Rights and Religion in Europe: a note on a historical relationship between the concept of human rights and the concept of peace

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I. Human Rights and the Concept of Peace

The two world wars of the twentieth century brought death and destruction to 182 million people worldwide. (Held et al). The formation of the League of Nations, and of the United Nations, reflects a consciousness intent on curtailing armed conflict, violence, and the suffering of peoples. For 20th century peace theorists and activists, the object has been to create conditions prohibitive to violence between nations and nations, peoples and individuals. Yet despite their efforts, and notwithstanding the formation of the United Nations, over 300 armed conflicts have taken place since 1945. (Reinhard). Along similar moral concerns, -- namely concern about violence perpetrated against individuals -- the General Assembly of the United Nations has passed the resolution known as The Universal Declaration of Human Rights. With the passage of time this declaration has taken on the force of customary international law. In its history of 50 years or so, most nation states have incorporated this declaration as a core document into their constitutions. National and international courts have used it in court decisions, and most international jurists have accepted it as a core moral document. It fosters non-violent, hence peaceful, relations between state governments and citizens based on a concept of human dignity and humanness (Menschlichkeit). In an international system of relations of nation states, individual states support “human rights” as the implementation of conditions that guarantee respect for human dignity. Although one of the fundamental conditions for establishing and maintaining cultures of respect for individuals resides in the absence of war, and hence in the presence of peace, the current language and conceptuality of the declaration of human rights does not offer the capacity to embrace the concept of peace. This disjuncture between the concept of “human rights” and the “concept of peace” has impacted the knowledge organization
of discourses on rights and peace in global regions I am familiar with. Human rights theorists generally think not with, but next door to, peace theorists in academic organizations. Yet I consider it the task of academic organizations to intermittently reflect on the accuracy and coherence of instruments of communication. These include the discourses in the social sciences as well.¹

The nexus between “the concept of peace” and the “concept of rights” is very simple, structurally, and hence logically. The structural elements of the discourse on “peace and rights” are unconditional, transparent, and not contradictory. Armed warfare, by its very nature, assaults the inalienable right to life integrity of human beings, be such integrity physical or psychological. The structural elements of human rights discourses are more complex. Theorists cite four elements. These pertain to: (1) human rights as a mechanism for implementation of values as non-discrimination; (2) the fact that all human rights are rights of individuals, except for the right of the self-determination of peoples. (3) that there is an international recognition of the interdependency of civil rights and political rights in relation to economic, social, and cultural rights. And finally, (4) the fourth major structural element pertains to the fact that nation states have almost exclusive responsibility to implement human rights for their own nationals (Donnelly). As Jack Donnelly states it, there is a fundamental place for the nation state in the current practice of human rights. The current practice of human rights is thus essentially enmeshed with the historical practice and capacity of nation states to engage in wars- defensive or aggressive- and with and without the support of international law. The human rights to Life, Liberty, and Security of Person included by the Universal Declaration Model are, in the final analysis, invalidated by the facts of war.

¹I am indebted to Dr. Rita Maran, human rights activist and lecturer at the University of California at Berkeley, USA, for clarifying in more detail the un-united fronts between peace theorists and human rights theorists. For a project that indefatigably links human rights with the concept of peace see www.unr.edu/chgps/blank.htm (Center for Holocaust, Genocide, and Peace Studies, University of Nevada, Reno. Director: Dr. Viktoria Hertling).
Human rights theorists will be quick to point out that the legal realities of sovereignty and the political realities of competing national interests put restrictions on international human rights policies. This is so. But the modern nation state is not built on anthropological necessities. It is, as Wolfgang Reinhard proposes in his magisterial *Geschichte der Staatsgewalt* (1999), an invention of Europe. To be sure, some of Europe’s most influential intellectuals -- from Hegel and Marx to Weber and Gramsci -- have judged the modern nation state as part of a necessary evolutionary process in the context of global economies. Once structural conjunctures had occurred in the late middle ages, Europe’s secularist capitalism, headed by its particular type of nation states, rushed to its unarrestable destiny. But this is just one way of constructing Europe’s narrative. No doubt, the current fact of the existence of nation states enables and restricts the practices of human rights and their implementation; but what is equally restrictive to the implementation of human rights are the principles that govern the conceptual framework in which human rights theorists from economically dominant nation states typically move. As rights theorists, human rights theorists work within the framework of particular kinds of conceptualities. These are not universally free-floating. They are organized, produced, and reproduced by particular “knowledge fields.” The instruments of predominant human rights discourse are presently forged in the factories of social science production.

