IV. America's True History

Life, Liberty, and the Pursuit of Happiness

How the Natural Law Concept of Gottfried Wilhelm Leibniz Inspired America's Founding Fathers

by Robert Trout

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The American Revolution was a battle against the philosophy of John Locke. Emmerich de Vattel's *The Law of Nations* was key in framing the United States as the world's first constitutional republic.

July 4, 1776: The Declaration of Independence is presented to the Continental Congress at Independence Hall, Philadelphia. Included in the drafting committee, in this painting by John Trumbull, were Thomas Jefferson (red vest, center), flanked by Benjamin Franklin (right) and John Adams (left).

> "The most perfect society is that whose purpose is the universal and supreme happiness."
>
> —Gottfried Wilhelm Leibniz, "On Natural Law," c.1690

"Happiness is the point where center all those duties which individuals and nations owe to themselves; and this is the great end of the law of nature. The desire of happiness is the powerful spring that puts man in motion: felicity is the end they all have in view, and it ought to be the grand object of the public will…. To succeed in this, it is necessary to instruct the people to seek felicity where it is to be found; that is, in their own perfection….

"The first general law that we discover in the very object of the society of nations, is that each individual nation is bound to contribute every

The year 2026 marks the 250th anniversary of the Declaration of Independence by what would soon become the United States of America. That instrumental document laid down the principles of an anti-oligarchic republican form of government, and would go on to be the inspiration for countless other peoples around the world, forever changing the shape of history. Today, this history is either misunderstood or intentionally misconstrued, and the U.S. has nearly abandoned the outlook of its Founding Fathers. Over the course of this year, *EIR* will be republishing key articles on the true anti-oligarchic history of the United States in the hopes of contributing to the widest possible discussion of these principles, the rediscovery of which has enormous implications for whether the world can get out of its current state of turmoil today.

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thing in her power to the happiness and perfection of all the others."

—*Emmerich de Vattel,* The Law of Nations, *1758*

"I am much obliged by the kind present you have made us of your edition of Vattel. It came to us in good season, when the circumstances of a rising state make it necessary frequently to consult the Law of Nations. Accordingly, that copy which I kept, has been continually in the hands of the members of our congress, now sitting."

—*Benjamin Franklin, letter to Charles W.F. Dumas, December 1775*

"This [previous work on the law of nations], says a writer, is evidently rather an introduction than a system; and it served only to excite a desire to see it continued with equal perspicuity and elegance. The honor of this task was reserved for the great Vattel, whose work is entitled to the highest admiration!"

—*James Duane, Mayor and Chief Judge of New York City, August 1784*

Library of Congress

Gottfried Wilhelm Leibniz

Most Americans, today, have no idea that there once existed something, commonly known as the "American System." The vast majority of Americans today think of freedom as the equivalent of "doing your own thing." Those who think of themselves as better educated are really no better off, believing that the Constitution of the United States came out of the tradition of John Locke's Social Contract. Alexander Hamilton, who had played a key role in shaping both the American economy and the Constitution of the United States, is commonly described as a man whose outlook was "aristocratic."

