



The Legacy of Vattel's *Droit des gens*

Edited by
Koen Stapelbroek · Antonio Trampus

palgrave
macmillan

The Legacy of Vattel's *Droit des gens*

Koen Stapelbroek · Antonio Trampus
Editors

The Legacy of Vattel's
Droit des gens

palgrave
macmillan

Editors

Koen Stapelbroek
Erasmus University Rotterdam
The Netherlands

Antonio Trampus
Ca' Foscari University Venice
Italy

ISBN 978-3-030-23837-7 ISBN 978-3-030-23838-4 (eBook)
<https://doi.org/10.1007/978-3-030-23838-4>

© The Editor(s) (if applicable) and The Author(s), under exclusive license to Springer
Nature Switzerland AG 2019

This work is subject to copyright. All rights are solely and exclusively licensed by the Publisher, whether the whole or part of the material is concerned, specifically the rights of translation, reprinting, reuse of illustrations, recitation, broadcasting, reproduction on microfilms or in any other physical way, and transmission or information storage and retrieval, electronic adaptation, computer software, or by similar or dissimilar methodology now known or hereafter developed.

The use of general descriptive names, registered names, trademarks, service marks, etc. in this publication does not imply, even in the absence of a specific statement, that such names are exempt from the relevant protective laws and regulations and therefore free for general use. The publisher, the authors and the editors are safe to assume that the advice and information in this book are believed to be true and accurate at the date of publication. Neither the publisher nor the authors or the editors give a warranty, expressed or implied, with respect to the material contained herein or for any errors or omissions that may have been made. The publisher remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.

This Palgrave Macmillan imprint is published by the registered company Springer Nature Switzerland AG

The registered company address is: Gewerbestrasse 11, 6330 Cham, Switzerland

CONTENTS

The Legacy of Vattel’s <i>Droit des gens</i>: Contexts, Concepts, Reception, Translation and Diffusion	1
Koen Stapelbroek and Antonio Trampus	
Part I Vattel’s Ideas and His Context	
Vattel as an Intermediary Between the Economic Society of Berne and Poland	29
Radosław Szymanski	
“A Poor Imitation of Grotius and Pufendorf?” Biographical Uncertainties and the Laborious Genesis of Vattel’s <i>Droit des gens</i>	53
Frédéric Ieva	
The Citizen’s Right to Leave His Country: The Concept of Exile in Vattel’s <i>Droit des gens</i>	77
Alberto Carrera	

The Foundations of Vattel’s “System” of Politics and the Context of the Seven Years’ War: Moral Philosophy, Luxury and the Constitutional Commercial State	95
Koen Stapelbroek	
The French Reception of Vattel’s <i>Droit des gens</i>: Politics and Publishing Strategies	135
Antonella Alimento	
Part II The Reception of Vattel in Italy and Elsewhere	
‘Good Government’ and the Tradition of Small States: The Eighteenth- and Nineteenth-Century Reception of the <i>Droit des gens</i>	167
Antonio Trampus	
Vattel in the Republic of Genoa: Between Theory and Practice	189
Danilo Pedemonte	
Vattel in the Papal States: The Law of Nations and Anti-Prussian Propaganda in Italy at the Time of the Seven Years’ War	207
Alberto Clerici	
Vattel’s System for Subjects in International Law, and the Establishment of Norway as a Nation in 1814	235
Gert-Fredrik Malt	
The Legacy of Vattel’s <i>Droit des gens</i> in the Long Nineteenth Century	267
Elisabetta Fiocchi Malaspina	
Index	285



“A Poor Imitation of Grotius and Pufendorf?” Biographical Uncertainties and the Laborious Genesis of Vattel’s *Droit des gens*

Frédéric Ieva

BIOGRAPHERS AND BIOGRAPHIES OF VATTEL

As has been noted by various scholars, Emer de Vattel was a member of the so-called *École Romande du Droit Naturel*,¹ a lively intellectual circle that made a significant contribution to the opening of a constructive dialogue between German and French culture on subjects relating to natural law and the law of nations, themes that became fashionable especially in the late eighteenth century. Among the scholars who made

¹Among the many who have produced interesting reflections on the *École Romande du droit naturel* see at least Alfred Dufour, “Die Ecole romande du droit naturel – ihre deutschen Wurzeln”, *Humanismus und Naturrecht in Brandenburg-Preußen*, ed. Hans Thieme (Berlin: De Gruyter, 1979), 133–143; Elisabetta Fiocchi Malaspina, *L’eterno ritorno del Droit des gens Emer de Vattel (sec. XVIII–XIX). L’impatto sulla cultura giuridica in prospettiva globale* (Frankfurt: Max Planck Institute, 2017), 30 ff.

F. Ieva (✉)
Università degli Studi di Torino, Turin, Italy
e-mail: frederic.ieva@unito.it

© The Author(s) 2019
K. Stapelbroek and A. Trampus (eds.),
The Legacy of Vattel’s Droit des gens,
https://doi.org/10.1007/978-3-030-23838-4_3

up the *École Romande* were Jean-Jacques Burlamaqui, whose courses on natural and civil law Vattel had followed in Geneva in 1733. Other members were Louis Bourguet and Fortunato de Felice.² The former made possible the establishment of the *Bibliothèque italique* and, more importantly, in 1732 founded the *Mercure Suisse* and, additionally, in 1738, the monthly *Journal Hélvétique*. The latter, instead, was for a brief period, between 1767 and 1769, the head of the *Société typographique de Neuchâtel*—established in 1769 by Frédéric Ostervald, his son-in-law Jean-Élie Bertrand and the bookseller Samuel Fauche³—and also managed the printing press of the *Journal Hélvétique*. Felice was also the driving force behind the *Encyclopédie de Yverdon* with which Jean Henry Samuel Formey, a great friend of Vattel, was associated.

Thanks to these connections the Swiss jurist was able to work jointly with the *Mercure Suisse*, “the most widely read newspaper of the entire Swiss region”,⁴ and, over and above that, to enjoy a “good press” when, in 1758, the *Journal Hélvétique* carried an extremely positive review of the *Droit des gens*, praising its clear, crisp and fluent style. It was in fact Ostervald who oversaw the publication of the 1773 edition of the *Droit des gens* by the Société typographique de Neuchâtel, of which he was director from 1769 to 1789, supplementing it with a catalogue of the works and a biographical profile of his friend, who had passed away on 28 December 1767. The death of the Swiss jurist had been announced in 1768 in *Le Gazette littéraire de Berlin*,⁵ which published a heartfelt letter

²On Fortunato de Felice I refer the reader to the research conducted by Stefano Ferrari, including “L’epistolario di Fortunato Bartolomeo De Felice e il *transfert* culturale italo-elvetico”, *Le carte vive. Epistolari e carteggi nel Settecento*, ed. Corrado Viola (Rome: Edizioni di Storia e Letteratura, 2011), 399–410; “À la recherche d’une place dans la République des Lettres: la correspondance de F.-B. De Felice avec quelques savants italiens”, *Recherches sur Diderot et l’Encyclopédie* 49 (2014), 89–105; *Fortunato Bartolomeo De Felice (1723–1789): un intellettuale cosmopolita nell’Europa dei Lumi*, ed. Stefano Ferrari (Milan: FrancoAngeli, 2016); and “Il ‘Tartuffe’ e il ‘coquin’: i difficili rapporti intellettuali tra Elie Bertrand e Fortunato Bartolomeo De Felice”, *Rivista Storica Italiana* 129 (2017), 47–72.

³Robert Darnton, *Il grande affare dei Lumi. Storia editoriale dell’Encyclopédie 1775–1800* (1979) (Italian translation, Milan: Sylvestre Bonnard, 1998), 39.

⁴Fiocchi Malaspina, *L’eterno ritorno del Droit des gens*, 34.