In these factories, current mainstream discursive and normative structures produce not the “concept and norm of peace”, but only a concept of peace in relation to just and unjust wars. There are no significant laboratories that experiment, as far as I can ascertain, with a displacement of the “ideal of war” in favor of the “ideal of peace.” This factor is organically related to the access to control of the organization of knowledge fields at universities in powerful nation states; a more substantive discussion would have to focus on the history of the

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structuration and restructuration of conceptual control to knowledge organization at particular geopolitical junctures. That discussion obviously lies outside my purpose here. But I would like to state that a critical approach to such matters cannot take place simply from the point of view of a sociology of knowledge, it would also have to incorporate a geopolitical sociology of knowledge.3

“Peace theorists” have not been very happy about the disjuncture between the concept of human rights and the concept of peace. They have pointed out that in the history of political philosophy- and hence in the social science disciplines, including political science and international law- the concept of “peace” has been profoundly neglected. (Hoffe, 1995). A variety of reasons are provided, most notably the fact that the traditions of “northern” political philosophy hark back to the theories of Plato and Aristotle, neither of whom are known for promoting pacifism. There is surely some truth in this. But the history of the European traditions of political thought are very complex and Europe’s medieval traditions, in particular, have not had much access to, or actually much need for these two Greek philosophers. The political practices of the relatively free communes of Italy, for instance, evolved without Plato and Aristotle. If anything, the communes had to defend themselves ideologically against the appropriations of Aristotelian thought by Thomas Aquinus. Dante Alighieri, one of the most astute political thinkers of his epoch, places the papist intellectual Aquinus squarely next to Siger of Brabant, the Latin Averroist, who, in Dante’s view, mediates Aquinus’s political project to Dante’s juridical liking. (Divina Commedia, Canto X, ll 133-138). “International relation theorists” counter the peace activists by pointing out that the canonical tradition of political theory does indeed include a long series of “peace” theorists. Their names are known, ranging from the above mentioned Dante to Dubois, Erasmus and Cruce on one hand, and from Penn and

3Schmidt’s The Political Discourse of Anarchy has offered an interesting reading of the status of the concept of anarchy in the construction of main stream academic political discourse in Britain and the United States.
Abbe de Saint-Pierre to Leibniz, Rousseau, Voltaire, and Kant on the other. But how do we explain the disjuncture between “human rights” and the “concept of peace” that marks contemporary discourses on human rights? Why is there not only a neglect of a normative concept of peace in political philosophy, but also indeed an empirically verifiable increase in that neglect? I propose that this increasing neglect is related to the ways in which the traditions of political thought have been arranged by modern organizers of political philosophy. If we focus on the area of international relations theory in Britain, France, and the United States for a moment, what is striking over the past 50 years is that the predominant tendency, when ordering the traditions of international thought, is to work with three organizational categories at best, and at worst with simply two. Raymond Aron’s “realism” and “idealism” come to mind for one, and Martin Hollis and Steve Smith work with the two traditions of the “realist” and “rationalist,” for another. Hence tripartite conceptualities are exchanged for dualistic ones. But dualisms are particularly troublesome. For classificatory dualism in the fields of political philosophy propitiously lend not only to a territorial world view of insiders and outsiders, but also to the metaphysics of Hobbesian ontologies and Grotian ethics. Both promote and legitimate the power of the stronger: physical power in the case of Hobbes, intellectual-commercial superiority in the case of Grotius. Martin Wight’s vocabulary choices of “realism,” “rationalism,” and “revolutionism” suggests that the Hobbesian-Grotian itineraries are not without historical price, a conceptual stance that befits intellectual contemporaries of neo-colonialisms and neo-imperialisms.

