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REFRAMING *IUS GENTIUM*: THE SPANISH SCHOLASTICS AND THE EARLY FORMATION OF INTERNATIONAL LAW[1]

The article examines the role of the Spanish Scholasticism – Vitoria, Soto, and Suárez – in the early modern formation of ius gentium. Whereas nineteenth-century scholarship credited Grotius with founding modern international law, recent studies emphasise the earlier, foundational contribution of the School of Salamanca. Working within the forum conscientiae *and confronting dilemmas arising from Spain's expansion into the Americas, these theologians clarified the relationship between natural law, civil law, and* ius gentium. *Vitoria grounded it in the "consent of the whole world", giving it distinct normative force; Soto understood it as the result of rational deliberation shared by all peoples; Suárez systematised it as universal customary law, distinguishing* ius inter gentes *from* ius intra gentes. *Their innovations, while ultimately diverging from it, shaped the later Northern natural-law tradition of Grotius and Pufendorf.*

1. *Introduction*

For many years, the development of *ius gentium*, or the law of nations, as the standard framework for governing different states has been attributed to Protestant scholars of the early modern period. In his classic survey of *ius gentium* literature, Dietrich Heinrich Ludwig von Ompteda (1746–1803) famously identified 1625, the year Hugo Grotius published the first edition of *De Jure Belli ac Pacis Libri Tres*, as the starting point of the modern era in the law of nations.[2] Half a century later, Carl von Kaltenborn von Stachau (1817–1866), professor of constitutional law at Königsberg and one of the nineteenth century's foremost authorities on international law,

[1] This research has been funded by the Danish National Research Foundation (DNRF138).

[2] D. H. L. von OMPTEDA, *Litteratur des gesammten sowohl natürlichen als positiven Völkerrechts. Erster Theil*, Montag, Regensburg 1785.

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characterized the science of *ius gentium* (*die Wissenschaft des Völkerrechts*) as a distinctly Protestant discipline. For Kaltenborn, Protestantism provided the religious, political, and legal preconditions for the discipline's emergence: its advocacy of individual religious freedom against clerical hierarchy fostered new conceptions of personal and political liberty; the assertion of territorial sovereignty by Protestant princes against the universalist claims of empire and Church produced a highly fragmented political landscape; and the religious conflicts of the sixteenth and seventeenth centuries compelled Protestant scholars to articulate legal norms for governing relations among sovereign states.[3]

By the end of the nineteenth century, however, a different narrative began to take shape. Scholars such as Ernest Nys, James Brown Scott, John Eppstein and Camilo Barcia Trelles sought to recover the formative role played by Francisco de Vitoria (1483–1546), Francisco Suárez (1548–1617), and other members of the so-called second or early modern scholasticism.[4] These Catholic theologians and jurists constituted a transnational intellectual community whose work was decisively shaped by the global encounters following Columbus's arrival in the Americas.[5] The new political and moral questions raised by contact with non-Christian societies prompted them to develop a legal vocabulary capable of governing relations among culturally and religiously diverse peoples. While they continued to ground their reasoning in natural law, they recognized that its universal claims were complicated by human sinfulness and its entanglement with Christian revelation, which limited its applicability to non-Christian contexts.[6] As Martti Koskenniemi has observed, the Spanish Scholastics therefore turned to *ius gentium* as a foundational legal

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[3] C. KALTENBORG VON STACHAU, *Kritik des Völkerrechts nach den jetzigen Standpunkten der Wissenschaft*, Mayer, Leipzig 1847, pp. 24-45. For a detailed analysis of this debate, M. KOSKENNIEMI, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960*, Cambridge University Press, Cambridge 2001. See also M. SCHMOECKEL, *Die Reformation als Grundlage des modernen Völkerrechts*, in M. GERMANN, W. DECOCK (eds) *Das Gewissen in den Rechtslehren der protestantischen und katholischen Reformationen // Conscience in the Legal Teachings of the Protestant and Catholic Reformations*, Evangelische Verlagsanstalt, Leipzig 2017, pp. 226–269.

