped according to goals chosen by rational reasoning (Sommer 1920/25, 90). Another aspect in which the indebtedness of mercantilist and cameralist authors to the philosophers becomes evident is their focus on relations between states and on collectives within states (Pribram 1983, 83).

Samuel Pufendorf has always been widely recognized as eminent scholar of natural jurisprudence, political theory (*Staatstheorie*) and social philosophy. In particular, his work *De statu imperii Germanici*, originally published under the pen name Severinus de Monzambano, has left a lasting imprint on the discussion about the political structure of the German Empire, even after its dissolution.¹

Important works in the history of economic thought emphasize the impact of Pufendorf's contribution to the development of economics towards a science of its own in its early stages. According to August Oncken's *Geschichte der Nationalökonomie* (1971, 226) judgement, Pufendorf's work became most relevant in Western Europe, whereas 'intellectual discourse in Germany had declined to a level too low to benefit from it. Both, the physiocrats and Adam Smith have drawn from him', as the new political economy of the West was a continuation of 'the new impulse which Pufendorf had given to the intellectual current of natural jurisprudence'. In his *History of economic analysis* (1954, 116–117), Joseph Schumpeter mentions Pufendorf as one of the main representatives of the new current of thought, together with Grotius, Hobbes and Locke. He points to his *Elementa jurisprudentiae universalis* as the 'work to get a general idea of the range and level of that type of social science'.

The most thorough presentation and discussion of Pufendorf's utterances on economic problems can be found in Wilhelm Roscher's *Geschichte der National-Ökonomik in Deutschland* (1874). Roscher is full of praise for Pufendorf's 'excellent' price theory, 'the best available on this fundamental field of political economy down to James Stewart'. In addition to a meticulous discussion of value and price formation, Pufendorf deserves credit for introducing the distinction between price changes originating from the side of money, or from the side of goods (Roscher 1874, 311–312). With respect to interest, Pufendorf rejects prohibition of usury, yet at the same time denounces the banking business for lending borrowed

¹ There is a rather recent republication of the original Latin and a contemporary German translation of the book in Hammerstein (1995).

money at a higher rate of interest. As advocate of the absolutist state, he approves the use of state power to promote the Common Weal. He supports Grotius' idea of *dominium eminens*, a kind of super-ownership of the state, and a rather far-reaching right to tax subjects. Various active measures of promotion of agriculture, industry and commerce, which are taken from the arsenal of mercantilist's policy tracts, are recommended. Individual pursuit of wealth should be encouraged, prohibition of luxuries should help parsimony (Roscher 1874, 314–315). At the same time, Pufendorf does not raise principal objections against such traditional institutions as craft guilds and serfdom – *Leibeigenschaft* – of peasants. Pufendorf's favourable attitude towards comprehensive state powers finds expression in his discussion of money, whose use as means of exchange is based on 'convention and imposition (by the state)'. It does not require any special natural properties, materials other than metal, such as cloth and leather, could serve for that purpose as well (Roscher 1874, 311).

Schumpeter (1954, 122) 'advert's to the 'well-rounded presentation of the philosophers' economics' in Pufendorf's treatise. Distinguishing value in use and value in exchange (or *pretium eminens*), he lets the latter be determined by the relative scarcity or abundance of goods and money. Market price then gravitates towards the costs that must be incurred in production. On the other hand, Pufendorf's 'analysis of interest ... is distinctly inferior to that of the late scholastics', the latter having anticipated the essentials of the economics of the philosophers.

Karl Pribram (1983, 90) refers to Pufendorf's application of the natural law doctrine to the theory of social contract through which citizens submit to the state, in order to protect and promote their well-being. In this context, 'Pufendorf was well aware of the logical difficulties involved in the problem of establishing a unified will by combining individual wills'.