What is problematical from my point of view is not that intellectuals choose to work with simple conceptual schemes, but that they claim that all important European political traditions (and as of late, also North American political traditions), are represented and representable in these highly confining categories. Most perplexing is the fact that predominant academic political discourse is, with a few exceptions, profoundly a-historical, if not actively de-
historiziced. Concepts such as “nation state,” “state territory,” “citizenship,” “sovereignty,” and “rights,” appear not as historical processes, but as ontological states of being, entering as such habits of thought and speech of the organizers of knowledge and of those social strata they influence. Ultimately, in highly mediatized societies, concept usage of intellectual elites impacts concept usage of the various strata of journalistic elites, who in turn influence the behavior of citizens with respect to the concepts of state, human rights, and peace. (Castells, 1996) The extraordinarily complex history of the evolution of constitutions, rights, institutions, judicial systems, judicial reform movements, and all manner of political practices and formations are sacrificed to the timeless ontology of a static modern nation state in an equally static international state system. The state turns into an actor, whose behavior is monitored in terms of rules and applications, or the rules and applications are analyzed in terms of the principles that enable rule making and application. Predominant human rights discourse, essential as it is in maintaining a discourse on the dignity of the human being, is caught in the paradox of a static nation state. It is a state that either exacts accountability from another state in a state system, or one that is accountable to other states in that system. The fluidity, dynamic, and energy of civil societies, public spheres, dialogues, debates among citizens- the spheres where conflicts about domestic and international issues can be discussed against a background of a minimum of norms of human integrity and dignity- turn largely ephemeral in the predominant discourses on international politics.

Yet the relationships of the concepts of rights and peace, and primarily the concept of “human right to peace,” was centrally formulated in Europe’s intellectual traditions before the nation state and before an international nation state system. At the very foundation of modern rights there resides as a fundamental right “the human right to peace.” I will in the second part of my working paper discuss aspects of this historical relationship. My procedure is as follows: First, I will not focus on early theorists from the center of Europe’s power, such as Britain,
France and the Netherlands or other European powers that entered the Treaty of Westphalia in 1648. Second, I will not touch much on Rousseau and Kant, both of whom are the preferred theorists in political theory and international relations when discussing European theories of perpetual peace. Third, I will not depend solely on a text, and hence on a theoretical claim.

Fourth, I will place the text under investigation into a broad historical framework of about 150 years in one particular location, not at the power centers of Europe but at its periphery. The time and place are the city of Naples in the period from about 1648 to 1799. The text in question is Giambattista Vico’s (1664-1744) *Scienza nuova intorno alla commune natura delle nazioni* (1712, 1720-23, 1725, 1731, 1744). This text is mostly known, in the twentieth century of Europe and North America, as an unpolitical text. It is referred to as Vico’s *New Science*. But it is a new science of the principle of the common nature of nations, in which, as he states, “another” natural law resides.

**II. Religion, Revolt, and Revolution**

During the period 1648-1799, Naples was one of the largest cities in Europe, with 600,000 inhabitants perhaps even larger than London of the Glorious Revolution and the East India Company. Naples was a maritime city, with old communication channels to other maritime cities of the Italian region, notably Livorno, Genova, and Venezia. These in turn connected Naples, or more precisely, the communicating intellectual elites of Naples, to the political and cultural centers of Europe: Vienna, Paris, Amsterdam, London, Berlin, Oslo and St. Petersburg, on one hand, and the academic centers and research institutes throughout Germany on the other. But Naples also had contacts with Morocco, and with the Ottoman Empire. Naples was the capital of the Kingdom of Naples, a Kingdom which territorially extends through all of the southern Italian region. This kingdom was not a sovereign kingdom, but a colony of the Spanish kings and the German Emperors of the Holy Roman Empire. The authority of these Austrian emperors and Spanish kings, by virtue of the Habsburgian dynasty, sometimes
coincided into one. Naples was thus ruled by a Spanish or, after 1734, by an Austrian Viceroy; all important posts of public administration were under the authority of Spanish or Austrian aristocracies. As is the case with colonies, the metropolis exacted its tributes from them. The ruling elites of Naples and its kingdom had to hand over considerable control of their resources to Madrid or Vienna. They were required to draft soldiers for the Habsburgian wars, and to continuously produce financial resources in the form of taxes, necessary for the incessant purchase of mercenaries. Naples shared its colonial status and its particular colonizer with Lombardy, another Italian region. But it did not share a border with Lombardy. The Papal State, with its capital in Rome and its political and financial power and influence throughout all of Catholic Europe, was Naples’s next door neighbor. The most significant and influential texts of democratic European thought in the area of judicial and constitutional reform in the eighteenth century were produced in these two Habsburgian colonies. I am referring to Cesare Beccaria’s *Dei delitti e delle pene* (On Crime and Punishment), for one, and to Gaetano Filangieri’s *La scienza della legislazione* (The Science of Legislation), for another. These texts were of great interest to Thomas Jefferson and other intellectuals intent on crafting the constitution of the United States. Both texts circulated widely in translations throughout Europe and were on the agenda of all political-intellectual circles, conservative, religious, aristocratic, democratic, and revolutionary alike. That Beccaria, a member of the Lombardian intelligentsia, produced an important book on penal and judicial reform is perhaps not surprising, if we consider Lombardy’s geographic vicinity to the eighteenth century Vienna of reform movements, enlightened absolutisms, and “Josephinisms.” But those reform movements were mostly organized and directed by the nobility, and not by the consolidating strata of the bourgeoisies. Yet along with enlightened aristocrats, Beccaria argued against the use of torture in the judicial process and proposed the abolition of capital punishment. One of the princes of the Toscana
followed suit. Filangieri’s accomplishments with his “science of legislation” was of a different nature, because he was a member of the Neapolitan intelligentsia.