⁵*La Gazette littéraire de Berlin*, 1 February 1768, 35. On this periodical François Labbé, *La Gazette littéraire de Berlin (1764–1792)* (Paris: Honoré Champion, 2004), who underlined, on p. 104, that Vattel’s theses “étaient très en faveur à Berlin et à Potsdam”. But also in Italy Vattel’s work received acclaim, Romualdo de Sterlich, *Lettere a G. Lami (1750–1768)*, ed. Umberto Russo and Luigi Cepparrone (Naples: Jovene, 1994), 541: “Ho dato

by Formey on the death of his friend, and in the *Journal encyclopédique*, which eulogised his writings but stated mistakenly that Vattel had died on 13 January 1768.⁶

The *Abrégé de la vie de M. de Vattel* written by Ostervald was therefore one of the first biographical profiles of the Swiss jurist, appearing seventeen years before the thumbnail biography by Carlo Denina. Ostervald provided some correct but concise information about Vattel's education (his studies in Basel and Geneva were referred to, though little was said about his teachers), his political career (stating that he had been appointed embassy advisor to Dresden in 1746) and his family (mentioning his marriage to Marie Anne de Chène de Ramelot in 1764). In addition, some of Vattel's works were cited while a flattering pen-portrait presented him not only as a talented scholar but also as a “bon citoyen” and an “ami fidele”.⁷

Compared to the *Abrége* Denina's brief record of Vattel may be considered a backward step, giving the impression that little more had become known of Vattel's life. Denina, forced into exile in 1777 following the publication of his *Dell'impiego delle persone*⁸ and having difficulty in returning to the University of Turin, went to Berlin in 1782 and was welcomed by Frederick II, who made him a member of the

una scorsa al sistema di Vattel sul Diritto delle Genti, e mi pare un libro buono perché a portata anche degl'ingegni mediocri”, even if immediately afterwards he said that he preferred Burlamaqui. On Sterlich's papers, see Luigi Cepparrone, *L'illuminismo europeo nell'epistolario di Romualdo De Sterlich* (Bergamo: Bergamo University Press-Sestante, 2008).

⁶*Journal Encyclopédique*, Bouillon, de l'imprimerie du Journal, t. II, deuxième partie, 1 March 1768, 149.

⁷[Frédéric Ostervald], “Abrégé de la vie de M. de Vattel”, ed. E. de Vattel, *Le droit des gens* (Neuchâtel: De l'imprimerie de la Société Typographique, 1777), XX. In reality the *Abrége* can be found between pp. 298–299, at the end of Chapter XVIII of the second book. In the 1773 edition the “Abrégé” can be found in the Roman pages of the second volume (I–VI). For a brief biographical outline of Ostervald, see Emer de Vattel-Jean Henri Samuel Formey, *Correspondance autour des Droit des gens*, ed. André Bandelier (Paris: Honoré Champion, 2012), 228.

⁸On Denina I permit myself to refer the reader to Frédéric Ieva, “Carlo Denina”, *Il contributo italiano alla storia del pensiero, Appendix 8 of the Enciclopedia Italiana* (Rome: Istituto della Enciclopedia Italiana, 2013), 313–317; see also *Un piemontese in Europa. Carlo Denina (1731–1813)*, ed. Giuseppe Ricuperati and Elena Borgi (Bologna: il Mulino, 2015).

Prussian Academy of Sciences. Among the many works produced during his Berlin period, Denina, Abbot of Revello, published in 1790–1791 the three volumes of his *La Prusse littéraire sous Frédéric II*,⁹ an abridged history of the most famous intellectuals and artists who lived in the Prussian state during the years 1740–1786. He thereby provoked strong controversy by devoting only three pages to Immanuel Kant and more than a hundred to himself. Moreover, the entry on Vattel—entitled simply “Wattel”—was less than a page long and did not even give the Swiss jurist’s Christian name or date of birth. Denina wrote: “vint à Berlin pour trouver de l’emploi”,¹⁰ thus alluding to Vattel’s unsuccessful attempt to enter the Berlin Academy, and he underlined that Vattel had made his literary debut with an apologia of the doctrine of Leibniz, referring to his 1741 work *Défense du système Leibnitien*,¹¹ which, he observed, had futilely been dedicated to Frederick II, King of Prussia. Subsequently, Denina stated, Vattel had in 1743 gained the favour of Count Henri de Brühl,¹² then serving as prime minister of the Electorate of Saxony. In 1746, he was sent to Bern as embassy advisor and then, in 1751, became the political advisor to the Elector of Saxony, who was later crowned Augustus III, King of Poland.¹³ The king also appointed

⁹Carlo Denina, *La Prusse littéraire sous Frédéric II: ou Histoire abrégée de la plupart des auteurs, des académiciens, et des artistes qui sont nés ou qui sont vécu dans les états prussiens depuis 1740 jusqu’à 1786* (Berlin: Hartmann, 1790–1791), 3 vols. The anastatic edition produced in 1968 by Slatkine reprints of Geneva has been consulted.

¹⁰Denina, *La Prusse littéraire sous Frédéric II*, vol. III, 464.

¹¹Emer de Vattel, *Défense du système leibnitien contre les objections et les imputations de Mr de Crousaz* (Leiden: Jean Luzac, 1741).

¹²For some biographical information on Count Brühl, see Vattel-Formey, *Correspondance autour des Droit des gens*, 16.

¹³*L’equilibrio di potenza nell’età moderna. Dal Cinquecento al Congresso di Vienna*, ed. Maurizio Bazzoli (Milan: Unicopli, 1998), 108. Other references to Vattel can be found in Maurizio Bazzoli, *Il pensiero politico dell’assolutismo illuminato* (Florence: La Nuova Italia, 1986), 134–135. Some general observations on the ideas of Vattel can be read in Jonathan Wright, *The Ambassadors: From Ancient Greece to the Nation State* (London: Harper, 2006), 275–289; Dario Lazzarich, *Stato moderno e diritto delle genti. Vattel tra politica e guerra* (Benevento: Edizioni Labrys, 2012). On more specific aspects of Vattel’s doctrine see Reinhart Koselleck, *Critica illuminista e crisi della società birghese* (1959) (Italian translation, Bologna, il Mulino, 1994), 42–46; Dominic-M. Pedrazzini, “Les capitulations militaires dans les traités des anciens états confédérés au regard des théories d’Emer de Vattel (XVI^{ème}–XVIII^{ème} siècles)”, *Forces armées et systèmes d’alliances. Colloque international d’histoire militaire et d’études de défense nationale, Montpellier 2–6 septembre 1981* (Paris: Les cahiers de la Fondation pour les études de défense nationale, 1983), 129–136; and

Vattel as his minister-plenipotentiary to Bern, a post that he held until 1759. This whole period in Vattel’s life was summarised by Denina as: “fut employé dans le département des affaires étrangères”.¹⁴

During the Seven Years’ War, Vattel obtained the position of private advisor to the chancellery of Augustus III in Warsaw. In September 1763, he was called to the Secretariat of Foreign Affairs in Dresden and the next year he married Marie Anne de Chêne de Ramelot, an “amiable & belle Polonoise”,¹⁵ who bore him a son, Christophe-Adolphe. Denina had of course heard of Vattel’s most famous work, the *Droit des gens*, which he referred to it with an incorrect title: “Ce fut dans cet état [i.e. while he was a diplomat of the Count of Saxony] qu’il donna son *Droit public*, qui est un assez bon ouvrage, & où il examine particulièrement dans quelle occasion les sujets peuvent secouer le joug d’un tyran qui les opprime”.¹⁶ This somewhat superficial and reductive judgement gave no idea at all of the profusion of arguments tackled in Vattel’s magnum opus. Denina did, however, provide some useful information at the end of the entry, when he recalled that in the second half of the eighteenth century, Marie Anne de Chêne married for a second time, to Adrian Heinrich von Borcke, a Prussian diplomat.

During the nineteenth century, other encyclopaedias included entries on Vattel, but the overall interpretation that emerged was not at all straightforward, but was rather rich in the chiaroscuro of synchronous praise and criticism.

For example, the entry in the *Bibliographie Universelle*, written by the librarian and archivist Benjamin-Charles-Edme Guérard, one of the closest collaborators of the Marquis Agricol-Joseph de Fortia-d’Urban,

Michel Senellart, “La qualification de l’ennemi chez Emer de Vattel”, *Astérior* 2 (2004), 31–51, which was consulted online from 4 April 2005. <http://asterion.revues.org/82>. Finally, see the observations of Marc Belissa who reflected on the “image policée [...] des pratiques de la guerre du milieu du XVIII^e siècle” constructed by Vattel, Marc Belissa, “Les civils dans le droit des gens et le droit de la guerre de Grotius à Rousseau”, *Expériences de la guerre et pratiques de la paix. De l’Antiquité au XX^e siècle, Études réunies en l’honneur du professeur Jean-Pierre Bois*, ed. Guy Saupin and Éric Schnakenbourg (Rennes: Presses Universitaires de Rennes, 2013), 344–346.

¹⁴Denina, *La Prusse littéraire sous Frédéric II*, vol. III, 464.

¹⁵Ibid.