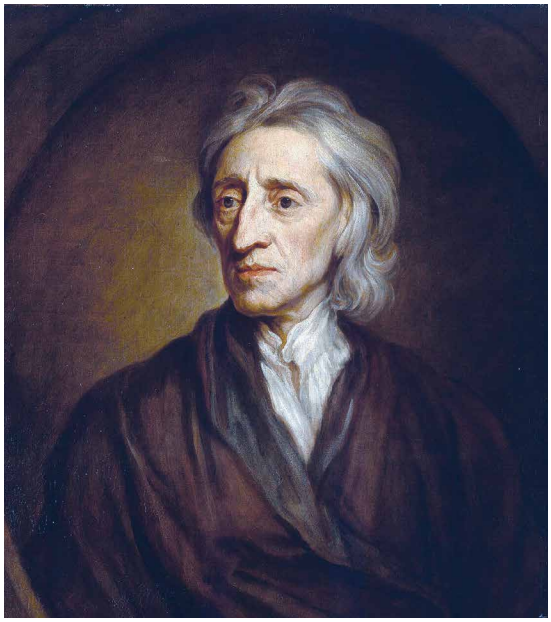
The myth that the founding of the American Republic was based on the philosophy of John Locke could only have been maintained, because the history of Leibniz's influence was suppressed. The American Revolution was, in fact, a battle *against* the philosophy of Locke and the English utilitarians. Key to this struggle, was the work of the 18th-Century jurist, Emmerich de Vattel, whose widely read text, *The Law of Nations*, guided the framing of the United States as the world's first constitutional republic. Vattel had challenged the most basic axioms of the Venetian party, which had taken over England before the time of the American Revolution, and it was from Vattel's *The Law of Nations*, more than anywhere else, that America's founders learned the Leibnizian natural law, which became the basis for the American System.

Virtually unknown today except amongst specialists, Emmerich de Vattel was born on April 25, 1714, in the principality of Neufchâtel, which was part of Switzerland. He became an ardent student of Leibniz, and in 1741, published his first work, a defense of Leibniz, *Défense du système leibnitzien.* In another book, analyzing the philosophy of Christian Wolff, Vattel showed that Christian charity is consistent with natural law. He demonstrated that Christ's instruction, "Love your enemies," is proven by natural law.[1] His most famous work, *The Law of Nations; or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns*,[2] was published in 1758. He also published a piece on tragedy and comedy, and a few poems.

In 1746, Vattel entered the diplomatic service of King Augustus III of Saxony, where he was appointed the chief advisor of the government on foreign affairs in 1758. Vattel remained in this position until his death in 1767.

Vattel's *The Law of Nations*, was the most influential book on the law of nations for 125 years following its publication. The first English translation appeared in 1759. Numerous editions of *The Law of Nations* were printed in England during the 18th Century, which were widely read in the American

colonies, along with editions in the original French. The first American edition appeared in 1796. The book was reprinted nineteen times in America by 1872. It was reprinted at least fifty times in the years following its 1758 publication. By comparison, Hugo Grotius, who is currently described as the founder of modern international law, was reprinted only around five times during the hundred years following the appearance of Vattel's work. Grotius's fame had waned in the 19th Century, but was resurrected in the opening decades of the 20th Century, through the efforts of especially the British and the Dutch. Grotius was, then, falsely promoted as the main representative of the law of nations as based on natural law, to serve as an Aristotelian foil for the establishment of an international law which was based upon Lockean positivism.



Portrait of John Locke by Godfrey Kneller.

The majority of this essay will be devoted to reviewing the contents of Vattel's *The Law of Nations*, and its documented impact on America's founding fathers. But, we must first review certain fundamental issues of law and the nation-state, as these were considered by G.W. Leibniz, and as they have been further developed by Lyndon H. LaRouche, Jr.

Locke vs. Leibniz

The 18th Century was defined by the attempts of the financier oligarchy, or Venetian Party, then headquartered in England, to wipe out the modern nation-state. The Venetian Party launched the Enlightenment, to spread the ideology that man was no more than a hedonistic animal, controlled by his sensual urges. By destroying the ability of men to think and act like citizens, they aimed to destroy the basis for the existence of the nation-state as an opponent to their oligarchical control of human society.

The prevailing theories of the Enlightenment were based on the method introduced by the Venetian, Paolo Sarpi. Sarpi's writings became the basis for such English writers as Hobbes, Locke, Mandeville, and Bentham. All these writers started by assuming that the individual's hedonistic desires are self-evident facts, and built up society from that premise. Thomas Hobbes is generally known for his bestial portrayal of human nature. John Locke, who is usually portrayed as the source of the ideas of freedom and government which motivated the founding fathers, was no better.