Naples was located next to the Papal State, the seat of wide ranging papal material, financial, judicial, and spiritual power. Surely, the polycentric process of formation of modern nation states had begun to transcend the power and authority of the universal church. Britain and other Northern European regions had turned to Anglicanism or Protestantism in the course of the reformations. And France had produced its own version of Catholicism, the Gallican Church. Moreover, the papal intelligentsia no longer dictated colonial policies to Portugal or Spain, both of whom had marginalized papal power with the Treaty of Tordesillas (1498). They divided the entire globe between themselves, without the Papacy, into a Northern and Southern hemisphere. While the Papal State had lost some of its geopolitical edge, Papal power in the period from 1648 to 1799 still translated into incessant diplomacy with France, Spain, Austria, and remaining Catholic princes in Europe, and with the Protestant princes as well. But it also translated into direct diplomacy with the Polish and Russian elites in the Northeast, and with the Ottoman elites in the East. Its indirect diplomacy extended to all corners of the globe. Members of the highly educated intellectual strata, the order of the Jesuits, worked in the Forbidden City of Beijing or at the Moghul Court in Delhi. Yet apart from the Papal State’s geopolitical reach, it had an expansive judicial reach in Europe. Canon Law had speedily evolved under the impact of the rediscovery of Roman Law (Corpus Iuris). Its institutional structures and procedures, including the use of torture, became the model for civil procedures and institutional structures in the uneven evolution of judicial systems of nearly all of the emerging European nation states. Most importantly, the essence of Roman Law, the complex concept of private property in legal security (“dominio” and “possessio”), was re-introduced into political and international discourse of Europe via the appropriation of Roman Law by Canon Law. While papal intellectuals took recourse to the concept of the Constantinian donation to legitimate the
landowning status and claims to land of the Papal aristocracies, it was the concept of private property derived from the Corpus Iuris by canon lawyers which would become one of the most significant instruments in the formation of European capitalism. In the course of the codification of legal systems and constitutions in Europe’s emerging nation states, Roman Law was trimmed of its canonical affiliations. State religions and state churches emerged, which owed loyalty to a state in which judicial and legal systems had been increasingly secularized. But in the Naples of our inquiry, the judicial power of the Papal State extended into most corners, if not every corner, of the Kingdom of Naples.