¹⁶Ibid.

was one of the most critical.¹⁷ The *Bibliographie Universelle* was typical of the early nineteenth-century biographies of Vattel which gave different spellings of Vattel's name; in this case, Guérard referred to him as Emmerich rather than the correct Emeric¹⁸ and even spelt his birthplace incorrectly.¹⁹ Guérard traced Vattel's life and considered some of his works, stating that of the existing versions of the *Droit des gens* the 1773 Neuchâtel edition was best avoided, since it was full of typographical errors. The more correct version was the Dutch edition of 1775.

Guérard also made some observations that brought fully into the open his negative view of Vattel, chiding him, for example, for his purported tendency to refute the "most judicious" parts of Wolff's theory. Nor did he agree with the Swiss juris-consultant's objection to patrimonial monarchies, in which he himself saw nothing that could cause offence.²⁰ Guérard's reproach intensified in tone when he observed that in essence, works like Vattel's were based on "quelques lieux communs sur le droit public".²¹ To his mind, in the first half of the *Droit des gens* the reader was faced with a concentration of false principles of the philosophical school that were based on Roman law. Here, he

¹⁷[Benjamin Guérard], *Vattel (Emmerich de)*, in *Biographie universelle ancienne et moderne*, vol. XLVII, *Ts-Vat* (Paris: Michaud, 1827). This was the edition begun in 1811 and completed in 1828, in a total of 52 volumes. On Benjamin Guérard, see N. De Wailly, "Notice sur Guérard", *Notice sur Daunou*, ed. Benjamin Guérard (Paris: Dumoulin, 1855), 191–253. On the Marquis de Fortia-d'Urban, see Frédéric Reiffenberg, *Notice sur le marquis de Fortia-Urbain* (Brussels: Hayez, 1844).

¹⁸Edouard Béguelin, "En souvenir de Vattel (1714–1767)", *Recueil de travaux offert par la Faculté de Droit de l'Université de Neuchâtel à la Société Suisse de Juristes, à l'occasion de sa réunion à Neuchâtel, 15–17 Septembre 1929* (Neuchâtel: Université de Neuchâtel, 1929), 33–176, but the extract that has been consulted has a different pagination, p. 35, note 2, in which Béguelin wrote the wrong spelling, Emeric. Even the spelling of the surname oscillated between Vatel, Vattel and Wattel; the website <https://www.deutsche-biographie.de/gnd118767399.html#adbcontent> in which the entries of the *Allgemeine Deutsche Biographie*, published between 1875 and 1912 have been digitised, in the entry "Vattel" points out the variations of the spelling of the name and surname of the Swiss jurist. See also Charles Adolphe, "Vattel, Emerich von", *Allgemeine Deutsche Biographie* 39 (1895), 511–512. Finally, even the date of his death changes: here, it is recorded as 20 December 1767, while Béguelin, on p. 33, asserts that Vattel died on 28 December 1767.

¹⁹Vattel was born in Couvet, but here, instead it is stated that he was born in Courret, also in the principality of Neuchâtel, but of course, it could also be a simple misprint.

²⁰[Guérard], *Vattel (Emmerich de)*, 582.

²¹*Ibid.*

gave his conservative spirit free rein, asserting that such doctrines had precipitated modern revolutions. Vattel had elaborated an improper theory of sovereignty, because it was founded, always and everywhere, on “l’absurde hypothèse”²² of the abandonment of the state of nature and of natural societies. The theory of nationhood identified in a thoughtful moral person was debunked by the observation that the world had never seen “une nation entière qui ait délibéré et pris des résolutions en commun”.²³ Finally, Vattel argued for the establishment of constituent assemblies, maintaining that not only could the nation stand in judgement of all the disputes that arose in matters of government but also had the power to change the order of succession and the obligation to provide for all the needs and comforts of its members, so that every citizen “pourrait réclamer son droit à être logé, nourri et vêtu, selon sa fantaisie, aux frais des souverains ou du corps de la société”.²⁴ Vattel’s system was rife with such errors, which stemmed from the same false premises. Even in the field of religion, the Swiss jurist was on the wrong side, since his mind was filled with “tous les préjugés du protestantisme”²⁵ and hence he lashed out against the Catholic Church and its discipline, defining the pope as an “étranger”. Guérard’s analysis, in radical disagreement with the liberal principles that animated Vattel’s work, continued along the same lines and, despite conceding that the second part of the *Droit des gens* contained fewer errors than the first, his final judgement gave no right to appeal: “En résumé, le Traité du *Droit des gens* est faible, vague, plein de contradictions. On n’y trouve pas une idée neuve, ou même seulement ingénieuse. Ce qu’il y a de mieux est puisé dans Grotius, dans Wolf et dans Pufendorf”.²⁶

However, not all bibliographers of Vattel were so critical. The bibliography written by Joseph-Marie Quérard had a much more positive tone. Quérard was the author of *La France Littéraire*, an immense bibliographical inventory published between 1827 and 1839 in ten volumes, to which two more were added, in 1854–1857 and 1859–1864, respectively. Quérard’s method was to give a brief biographical introduction

²²Ibid.

²³Ibid.

²⁴Ibid.

²⁵[Guérard], *Vattel (Emmerich de)*, 583.

²⁶Ibid.

of the authors, list their works and then add interesting comments.²⁷ He began his entry on Vattel with a biography that had little new to say other than the Swiss jurist had died of edema and then listed all the works of which he was aware. He described the *Droit des gens* as an “excellent ouvrage si souvent reimprimé”²⁸ and in addition to its first edition listed another ten in French published between 1773 and 1839 and two Spanish ones of 1822 and 1824. There was however no reference at all to Italian, German, English, American and Greek editions.²⁹ As we know, in Italy Vattel’s work was translated and published in only three editions in the late eighteenth century and early nineteenth. The events surrounding the publication of the first are known to us, thanks to Antonio Trampus’s studies on Ludovico Antonio Loschi,³⁰ the translator of the *Droit des gens*. The second edition, a republication of Loschi’s translation, was printed in Bologna by the Masi brothers in 1804–1805.³¹ The third was produced in Naples in 1854 and was the

²⁷For some biographical information on Quérard, see Olphar Hamst, *A Martyr to Bibliography: A Notice of the Life and Works of Joseph-Marie Quérard, Bibliographer* (London: John Russell Smith, 1867); Alfredo Serrai, “Joseph-Marie Quérard”, *Il bibliotecario* 2 (1997), 17–82.

²⁸Joseph-Marie Quérard, *La France littéraire* (Paris: Firmin Didot frères, 1839), t. X, 67.

²⁹A brief survey of the different editions of the *Droit des gens* can be seen in Lazzarich, *Stato moderno e diritto delle genti*, 31, who lists twenty French editions of the *Droit des gens* published between 1768 and 1863, ten English editions in the period between 1759 and 1834, eighteen in the United States from 1796 to 1872, six in Spain between 1820 and 1836, a German edition from 1760; for a partial correction of the information provided by Lazzarich, see Fiocchi Malaspina, *L’eterno ritorno del Droit des gens*, 261–272.

³⁰See Antonio Trampus, “Il ruolo del traduttore nel tardo Illuminismo: Ludovico Antonio Loschi e la traduzione italiana del *Droit des gens*”, *Il linguaggio del tardo Illuminismo*, ed. Antonio Trampus (Rome: Edizioni di Storia e Letteratura, 2009), 81–108 and from the same author, see also “La genesi e la circolazione della Scienza della Legislazione. Saggio bibliografico”, *Rivista Storica Italiana* 117 (2005), 309–357; “La traduzione toscana del *Droit des gens* di Emer de Vattel (circa 1780): contesti politici, transfert culturali e scelte traduttive”, *Traduzione e Transferts nel XVIII secolo tra Francia, Italia e Germania*, ed. Giulia Cantarutti and Stefano Ferrari (Milan: FrancoAngeli, 2013), 153–174; and “Tra Corsica e Toscana: Emer de Vattel e i percorsi del costituzionalismo settecentesco”, *Etudes Corses* 78 (2014), 61–80.