Locke wrote that the souls of the newly born are blank tablets. He asserted that thinking is only sense perception, and that the mind lacks the power "to invent or frame one new simple idea." He wrote,[3]

> The knowledge of the existence of any other thing, we can have only by sensation: for there being no necessary connection of real existence with any idea a man hath in his memory; … but only when, by actual operating upon him, it makes itself perceived by him….
>
> As to myself, I think God has given me assurance enough of the existence of things without me: since by their different application, I can produce in myself both pleasure and pain, which is one great concernment of my present state. (*An Essay Concerning Human Understanding, Vol. II.*)

From this bestial view that the human mind consists of only sense certainty, pleasure and pain, Locke developed an equally bestial theory of the nation. Man originally existed in a State of Nature of complete liberty. If he was attacked by another, he was justified in seeking retribution. Men, however, being filled with self-love, extracted more retribution than they justly deserved. The community or state came to be an umpire, by setting rules for the proper amount of "just retribution." And thus, the commonwealth came into existence to set just punishments and to defend itself against out-

Emerich de Vattel, by an unknown artist.

siders. It follows, that Locke's conception of freedom, was no more than the right of each man to follow his hedonistic instincts in all things, where not prohibited by the umpire's rules. Not surprisingly, when Locke wrote the "Fundamental Constitution for the Government of Carolina," in 1669, he established a feudal system which included both Black and White slavery.

The myth that John Locke was the philosopher behind the American Republic, is easily refuted by examining how Locke's philosophy steered Thomas Jefferson, for example. Jefferson's actions make it clear that, had Locke's philosophy been the inspiration for the American Revolution, the U.S. would never have become the world's leading nation and industrial power. Jefferson, who claimed that the three greatest men in history were the British empiricists Francis Bacon, John Locke, and Isaac Newton,[4] adopted their outlook that sense certainty is the basis for all knowledge, writing:

> I feel, therefore I exist. I feel bodies which are not myself: there are other existences then. I call them matter. I feel them changing place. This gives me motion. Where there is an absence of matter, I call it void, or nothing, or immaterial space. On the basis of sensation, of matter and motion, we may erect the fabric of all the certainties we can have or need. (Letter to John Adams, Aug. 15, 1820.)

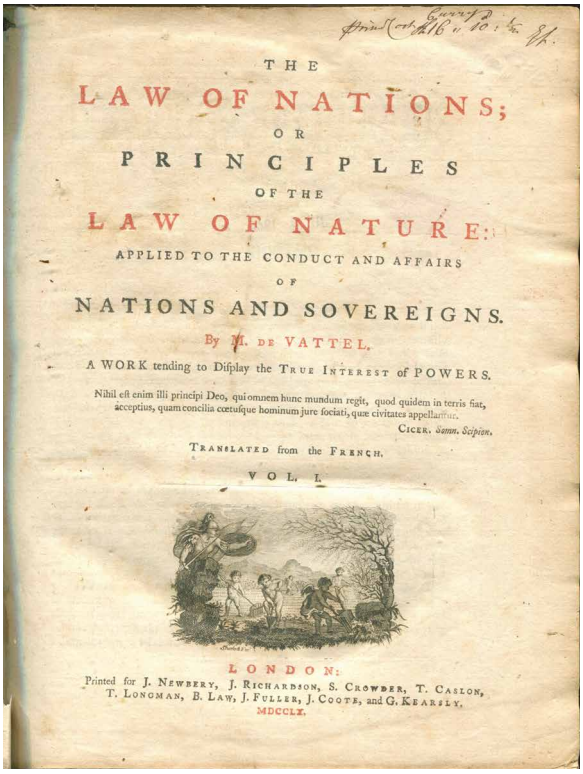
Having denied that human nature is creative reason, Jefferson saw society and economics as based on fundamentally *fixed* relationships. Consequently, he endorsed Thomas Malthus's ideology, that man's needs must exceed his ability to produce.[5] He rejected national economic development through the increase of the productive powers of labor, and instead accepted Adam Smith's free trade doctrines. Jefferson saw slavery as appropriate for Blacks, whom he considered as inherently inferior.