After the Council of Trent in the latter part of the 16th century, the King of Spain, one of the most dedicated of the Catholic princes, had hoped to set up the Spanish Inquisition in Naples as he had done in Sicily. As popular resistance ruled out such a project, Pope and King, with the help of ecclesiastical aristocrats in Naples, set up the Roman Inquisition instead. Inquisitional Law was thus part and parcel of the legal and judicial system of the kingdom. Naples was, administratively speaking, a city, but also the capital of the Kingdom of Naples, whose economic system was based primarily on feudal modes of production.Indentured serfdom was not abolished until after 1800. The population was subjected to a vast and complex judicial system which consisted of many sectors. I cite 6: 1) Canon Law of the Roman Catholic Church; 2) Monarchical law; 3) Law of Vasalls; 4) Patrimonial Law; 5) Municipal Law; and 6) Law of Merchants. Law making and application, and hence legislation and jurisdiction, was linked to a complex juridical and judicial system which reflected a highly stratified society. Individuals had recourse to justice, but differential justice. The justice system remained uneven. Social strata were unevenly punished for identical crimes, and aristocratic strata routinely escaped punishment for criminal activities altogether. While the judges of the highest courts were appointed by the Viceroy, the offices of the lower courts were offered for purchase in the city and in the country. Under Patrimonial Law, land title equaled juridical entitlement. The large
landowners, or barons, were thus able to exploit the peasant classes by turning the juridical entitlement into a legislative one. As customary under feudal law, barons functioned as law-makers and judges at once, with respect to the life and liberty of the peasantry. Conversely, the repression of Municipal Law in the city of Naples due to its colonial status deprived the various strata of “citizens” of Naples of most of the rights they once possessed. Artisans, entrepreneurs, shop owners, intellectuals, professionals, non-aristocratic members of the clergy, all members of social classes which were neither noble nor members of the Lumpenproletariat, were systematically deprived of their political rights to some representation of their assemblies due to the repression of Naples’s municipal law. Given the size of Naples, the non-aristocratic social strata must have been considerable. Literacy levels among these strata rose faster than among the nobility. In addition, Naples’s history carried the memory of a modicum of municipal independence and liberties. The literate strata of the city preserved the knowledge of the facts of Italy’s history, which includes the extraordinary independence period of its Northern city states. But Naples’s history also carried the memories of innumerable reform movements among the clergy, possibly with links to the rise of protestantism under Luther in Germany. Both religious reform movements and political movements, which are not always clearly distinct, focused on the delimitation of the rights of the Catholic clergy in favor of an expansion of rights in many practices of everyday life. Resistance to Spanish authorities, but also to ecclesiastical authorities, and to the power of the aristocracies in Naples had been building up every since Spain turned Naples into a colony. Pressures built up to such an extent that Naples declared itself a popular republic in 1648, and did so again in 1799. Indeed, far away from the much more economically advanced centers of European power, from London and Paris alike, the “people” of Naples had staged their own two democratic revolutions, in spite, or perhaps because of, papal power next door. Small wonder that Filangieri pleaded with his “science of legislation” between these two revolutions for a rational, rationalized and systematic treatment of law, legislation, and judicial
system. His effort met with papal response. The book was put on the Index of Forbidden Books, where it joined not only all the great intellectuals Europe produced in the period from 1600 to 1800, but also all the books that dealt with the rights of “the city of Naples” rather than the colonial rights of a foreign prince. Small wonder, too, that the dynamic build-up of a democratic movement for rights and freedom had to be systematically restrained by papal and aristocratic powers alike. The Roman inquisition served as central instrument for maintaining feudal law and order. In Naples, a commission of cardinals and bishops headed the local inquisition. Its mission was to function as the thought police in the city. It appointed, from among its own strata, presidents of the university. At its disposal was a large body of intellectuals who executed the inquisitional designs. They oversaw the hiring and firing of professors, surveyed the reading habits of the intelligentsia, checked printing shops, bookstores, and libraries, and arranged for the closure of scientific academies. They spied on study groups, censored the work of intellectuals to be published in Naples, and examined every and each new publication that arrived in Naples. They did so according to the regularly changing Papal Index of the Forbidden Books. Perpetrators regularly went into exile, rather than being subjected to inquisitional imprisonment, trials, and punishment.