Pufendorf's strong identification with a powerful absolutist state induced him to depart from Grotius' doctrine of *Mare liberum*. If Pufendorf supported the idea of free international trade, which promoted the interest of all nations, in his view it was legitimate that the nation state could impose restrictions on international trade 'insofar as the preservation and the independence of a nation are at stake'. For example, 'it can quite legally prohibit to bring a foreign nation its necessities of life when its subjects lack them', but it has no right to prevent export of luxuries (Demals 2016, 58).

The contributions to this volume offer an in-depth discussion of a variety of aspects of Pufendorf's work.

Arild Saether offers a concise account of Pufendorf's life and work. Thereafter, the contribution surveys the influence of Pufendorf's natural law works on scholars of European Enlightenment, e.g. Locke, Montesquieu, Rousseau, Diderot. The authors of Scottish Enlightenment Francis Hutcheson and Adam Smith were all indebted to Pufendorf. Enlightenment as such ended in the last years of the eighteenth century, and Immanuel Kant eradicated natural law. However, with the Declaration of Human Rights adopted after World War II, natural law of the Enlightenment resurrected.

F. van Holthoon asks in what way Pufendorf's natural jurisprudence influenced David Hume and Adam Smith. He had no direct influence on their work, but he provided them with a clear statement of conventional wisdom in politics and

morality as represented by natural jurisprudence. Hume and Smith took natural jurisprudence as conventional wisdom and as the starting point of their innovations in economics.

Pufendorf's natural law comprises ethics, jurisprudence, society and political economy. In his second contribution, *Arild Saether* gives a comprehensive account of Pufendorf's political economy, which embraces theories of human behaviour, private property, value and money, foundation of states and council decisions and finally division of state powers and principles of taxation. His political economy was dispersed across Europe and North America. Thus, Pufendorf played an important role for the emergence of economics as a social science, through his influence on authors of the seventeenth and eighteenth centuries, e.g. Locke, the French philosophers of the Enlightenment, Rousseau and the Physiocratic model builders, Hutcheson, and, finally, on Adam Smith.

Nicolaus Tideman's contribution focuses on Samuel Pufendorf's theory of the origin of property rights in comparison with John Locke's ideas on this subject. John Locke's theory of property seems intended as a commentary on Pufendorf's theory, though Locke does not mention Pufendorf by name. The key difference between Locke and Pufendorf arises because Locke treats Pufendorf's proposition that ownership requires implicit or explicit agreement as if it was intended to be normative, so that Pufendorf would have been claiming rightful ownership requires agreement. Locke then argues that agreement is not needed for rightful ownership when natural opportunities are abundant and, implicitly, people are not in community with one another. Locke's normative argument is valid under these conditions, but not otherwise.

Hans A. Frambach elaborates on Pufendorf's contribution to the conceptual foundations of the modern state with its specific tasks and responsibilities. He remains today an example of a profound and differentiated thinker who combined intellectual acuity with recommendations for action. Especially, his insights into decision-making mechanisms are, from a contemporary point of view, still of far-reaching significance. The article sees modern fields of application of Pufendorf's thought as extending to socioeconomic problems of selfishness and the societal challenges of ever-increasing variety and heterogeneity. For this purpose, reference is made to models such as Amitai Etzioni's 'communitarian paradigm' and Ian Ayres and John Braithwaite's 'responsive regulation'.

Francesco Forte and *Sabato Vinci* apply Pufendorf's theory of justice, specifically with respect to his distinction between universal and distributive justice, to the problem of corporate governance, in particular relating to the problem of prevalence between shareholders objectives and company objectives, in case of conflict between them. The contribution shows that Pufendorf's ideas provide interesting insights for modern ethics studies and modern business economics studies, about topics such as the relationship between natural law and positive law, public goods and the relationship between private company ownership and its social responsibility.

Daniel Eissrich starts from Joseph Schumpeter's claim that scholastic scholars had a significant influence on Grotius and Pufendorf, and consequently also on Adam Smith. Even before Schumpeter, the German theologian Joseph Cardinal Höffner had referred to the dependence of the philosophers of natural law on the

Spanish late scholastics in the context of international law. He also made important contributions to the rediscovery of the economics of the late scholastics. The contribution provides an overview of Höffner's work and shows connecting lines between the scholastics and Grotius and Pufendorf.