Jefferson opposed Hamilton's measures for the development of the nation, and in a private letter stating his opposition to Hamilton's National Bank, for example, he raved that any person in the state of Virginia, who cooperated with the Bank, "shall be adjudged guilty of high treason and suffer death accordingly."[6] Jefferson was fanatically opposed to the development of American industry, and described the growth of cities in America as "a canker which soon eats to the heart of its laws and constitution."[7] He fought to keep the nation as a feudal plantation.

If man were nothing more than a bundle of hedonistic instincts, however, whose cognitive ability were limited to sense certainty, mankind would today be no more than a few million bestial individuals on the entire planet, scratching out an existence in the dirt. In his own period, it fell to Gottfried Leibniz, who represented the best of the tradition of the Renaissance that had established the modern nation-state beginning with the France of Louis XI, to demonstrate that Locke's premises were an inhuman fraud.[8]

Leibniz developed a science of the mind, which was coherent with human nature as creative reason, rather than animalistic instincts. For the human species to make fundamental changes in its methods of existence, men must be capable of creative reason, instead of merely taking in sensual impressions and acting on instincts. Leibniz described how the mind functions by recognizing the contradictions in sensual impressions and generating Platonic ideas, which are "by far to be preferred to the blank tablets of Aristotle, Locke, and the other recent exoteric philosophers."[9]

In his writings, Leibniz demonstrated how the principles of science and law are also "not derived from sense, but from a clear and distinct intuition, which Plato called an idea."[10] Plato discussed, in the *Re-*



THE
LAW OF NATIONS;
OR
PRINCIPLES
OF THE
LAW OF NATURE:
APPLIED TO THE CONDUCT AND AFFAIRS
OF
NATIONS AND SOVEREIGNS.
By M. DE VATTEL.
A WORK tending to Display the TRUE INTEREST of POWERS.
Nihil est enim illi principi Deo, qui omnem hunc mundum regit, quod quidem in terris fiat, acceptius, quam conciliis cœtusque hominum jure sociati, quæ civitates appellantur.
CICER. Somn. Scipion.
TRANSLATED from the FRENCH.
VOL. I.
LONDON:
Printed for J. NEWBERY, J. RICHARDSON, S. CROWDER, T. CASLON, T. LONGMAN, B. LAW, J. FULLER, J. COOTE, and G. KEARSLY.
MDCCLX.

Vattel's Law of Nations

public, how some sense impressions do not provoke thought, because the judgment of them by sensation seems adequate, while others always invite the intellect to reflection, because the senses give the mind contrary perceptions. These sense impressions force the mind to conceptualize an explanation, which is intelligible rather than visible. The best example of a Platonic idea, is the demonstration which Lyndon LaRouche has developed of Eratosthenes's measurement of the size of the Earth, which Eratosthenes accomplished several millennia before anyone had actually "seen" the shape of the earth's curvature.

Leibniz and Locke's conception of how the mind works, was reflected in their different understanding of the nature of God. Leibniz's God is the Creator, who is able to transform the universe to higher levels of perfection, in a fashion which is reflected in man's transformation of human society. To illustrate how God transforms the universe, Leibniz used the example of an eternal book on the Elements of Geometry. Each new copy is made from the previous one, with new advances being added, in a lawful process of change. The nature of this lawful process of change from one copy to the next, is illustrated by the scientific discoveries made by Leibniz and his collaborators. The new copy of the Elements of Geometry, is not reached by principles of formal logic, but through a scientific discovery which takes the form of a Platonic idea. "What is true of books, is also true of the different states of the world; every subsequent state is somehow copied from the preceding one (although according to certain laws of change)."[11] Leibniz quoted Plato's *Phaedo*, to describe how the Creator orders the universe according to reason, and is continually acting to further the perfection of his creation.[12]