**III. Geopolitics, Religion, and Rights**

Giambattista Vico’s books were not put on the index. But the impact of censorship marks practically every page of his work. His new science is a difficult text, with a plethora of inconsistencies, ambiguities, and even contradictions. Most notable are his vacillations between what his science should be and what it is; between a descriptive account of “the course nations run” on one hand, and a “prescriptive” norm for how they ought to run on the other. Further, the “is”, or state of being, and the “should” alternate, seemingly arbitrarily, throughout his pages. Yet there is no ambiguity with respect to his choice of the term “science.” Science or the scientific study of the evolution of laws, which underlies the bulk of his oeuvre, is not theoretical
science, but applied science. Just as Galileo used his scientific knowledge to produce instruments, in particular the telescope, the scientific study of law and rights is equally designed to produce particular kinds of instruments: intellectuals who will participate in the “scientific” construction of judicial and legal systems. Scientificity in the context of law is constituted by at least four features. 1) laws ought to be not arbitrary but rational, equal and equitable, that is; 2) the judicial process ought to be organized along rational procedural regulations based on precise principles; 3) all persons of a community should have access to the knowledge of the workings of the legal system and should be able to pursue an action in court; and 4) since the legal system affects the community, the community, and not the aristocracy, ecclesiastical and secular alike, ought to be the source of law. “Potestas” or judicial power resides with people in this concept of scientificity, a proposition which contains the notion of popular sovereignty as well as the notion of a popular republic.

In order to state his republican program, Vico engages in a myriad of complex and camouflaged discussions in the area of natural law and natural rights. He moves from theological issues to philosophical issues, from historiographical texts to literary texts, from Cicero and Tacitus to Bacon and back to Plato, all authors of non-Catholic traditions. He engages contemporary intellectuals in Europe, most of whom are located in non-Catholic regions. His republican program, which he shares with the European republic of letters, was most suspect in the Naples of his era, given the mixture of legal systems within which he moved. His project was a major affront to the three major legal authorities to which he, as a non-aristocratic intellectual, was subjected. As a colonial subject, Vico demands, however covertly, the political independence and autonomy of the citizens of Naples. As a scientist, he demands the rational codification of law and the judicial processes. As “citizen” he demands the right to equal rights with the local aristocracies. These are all political rights. Yet embedded in his claims for political rights are the rights to the access of knowledge, the rights to access of the organization of
knowledge, the right to religion, the right to religious tolerance, and the right to be a member of
the community. His project assailed the Roman inquisition, Spanish colonialism, and aristocratic
hegemony at once. There were reasons why he had to deploy an ambiguous style, where attention
to minute detail, apparently irrelevant for his argument, interfaces with magisterial command of
the complex history of the evolution of rights and constitutions.

Vico sought to legitimate his political claims on historical precedence, a did most
intellectuals of his epoch. But in contradistinction to Grotius, who used classical texts in order to
buttress his case in international law, Vico engaged in a careful study of Roman Republican
Law. On the basis of his attention to the Law of the Twelve Tables, and the institutional realities
of Republican Rome they represent, Vico arrived at two major conclusions: one, that the history
of Republican Rome is characterized by a class struggle between the patricians and the
plebeians, a struggle which ends with the securing of political and legal rights by and for the
plebeians. Second, Vico proposes, on the basis of the evolution of Roman Law, that the earlier
Roman lawgivers were not identical with later Roman lawgivers in terms of their epistemic
capacities. Poets, rather than philosophers, resided at the foundations of law. With this proposal
Vico rejects both the materialist (Hobbes) and idealist (Locke) philosophers of natural rights.
But he also displaces “prudentia,” or the wisdom of the prince in matters pertaining to
legislation and its application, with “sapientia,” or the wisdom of the “people” in matters
pertaining to communal self-organization. A political body needs no prince. This enlightenment
posture is reiterated in Vico’s study of the Homeric poems. In these he unravels not only the
spirit of an age, but also the rules and regulations that governed Homeric Greece. As in his study
of Roman Law, these poems revealed the evolution of a struggle between nobles and plebeians, a
struggle which ultimately enabled the “citizens” of Athens to run their own government. Three
conclusions are essential here. First, that all nations have the capacity to develop a rights
system. Secondly, that the rights system of Republican Rome developed there independently
from the rights system of the Greek cities. Third, that no community is in need of importing laws. The natural law of the “nations” resides in the capacity of nations to develop their own legal systems, precisely because humankind shares an anthropological principle: humans above all create communities. They create languages, and institutions, knowledge systems and skills, instruments and processes, orders and regulations, family law, inheritance laws, and religious laws.