Karl-Heinz Schmidt reports on references to Pufendorf in German works in the history of economic thought. Thereafter, he addresses the question in which relation Pufendorf's oeuvre should be seen to 'modern' history of economic thought.

Whereas in classical political economy 'economic' is what concerns the individual urge to pursue personal wealth, Pufendorf had an alternative view based on the ideas of human nature, which is the subject of the contribution of *Dirk Ehnts* and *Erik Jochem*. According to him, man is sociable. His self-interest is often applied towards this end and not an end in itself. Man, without society, is not perfect and cannot hope to strive for happiness. He needs support from society to protect himself from his fellow man and to increase the chances of realizing this drive towards sociability. Economics could be rebuilt on stronger foundations as neuroscience seems to confirm Pufendorf's view of human nature in general.

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Pufendorf and His Importance for the European Enlightenment in General



Arild Sæther

Abstract Samuel Pufendorf was born in Saxony in 1632. He made a remarkable career. After studies at the universities of Leipzig, Jena and Leiden, he became professor of natural law at University of Heidelberg in 1660. Eight years later, he took up a similar position at University of Lund. Thereafter, he became historiographer and counsellor, first in 1677 at the court in Stockholm, and 11 years later in Berlin. He died in 1694 as a true European.

Throughout his life he produced volumes of dissertations, essays and books. The most important were his natural law works *De Jure Naturae et Gentium* in eight books from 1672, and an abridged version *De Officio Hominis et Civis* from 1673. Natural law, deduced from reason and with the dignity and equality of man as its foundation, became a university subject at many European universities. In the eighteenth century, Pufendorf was the most read European philosopher.

The first to actively use Pufendorf's natural law works was the Enlightenment scholar John Locke. The famous philosophers of the French Enlightenment, Charles-Louis Montesquieu, Jean-Jacques Burlamaqui, Jean-Jacques Rousseau and Denis Diderot, as well as three important scholars of the Scottish Enlightenment, Gershom Carmichael, Francis Hutcheson and Adam Smith, were all indebted to Pufendorf. Although it can be discussed if the Enlightenment as such ended in the last years of the eighteenth century, there can be no doubt that Immanuel Kant and his followers eradicated natural law. However, when the Declaration of Human Rights was decided after WWII, as the common standard of achievements for all people and nations, natural law of the Enlightenment resurrected. The final challenge is how Pufendorf's ideas again can be brought to the forefront.

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1 Who Was Samuel Pufendorf?

Samuel Pufendorf was born in Dorfchemnitz, Saxony in 1632. He grew up during the violence and devastation of the Thirty Years War. Although he and his family escaped direct violence, they saw and heard of horrors almost every day. His childhood experience set its imprint on his life and works.

In 1645, he qualified for admission to the humanistic Prince's School of St. Augustin in Grimma. After five mostly happy years of studies, which included grammar, logic, rhetoric, the Bible, Lutheran theology and the Greek and Roman classics, he graduated at the top of his class in the autumn of 1650. Following the wish of his father, who had passed away 2 years earlier, he moved to Leipzig, and like his older brother Esaias (1628–1689), matriculated at the University with the intention to study theology. However, already in his first semester he realised that theology, as taught by the professors, was dogmatic, and he soon developed an aversion to this pedantic orthodoxy. Schroeder (2008, 74) contends that, disenchanted with theology, he changed direction and turned first to law, thereafter he visited lectures in natural philosophy, cameral sciences and even medicine.

In 1657, he moved to the University of Jena and became the protégé of Professor Erhard Weigel (1625–1699), who introduced him to the works of Hugo Grotius (1585–1645), Thomas Hobbes (1588–1679) and the methods and philosophy of René Descartes (1596–1650).

On completion of his master's degree, Pufendorf was not able to find work close to home. However, his brother Esaias, who had joined the Swedish Foreign Service, secured for him a post as a tutor for the children of the Swedish envoy at the Court in Copenhagen.