[4] E. NYS, *Les origines du droit international*, Alfred Castaigne/Thorin et fils, Brussels/Paris 1894; J. EPPSTEIN, *The Catholic Tradition of the Law of Nations*, Oates & Washbourne Ltd., London 1935; J. BROWN SCOTT, *The Catholic Conception of International Law*, Georgetown University Press, Washington 1934; J. BROWN SCOTT, *The Spanish Origin of International Law: Francisco de Vitoria and His Law of Nations*, Clarendon Press, Oxford 1934; C. BARCIA TRELLES, « Fernando Vazquez de Menchaca (1512–1569): L'école espagnole du droit international du XVIe siècle », Recueil des cours de l'Académie de droit international, vol. 67, 1939, p. 430–534.

[5] Th. DUVE, J. L. EGÍO, and C. BIRR (eds), *The School of Salamanca: A Case of Global Knowledge Production*, Brill, Leiden 2021.

[6] D. LANTIGUA, *Infidels and Empires in a New World Order. Early Modern Spanish Contributions to International Legal Thought*, Cambridge University Press, Cambridge 2021.

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framework that could operate across cultures. In doing so, they sought to uphold ideals of equality, freedom, and common ownership, even as they used *ius gentium* to legitimate existing institutions such as kingship, slavery, and private property.[7] However, the view that the Spanish scholastics were the founders of international law has been challenged, as this was never their primary aim.[8] As Scattola has argued, the public theory of nations did not emerge exclusively from the Spanish Scholastics; it required integration with arguments from jurisprudence and history, later expanded by Hugo Grotius (1583-1645) and others.[9]

The Spanish scholastics operated within a framework that emphasized the promotion and enforcement of moral norms in the so-called court of conscience. The court of conscience, established by the Fourth Lateran Council (1215) required the sinner to repair the injustice caused and to endure punishment, such as almsgiving, fasting, or other forms of mortification. The extent of this punishment was determined by priests after confession of sins and extended beyond earthly life to the afterlife.[10] Hence, the confessor had to be a skilled theologian able to navigate the most difficult issues of everyday life. Manuals for the education of confessors and penitents included the analysis of the most delicate juridical problems. Such treatises would serve confessors in the care for the souls and especially advise for acute moral dilemmas.[11] A central concern was the moral dimension of legal obligations, as violations of rules binding in conscience were believed to determine the salvation or damnation of the soul. The binding force of various laws – divine, natural, human, and, pertinent to this discussion, *ius gentium* – on the conscience was a challenge addressed by both Catholic and Protestant theologians.[12]

Notably, the founder of the School of Salamanca, the Dominican Francisco de Vitoria began his famous reflection on the Indies by questioning whether the children of unbelievers could be

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[7] M. KOSKENNIEMI, *To the Uttermost Parts of the Earth: Legal Imagination and International Power 1300–1870*, Cambridge University Press, Cambridge 2021, p. 141.

[8] B. TIERNEY, *Vitoria and Suarez on Ius Gentium, Natural Law, and Custom*, in A. PERREU-SAUSSINE-J. BERNARD-MURPHY (eds), *The Nature of Customary Law. Legal, Historical, and Philosophical Perspectives* Cambridge University Press, Cambridge 2009, pp. 101-124.

[9] M. SCATTOLA, *Natural Law and Natural Right in the Spanish Scholasticism*, in J. TELLKAMP (ed.) *A Companion to Spanish Imperial and Political Thought*, Brill, Leiden 2020, pp. 140-145.

[10] Bibliography is abundant on this subject, see for instance, the works by J. GOERING, *The Internal Forum and The Literature of Penance and Confession*, in W. HARTMANN and K. PENNINGTON (eds), *The History of Medieval Canon Law in the Classical Period, 1140-1234: from Gratian to the decretals of Pope Gregory IX*, The Catholic University of America Press, Washington D.C. 2008, pp. 379–428.