For Enlightenment neo-Aristotelians like Sarpi, Locke, and Grotius, the idea that the universe could be both lawful and evolving in a constant process of perfection, was incomprehensible. They saw God as trapped in the same set of fixed rules, in which their minds were trapped. Grotius stated this explicitly, arguing that, "The law of nature, again, is unchangeable—even in the sense that it cannot be changed by God."[13] Since not even God can change these fixed laws, far less powerful mankind must live in a universe defined by these fixed relationships. Aristotle, Locke, *et al.*, developed a system of law, and a model of society, in which people are trapped in fixed categories, such as aristocrat, or servant.

Leibniz understood that the idea of man living in accordance with natural law, does not mean searching for some set of fixed laws, floating off in the heavens. Rather, man lives in coherence with natural law, by ordering society according to the powers of creative reason, which makes man in the image of God. For Leibniz, the highest right, and the source of true happiness, is *piety*, when man lives so that he seeks to perfect himself, in conformity with the perfection of the Creator.

Leibniz located the two traditional notions of right, which had been codified by Aristotle, as less universal than piety. The higher of these two, Leibniz called equity. This included distributive justice, or the precept of the law that commands us to give each one what he merits or deserves. The lower degree, was that of mere right, or strict right of commutative justice, that no one is to be injured. "The strict right avoids misery whereas the next higher right, equity, tends toward happiness, but only such as fall within this mortality."[14] It is the responsibility of the state, to make laws which transform the moral claims of equity, such as the obligation to take care of the sick, into legal claims, and thereby assure the happiness of the people.

Universal justice, however, is found only on the

highest level, that of piety. The transformation from the middle to the highest level, is the difference between desiring the good of others for our own benefit, and desiring the good of others because it is our own good. On this level, man determines the justice of his acts, by weighing their consequences against the entirety of the past, present, and future. Leibniz expressed this again more simply, in the statement, "Parents exist primarily for the sake of children; the present, which does not last long, for the sake of the future."[15] However, the clear comprehension of the mind, needed to understand justice on its highest level, is achieved by few, and the hope for improvement for humanity rests on those great men.

Leibniz dedicated his life to efforts to educate people to understand that true happiness is found by locating their identity in benefitting mankind and their posterity. He was involved in far-reaching efforts to improve the productive powers of labor, through fostering education, and developing technology and science, so that the population could be lifted out of backwardness. His efforts to develop heat-powered machinery, so that one man could do the work of a hundred, mark the founding of economic science on a basis coherent with the natural law concept of man's increasing perfection. He created whole new branches of knowledge, such as the calculus, and worked to develop links with far-away countries like China.

Leibniz's understanding of natural law is best expressed, today, from the standpoint of Lyndon LaRouche, who describes himself as "in that Leibniz tradition upon which our 1776 Declaration of Independence and 1789 Federal Constitution were premised."

LaRouche has developed a rigorous proof, from a study of the demography of human society over the past two million years, that man is fundamentally different from all other species. This demographic evidence demonstrates three crucial principles. LaRouche writes,

> First, the increase of mankind's potential population-density, and also our species' improved life-expectancy and productivity, demonstrates, that the human individual is set absolutely apart from, and superior to all other living species, as *Genesis* 1:26-30 argues.
>
> Second, a retrospective view of the improvement in human demography, referenced to the post-1461 establishment of the modern, Western European form of nation-state, shows that this improvement in demography, is the consequence of combination of general education, with the fostering, through means of the individual mind's creative, cognitive processes, of scientific, technological, and related discoveries of principle. It is nothing other than this creative potential, typified by valid discoveries and employment of principles of nature for scientific and technological progress, which sets mankind apart from, and above all other species.
>
> Third, that the struggle which defines human history, to date, is between the efforts to establish a form of state based upon universal education for ongoing scientific and related progress, and against the evil heritage of so-called "traditionalist" and oligarchical (e.g., feudal-aristocratic, financier-aristocratic) forms of society, such as those conforming with the evil Code of the Emperor Diocletian.