His arrival in Copenhagen the summer of 1658 could not have been at a more inconvenient time. A war had broken out between the Nordic rivals Sweden and Denmark–Norway. The Swedish army besieged the city and Pufendorf was arrested, accused of being a spy, and thrown into a cell at Kastellet fortress.

Throughout more than 8 months of harsh captivity he reflected and meditated on his studies of natural law and especially upon what he had read in the works of Descartes, Grotius and Hobbes and not least the teaching of Weigel, and he managed to produce a manuscript on natural law. After 8 months, he was released and travelled with the Swedish envoy and his two sons to Leiden, where they matriculated at the University in March 1660.

Here Pufendorf pursued studies in classical philology, at the time the speciality of the University. He apparently did not intend to publish his manuscript, which he had started in Copenhagen, but his teachers and friends strongly urged him to do so. He followed their advice and the *Elementorum Jurisprudentiae Universalis*, EJU (Elements of universal jurisprudence), (1927 [1660]), was published in The Hague in 1660. Wehberg (1922, xi) claims that all ‘the original ideas of Pufendorf’ are found in it. Behme (2009, ix) adds that Pufendorf with this work inaugurated the modern natural law movement in the German-speaking world. It certainly established Pufendorf as a major figure in natural law and made the foundation for his later works that were to sweep across Europe and North America.

Pufendorf had strategically dedicated the book to Prince Elector Karl Ludwig of the Palatinate. In return, the Prince, in 1661, invited Pufendorf to the University of Heidelberg. In October 1661, he accepted an offer to become ‘extraordinarius professor iuris gentium (international law) et philologiae.’ Later this position was transformed into a chair in natural law and politics.

Most of his time in Heidelberg was taken up with lecturing, writings and consulting. He taught international law, natural law and philology using his own works and the writings of Grotius. He developed and extended the ideas he had presented in his book. He filled his appointment with much credit, and he drew large audiences of students to his lectures.

Pufendorf’s years in Heidelberg were among the happiest of his life. An important and satisfying event took place in 1665 when he married Katharina Elisabetha (1629–1713), the widow of one of his deceased colleagues. She brought with her into the marriage one daughter and together they had two.

From his dissertations and his books, his almost 8 years in Heidelberg turned out to be very productive. In short, he read books that had not been available to him before, he researched and he wrote. In 1667, he published his historical and political work: *De Statu Imperii Germanici* (On the Constitution of the German Empire), (2007 [1667]). This book is a broadside and a merciless criticism of the disastrous condition of public law in the Roman–German Empire and the guild of constitutional jurists that defended it. The book raised ‘a hue and cry’ throughout Germany, and it was quickly banned from universities and condemned by the imperial censor and the Pope, the Empire’s spiritual head. Nonetheless, since it expressed what many already thought, but did not dare to say, it soon became very popular. With this book, his reputation was extended to non-academic circles. He achieved both fame and criticism. At the end of his stay in Heidelberg, Pufendorf had designed and partly completed a new masterpiece that became his major work in natural law.

In 1666, a new university had been established in Lund, Scania, the former Danish province, that became Swedish in 1658. The founders had ambition to create a university with an international direction. Pufendorf, who now had become famous on a European scale, should make the new university ‘illustrious’. He was therefore offered a full professorship in natural and international law with a salary substantially higher than the other professors.

Pufendorf with his family moved to Lund in 1668 to take up his new position. At the university, he did not put the expectation of his superiors to shame. Many

international students were drawn to Lund because of his reputation. He tutored many students, and many of them lived in his household. His time in Lund turned out to be a new productive period in his life.

In 1672, Pufendorf published his major natural law work *De Jure Naturae et Gentium* (On the Law of Nature and Nations) (DJNG, 1933 [1672, 1688]) based on the manuscript he had brought with him from Heidelberg, and the year after an abridged version *De Officio Hominis et Civis* (The Duty of Man and Citizen) DOH, (1927 [1673,1682])..