[11] For more information see T. DUVE, and O., DANWERTH (eds), *Knowledge of the Pragmatici. Legal and Moral Theological Literature and the Formation of Early Modern Ibero-America*, Brill, Leiden 2020.

[12] P. PRODI, *Una storia della giustizia. Dal pluralismo dei fori al moderno dualismo tra giustizia e diritto*, Il Mulino, Bologna 2015, pp. 203-204.

baptized against their parents' wishes. However, this was merely a starting point for more pressing debates, including the rights of the indigenous peoples under Spanish rule, the authority of Spanish sovereigns over them in temporal and civil matters, and, ultimately, the extent of the sovereigns' or the Church's rights over them in spiritual and religious affairs.[13] Thus, while remaining within the framework of spiritual direction, the Spanish Scholastics expanded their reflections to encompass matters of politics and international law. The Spanish scholastics did not cancel the institutions and norms previously forged in the medieval tradition of Roman law, canon law and theology. Rather they adapted them to the new framework of the emerging society of sovereign rulers or to new questions deriving from the conquest of the Indies. Natural law and *ius gentium*, though, acquired an importance and application that before was unknown, as they could offer a common foundation for the legal force of obligations between states.[14]

The discourse surrounding the distinction between *ius gentium*, natural law, and civil law is complex, and the very notion of *ius gentium* appears in multiple variations among members of the School of Salamanca.[15] In this short essay, I can offer only a concise overview of how the Spanish scholastics conceptualized *ius gentium*. For this reason, I will limit my analysis to the works of Vitoria, Soto, and Suárez. I focused on these scholars, as their contribution turned out to be very influential on Grotius and other natural lawyers. Alongside the primary sources, I also draw on the most recent historiography. Given the constraints of space, this essay provides a general survey and does not aspire to be exhaustive.

2. *Distinguishing Natural Law and* Ius Gentium*: Vitoria and Soto*

The Romans did not develop a systematic body of rules applicable to different commonwealths. The *ius gentium* was used either to define the Roman law in times of war or it was rather classified as a section of private law (Ulpian).[16] Ulpian distinguished the *ius gentium* from natural law by noting that the former applied exclusively to humans, whereas natural law encompassed both humans and animals.[17] Medieval theologians sought to differentiate the *ius gentium* from

[13] BROWN SCOTT, *The Spanish Origin of International Law*, cit., pp. 96-97.

[14] R. LESAFFER, *The Law of Nations in Renaissance Europe*, in R. LESAFFER (ed.), *The Cambridge History of International Law: Volume 6: International Law in Early Modern Europe*, Cambridge University Press, Cambridge 2025, pp. 3–67, esp. 29.

[15] For an accurate portrait see F. TODESCAN, *Jus gentium medium est intra jus naturale et jus civile : la « double face » du Droit des Gens dans la scolastique espagnole du 16ème siècle*, in P. DUPUY and V. CHETAIL (eds), *The Roots of International Law / les Fondements du Droit International : Liber Amicorum Peter Haggenmacher*, Brill, Leiden 2013, pp 121-180.

[16] M. SCATTOLA, *Natural Law*, cit., p. 140.

[17] Dig. 1, 1, 9.

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natural law. For Aquinas, the *ius gentium* was a norm derived from natural means of logical conclusion (*modus conclusionis*). Civil law was a concretization of natural law considering the circumstances of civil societies (*modus determinationis*). If the *ius gentium* was immutable and universal as natural law, *ius civile* was historical and depended from the judgment of an authority over a specific community of people. The *ius gentium* was not immediately evident in human soul but needed further reasoning to be clearly understood. Thus, the right of self-defense was immediately clear and therefore a natural right. On the other hand, the right of property required further arguments to be justified and thus it belonged to the *ius gentium*. [18]

