



A Neglected Aspect of the Early Modern Jurists and Edmund Burke

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Abstract/Excerpt

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In this article, I deal with the issue of how the early modern thinkers dealt, over time, with the question of 'international law' and its enforcement. To draw out Burke's underappreciated view of enforcement, it recounts the law of nations ideas by some of the main jurists of the period such as Vitoria, Gentili and Suárez. As is well known, their differentiation of the law of nations from the law of nature led to the gradual emergence of the legal principle and moral right of intervention to prevent gross violations of the natural law in the discourse of international justice. Such ideas were refined by Grotius, who largely equated international law with punishment, something Pufendorf and Vattel would later criticise. I argue that it is nevertheless Edmund Burke to whom we must look to bridge the two concerns of international law: authority and enforcement. Burke provided the conceptual scope needed to plausibly resolve the issues of enforcement by prescribing specific common law foundations, binding the legal and the moral in international law and presenting it as domestic law. This way of looking at Burke is under-recognised and provides insight into some of the same concerns we face today with enforcement in international law.

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Ancient Law is a scholarly text on the nature of law in primitive or otherwise archaic societies (where Maine's thesis is twofold: first, that ancient law is best characterised by the importance it places on a understanding of ancient law can only come from a principled examination of things actually observ being interesting to the reader for a few reasons. To assume the existence of modern legal construct Status, is to commit a grave error. Neither Natural Laws, as invoked in legal or ethical theories, nor S attempts to state or approximate the Laws of Nature, will be discussed in this article. Instead, it expl are two competing theories of Laws of Nature. In 1959, at the annual meeting of the American Associ that implicitly distinguished between Laws of Nature and Laws of Science. Laws of Science (what he



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