His stay at the University of Lund was also troublesome. Shortly after the publication of his books, strong reaction came from prominent professors of theology, Professor Josua Schwartz (1632–1709) and the Bishop of Lund and Professor Peder Winstrup (1605–1679). They accused him of heresy and atheism and claimed that the book was a prescription of anarchy and godlessness. They also asserted that the author was an enemy of both religion and government, and which was offensive a seducer of youth.

When University of Lund was closed in 1677, because of new hostilities between Denmark and Sweden, Pufendorf accepted an offer of a position as Royal Swedish historian and State counsellor at the Court in Stockholm. During his stay in Stockholm, he concentrated his work on historical, political and theological studies. An enlarged revised edition of his major work was published in Frankfurt in 1684. In the years 1682–1686, he published his encyclopaedic work on European history and comparative politics in the German language. Thereafter, he produced volumes upon volumes on the history of the Swedish kings, based on archival studies. He also issued a series of polemic essays. In 1687, he published *De habitu religionis christianae ad vitam civilem* (On the nature of Christian religion in relation to civil life) in response to the revocation of the Edicts of Nantes in 1685, Pufendorf (2002a [1687]).. In this essay, he strongly advocated religious tolerance and the right to resist religious persecution.

In 1688, Pufendorf moved again, this time to Berlin, where he took up the position as historiographer and counsellor at the Court of Brandenburg-Prussia. He continued his historical writings and produced numerous books. A second essay on religion, *Jus feiale divinum cive des consensuset dissensu protestatium* (The divine feudal law: Or, Covenants with mankind, Pufendorf (2002b [1695]), was written but published after his death. Here, he advocated a reconciliation and union of the Lutheran and Calvinist reformed churches.

On a journey to Stockholm where he was elevated into the Swedish aristocracy, he became ill on the strenuous return journey to Berlin. He died in 1694 as a true European and is entombed in St. Nicolai kirche.

2 Pufendorf's System of Natural Law

In retrospect, Pufendorf's life can be seen as a long, but rapid, journey where he worked diligently both to make life better for himself and his family, but also through his work to improve the conditions in Europe and make it better to live in

for all people. Born in a time of turmoil and violence and seeing the consequences of unscrupulous wars, his main vision was to enlighten people about the right conditions for enduring peace. The means to make this vision true were his academic writings, his teaching of students, his tutoring of prospective civil servants and his work as a political advisor to three important, and given the conditions of the time, enlightened Protestant statesmen.

2.1 Pufendorf's Writings

His writings can be divided into three groups, Tully (1991, xiv–xv). The first group is his attempts to construct a comprehensive political and moral philosophy based on a set of universal principles or natural laws. It is developed primarily in his three natural law texts.

However, this approach was somewhat moved aside when he moved to Stockholm and took up his work there. He did not completely give up his natural law writings, but he concentrated on historical analyses.

The second group is therefore Pufendorf's attempt to analyse the relations within and among contemporary European states, by means of a comparative and historical analysis of their interest and relative powers with a view to predictions and recommendations to state builders in general and the rulers he served. When he moved to Berlin in 1688, he continued these writings. His numerous books on historical themes belong to this group. Special attention should be drawn to his monumental introduction to the history of the principal states of Europe. This work, 'with its rigorous concept of state interest and relative powers and its comprehensive design, was republished throughout the eighteenth century' (Tully 1991, xv). Several history writers across Europe adopted his method and to some extent just copied him. One of these was the Dano–Norwegian philosopher Ludvig Holberg (1684–1754).¹

The third group comprises Pufendorf's attempts to define the correct subordinate relations of religion to politics in Protestant states after the Peace of Augsburg, which recognised diversity within Christianity. He advocated toleration and the unification of the different Protestant creeds. His views are primarily expressed in his two essays.