The rigorous proof of these three principles is derived from physical economy. Natural law, rather than being a list of dos and don'ts, or of even the most admirable moral principles, must be rigorously grounded in the requirements for successful human survival. "Natural Law is the hypothesis which corresponds to the necessary and sufficient reason for mankind's successfully continued existence."

In order for a society to survive, it must generate a sufficient level of physical production both to meet its current needs, and to produce a surplus for upgrading its productive powers. The level of potential physical productivity of a society depends on both the development of the intellect of its members, and a minimal standard of both demographic characteristics and of consumption. No society could ever survive by remaining in a steady state, however, since any society which remains in a fixed mode of production, runs out of the resources that are available for that mode of production. A successful economy must therefore also generate "Free Energy," which is invested to transform it to a higher level of technology.

The successful existence of the human species depends, therefore, on such a "non-entropic" result, achieved through scientific progress, and the successful survival of any society requires that it develop within its citizens, the capability to make the scientific discoveries necessary to achieve this progress. The quality of

mind required for mankind to make necessary, successive scientific discoveries, however, is completely different from the view presented by Locke *et al.*, that knowledge is nothing more than a collection of sense impressions. This quality of mind is best expressed with reference to Plato's concept of hypothesis, and of "hypothesizing the higher hypothesis," which is the cognition required to compare different higher hypotheses used to generate discoveries and discern the most valid method of generating new discoveries.

LaRouche locates an individual's ability to make such creative discoveries as dependent on *agapē*, or the emotion associated with creativity. Through such valid discoveries, the individual contributes to the perfection of all mankind. Plato understood this, in associating *agapē* with the love of truth and the love of justice, and St. Paul used it to the same effect, extending it to the love of mankind and God. This emotion of love is in contrast to *eros*, or a fixation on sensual pleasure.

The natural law functions as a type of hypothesis, as LaRouche identifies "higher hypothesis." It consists of a set of principles (e.g., axioms) which govern the forming of many valid hypotheses, each hypothesis subsuming a theorem-lattice of lawful propositions. To be coherent with natural law, the constitutional law of any state must commit that state to serve the principles of progress, developing within its citizens those creative abilities which are dependent on the emotional state of *agapē*. This is the significance of Leibniz's conception that, "The most perfect society is that whose purpose is the universal and supreme happiness," and is the meaning of "the pursuit of happiness" in the opening of the Declaration of Independence, as well as its expression as the "General Welfare" clause in the Preamble to the U.S. Constitution.

Now, where did the founders of the United States learn the Leibnizian natural law which was the basis of the Declaration of Independence and the Constitution? Certainly not from Locke or any other of the spokesmen of the Enlightenment. Not from Grotius or other writers, who based their law on the fixed conceptions of man contained in Aristotle, Roman law, or Sarpi. At the time of the American Revolution, England's North American colonies had a literacy rate and productivity twice that of England, as the result of the efforts of republican circles. Philip Valenti and others have written about the substantial direct influence of Leibniz in the American Colonies.[16] We will now look at the role of Emmerich de Vattel in the transmission of Leibnizian natural law to America's founders.

Vattel's *The Law of Nations*

From the standpoint of our argument, the following items summarize the key points of Emmerich de Vattel's application of a Leibnizian natural law viewpoint, to the issues of the law of nations.

Vattel begins *The Law of Nations* by attacking the prevailing doctrines of natural law, for failing to distinguish human from animal behavior. The Roman emperor Justinian defined natural law as "'that which nature teaches to all animals': Thus he defines the natural law in its most extensive sense, not that natural law which is peculiar to man, and which is derived as well from his rational as from his animal nature." Vattel then attacks the writings of Grotius, Hobbes, Puffendorf, and Wolff, for being based on the same false axioms of human nature.