At the threshold of the sixteenth century, the evangelization of the Indies generated a series of increasingly acute moral and theological dilemmas. The Spanish presence in the New World raised troubling uncertainties about the legitimacy of entering Indigenous communities, appropriating their goods, and engaging them in warfare. Conquistadors, unsettled by the implications of their actions, sought moral guidance. The nature of the offences confessed before them, and the extent to which Spanish activities in the Indies could be understood as violations of natural or divine law, required scrutiny.[19] In such a context, Vitoria turned to *ius gentium* as a framework that would allow him a platform to address such novel problems. He also explored the distinction between natural law and *ius gentium*. He emphasized the universal nature of the law of nations and, because of this universality, underscored its close connection to natural law. However, he also significantly separated *ius gentium* from natural law, opening new and unprecedented horizons.

Vitoria's interpretation of *ius gentium* is particularly complex and challenging to interpret. In *De Indis*, he famously identified the consent of the greater part of the whole world (*consensus maioris partis totius orbis*) as the foundation of *ius gentium*, making it binding on all humankind. As Annabel Brett has noticed, Vitoria analysis of *ius gentium* was important for the development of international law theory, because introduced another source of positivity: the consent of all people, the consent of the whole world.[20] However, as Scattola aptly suggested, the notion of an actual agreement among all nations is paradoxical. Vitoria explained that one should not envision a literal assembly of all the people on Earth, as such a gathering would be both spatially and temporally impossible – it would require convening individuals from all times. Instead, one must conceive of a virtual assembly of all people across history, as if such a gathering were possible and capable of producing binding conclusions.[21] According to Vitoria the law of nations could

[18] A. WAGNER, *International Law* in H. BRAUN, E. DE BOM, P. ASTORRI (eds). *A Companion to the Spanish Scholastics*, Brill, Leiden 2022, pp. 413-431.

[19] M. KOSKENNIEMI, *Empire and International Law: The Real Spanish Contribution*, in «University of Toronto Law Journal», 61 (1), 2011, pp. 1-36 (esp. 12-13).

[20] A. BRETT, *Changes of State. Nature and the Limits of the City in Early Modern Natural Law*, Princeton University Press, Princeton 2011, p. 13.

[21] M. SCATTOLA, *Die Systematik des Natur- und Völkerrechts bei Francisco de Vitoria*, in K. BUNGE, A. SPINDLER, and A. WAGNER (eds), *Die Normativität des Rechts bei Francisco de Vitoria. The Normativity*

not be changed because it originated from this virtual agreement of all humankind. Therefore, its repeal or modification would require an actual assembly of all humanity, which was impossible. In his lecture on *Quaestio* 57 of Aquinas, Vitoria argued that *ius gentium* did not contradict natural law but rather served to implement it. For example, diplomacy was founded on *ius gentium* because it was practical and beneficial, though not inherently necessary. The *ius gentium* was in a position intermediate between natural law and human law, and kings and subjects were obliged to comply with it as a matter of sin. Vitoria also argued that it was practically indispensable for the realization of natural law. *Ius gentium* was 'nearly necessary' for the preservation of natural law, indeed it «so closely approaches to the natural law that the natural law cannot be preserved without it».[22]

Vitoria's disciple, Domingo de Soto claimed that the law of nations was a right that peoples universally, by virtue of possessing reason, have established for themselves. Soto focused on the fact that *ius gentium* was based on human reason. He claimed that *ius gentium* as well as the civil law is established by human reason. *Ius gentium* and the civil law differ chiefly by this foundational distinction: namely, that the *ius gentium* is derived from natural principles, from the consideration of things ordered toward a certain end and their circumstances, and it is elicited by way of conclusion. Civil law, however, is drawn from one natural principle, while the other premise is posited by human decision; thus it is not gathered by a single inference but by a determination of the original principle into a specific statute. Second, for the establishment of the *ius gentium*, no gathering of people into one place is required – natural reason teaches this to individuals on its own. But for civil law, the deliberation of the commonwealth or the authority of the ruler is required, so that, after counsel has been taken, it may be established with reciprocal obligation. Third, *ius gentium* is the same for all peoples, whereas civil law is that which each people or city constitutes for itself as its own.[23] Thus, for Soto, the source of *ius gentium* was a discursive process, a ratiocination that made *ius gentium* human law rather than natural law.[24] He separated natural law in absolute sense, from natural law considered under particular conditions, which would be *ius gentium*. *Ius gentium* would indeed be a product of human reason applied to certain premises which are identical for all human beings. Since human rationality is essentially the same in everyone and the general circumstances are the same, the reasoning within the law of nations always has to come to the same conclusions, which are therefore universal. In