The idea of an objective moral and judicial order based on human nature is as old as philosophy. Formulated as a doctrine and called natural law, it is usually connected with Stoic and Roman jurists in the antiquity, with the Schoolmen, particularly from Thomas Aquinas (c. 1225–1274) to Francois Suarez (1548–1617) in the Middle Ages, and with the sixteenth- and seventeenth-century political theorists, in particular Grotius, Hobbes and Pufendorf. Some of the terms used have survived the development through the centuries, unchanged: human reason, justice and the belief that society is created through agreements.

¹When his first book *En introduksjon til historien til Europas nasjoner* (An introduction to the history of the European nations) was published in Copenhagen in 1711, he was accused of having plagiarized Pufendorf.

This order can function in two ways: it can be seen in opposition to the present political order and will therefore have in it a revolutionary content, or it can view the present order as reasonable and necessary and will therefore favour status quo (Lindberg 1976). The first interpretation can be found with the Greek Sophists (400 BC), who criticised slavery, and with the Monarchomachs, and others who fought against the absolute power of the kings in the fifteenth and sixteenth centuries, and with revolutionaries in France and North America in the late seventeenth century. The second interpretation defended the existing order, dominated by the Catholic culture in the late Middle Ages, and in the Lutheran culture in the sixteenth and seventeenth centuries.

This could imply that the philosophers belonging to the last strand, such as Pufendorf, did not contribute to the political and social upheavals and progress that occurred in Europe and America in these centuries. Nothing could, however, be more wrong.

It is true that most seventeenth-century natural law philosophers defended the rulers they served and thereby the existing order. There were at least two reasons for this fact. First, this century was characterised by upheavals, wars, destruction, extreme violence and death. To advocate radical changes in state governance or revolutions against the present rulers would probably only create more havoc and devastation. Second, they had no choice. During these years, there were limited legal protection for most people, and freedom of expression did not exist in most European countries. Consequently, there were limits to what scholars could write without losing the support of their benefactors and thereby their livelihood, or even their heads. Considering these facts, it is astounding how they in their writings dared to discuss both improvements, and alternatives to the present order. Alternatively, they left so much ambiguity in their discussions that their writings could be used by their descendants to advocate political changes.

Pufendorf's writing was also open to interpretation. He can be characterised as an eclectic who united authoritarian and liberal elements. This approach made it possible to break away parts of his doctrines and use them in new connections. He also developed his theories in connection with the political realities in existing states. He was not a radical, who wanted violent changes and he did not challenge the masters he served. Furthermore, he also needed his benefactors support in his controversies with his colleagues at the universities of Heidelberg and Lund, and most importantly in his struggle with the leaders of the Lutheran orthodoxy in many European countries. These struggles with his adversaries were fierce at the time and could have seriously threatened his position, without him having the support of his masters. However, these clashes also strengthened his position and made him a well-known scholar in the seventeenth century.

Haakonssen (1996, 43) claims that there are several ambiguities in Pufendorf's representation of his natural law, but that 'these ambiguities gave rise to a debate which lasted for a generation or more, and which was as fierce as any in the history of philosophy'. Furthermore, 'it also helped to secure to Pufendorf an influence that was European in scope and lasted well into the eighteenth century'. Therefore, when Jonathan I. Israel (2001, 802), in his study *Radical Enlightenment*, calls Pufendorf 'a German natural law theorist', he is positively wrong. Pufendorf was a true European scholar.

Pufendorf sought to mediate between Grotius and Hobbes. He wanted to unify Hobbes' natural law doctrine of self-interest with Grotius' natural law doctrine of 'man's inclination for society' and to integrate these ideas with the Cartesian and scholastic methods of the sixteenth-century thinkers. He sought to bridge the apparent antagonism between man's self-interest and man's existence as a social being. The duties of man and citizen will converge in a state where a superior has been granted the right to govern others in exchange for the security and protection that he can offer them. His writings on natural law include ethics, jurisprudence, government and political economy. These elements are integral parts of a totality.