³¹Emer de Vattel, *Il diritto delle genti, ovvero Principii della legge naturale, applicati alla condotta e agli affari delle nazioni e de’ sovrani. Opera scritta nell’idioma francese dal sig. di Vattel e recata nell’italiano da Lodovico Antonio Loschi* (Bologna, tip. de’ fratelli Masi, 1804–1805), 3 vols.

work of the expert in public law, Terenzio Sacchi, who translated a part of Vattel’s work in 1853, working from the 1835 French edition, in particular the third volume published in 1838. Sacchi’s version also contained partly translated comments of the Portuguese diplomat and philosopher Sylvestre Pinheiro Ferreira.³²

Nonetheless, Vattel’s main work was the subject of discussion in Italy as elsewhere.³³ Gian Domenico Romagnosi, for example, after asserting that Vattel carried out a worthy task by “making the public natural law of Wolff more accessible”, underlined the practical usefulness of Vattel’s work “to which the diplomats pointed in support of their arguments”.³⁴

Giovanni Carmignani,³⁵ a professor of Criminal Law and Philosophy of Law in Pisa, also devoted several pages not only to the Swiss jurist, but also to Barbeyrac, Burlamaqui and De Felice. Aware that Vattel’s work had generated controversial opinions, he cited the negative judgements

³²Terenzio Sacchi, *Diritto delle genti di E. Vattel applicato allo stato attuale delle nazioni* (Naples: Stabilimento tipografico di P. Androsio, 1854), 18. This edition is also cited by Francesco Mancuso, *Diritto, Stato, sovranità. Il pensiero politico-giuridico di Emer de Vattel tra assolutismo e rivoluzione* (Naples: Edizioni Scientifiche Italiane, 2002), 223n. For the general circulation of Vattel in Italy, see Antonio Trampus, “The Circulation of Vattel’s *Droit des gens* in Italy: The Doctrinal and Practical Model of Government”, *War, Trade and Neutrality: Europe and the Mediterranean in Seventeenth and Eighteenth Centuries*, ed. Antonella Alimento (Milan: FrancoAngeli, 2011), 217–232.

³³For example, from a rapid survey of the principal libraries of Turin it has emerged that in the Piedmontese capital there were eleven editions of the *Droit des gens*. The first edition (1758) is in the collection both of the library of the Academy of Sciences and the Norberto Bobbio library. The first of these, furthermore, owns two other 1777 editions and the United States edition of 1916. The National University library has two 1777 editions, one from 1778 and 1802. The Royal Library of Turin preserves the 1773 and 1802 editions. The libraries of the Academy of Agriculture and of the Risorgimento Museum instead have the 1774 edition. If the research is extended to the Piedmont region, one must point out at least the library of the Bishopric Seminary of Asti, which has a copy of the first edition and the Civic Library of Fossano that has the 1777 and 1802 editions. However, the three Italian editions of the *Droit des gens* do not appear to be preserved in any Turinese libraries.

³⁴Gian Domenico Romagnosi, *Assunto primo della scienza del diritto naturale*, Fourth edition with new illustrative documents administered by the author (Prato: Tipografia Guasti, 1836), 20, both citations.

³⁵Giovanni Carmignani, *Scritti inediti* (Lucca: Tipografia di Giuseppe Giusti, 1851), vol. III, 102 ff. For some biographical information on Carmignani, see Giovanna Canuti, *Giovanni Carmignani e i suoi scritti di filosofia del diritto* (Grottaferrata: Tipografia Italo-Orientale, 1924).

of Guérard and of the historian of philosophy Johann Gottlieb Buhle,³⁶ but said that the Swiss jurist nevertheless “had credit and fame”³⁷ among scholars and diplomats of the time. He mistakenly gave Vattel’s place of birth as Couret (not Couvet), and in noting how, in Vattel’s difficult early years, there had been no vacant post available to him in the Prussian diplomatic corps (as stated in all Vattel biographies), wondered whether this had been because he did not enjoy the favour of Frederick II.³⁸ After formulating this hypothesis—which in fact had no documentary foundation—he fired off a series of criticisms: Vattel had focused on nations and not sovereigns, he had not understood or had neglected Grotius’s concept of natural law, and he had not made the appropriate distinctions between the concepts of nation and state. What was the outcome of applying the law of the state of nature to nations? According to Carmignani, it brought about a situation in which there was “no right: to freedom and equality. The former is a means of exercising law and is not in itself a law, the second is the consequence of the nature of laws”.³⁹ Vattel, furthermore, had made the mistake of confounding public law with the law of nations, had been wrong to condemn patrimonial states and had misunderstood the ideas of Wolff and Grotius, which led him to lurch “from error to error”.⁴⁰

The treatment reserved for Vattel by the *Bibliographie Neuchateloise*,⁴¹ the second volume of which was composed by the archivist and librarian James Henri Bonhôte, was kinder. This entry had the advantage of not only considering Emer, but also of providing a concise biographical essay of other members of his family, including his father David and his son Charles Adolphe Maurice.⁴² Bonhôte traced Vattel’s life painstakingly,

³⁶Johann Gottlieb Buhle, *Histoire de la philosophie moderne depuis la renaissance des lettres jusqu’à Kant* (1806) (Paris: Fournier, 1816), vol. VI, 217. The objection to Vattel is the usual one: he did not put forward new ideas, but only provided a clearer and more intelligible approach to the ideas of Wolff.

³⁷Carmignani, *Scritti inediti*, vol. III, 103.

³⁸Carmignani, *Scritti inediti*, vol. III, 104.

³⁹Carmignani, *Scritti inediti*, vol. III, 106.

⁴⁰Carmignani, *Scritti inediti*, vol. III, 108.

⁴¹The first volume, also published in 1863, was edited by the Swiss expert in public law Frédéric Alexandre Marie Jeanneret.

⁴²See James Bonhôte, *Biographie neuchateloise* (Locle: chez Eugène Courvoisier, 1863), t. II; the biography of the father, David Vattel, is on 409–410, that of his son, Charles Adolphe, is on 415–416. The profile of Emer de Vattel occupies 410–415.

albeit with little attention to dates, and provided interesting details—sometimes absent from other biographies—of, for instance, his arrival at the court of Frederick II. Vattel’s sojourn in Berlin in 1742, an event recalled by almost all his biographers, had been preceded, Bonhôte noted, by an invitation from Louis Guy Henry marquis of Valory, the French diplomat at the court of Berlin, but as has already been said, the visit to Berlin did not end well. However, established in Dresden in 1746, Vattel was able to dedicate himself to writing most of his works.

Bonhôte’s biography also included reflections on Vattel’s best-known work. While recognising the existence of weak points and somewhat rash formulations of principles, he highlighted its “incontestable merit”,⁴³ commending the author’s vast knowledge and skilful reconstruction of certain principles of Grotius, Wolff and Pufendorf: Vattel had proved himself to be a profound thinker and skilful writer. Bonhôte was aware that the Swiss jurist had been unfairly treated in works like the *Biographie universelle ou Dictionnaire historique*, which claimed that Vattel’s work was full of errors and insultingly called him “un mauvais singe de Grotius et Pufendorf” and “un publiciste paradozal et dangereux”,⁴⁴ or the earlier *Bibliographie universelle*, with its entry on “Vattel” by Benjamin Guérard, and therefore, he urged readers to “se défier des critiques sévères de ces auteurs catholiques, qui ne lui pardonnaient pas celles qu’il avait faites lui même de la discipline de leur église”.⁴⁵ The *Droit des gens* had enjoyed an undeniable success because there was no other book like it, and thus, it had filled a void. The biographer ended his essay by singing Vattel’s praises and arguing that if he had lived longer he would “certainement acquis plus de titres encore à la célébrité, soit en composant d’autres ouvrages, soit en mettant la dernière main à son Droit des gens”.⁴⁶

Georges Avenel too was not one of Vattel’s detractors.⁴⁷ After having misspelt his name and given wrong information about his date of birth

⁴³Bonhôte, *Biographie neuchâteloise*, t. II, 411.

⁴⁴[François Xaver de] Feller, Charles Weiss, [Claude Ignace] Busson, *Biographie universelle ou dictionnaire historique* (Paris: Gaumes frères, 1850), t. VIII, 277, the two citations.

⁴⁵Bonhôte, *Biographie neuchâteloise*, t. II, 412.

⁴⁶Ibid., 413. Bonhôte ends the entry dedicated to Emer with a biography in which he points to the French, German, Spanish editions and an Italian one (the second edition of 1804–1805 is cited).

⁴⁷[Georges] Avenel, “Vattel”, *Biographie générale depuis les temps les plus reculés jusqu’à nos jours* (Paris: Firmin Didot frères, t. XLV, 1866), 998–999. This encyclopaedic work in

and death (according to him Emmerich de Vattel was born on 25 August 1714 and died on 20 December),⁴⁸ Avenel proceeded to interweave biographical events and brief descriptions of his other works before concluding with some reflections on the *Droit des gens*. Despite the fact that some of his opinions had been shown to be false or rash and that other criticisms had been levelled at him, Vattel's work was still “un des livres élémentaires de la science, parce qu'il contient des principes d'une éternelle vérité, parceque c'est un livre de bonne foi, qui s'efforce de donner pour base à la politique la justice et la probité”,⁴⁹ since it had a clear exposition and a certain ingenious deductions. Vattel also had the merit of providing clear summaries of the science of Grotius “profonde mais confuse”,⁵⁰ of Pufendorf, more systematic but fraught with subtlety, and of Wolff, which corrected various inaccuracies in his thought.

