History and Normativity: Vico’s ‘Natural Law of Nations’

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1 Introduction: Vico’s Natural Law Theory as a Normative Project

In August 1727 the learned Leipzig journal Acta Eruditorum featured a brief abstract of a treatise, Principii d’una scienza nuova, recently published by a certain ‘Neapolitan abbot’ named Vico. Based on a second-hand report, the reviewer suggested that the book represented a poor attempt to confute Grotius and Pufendorf and to forge a spurious system of natural law suited to the taste of the Catholic Church. Vico’s argument, the reviewer went on, was conjectural, contradictory, and had been received with scarce enthusiasm even among Italian readers.

Two years later Vico replied to these disapproving comments in an apologetic tract, the Vindiciae, in which he declared that nearly all information contained in the review qualified as utterly false (including the appellation of ‘abbot’, which did not fit him as a man married and the father of five). One statement, however, Vico took care to acknowledge as truthful: the conformity of the Scienza nuova with the doctrine of the Catholic Church, a conformity which he depicted as an outstanding merit, not a fault. Adherence to the Catholic teaching allowed him, or so he claimed, to amend the ‘heretical’ doctrines of Protestant natural lawyers such as Grotius, Selden, Pufendorf, Gronovius, Ulrik Huber and Thomasius, all of whom had allegedly failed to recognise ‘divine providence’ as the foundation of the law of nature and nations.

Despite such apologetic statements Vico’s legal doctrine did not strike the reader as particularly pious. Throughout the Scienza nuova he actually described natural law not as the handiwork of a benevolent and personal God,

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but as a man-made entity and an outcome of historical contingencies. For this reason most scholars commenting on Vico’s legal thought have concluded that Vico ‘historicised’ natural law. Yet in arguing so they have overshadowed the normative side of Vico’s natural law doctrine. In his seminal essay *Vico e Grozio*, Guido Fassò questionably defined Vico’s interest in legal matters as uniquely ‘philosophical’ and ‘not practical’.

Norberto Bobbio went further to imply that Vichian historicism could be equated with radical relativism, intended as the unmasking of norms and values as sheer accidents resulting in the discredit of normative discourses. This kind of extreme relativism had no place in the *Scienza nuova*, at least not in the first edition of the *Scienza nuova* of 1725, in which Vico maintained an overtly normative project to sidestep both Pyrrhonism and standard natural law. Vico’s normative concern was openly revealed by the subtitle of this first edition, which advertised the *Scienza nuova* as a book providing the principles of a novel ‘system of the natural law of nations’. It is precisely because of the centrality of a normative legal project


6 In this article, expressions such as ‘normative’ and ‘normativity’ simply refer to the prescriptive nature of Vico’s argument. No allusion is made to more technical uses of those wordings by later legal doctrine, notably by so-called legal normativism in the twentieth century.