

A. SÆTHER, *NATURAL LAW AND THE ORIGIN OF POLITICAL
ECONOMY. SAMUEL PUFENDORF AND THE HISTORY
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Why has Samuel Pufendorf's contribution to political economy been overlooked by twentieth and twenty-first century economists? Professor Arild Sæther addresses this question by acknowledging the merits of Pufendorf's economic thought. Admittedly, Sæther's interest in this fascinating subject originated in his previous study on Ludvig Holberg (1684-1754), a Norwegian professor at the University of Copenhagen, writer of comedies with an interest in political economy – also author of a work on natural law and *ius gentium* extensively copied from Pufendorf's *De iure naturae ac gentium*. Contemporary textbooks on the history of economic thought, however, as the author complains, barely cite Pufendorf as an important founding figure of the discipline. Why is this so?

At the same time, recent Pufendorf scholarship has concentrated on the connection between natural law and economic thought before these disciplines became independent; and, specifically, on the role played by Pufendorf in the theorization of commercial sociability as a fundamental economic structure of his natural law theory (consider, for example, Istvan Hont's works on commercial sociability).

The purpose of this book is to bring these debates, to which intellectual historians and historians of political thought have become quite accustomed in recent decades, to the attention of historians of economic thought, so that the role of Pufendorf as the father, if not even the grandfather, of the discipline is finally acknowledged. What enables such interdisciplinary dialogue is the incredible conceptual power of natural law theory, which is conceived as a comprehensive set of doctrines regulating human

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behaviours, and “which eventually was to prove, arguably, of greater significance for the theoretical foundations of political economy” (as Sæther argues, quoting T. Hutchison, *Before Adam Smith: The Emergence of Political Economy*, 1988: 5). However, while claiming that there are few references to political economy in his Grotius’s *De iure belli ac pacis* (1625), Sæther claims that the merit of having introduced political economy as a substantial part of natural law pertains to Pufendorf, and to his famous *De iure naturae ac gentium* (1672): “furthermore, it is with him, and the influence he had on his successors, that political economy started its advancement as a science” (1) – with the most important of these followers being Adam Smith. How did Pufendorf undertake such an operation?

This admittedly genealogical enterprise is pursued by Sæther in three steps, which also correspond to the structure of the book. Firstly, the reader is provided with a description of the intellectual figure of Pufendorf – from his childhood, to his academic career, and to his important role as official historiographer of Sweden and, then, of Brandenburg. Professor of natural law and international law at the University of Heidelberg in 1661, Pufendorf is mostly known by historians and philosophers for his reflections on these two disciplines, which however presuppose a wider intellectual framework because “the idea of legal, moral order» that they enshrine is based «on human nature and right reason” (1).

As a second step, and in order to grasp the substance of Pufendorf’s novel contribution, Sæther provides a description of his natural law theory consisting in a combination of self-interest and sociality. By integrating the findings of Hugo Grotius with the conceptual innovations of Thomas Hobbes, Pufendorf builds a doctrine of natural law where the natural inclination of people towards both self-interest and *socialitas* coexist with free will as the “internal director” of human actions (62). The only way to direct these diverging inclinations in a peaceful manner is for people to submit to law, which has the role of harmonizing various, and often dissonant, human desires and passions. For Pufendorf, therefore, reason is the true foundation of natural law. In this regard, Sæther acknowledges (58) that the choice of the method used by Pufendorf is quite significant because he moves from a fascination with mathematical method applied to the study of human sciences (which is evident in his *Elementa Jurisprudentiae Universalis*, 1660) to an appreciation of the importance of history as the fundamental locus where human reason manifests itself.