It has already been emphasised that Vattel's detractors⁵¹ were as numerous, if not more numerous, than his admirers⁵²: while Immanuel

46 volumes was published between 1853 and 1866, under the direction of Jean-Chretien Ferdinand Hofer. The extensor Georges Avenel (1828–1876) was a scholar of the French Revolution and the author of a biography of Anacharsis Cloots, *Anacharsis Cloots: l'orateur du genre humain* (Paris: Librairie Internationale, 1865), vol. I, 17, 2 vols., in which the author refers to an episode in which, among other things, Cloots was studying the natural law of Vattel.

⁴⁸The correct dates were 25 April 1714–1728 December 1767.

⁴⁹Avenel, “Vattel”, *Biographie générale*, t. XLV, 999.

⁵⁰Ibid.

⁵¹Even the anonymous writer of the entry “Vattel, Emmerich”, *The Penny Cyclopaedia of the Society for the Diffusion of Useful Knowledge*, vol. XXVI, *Ungulata-Wales* (London: Charles Knight and Co., 1843), 154, while recognising the celebrity enjoyed by Vattel, did not refrain from making some critical observations of his best-known work: “the work has all that speciousness and superficiality which characterise the moralists of the ‘Encyclopaedic’”. Vincent Chetail, “Vattel et la sémantique du droit des gens: une tentative de reconstruction critique”, *Vattel's International Law in a XXIst Century Perspective-Le droit international de Vattel vu du XXI^e siècle*, ed. Vincent Chetail and Peter Haggemacher (Leiden-Boston: Martinus Nijhoff Publishers, 2011), 388n in which he states that he had consulted more than two hundred works, between 1759 and 1860, who for the most part are extremely critical of Vattel.

⁵²Fiocchi Malaspina, *L'éternel ritorno del Droit des gens*, 7. Another favourable assessment of Vattel can be read in Antoine Pillet, *Les fondateurs du droit international* (Paris: Giard e Brière, 1904), 481–601. The author, an expert in the history of treaties in a Parisian university, stated that Vattel was an illustrious scholar and that his work was worthy of study because it had the merit of being making clearer the obscure doctrine of Wolff, thus providing a decisive contribution to “a répandre dans les sphères officielles et dans le public les

Kant⁵³ passed a critical judgement, the Swiss diplomat Jean Pierre Chambrier d’Oleires⁵⁴ had deep reservations about Vattel’s system. And just as there had been many fault-finders in the nineteenth century, so in the early twentieth, there was no lack. One such critic was Cornelis Van Vollenhoven, professor of law in Leiden and author of *Les trois phases du droit des gens*,⁵⁵ who accused Vattel of giving Grotius’s system “le baiser de Judas”.⁵⁶ In his opinion, Vattel had formulated a series of misleading doctrines, such as that of the equality of all nations and—after defining Grotius as “le prophète d’une ligue des peuples”⁵⁷—he attacked Vattel’s theory with excessive force, calling it “la négation absolue du droit des gens et de la ligue des peuples à la fois”.⁵⁸ Vattel’s unpardonable sin was that of having eclipsed Grotius reputation,⁵⁹ for in what Vollenhoven called the second phase of the *Droit des gens*, which ran from 1770 to 1913, the scene had been shamefully dominated by the Swiss jurist’s

principes du droit international”, 483. According to Haggemacher (“Le modèle de Vattel et la discipline du droit international”, *Vattel’s International Law*, 6) in the end Kant recognised that for the moment Vattel’s treatise remained the best evidence of the as yet little explored science of the *jus gentium*.

⁵³See Immanuel Kant, “Per la pace perpetua”, *Scritti politici e di filosofia della storia e del diritto*, Italian translation by Gioele Solari and Giovanni Vidari, posthumous edition by Norberto Bobbio, L. Firpo and V. Matthieu (Turin: UTET, 1956), 298 (quoted from the 1998 reprint) in which Vattel along with Grozio and Pufendorf, often cited in justification of aggressive wars, are only “Job’s comforters, all of them” and their code does not have “have not—nor can have—the slightest legal force”.

⁵⁴Jean Pierre Chambrier, Baron of Holeyres negotiated the return of Neuchâtel to Prussian sovereignty; he was the Prussian plenipotentiary in Switzerland from 1805 to 1814 and later governor of the province of Neuchâtel from 1814 to his death in 1822. He took an interest in Vattel’s work, writing some commentaries to the Swiss jurist’s work: *Est-il permis en certaines circonstances d’attenter à la vie du chef de l’état? Dialogue entre Jules César et Cicéron*, par Emer de Vattel, extraits des Annexes du 3^e volume d’une nouvelle édition du *Droit des Gens* publié avec un commentaire et des notes de M. le Baron de Chambrier (Paris: Rey et Gravier, 1837).

⁵⁵Cornelis van Vollenhoven, *Les trois phases du droit des gens* (La Haye: Martinus Nijhoff, 1919).

⁵⁶Van Vollenhoven, *Les trois phases du droit des gens*, 28.

⁵⁷*Ibid.*, 30.

⁵⁸*Ibid.*, 30–31.

⁵⁹Regarding Vattel, Vollenhoven, on 32, expressed himself as follows: “the man who, as a thinker and a worker, is not worthy of tying Grotius’s shoelaces”.

work, with new editions of the *Droit des gens* proliferating whereas those of Grotius's work were rare. Vollenhoven's analysis proceeded implacably, pouring poison on the validity of Vattel's ideas.⁶⁰ The eruption of the First World War had made clear the futility of Vattel's system⁶¹ and heralded the return to the theories of Grotius, whose supreme merit was his "inspiration profondément chrétienne".⁶² In the end, Vollenhoven's eagerness to rehabilitate Grotius prompted him to describe Vattel as "Satan".⁶³

The turning point in the biographies of Vattel came without doubt in 1929 with the publication of Edouard Béguelin's *En souvenir de Vattel*. Here, the life of Vattel was reconstructed entirely on archival sources and the author, a law professor and rector of the University of Neuchâtel, dispelled many lingering doubts about various events of the Swiss jurist's life.⁶⁴

In reality, although it may seem paradoxical, one can see that Vattel's detractors and defenders had certain points in common. The most significant feature—Vattel's lack of originality—that had been pointed out by the former was basically also recognised by the latter. But those who sided with Vattel focused predominantly on the positive effects of the *Droit des gens*, a work much used by diplomats of the English-speaking world and to a lesser extent by those of continental Europe, with the exception of the Viennese. As Stapelbroek has explained,⁶⁵ Vattel's admirers included Edmund Burke, who considered him a "modern writer" who was able to express "the sense of the day in which we live".⁶⁶

⁶⁰See, for example, Van Vollenhoven, *Les trois phases du droit des gens*, 52: "In Vattel's system, all is mere appearance" or on 55 "We are still building on the rotten floor of Vattel".

⁶¹See Van Vollenhoven, *Les trois phases du droit des gens*, 58.

⁶²*Ibid.*, 67.

⁶³*Ibid.*, 93: "Avec la ligue des peuples, la guerre que détermine l'intérêt individuel est abolie. Si on la laissait subsister, le satan Vattel s'y glisserait aussitôt".

⁶⁴Béguelin, *En souvenir de Vattel (1714–1767)*, Accompanied by an appendix of 24 documents.

⁶⁵See the chapter by Koen Stapelbroek in this volume.

⁶⁶Edmund Burke, "Speech on the Seizure and Confiscation of Private Property in St Eustatius", 14 May 1781, in *Parliamentary History (1806–1820)*, xxii (1781–1782), col. 231.