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of Law According to Francisco de Vitoria : Politische Philosophie und Rechtstheorie des Mittelalters und der Neuzeit. Abteilung II: Untersuchungen. - PPR II,2, frommann-holzboog, Stuttgart-Bad Cannstatt 2011, pp. 351-392, (esp. 380-381).

[22] P. KALMANOVITZ, *The Laws of War in International Thought*, Cambridge University Press, Cambridge 2020, p. 27.

[23] D. DE SOTO, *De iustitia et iure libri decem*, Venice 1594, pp. 197-198.

[24] A. BRETT, *Sources in the Scholastic Legacy: The (re)Construction of the Ius Gentium in the Second Scholastic,* in S. BESSON and J. D'ASPREMONT (eds), *The Oxford Handbook of the Sources of International Law*, Oxford University Press, Oxford 2017, pp. 64-82.

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this sense the law of nations was actually based on an hypothetical agreement of all human beings. As David Lantigua observed: «rather than formulating the law of nations as strictly logical deduction terminating in precepts, Soto allowed for greater flexibility and variability over time and different places and reasoned conclusions about certain ends stemming from natural principles».[25]

3. *Suárez and the Emergence of International Law*

As Brian Tierney has observed, Vitoria's aim was not to lay the foundations of a discipline comparable to modern international law. Rather, his concern was to address the moral and juridical problems raised by the Spanish conquest of the Indies. The resulting, and at times ambiguous, systematization of the *ius gentium* reflects this practical orientation. By contrast, the Jesuit theologian Francisco Suárez was not directly engaged with the concrete issues of the New World. His project was instead theoretical: he sought to define with precision the source and foundations of the law of nations – understood both in its classical sense as *ius gentium* and in its emerging, modern sense as international law – and to situate this body of norms within a comprehensive system of jurisprudence.[26] Suárez rejected Soto's thesis that natural law is distinguished from *ius gentium* because natural law becomes known without reasoning or with the slightest reasoning, whereas the *ius gentium* is inferred through more numerous and more complex deductions. He claimed that *ius gentium* cannot concern either the first moral principles or the conclusions necessarily inferred from them, since all of these fall under natural law proper reasoning: whether such reasoning involves more or fewer, or more or less evident deductions is a highly incidental matter.[27] Suárez described *ius gentium* as an intermediate form between natural and human law, recognizing its dual nature – rooted in universal principles yet shaped by human conventions.[28] Following Aquinas, he claimed that *ius gentium* could be inferred from natural law, but only through a peculiar form of derivation: not by purely rational and 'manifest conclusion' but by «an inference less certain, which is dependent upon the intervention of human free will and of moral expediency».[29] Natural law principles take shape as *ius gentium* norms through moral expediency and free will. However, while human will plays a role in this transformation, it is neither arbitrary nor purely discretionary, as it might be in certain areas of municipal law.

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[25] LANTIGUA, *Infidels and Empires*, cit., p. 262.

[26] TIERNEY, *Vitoria and Suarez on ius gentium*, cit., pp. 114-115.

[27] TODESCAN, *Jus gentium*, cit., p. 165.