It is here where Vico extends his natural law to all communities on a global scale, where he includes North American natives as well as Chinese peoples, Germanic peoples as well as North African peoples in his profound vision of an equally and equitably entitled humankind. It is interesting is that the various versions of his science reflect the expansion of his geopolitical consciousness. In his Liber metaphysicus of 1712, he is mainly concerned with establishing the philosophical independence of science from theology while simultaneously maintaining the epistemic link between divine and human capacities. Yet already here he challenges the notion that legal and judicial history follow a linear universal path. In this book, which is also known as De antiquissima italorum sapientae, (on the most ancient wisdom of the Italians as detected in the Latin language), he significantly states that Etruscan architecture is much older than Greek architecture. If it was inspired by any foreign culture at all, Vico maintains, then it was probably the culture of origin of the Etruscans, whom he aligns with the ancient Egyptians. In his De uno universi iuris principio et fine uno (1720), he delimits his project to the study of Rome and Greece exclusively. By 1725, his new science carries the title Principi di una scienza nuova intorno alla nature delle nazioni per la quale si ritrovanao I principi di altro sistema del diritto naturale delle genti. This translates into “principles of a new science concerning the nature of nations according to which one will find the principles of another system of the natural law of nations.” What differentiates this title from the ultimate title of his science gives us a clue with respect to the revolution of law he envisages. His 1744 version states: Scienza nuova intorno alla
commune natura delle nazioni (New Science concerning the common nature of nations). The “other system” of the natural law of nations he proposes is that all nations or peoples have the capacities to develop their legal universe. If it is their social and organizational capacity that marks the nature of human beings and collectives alike, the conclusion can only be that all human beings and collectives have a right to develop these capacities. No nation or political unit is entitled to violate this inherent natural law. Violence against it is violence against nature and hence against the divine order of things.

The “other system” in the title of the new science of 1725 is at first sight perplexing. Whom or what does Vico have in mind? From his autobiography we know that he spent considerable time in his early years of intellectual training with the works of the Spanish Jesuit and international relations theorist Suarez. And it is well known in the Vico scholarship that he read Grotius around 1712, that he possibly translated Grotius work on *De Iuris belli ac pacis* in subsequent years, and that he perhaps wanted to write a commentary on him. Vico’s new science is, I will propose here, a response to both Suarez and Grotius. What Suarez offered to international law theories in the context of the colonial debates in Madrid and Rome, is that all peoples, no matter their religion, are capable of “dominio,” of holding property and of securing it legally. It is possible that Suarez, who was born in Granada a few generations after the fall of Muslim rule, had developed his system of law under the impact of Islamic legal philosophy. Suarez also proposed that it is a natural right of missionaries to offer their religion to the natives of the Americas, and should there arise resistance to this natural right, the missionaries, sent by the Pope, had the right to enforce their right by way of the Spanish military. In other words, Suarez offers not one but two systems of natural right: one pertains to all human beings, in terms of their right of movement for purposes of trade. This right is a reiteration of the Roman Law of Ius Gentium, or the Lex Peregrinus, established early on in the Republic of Rome for the regulation of actions between Roman citizens and foreign merchants. Suarez’s second natural
law pertains to the natural right of the Catholic Church. As a universal church, it is charged with the mission to expand throughout the world. As we recall, Vico had stressed the existence not of two but of only one natural right, which he declares common to all nations. Grotius, like Suarez, also distinguishes between natural law and the law of nations. While he no longer, in contradistinction to Suarez, maintains a legal position for the papacy, he nonetheless argues in his De mare liberum that resistance of sovereign powers to the movement of traders and merchants is tantamount to a declaration of war. In other words, Grotius argues, as Suarez did, that all human beings, no matter their religion, possessed a natural right to property, possessions, and sovereignty. Neither popes, nor kings, can deprive a sovereign people of its possessions on the grounds of being “infidels.” On the other hand, the natural right of nations entitles the merchants of a particular nation to trade all over the world. No nation has the right to delimit this freedom of movement. In order to guarantee such right, Grotius proposes a contract among nations. This proposition has entered the language of international relations theory as the “rational” model, in contradistinction to the “realist” model of Hobbesian provenience, or, we might add, the “realist” model of international canon law. What purporters to the rational model systematically overlook is Grotius’ claim to the universal nature of all contracts. Buying and selling, he writes, are derived from nature. But the way these transactions take place, including money payment itself, is derived from law. This “law of nations” is not a universal law, but the law of those nations who, by the seventeenth century, had the material capacity to directly engage in long distance trade by sending their ships to India, Africa, China, and the Americas. It is a law of nations of the European emerging nation states, and not of all nations as they existed in the world. In this sense Grotius too works with two notions of natural law. As in Suarez’ system, colonialism and imperialism are sanctioned by international law.