Vattel’s work did not enjoy great success in France because there Wolff’s reputation was on the wane in that country. Vattel himself complained about the difficulty of finding a Parisian publisher willing to publish his *Observations sur le Droit naturel de M. Wolf*: “les libraires me disent que le nom de Wolf n’est plus à la mode. Si je veux les rendre independantes de l’ouvrage de ce philosophe & les publier en forme de *Questions de Dr[oit] nat[urel]* je crois que je trouverai à les placer”.⁶⁷ As Furio Diaz has observed, Vattel was accorded scant credit by the thinkers of the French Enlightenment, notwithstanding the fact that his *Droit des gens* contained a “constitutionalism—in part inspired by the ideas of a temperate government of thinkers like Barbeyrac or Burlamaqui not to mention by the French theorisations of the fundamental laws—that was in some way already more open to certain Enlightenment accounts of national sovereignty and the freedom of citizens”,⁶⁸ these contributions were not enough to attract the attention of the *philosophes*. It is known, for example, that Rousseau never “concerned” himself with Vattel’s works and that he “cite jamais [...] jamais dans ses ouvrages ni dans sa correspondance”.⁶⁹ The limited dissemination of Vattel’s works in certain Enlightenment cultural environments runs counter to their widespread circulation among diplomats and government officials, including, as Antonella Alimento has shown, those of France.⁷⁰ This was why the Swiss jurist’s work occupied “une place de premier ordre” throughout the nineteenth century.⁷¹ The *Droit des gens*, which in the United States had illustrious readers such as the presidents George Washington, John Adams and Thomas Jefferson, enjoyed success because of its defence of the concept of national sovereignty at the expense of a patrimonial state;

⁶⁷Vattel-Formey, *Correspondance autour des Droit des gens*, n. 60, Letter from Vattel to Formey, 8 November 1755, 158.

⁶⁸Furio Diaz, *Filosofia e politica nel Settecento francese* (Turin: Einaudi, 1962), 379. For some reflections on constitutionalism in Vattel’s work, see also Antonio Trampus, *Storia del costituzionalismo italiano nell’età dei Lumi* (Rome and Bari: Laterza, 2009), 35–39 and also *Vattel dopo Vattel*, 578 ff.

⁶⁹Gabriella Silvestrini, Vattel, “Rousseau et la question de la ‘Justice’ de la guerre”, *Vattel’s International Law*, 101. From the same author *Diritto naturale e volontà generale. Il contrattualismo repubblicano di Jean-Jacques Rousseau* (Turin: Claudiana, 2010), 99 and 103.

⁷⁰Alimento, *Tra strategie editoriali e progettualità riformista*, 536 ff.

⁷¹Bandelier, *Introduction*, to Vattel-Formey, *Correspondance autour des Droit des gens*, VII.

its strong anti-papism and anticlericalism, a position that drew resentful barbs from many Catholic scholars; and its manifest pragmatism, every assertion being corroborated by contemporary examples. In this way, Vattel's book became a "compass" for diplomats and all government officials.⁷²

THE ORIGINS OF THE *DROIT DES GENS*: THE CRITIQUE OF WOLFF

In the wake of this exposition of contrasting opinions of Vattel's most celebrated work, it seems opportune to look at the long maturation phases of the project that aspired to enhance the readability of Christian Wolff's ideas, making them accessible to a wider public by re-elaborating his thought in French, the principal philosophical language of the era. In perfect harmony with the spirit of the *École Romande de droit naturel*, Vattel's intention of building a bridge between German and French culture slowly evolved, making Wolff's positions on the law of nature and the law of nations more comprehensible to the latter. Indeed, this very ability of Vattel's work to act as a mediator "between different national cultures and to understand the reconceptualisation of the political language of the second half of the eighteenth century in Europe" has been widely recognised.⁷³

⁷²Elisabetta Fiocchi Malaspina, "La boussole des souverains: l'application du *Droit des Gens* de Vattel dans la diplomatie du XVIII^e siècle", *Thémis en diplomatie. Droit et arguments juridiques dans les relations internationales*, ed. Nicolas Drocourt and Éric Schnakenbourg (Rennes: PUR, 2016), 91. Naturally, in the course of the twentieth century and the start of the twenty-first, there has been no lack of biographies of the Swiss jurist, but here, we are interested in the way he was considered in certain encyclopaedic works not published during the nineteenth century. In Haggemacher, "Le modèle de Vattel et la discipline du droit international", *Vattel's International Law*, 5–8 refer to a series of eighteenth-century studies of Vattel. Among the recent biographies of Vattel, see at least the introduction to the edition of Emer de Vattel, *The Law of Nations*, ed. Béla Kapossy and Richard Whatmore (Indianapolis: Liberty Fund, 2008), IX–XX, which contains some brief biographical outlines of Vattel. Béla Kapossy has also edited a monographic edition of *Grotiana*, 31 (2010). It is also worth indicating two biographical entries published online, one edited by François Moureau which has the benefit of citing various documents from French archives (see *Dictionnaire des Journalistes [1600–1789]*), which can be consulted at <http://dictionnaire-journalistes.gazettes18e.fr/journaliste/798-emer-de-vattel>, and the other from 2013 by Peter Haggemacher in the *Dictionnaire historique de la Suisse* that can be consulted at <http://www.hls-dhs-dss.ch/F15917.php>.

⁷³Trampus, *Vattel dopo Vattel*, 580.

The plan to write a work that started from an adaptation of the Latin prose of Wolff’s treatises emerged very gradually, both Vattel and Formey having begun to give concentrated theses to aspects of Wolff’s thinking at early as the late 1740s. While the idea of working on the theses of the German philosopher appears to have been first expressed by Formey, it was Vattel who set out a clear plan to them ideas more widely known. The task of reconstructing the dynamics that led to the publication, in 1758, of Vattel’s *Droit des gens* and Formey’s *Principes du droit de la nature et des gens: Extrait du grand ouvrage latin de Mr. De Wolff* has been made much easier by the work of André Bandelier, who has published the letters between the two intellectuals, or, more accurately, those sent by Vattel to Formey. This resource will be studied very closely in what follows.

In 1742, Vattel moved to Berlin as a guest of Formey,⁷⁴ future permanent secretary of the Berlin Academy. During his stay in the German city, in 1742 and 1743, he gained the favour of the Queen Mother Sophia Dorothea, but, despite having the support of the counsellor Carl Stefan Jordan who was close to the sovereign, his hopes of obtaining employment were dashed. He decided to move to Saxony where, as we have seen, he was more warmly received by the Elector, later King of Poland, Augustus III, and his prime minister Count Henri de Brühl.⁷⁵ He wrote to Formey, telling him of the satisfactory outcome of his journey to Dresden, where he settled during 1743.⁷⁶

⁷⁴Initially Vattel lodged in a boarding house, but soon after he was hosted by Formey, see Vattel-Formey, *Correspondance autour des Droit des gens*, no. 2, Letter from Vattel to Guillaume de Merveilleux, [later than 17 May 1742], 7. For a biographical profile of Jean Formey, the son of a French Huguenot who moved to Berlin, where the author was born and died, see Vattel-Formey, *Correspondance autour des Droit des gens*, 227, XIII–XIV. From the same editor of the Vattel-Formey papers, André Bandelier, see also “De Berlin à Neufchâtel: la genèse du Droit des gens d’Emer de Vattel”, *Schweizer im Berlin des 18. Jahrhunderts*, ed. Martin Fontius and Helmut Holzhey (Berlin: Akademie Verlag 1996), 45–56.

⁷⁵In letter no. 6 of 13 March 1744 to Formey, Vattel argued that he owed his success in Dresden to his essay on Leibniz, see Vattel-Formey, *Correspondance autour des Droit des gens*, 19–20.

⁷⁶Vattel-Formey, *Correspondance autour des Droit des gens*, no. 5, Letter from Vattel to Formey, 23 September 1743, 17.

From then on, Vattel corresponded regularly with Formey, and their letters, written between September 1743 and July 1767,⁷⁷ serve as an informative source about the gestation of the *Droit des gens*. They show, for example, that Vattel's interest in the work of Wolff was first aroused in the late 1740s: "Je m'occupe le matin avec Wolff & l'histoire",⁷⁸ he told Formey in a letter of 30 March 1746. This was the first mention he made of the German philosopher. A little less than a year later when writing to Formey about his *Recherches sur les elements de la matière* (1747), he included in his accolades a discussion of a paragraph from Wolff's work that had led him to try out imaginative and insightful ideas.⁷⁹ In his next letter, he once more spoke about Wolff, telling his friend that he intended to "donner un Cours de cette philosophie, tire des ouvrages de Wolff",⁸⁰ and a little later he confessed that the scale of Wolff's ongoing work made him feel uneasy: "Son *Droit naturel* devient enorme & il effraie déjà ceux qui voudroient l'étudier".⁸¹ In point of fact, in 1748 the German philosopher had only finished the eight volumes of his *Jus naturae, methodo scientifica pertractatum*.