2.2 *Pufendorf's Method*

In his *De Jure Naturae et Gentium*, Pufendorf employed an 'eclectic' method, in which he defended man's ability to understand truth and draw conclusions based on observations from the reality of life. This method involved rational analysis and argumentation. His objective remained the same and his analysis was based on systematic understanding and demonstrative certainty of his subjects, which he also developed from his study of history and contemporary events. He therefore substantiated his opinions, his arguments and the truths he claims to have discovered by numerous quotations, just as Grotius and others of his predecessors had done. These he found in the Bible, the Koran, the Roman Corpus Juris Canonici, and not least in the writings of the Ancient Greek and Roman philosophers and jurists. He has a few quotations from the philosophers of the Middle Ages, but again numerous quotations from philosophers, jurists and historians of the fifteenth and sixteenth centuries. In the *Index of Authors Cited*, in the 1688 edition, 400 names are found. These Pufendorf frequently quotes. The *Index* encompasses 43 French, 30 Italian, 10 Spanish and 5 Portuguese authors, all from Catholic countries. From predominantly Protestant countries, the *Index* contains 33 German, 24 Dutch and 14 English authors. When he discusses issues or argues for a certain opinion, he uses the views of many of these scholars in support of and to give weight to his own views. He admits that he prefers to cite the ancient authors. 'To add to them by calling in a cloud of more recent writers seemed superfluous' (DJNG Preface, vii). In particular, he has excluded the followers of what he calls the Roman sect. The reasons for their omission were their adherence to the scholastic method and juristic clericalism. Furthermore, they did not recognise the principle of human sociability as a sufficient basis for natural law. However, the content of his works proves that he was familiar with many authors belonging to the Catholic Church, for example Professor Francois Suarez from the School of Salamanca.² It should be noted that at the time

²The name was introduced by Marjorie Grice-Hutchinson (1952) in her book, *The School of Salamanca*.

it was not ‘comme il faut’ for Protestant writers to quote from too many Catholic writers and ‘vice versa’.³

2.3 *Man’s Social Life: the Foundation of Natural Law*

Pufendorf stresses that he has made the social life of man the foundation for his work on natural law. The reason being that he has found no other principle, which all men could accept, without violation of their natural condition. Furthermore, he claims that it is also obvious, that since the Creator made man a social being, the nature of man is the norm and foundation of that law, which must be followed in any society. This is so whether it is universal or particular. His system of natural law is valid for all human beings, with due respect to whatever belief men might hold on the matters of religion (DJNG, ix).

Pufendorf wanted to remove natural law from both civil law and moral theology.

From the first flow the most common duties of man, particularly those which render him capable of society [sociabilis] with other man; from the second flow the duties of man as a citizen living in a particular and definite state [civitas]; from the third the duties of a Christian. (DOH, 7)

He attempts to construct his theory of natural law based on the dignity and equality of man, human reason and man’s free choice:

The dignity of man’s nature, and that excellence of his in which he surpasses other creatures, required that his actions should be made to conform to a definite rule, without which there can be no recognition of order, seemliness, or beauty. And so, man has that supreme dignity, the possession of an immortal soul, furnished with the light of intellect and the faculty of judgment and choice, and most highly endowed for many an art. (DJNG II, I, 1, 148)

He starts by pointing out that man is a moral being, who has by the Great Creator been given not ‘merely beauty and adaptability of body, but also the distinctive light of intelligence’. This intelligence can be used by man to understand things more accurately. The very being of man is a state from which arise certain obligations and certain rights.

Furthermore, he claims to prove that by starting from the divine destiny of man as a spiritual and social being and following the route of strictly logical deduction, we may arrive at results as safe as those in the natural sciences physics and chemistry. Man has been given the distinctive light of intelligence, which he can use to understand things more accurately. He can compare them with one another, judge the unknown with the known and he can decide how things relate to each other. Man is free from confining his actions to one mode. He can even exert, suspend or moderate his actions. Furthermore, man ‘has been granted the power to invent or apply

³Pufendorf must have been introduced to the Salamanca School during his stay at the University of Leiden.

certain aids to each faculty, whereby it is signally assisted and directed in its functioning' (DJNG I, I, 2, 4).