If Suarez was a major papal intellectual, and as such supporting, in the highest political circles, the projects of expansionism of the Spanish Crown, Grotius was a modern company
man. Like Locke, who developed his theory of epistemology, natural rights, and international law as member of the British East India company, Grotius developed his international theory on the basis of his interests in the Dutch East India company. But Grotius was also a political actor, engaged in the affairs of the governments of his cities in the Netherlands. Vico was neither involved in courts or city governments. The latter would have been difficult in a colonial city deprived of most of its rights, and Vico rejected the former. He was a middle strata intellectual, intellectually and morally relatively autonomous and independent, but socially, politically, and legally with very few rights. If he had lived in other parts of Europe, he would have become, by the end of the 18th century, a free citizen with inalienable rights. But precisely because he was not a member of the aristocratic classes, and because he worked under a multi-layered archaic judicial system in a colonized, oppressed, and exploited city at the margins of Europe, Vico was able to develop an epistemological point of view in his theories of justice which went beyond the discourses at the centers of Europe. From his study of the histories of laws, languages, literatures, customs, and institutions he had concluded that people make history, and not kings. From his knowledge of the history of Naples with its popular revolutions he concluded that people know when they are discriminated against, and that they act on their conviction that discrimination is unjust. Yet from both the history of laws and the history of events he had learned that desire for freedom and liberties is inherent in human nature, and communities had historically evolved not to limit, but to respond to such desires. Vico’s disinterest both in the Catholic international relations theory of Suarez and the Protestant international relations theory of Grotius is based on the premise that wars, whether just or unjust, run counter to the essence of the natural law common to all peoples. Italy had developed a federation of city states during the early years of the Renaissance, long before the evolution of the modern nation states and the international nation state system. The balance of this federation was destroyed by the imperial designs of France, Britain, Spain, and Austria alike. Yet its ideological legacy survived, in
Machiavelli’s republicanism for one, and in Vico’s new science, for another. “Know yourself,” is the Greek dictum Vico proposed to his students generation after generation. The leading political economists and jurists of Italy’s enlightenment emerged from Vico’s schooling. It is true that nineteenth century readers of Vico’s science have viewed him as a national figure, an intellectual who defended Italy’s independence and autonomy against the European powers above all other causes, a promoter of “independent” nation state formation. By the nineteenth century, Italy’s survival indeed hinged on its capacity to create an independent sovereign state as the rest of Europe began to engage in the economic rivalries of expanding monopolistic capitalisms. Its intellectuals reflect the build up of nationalism, but Vico’s period precedes these developments. Italy’s republican legacy, coupled with the increasing knowledge of a multiplicity of dignified cultures in many global regions, lent itself to a vision of an international system of federation. By the same token, the extraordinarily devastating religious wars of the seventeenth century, coupled with the repression of belief, thought, speech, and action of the self-consciously expanding non-aristocratic classes lent itself to visions of violence-free political systems, domestic and international alike. Vico’s theories of rights and justice are thus centrally linked to the concept of peace; he holds an eminent place among the many international peace theorists who emerged at the dawn of northern modernity.

It would be easy, in the context of contemporary international relation theories, to dismiss Vico as another “universal moralist,” and “idealist,” or perhaps even as a hopeless “revolutionary.” But “realists’ and “rationalists” alike cannot explain, as far as I can ascertain, why almost every generation everywhere and at any time creates from within itself thinkers who stand for the right to peace as a fundamental human right. Ernst Bloch, in his profound reflections on *Naturrecht und menschliche Wurde*, has understood this phenomenon as the “principle of hope.” So let me conclude with him in mind. Faced with the facts of the Holocaust watered down by a widespread movement of conservative thinkers in Germany, leading
intellectuals there have insisted- Jurgen Habermas among them- that ignoring the facts of history will condemn us to repeat history’s horrors. I would like to appropriate this insight for my conclusion by way of a positive dialectic. If we, as cosmopolitan intellectuals, deploy our energies, skills, and instruments in the systematic promotion of the concept of peace when we engage in the struggle for human rights, then it does not matter so much whether we turn to Vico or not. Then, any other text that inspires us will do. Thank you.

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