In April 1747, Vattel was preparing to settle in Bern,⁸² an advantage of his new position being that he was not required to remain in the city continuously. In his letters to Formey, the references to Wolff became more frequent, both men reflecting on his philosophy, and while Formey sent to the publishers his *L'idée, les Règles & le Modèle de la Perfection en trois Sermons sur Matth. V. 48*,⁸³ Vattel devoted the first two essays of *Le loisir philosophique ou pièces diverses de philosophie, de moral et d'amusement* to natural law.⁸⁴ Vattel commented on his friend's sermons

⁷⁷Unfortunately, as Bandelier notes, these papers are incomplete because there are some gaps relating to 1745, 1752 and 1759–1762, see Bandelier, *Introduction*, xv.

⁷⁸Vattel-Formey, *Correspondance autour des Droit des gens*, no. 11, Letter from Vattel to Formey, 30 March 1746, 34.

⁷⁹Ibid., no. 21, Letter from Vattel to Formey, 24 February 1747, 58–59.

⁸⁰Ibid., no. 23, Letter from Vattel to Formey, 27 March 1747, 67.

⁸¹Ibid.

⁸²Ibid., no. 27, Instruction pour le Conseiller d'Ambassade de Vattel allant séjourner à Berne [Dresden, 22 April 1747], 74 ff.

⁸³Samuel Formey, *L'idée, les Règles & le Modèle de la Perfection en trois Sermons sur Matth. V. 48* (Berlin: Jean Jasperd, 1747).

⁸⁴Emer de Vattel, *Le loisir philosophique ou pièces diverses de philosophie, de moral et d'amusement* (Dresden: George Conrad Walther, 1747), a work that Vattel had dedicated to Count Henry de Brühl, see *Essai sur le fondement du Droit naturel, et sur le premier*

stating that, although he thought the third to be weaker than the others, he had noted with pleasure that “la philosophie wolffienne développée avec netteté & revêtue des ornements de l'éloquence”.⁸⁵ He praised Formey for his idea of developing some reflections on natural law based on Wolff, an undertaking that was “grande [...] & difficile; mais les fruits en seroient si précieux”.⁸⁶ So here, we have evidence that it was Formey who first thought of working on Wolff's doctrine to make it more comprehensible. Meanwhile, Vattel's position had improved, for he was appointed “ministère accredité du roi” in Switzerland and settled in Neuchâtel.⁸⁷

For a while, the two friends no longer wrote about anything connected to Wolff's work; indeed, generally speaking, their letters in 1748 were few and far between. But then, in April 1749, Vattel wrote to Formey, praising him: “Vous avez entrepris un excellent ouvrage en travaillant sur le *D[roit] n[aturel]* de Wolf. Mais il faut en faire un ouvrage rempli & le travailler avec soin; garder les principes & l'essentiel de la methode de notre philosophe, mais couvrir tout cela d'un vernis aussi élégant que lucide, en un mot l'habiller à la française, ou pour dire mieux encore, imiter la manière de Cicéron dans ses ouvrages philosophiques”.⁸⁸

A few months later Vattel wrote again to Formey, this time to tell him that he was waiting to see a copy of Wolff's *Jus gentium* and to assess “si j'en pourrais tirer un ouvrage française je pusse me flater d'habiller au goût des gens à qui il importe de faire connaître cette matière”.⁸⁹ Then for several months, things were at a standstill: Formey's work on natural law had not yet been printed and Vattel remained undecided whether to undertake the work of adapting Wolff's thought in a book for a French readership. Towards the end of 1749, he wrote to Formey: “J'attens avec

principe de l'obligation, où se trouvent tous les hommes, d'en observer les loix, 3–70 and Dissertation sur cette Question: Si la Loi naturelle peut porter la Société à sa perfection, sans le secours des Loix politiques, 71–94.

⁸⁵Vattel-Formey, *Correspondance autour des Droit des gens*, no. 29, Letter from Vattel to Formey, 28 April 1747, 79.

⁸⁶Ibid., 80.

⁸⁷Ibid., no. 31, Letter from Vattel to Formey, 5 June 1747, 82.

⁸⁸Ibid., no. 37, Letter from Vattel to Formey, 12 April 1749, 97–98.

⁸⁹Vattel-Formey, *Correspondance autour des Droit des gens*, no. 39, Letter from Vattel to Formey, 27 June 1749, 104.

impatience votre *Droit naturel*, & je ne doute pas que vous ne nous y rendiez la doctrine de Wolff avec netteté & élégance. Elle a grand besoin de cette décoration pour se faire recevoir en France”.⁹⁰

In 1750, Vattel finally made up his mind and wrote: “Je lis le *Jus gentium* de Wolf, & je crois que j’entreprendrai d’en fondre l’essentiel dans un ouvrage qui puisse se faire lire en François; mais je voudrois que le vôtre sur le D[roit] n[atuel] eut paru, afin de pouvoir y renvoyer quelquefois dans le mien, tout les Dr[oit] des gens n’étant qu’une explication du D[roit] n[atuel] aux États souverains”.⁹¹ His intention was to act as cultural mediator between the German and French worlds, but “sa définition du droit des gens comme une traduction du droit naturel aux états souverains l’amena à commencer par l’étude du *Jus naturae*”,⁹² an activity that would keep him busy in the following years.

In 1751, Vattel made his decision and announced to Formey: “Avant que d’entreprendre tout de bon le *Droit des gens* dont je vous ai parlé je me suis mis à lire attentivement le *Droit naturel* de M. Wolff. L’immense lecture! Quel dommage que la <méthode> manière d’écrire de cet habile homme, & sa prolixité degoutent tant de gens de chercher de solides connaissances dans ses ouvrages. Si j’avois les forces & les talents nécessaires j’entreprendois avec joie de les refondre tous dans un ouvrage François d’un stîl moins rebutant pour le grand nombre de lecteurs. Quand paroitra votre *D[roit] naturel*? Je voudrois fort le voir, avant que de mettre tout de bon la main au *Droit des gens*. Il me serait fort commode de pouvoir i renvoyer le lecteur”.⁹³ It should be observed that the title of Vattel’s future work appears here for the first time. By the end of 1751, however, little progress had been made for Vattel was anxiously awaiting the publication of his friend’s work and had not started to write because he wanted first to read all of Wolff’s works on natural law.⁹⁴ From October 1751, he had begun to speak of “mon

⁹⁰Ibid., no. 40, Letter from Vattel to Formey, 10 October 1749, 109. A little further on Vattel restates that in this period he read a great deal and wrote little and was still waiting to read Wolff’s work.

⁹¹Ibid., no. 44, Letter from Vattel to Formey, 29 June 1750, 117.

⁹²Ibid., XII.

⁹³Ibid., no. 49, Letter from Vattel to Formey, 9 July 1751 129.

⁹⁴Ibid., no. 50, Letter from Vattel to Formey, 8 October 1751, 131–132. Unfortunately, there is a gap in the papers from 9 October 1751 to 4 January 1753.

Droit des gens”,⁹⁵ an expression used again in a letter of 1753,⁹⁶ indicating that he had in mind an entirely new work, which would precede the translation of Wolff’s *Abrégé du Droit naturel*. In the same letter, Vattel also asked Formey to sound out the Dutch publisher Luzac, while another friend contacted a publisher of Leipzig. This was a period of intense activity for Vattel, who was also working on his *Observations sur le Droit nat[urel] de M. Wolff*, a work that discussed a “quantité de décisions qui me paroissent erronnées”.⁹⁷

At the end of 1754, Vattel announced to Formey: “Mon *Droit des gens* sera travaillé avec grand soin. Ce n’est ni une traduction, ni même une refonte de celui de Wolf; ce sera un ouvrage tout différent & neuf. J’y profite beaucoup des principes de Wolf; mais je l’abandonne quelquefois, & j’ajoute beaucoup. Cependant j’espère que mon livre ne sera pas aussi gros que le sien”.⁹⁸ And again in a letter to Formey of 17 February 1757, he stated that: “mon livre est tout différent du sien”.⁹⁹ He said the same in the preface to his work in which he explained that initially he had meant to offer the public a synthesis of the thinking of the Halle philosopher but, after several unproductive efforts, had become convinced that “je devois faire un Ouvrage fort différent de celui que j’avois devant les yeux, & travailler à neuf”.¹⁰⁰ By now, Vattel was working hard on his book, albeit making slow progress because Wolff had yet to deal with all the issues he wanted to address, and so he was reading works by other authors, Grotius and Pufendorf in particular.

At the end of 1755, Vattel sent the plan of the *Droit des gens* to Formey, asking him not to spare his criticisms.¹⁰¹ The next year was spent in the exhausting search for a publisher, a first attempt with

⁹⁵ Ibid., no. 50, Letter from Vattel to Formey, 8 October 1751, 131–132.