These aspects are crucial to the understanding of Pufendorf’s contributions to political economy and history of economic thought. Indeed, this theoretical framework enables Pufendorf to elaborate two important interrelated doctrines, i.e. private property and the “four-stages” economic theory of society. To this end, Pufendorf’s starting point is that mankind,

because of its constitution, needs nurture from the outside: this means that the power of mankind over nature specifically serves this purpose. According to Sæther, Pufendorf speaks of a “power” rather than a “right”, which means that we should not abuse animals and plants to sustain ourselves (76). In Pufendorf’s opinion, this power, typically exercised by humans during the first “hunting and gathering” phase of civilization, does not qualify as a proper *dominium*. Nor does the mere use of land and animals in the two intermediate stages, agriculture and shepherding, qualify as private property. Pufendorf seems to suggest that in these phases a mere “tacit agreement” among members of society is needed, conceding to others the same powers to use nature as one would make use for oneself. Tacit agreements were sufficient in the shepherding and agricultural stages as long as pasture and land remained in abundance (p. 84). However, in the agricultural stage, when land became scarce, the necessity to preserve social life led humans to introduce private property (*ibid.*). Therefore, the increased value conceded to human labour resulting from cultivation, fear about the future availability of resources, and the necessity both to avoid social conflict and to protect labour are the three factors generating private property. Finally, when goods started to be exchanged for the purpose of mutual flourishing, because everybody no longer owns everything as in the first stadia, commercial society and prices were introduced. Prices were either ordinary (market price) or eminent (as determined by noble metals: 97). Ordinary price was determined by the “aptitude” of the good to satisfy a given necessity or pleasure of human life (88). Whereas Grotius claimed that such necessity only determines price, Sæther contends that the “cause of economic activity comes from the demand side” (88). This is also one of Pufendorf’s important contributions to the history of economic thought.

However, there are two controversial questions concerning private property and the four-stages theory addressed by Sæther. The first question concerns the relationship, in Pufendorf’s thought, between law and compact (as expressed in DJNG, III, IV, §1): is the introduction of private property simultaneous with, antecedent to, or subsequent to that of civil government? This is a controversial point in Pufendorf’s natural law doctrine, according to which law is always the (rational) command of a superior, but at the same time tacit agreements in a pre-legal situation seem to have a certain kind of validity. As a matter of fact, the state itself can only be constituted by *pacta*. We similarly find this claim in interstate relations, where, under the law of nations, there is no superior authority and yet pacts have some legal validity prescribed by natural law, which asserts the principle of *pacta sunt servanda*. In like manner, Sæther vindicates the value of tacit agreements *before* government, with self-interest and sociality being sufficient to develop a theory of property and the four stages. Moreover, he

maintains that by providing a historicized theory of the four-stages theory, Pufendorf explains not only the introduction of private property, arguing against those authors claiming that it is a right based on natural law (78), but also of government. The second question concerns the originality of Pufendorf's four-stages theory, which Sæther contends consists precisely in his historicized account, which makes it automatically different from similar descriptions of the various phases of development of human society present in both the Bible and in classical antiquity. From this perspective, in light of Pufendorf's use of a historical method, which becomes increasingly crucial by the time he became official historiographer of Sweden, this aspect would have deserved further discussion by Sæther. What kind of historical sources allowed Pufendorf to re-conceptualize the four-stages theory as a modern, economic model? Were they sources from antiquity or were they derived from contemporary historiography? How were they integrated into the discussion of the development of human economy and transition from one stage to another?

Another aspect discussed at the end of this second part of the book concerns some principles of taxation introduced by Pufendorf: because administration of the state has costs, the state has therefore the right to levy taxes. However, the state also has the duty to spend that money honestly, and to collect it with no harm to the citizen in a fair, just and proportional manner (119-134).

The third part of the book deals with the dissemination of Pufendorf's economic ideas. The reception of Pufendorf's economic thought is discussed by a number of authors, such as John Locke, adopting the same labour theory of property as Pufendorf's (pp. 148-166); French followers, such as the well-known Pufendorf commentator and translator Jean Barbeyrac, who discusses many economic questions in his *Traité de Jeu*, as well as Jean-Jacques Burlamaqui (169-181); Charles Montesquieu, who apparently provides no theory of how property was introduced, but gives the question of taxation a treatment resonating with many of Pufendorf's positions (182-190); Jean-Jacques Rousseau, who also identifies labour and concerns about the future as elements generating private property (191-200); and, finally, physiocrats, according to whom private property is a natural right, and individual self-interest, in its noblest form, is the most respectable motive for social action (201-208).