[28] F. SUÁREZ, *A Treatise on Laws and God the Lawgiver* in Francisco Suárez, *Selections from Three Works*, edited by James Brown Scott, Carnegie Endowment for International Peace, Washington, [1612], 1944, II.xvii.1, p. 325.

[29] SUÁREZ, *A Treatise on Laws and God the Lawgiver,* cit., II.xvii.9, p. 333.

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Rather, its determinations must be fundamentally guided by considerations of 'the welfare of all nature' and aligned with natural law's primary and universal principles.[30] In this way, *ius gentium* is a necessary if somewhat flexible supplement to general principles of natural law.[31]

Suárez argued that the *ius gentium* was distinct from both natural law and civil law because it functioned as a universal form of customary law. A norm of *ius gentium* acquired the force of law not through its intrinsic content or its proximity to natural law but through a human legislative act. In Suárez's account, the *ius gentium* emerged through custom: a practice first developed within one community and subsequently adopted by others. He nevertheless acknowledged that norms closer to natural law were more likely to prove universally beneficial and self-evident, which made them particularly apt for widespread acceptance. In this sense, although *ius gentium* and natural law are closely related, natural law does not provide the foundation of *ius gentium*'s validity. As Iurlaro has pointed out, Suárez deliberately grounded the *ius gentium* in custom.[32] His insistence that the *ius gentium* constituted a form of positive human law – specifically customary law – was developed in order to refute a widespread contrary view in his time, namely that the *ius gentium* was simply natural law or a subdivision of it.[33] This line of reasoning was later echoed by James Taylor, who sharply distinguished *ius gentium* from natural law. Taylor argued that the former imposed no inherent moral obligations and was binding only when founded on explicit consent. The vast diversity of national customs – including those he labeled 'barbarous' or 'inhuman' – rendered collective consent too unstable to sustain a coherent or universal law of nations. Because such customs stemmed from contingent religious and cultural traditions rather than immutable principles, they could not provide a reliable standard for natural law. Taylor thus concluded that the *ius gentium* amounted merely to custom, not true law, and should not serve as a normative measure for natural law.[34]

A central feature of Suárez's analysis is his influential distinction between *ius inter gentes* and *ius intra gentes*. *Ius inter gentes* designates the norms governing relations between commonwealths – essentially, genuine international law created and enforced by states. *Ius intra gentes*, by contrast, comprises the rules and customs pertaining to the internal organization of particular polities, although often shared, in whole or in part, across many nations. In Suárez's view, then, a rule may belong to the *ius gentium* in two senses: in the strict sense, it obliges all peoples in their dealings with one another; in the looser, analogical sense, it refers to widely shared customary norms internal to individual commonwealths. He grounded both senses in the fundamental unity of humankind. Although divided into distinct peoples and kingdoms, the human

[30] SUÁREZ, *A Treatise on Laws and God the Lawgiver*, cit., II.xx.2, p. 352.

[31] KALMANOVITZ, *The Laws of War in International Thought*, cit., p. 28.

[32] F. IURLARO, *The Invention of Custom: Natural Law and the Law of Nations*, ca. 1550-1750, Oxford University Press, Oxford 2022, p. 66.

[33] TIERNEY, *Vitoria and Suarez on ius gentium*, cit., p. 119.

[34] P. ASTORRI, *A Protestant Ius Gentium? Ius Gentium According to Sixteenth- and Seventeenth-Century Protestant Moral Theologians* in «Revue de Synthèse», 146/3-4 (2025), pp. 1-41, (esp. p. 28).

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race possesses a moral and quasi-political unity, expressed in the natural precept of mutual love and mercy that extends even to foreigners. Every commonwealth is indeed a complete community, yet none is entirely self-sufficient; each depends, to some degree, on cooperation, communication, and mutual assistance with others. This interdependence requires legal regulation.[35] Natural reason provides much of the requisite guidance, but it does not do so fully or immediately in all matters. Hence, certain additional norms arise through the customary practices of nations. Just as custom generates law within individual cities or provinces, so shared customs across the human community can generate a law of nations. The norms that emerge in this way are few, closely related to natural law, and easily deduced from it; although not strictly necessary in themselves, they are widely regarded as fitting and naturally acceptable.