⁹⁶ Ibid., no. 54, Letter from Vattel to Formey, 25 March 1753, 144.

⁹⁷ Ibid., 145, the two citations. This work was only published several years later under the title *Questions de Droit naturel, et observations sur le traité de M. le Baron de Wolff* (Bern: Société Typographique, 1762).

⁹⁸ Ibid., no. 57, Letter from Vattel to Formey, 10 June 1754, 152.

⁹⁹ Ibid., no. 65, Letter from Vattel to Formey, 17 February 1757, 179.

¹⁰⁰ Emer de Vattel, *Le droit des gens ou Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains* (London: 1758), *Preface*, XV.

¹⁰¹ See *ibid.*, no. 60, Letter from Vattel to Formey, 8 November 1755, 157.

Luzac¹⁰² being successful. Formey, on Vattel's behalf, had made contact with Elie Luzac junior early in the year,¹⁰³ but discussions only began in earnest several months later. Before making a decision, Luzac wanted to read some extracts from the work and to know the amount of Vattel's fee, since he did not want to buy a "chat en poche." Je ne doute pas que son livre ne soit bon, mais la question est de voir s'il l'est en stile de libraire". He also wanted to know what print run Vattel had in mind if, in the event of the deal going ahead, he could assure him a "bonne et belle impression, correcte, prompt",¹⁰⁴ and in any case, he would want exclusive rights to the work. Luzac ended the latter by proposed a summary of the work, considering Vattel to be "un homme de lettre que j'estime".¹⁰⁵ At the end of 1756, Luzac acknowledged receipt of a part of the manuscript,¹⁰⁶ but their negotiations came to naught because Vattel had no intention of granting exclusivity to the publisher,¹⁰⁷ who for his part asked Formey if he could send him a copy of the *Droit des gens* being printed in Neuchâtel.¹⁰⁸

The first edition of the *Droit des gens* was published by the Droz brothers, its production being overseen by Abraham II Droz personally. Although the printing operations were over by the end of 1757, the book was dated 1758 and bore the false publication place of London.¹⁰⁹ At long last, Vattel was able to tell to his friend: "voici enfin mon *Droit des gens*. [...] Je vous prie d'en parler dans votre journal le plutôt possible, en insistant particulièrement sur ce qui distingue mon ouvrage de tous ceux qui ont été écrit sur ces matières".¹¹⁰ As it happened, Formey had

¹⁰²See *Lettres d'Élie Luzac à Jean Henry Samuel Formey: regard sur les coulisses de la librairie hollandaise du XVIII^e siècle*, ed. Hans Bots and Jans Schillings (Paris: Champion, 2001).

¹⁰³See *ibid.*, CXXXI, Letter from Luzac to Formey, 12 January 1756, 281.

¹⁰⁴*Ibid.*, CXXXVII, Letter from Luzac to Formey, 17 May 1756, 290, the two citations.

¹⁰⁵*Ibid.*, 291.

¹⁰⁶*Ibid.*, CXLV, Letter from Luzac to Formey, [December 1756?], 300.

¹⁰⁷Vattel-Formey, *Correspondance autour des Droit des gens*, no. 65, Letter from Vattel to Formey, 17 February 1757, 179.

¹⁰⁸*Lettres d'Élie Luzac à Jean Henry Samuel Formey*, CLV, Letter from Luzac to Formey, 6 September 1757, 314.

¹⁰⁹See *ibid.*, p. XII; no. 67, Letter from Vattel to Formey, 11 April 1757, 185; no. 68, Letter from Vattel to Formey, 26 May 1757, 186; no. 69, Letter from Vattel to Formey, 20 August 1757, 188.

¹¹⁰See *ibid.*, no. 71, Letter from Vattel to Formey, 17 December 1757, 192.

three extracts from Vattel’s work published in the “Nouvelle Bibliothèque Germanique” during 1758.¹¹¹ In the same year, the publisher Marc Michel Rey of Amsterdam brought out Formey’s *Principes du droit de la nature et des gens. Extrait du grand ouvrage latin de Mr. De Wolff* by, and Elie Luzac published the counterfeit Leiden edition of the *Droit des gens*.¹¹²

The immediate success¹¹³ of his work won Vattel sufficient prestige to be appointed, by the autumn of 1759, to the chancellery of the Elector’s private council, and subsequently as Augustus III’s personal advisor.¹¹⁴

In the end, then, the roles were reversed: the new work was written by Vattel and the compilation of Wolff’s thought by Formey. The Swiss jurist had moved on from the initial idea of making a summary of Wolff’s doctrine to a completely new treatise on the law of nations, which would introduce “une sorte de procéduralisation du droit international”¹¹⁵ and, more importantly, usurp Grotius’s primacy over the course of the eighteenth century and establish itself as a work that brought the thoughts of Pufendorf, Grotius and Barbeyrac up to date.¹¹⁶ As Emmanuelle Jouannet has shown, one should not simplistically write off the *Droit des gens* for its many obvious inconsistencies, since these were the result of “les dualismes de la pensée”.¹¹⁷ Vattel’s way of working was therefore

¹¹¹Naturally, there is no lack of other works. Note for example the one published in the *Journal de Commerce*, April 1759, 137–169 and May 1759, 35–63, on which see the observations in the chapter by Koen Stapelbroek in this volume.

¹¹²Luzac alludes here to a letter to Formey, *Lettres d’Élie Luzac à Jean Henry Samuel Formey*, CLIX, Letter from Luzac to Formey, 20 May 1758, 323.

¹¹³For example, he was already cited in Martin Hübner, *De la saisie des bâtiments neutres ou du droit qu’ont les nations belligérantes d’arrêter les navires des peuples amis* (The Hague: n.p., 1759)

¹¹⁴See Haggemacher, *Le modèle de Vattel et la discipline du droit international*, 4.

¹¹⁵Fiocchi Malaspina, “La boussole des souverains”, 88.

¹¹⁶See Antonio Trampus, “Dalla libertà religiosa allo Stato nazione: Utrecht e le origini del sistema internazionale di Emer di Vattel”, *I trattati di Utrecht una pace di dimensione europea*, ed. Frédéric Ieva (Rome: Viella, 2016), 101–113; Antonio Padoa Schioppa, *Storia del diritto in Europa. Dal Medioevo all’età contemporanea* (Bologna: il Mulino, 2007), 351; and *Réflexions sur l’impact, le rayonnement et l’actualité de Le droit des gens, ou Principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains d’Emer de Vattel. Actes du colloque organisé le 21 juin 2008 à Neuchâtel*, ed. Yves Sandoz (Brussels: Bruylant, 2010).

¹¹⁷Edouard Jouannet, “Les dualismes du *Droit des gens*”, *Vattel’s International Law*, 133–150. By the same scholar see *Emer de Vattel et l’émergence du droit international classique* (Paris: Pedone, 1998).

not superficial, but rather his uncertainties were linked to his desire to incorporate many different particulars in his reflection and to the fact that his way of seeing things “est sans doute plus nuancée et complexe qu’inchoérente et illogique”.¹¹⁸ Jouannet arrived at a series of conclusions, by reason of which—to recall but one—she concluded that to reach a better understanding of the *Droit des gens*, it must be borne in mind that it was a work of transition and of ethical refinement.¹¹⁹

As a consequence of his rigorous way of working, Vattel gradually became deeply aware of having written something new. This did not induce him to minimise the importance of Wolff’s doctrine, but on the contrary, it impelled him to express his wholehearted gratitude to the German thinker. As he wrote in the preface to the *Droit des gens*, in order to avoid inserting numerous notes referring to the work of Wolff, he had preferred to declare “une fois pour toute, les obligations que j’ai à ce grand Maître”,¹²⁰ adding that not only was his *Droit des gens* very different from Wolff’s treatise but also that “j’ai osé [...] m’écarter quelquefois de mon Guide & m’opposer à ses sentiments”.¹²¹

¹¹⁸Jouannet, *Les dualismes du Droit des gens*, 135.

¹¹⁹Ibid., 146–149.

¹²⁰Vattel, *Droit des gens* vol. I, *Preface*, XVI.

¹²¹Ibid., book I, Chap. XXI. In some ways, Wolfgang Reinhard seems to have understood Vattel’s dual nature, defining him as “A Wolffian and a classic of the modern law of nations”, Wolfgang Reinhard, *Storia del potere politico in Europa* (Italian translation, Bologna: il Mulino, 2001), 459.