2.4 *Natural Law Deduced from Reason*

Pufendorf contends that most men agree that the law of nature should be deduced from reason by man himself and should flow from that source. He points out that children and the uneducated distinguish right from wrong with ease. However, this ease comes from experience that goes back to their earliest days. As soon as they show some use of reason, they have seen good deeds approved and rewarded and evil ones reprovved and punished. The law of nature is therefore not innate.

The dictates of sound reason are consequently true principles that are in accordance with the properly observed and examined nature of things. Furthermore, they are deduced by logical sequence from prime and true principles.

2.5 *Natural Law Founded on the Condition of Man*

The true basis for the law of nature is found in the conditions and dignity of man. A society cannot exist unless its members have a common feeling, basis or ideology about the proper way to conduct its affairs. This ideology he finds in the fact that man has been endowed with a free will together with the driving forces behind human actions.

Pufendorf points out that *the pursuit of self-interest is man's first human attribute*, inclination or driving force. He emphasised that pursuit of self-interest is not only the first human attribute, it is also the strongest. However, in addition to this self-interest and man's desire to preserve himself by any and all means, it can be observed in the character of man 'the greatest weakness and native helplessness' (DJNG II, iii, 14, 207). He therefore states that it is easy to find the basis of natural law *because man has an attribute, inclination or driving force in addition to self-interest, it is necessary for man to be sociable*. Every man should by his life promote and cultivate a social attitude 'so far as in him lies'.

Man has duties towards himself, but he also has duties towards other men. No one should hurt another and if someone has caused damage, he should make it good. The damage should be viewed broadly to include every injury against a man's body, reputation and virtue. In this connection, he discusses both externalities and discounted value of damage.

2.6 *Natural Law the Standard of Judgement*

The prime source for Pufendorf's natural law is human nature. Since human nature belongs equally to all men and since no one can live a social life with a person by whom he is not rated as at least a fellow man, it is a precept of natural law. From this, it follows that all men are accounted as naturally equal, that slavery is against natural law, that man and woman have equal rights and that marriage should be by contract between equal partners.

His doctrine of the dignity and equality of men became the foundation of his natural law, and his natural law the standard that human behaviour, private property, commercial society, foundation of states, governments and system of taxation are judged against.

Furthermore, Pufendorf claims to prove that by starting from the divine destiny of man as a spiritual and social being and following the route of strictly logical deduction, we may arrive at results as safe as those in the natural sciences, physics and chemistry. Man has been given the distinctive light of intelligence, which he can use to understand things more accurately. He can compare them with one another, judge the unknown with the known and he can decide how things relate to each other. Man is free from confining his actions to one mode. He can even exert, suspend or moderate his actions. Furthermore, man 'has been granted the power to invent or apply certain aids to each faculty, whereby it is signally assisted and directed in its functioning' (DJNG I, I, 2, 4).

2.7 *Law of Nations*

In his law of nations (international law), Pufendorf claimed that no acute positive law exists that arises from custom or from treaties among nations. One reason for this is that there cannot be found an authority above the states that can bind them.⁴ Pufendorf rejected customs and treaties as sources for international law. With his doctrine, Pufendorf became the founder of the purely natural law conception of the law of nations. His theory is therefore considered auspicious for the development of the law of nations. The history of international law is largely characterised by whether one thinks it can be deduced from natural law or if it wholly can be seen as resulting from customs and treaties, the positivistic science of law. In his *Introduction* to the English translation of *Elementorum Jurisprudentiae Universalis*, Wehberg (1922, xiv) claimed that Grotius and Pufendorf were 'champions of the great thought that in international life one should stand for all and all for one in repelling every injustice'. Pufendorf's idea of a system of universal jurisprudence valid for all nations was 'a daring one' (Ibid, xxii).

⁴*Elementorum Jurisprudentiae Universalis*: Definition XIII § 24. *De Jure Naturae et Gentium*: II, 3, 23.