In its secondary sense, the *ius gentium* encompasses rules, rites, and modes of conduct not directed to the universal society of humankind but established within particular commonwealths for their own governance. Nevertheless, these norms often resemble one another across polities – sometimes generally, sometimes quite specifically – which justifies their inclusion under the broader label of *ius gentium*.[36] As Todescan has aptly observed, Suárez's introduction of these distinctions effectively anticipates central categories of modern international legal doctrine. Whereas Vitoria's framework still operated within the *jus gentium* of the medieval *respublica christiana*, modern international law draws a clear line between the intra-state domain and the extra-state realm regulated by international norms. From the standpoint of contemporary, secularized international law, a relationship like that which once tied the Crown of Castile to the Church of Rome would be inconceivable: modern states are defined by territorial sovereignty, may conclude concordats individually, and no longer recognize any shared spiritual authority. In the medieval world, by contrast, Empire and Church formed an indivisible unity; their conflicts expressed tensions between two hierarchies within the same overarching structure, not conflicts between distinct political entities. This medieval conception of *jus gentium* gradually receded with the rise of the territorially bounded, sovereign state and the emergence of the *jus publicum Europaeum*, which displaced the conceptual foundations of the earlier law of nations.[37]

4. *Conclusion*

The distinction between natural law and *ius gentium*, particularly in the context of Spain's ambitious expansion in the Indies, significantly influenced the work of Hugo Grotius and, later, Samuel Pufendorf and other key figures of the so-called Northern school of natural law. However, unlike the Spanish Scholastics, whose work was deeply rooted in a horizon of spiritual

[35] TODESCAN, *Jus gentium*, cit., pp. 170-171

[36] TODESCAN, *Jus gentium*, cit., p. 171.

[37] TODESCAN, *Jus gentium*, cit., p. 171. He also refers to C. SCHMITT, *Der Nomos der Erde im Völkerrecht des Jus Publicum Europaeum*, Berlin 1974, chap. II.

direction, Grotius and Pufendorf approached these concepts from a more secular perspective. As Lantigua has observed «the Spaniards considered the new Indies as the subject of conquest; while the Dutch and English found them to be the proper subjects of commerce»[38]. Commerce became the primary mode of engagement with indigenous peoples, taking precedence over evangelization through political subjugation. While evangelization was not entirely absent, it was subordinated to the pursuit of trade. In this context, the law of nations functioned independently of natural law, and natural law itself came to be understood outside the realm of faith. This shift marked a crucial development in the evolution of modern international law, as it detached legal norms from theological foundations, paving the way for a more rationalist and universalist interpretation of law.[39] Samuel von Pufendorf, for example, confined natural law to the temporal sphere of human life, asserting that humanity's ultimate end was achievable only within this domain. Salvation, being dependent solely on divine grace, was unaffected by compliance with natural law[40]. Within this temporal framework, modern international law, applicable to relations among various nations, could take shape. The Northern school of natural law introduced a different confessional perspective, which also influenced its methodology and sources. Grotius and Pufendorf, following a humanistic spirit, drew from a broader range of traditions. Their sources included canon law, civil law, Aristotelian philosophy, and classical Greek and Roman authors. This diverse intellectual foundation allowed them to develop a more secular and systematic approach to natural law and *ius gentium*, distinguishing their work from the theologically driven perspectives of the Spanish Scholastics.

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[38] LANTIGUA, *Infidels and Empires*, cit., p. 194.

[39] LESAFFER, *The Law of Nations*, cit., p. 47.

[40] F. TODESCAN, *Le radici teologiche del giusnaturalismo laico. Vol. III - Il problema della secolarizzazione nel pensiero giuridico di Samuel Pufendorf*, Giuffrè, Milano 2001, p. 92.

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