But, certainly, the most significant occurrence in the history of the assimilation of Pufendorf's doctrines into economic thought was Georg Carmichael's introduction of natural law in Scotland and use of Pufendorf's *De officio* as a textbook (211). While being criticized by theologians for that choice, Carmichael claimed that he maintained a critical approach to many of Pufendorf's positions, while accepting that property was born with la-

bour (212). Another important figure was Francis Hutcheson, whose teaching was also based on *De officio*, as shown by his *Philosophiae Moralis institutio Compendiaria* (1742), a compendium of his lecture notes (217). Additionally, and significantly, Hutcheson referred to natural law as moral philosophy, and by so doing marking a fundamental turning point in the history and tradition of this discipline.

The book ends with a detailed analysis of Pufendorf's influence on Adam Smith. A pupil of Hutcheson in Glasgow, Smith acquired a copy of Pufendorf's *De iure naturae ac gentium* before starting his lectures in Edinburgh. While acknowledging the importance of Pufendorf's self-interest doctrine for the Smithian theory of sympathy (234), Sæther draws a parallel between the «impartial spectator» (235) and Pufendorf's metaphor of will as the «internal moderator» of people's actions (DJNG I. IV.1). The reference to Pufendorf is even more explicit at the beginning of Smith's *Lectures on Jurisprudence*, where he claims that the rights that he is discussing (i.e. the rights that pertain to a person as a person) "correspond to what Pufendorf calls natural rights" (in DJNG IV.iii.1-6: 237). There are also similarities in the treatment of private property, which, according to Smith, can arise from occupation, tradition, accession, prescription, succession; they can be based on common consent or agreement, and can also originate from labour. Besides sharing Pufendorffian positions concerning money, prices, labour theory of value, and taxes, Smith also contends, addressing the controversial relationship between property and government, that the latter "arose not as some writers imagine from any consent or agreement of a number of persons to submit themselves to such or such regulations, but from the natural progress which the men make in society" (246). The historicization of contractualism, which is not only an artificial, fictional construct but also and primarily a product of history and culture, constitutes, according to Sæther, another point of convergence between Pufendorf and Smith.

To conclude, Sæther hints at a possible explanation for the fact that Pufendorf's contribution to economic thought has so far gone unrecognized. It has to do with methodological questions: Sæther argues that later philosophy (mostly Kantian) was explicitly opposed to the lack of methodological foundation of eclectic thinkers like Pufendorf, and may therefore have determined his oblivion as an economic thinker. Moreover, Pufendorf's system of erudite quotations, resulting from his adoption of the methods of inquiry of *historia literaria*, may have further contributed to the underestimation of the originality of his economic thought – a reason why his system of citation of historical sources (both from antiquity and from his own times) might have deserved closer attention. However, this book sheds new light on the reception of natural law in economic theory

and therefore constitutes an important contribution for scholars dealing with Pufendorf's thought, as well as with the reception of natural law in Europe. In this regard, Sæther provides two very useful comparative tables for Hutcheson and Smith, where passages from Hutcheson's and Smith's works are systematically compared with those of Pufendorf. The book also contains some stimulating suggestions for further research. To mention only a (fascinating) few, Sæther mentions Barbeyrac's *Traité du Jeu* as an example of Pufendorf's reception. Is there a relationship between the doctrines of self-interest and *socialitas*, as developed by Barbeyrac, and game theory? Also, when describing the first hunter and gatherer phase of society, Sæther mentions the theory of "sustainable harvest" (76) as a responsible, inter-generationally oriented system of exploitation of natural sources. Is there a relationship between environment and economy? Does Pufendorf deserve an important place in that narrative as well?