Grotius cut his teeth writing legal opinions for the Dutch East India Company, which was set up as part of the Venetian takeover of the Netherlands. In *On the Law of War and Peace*, Grotius used Aristotle to defend the oligarchical system: "Further, as Aristotle said that some men are by nature slaves, that is, are suited to slavery, so there are some peoples so constituted that they understand better how to be ruled than to rule."[17] He fails to understand Plato's *Parmenides* dialogue, that the Creator of the universe is the source of change which generates the elements of the universe, and, hence, is more real than those elements within that created universe.

Christian Wolff, who is often presented as the successor to Leibniz, based his natural law hypothesis on axioms of human nature, which were completely opposite to Leibniz's. Wolff wrote that, "the whole nation may best be thought of in the likeness of a man, whose soul is the director of the state, but whose body is the subjects as a whole."[18] Wolff was a defender of "enlightened absolutism," where the vast majority of people were reduced to little more than muscle labor. His extensive discussions of perfection and happiness were designed to mimic Leibniz, but stripped of Leibniz's guiding conception that all men possess creative reason. Consequently, Wolff's mercantilistic system was a static conception of economics, and not based on the development of the productive powers of labor.

In *The Law of Nations*, Vattel establishes a system of law governing relations between nation-states, based

on natural law. In the "Preliminaries" section, Vattel first establishes a natural law hypothesis which is coherent with the approach of Leibniz and LaRouche, in direct opposition to the Lockean, positivist approach which dominates law today. He then applies this natural law hypothesis, in Book I, to develop the law governing nations, and in the three other Books, to develop the law governing relations between nations.

Vattel shows that the nature of man requires that society be organized to develop *agapē* in its members. In a section which is a remarkable predecessor to the proof developed two hundred years later by Lyndon LaRouche, Vattel demonstrates that man's ability to provide for himself through technology developed by creative reason, defines human nature as fundamentally different from animal nature. Reason, or the capacity to develop new technologies through scientific discovery, allows mankind to survive and perfect himself, while animal nature is based merely on sense impressions. Vattel attacks the absurd notion, that human nature could be defined by looking at an isolated individual. The potential for speech and reason is inherent within each individual, but can only be developed through the education of the young by others. Therefore, man must work for the perfection of creative reason in himself, and in others, for society to flourish. He writes,

> Man is so formed by nature, that he cannot supply all his own wants, but necessarily stands in need of the intercourse and assistance of his fellow-creatures, whether for his immediate preservation, or for the sake of perfecting his nature, and enjoying such a life as is suitable to a rational being. This is sufficiently proved by experience. We have instances of persons, who, having grown up to manhood among the bears of the forest, enjoyed not the use of speech or of reason, but were, like the brute beasts, possessed only of sensitive faculties. We see moreover that nature has refused to bestow on men the same strength and natural weapons of defense with which she has furnished other animals—having, in lieu of those advantages, endowed mankind with the faculties of speech and reason, or at least a capability of acquiring them by an intercourse with their fellow-creatures. Speech enables them to communicate with each other, to give each other mutual assistance, to perfect their reason and knowledge; and having thus become intelligent, they find a thousand methods of preserving themselves, and supplying their wants. Each individual, moreover, is intimately conscious that he can neither live happily nor improve his nature without the intercourse and assistance of others. Since, therefore, nature has thus formed mankind, it is a convincing proof of her intention that they should communicate with, and mutually aid and assist each other.
>
> Hence is deduced the establishment of natural society among men. The general law of that society is, that each individual should do for the others everything which their necessities require, and which he can perform without neglecting the duty that he owes to himself: a law which all men must observe in order to live in a manner consonant to their nature, and conformable to the views of their common Creator,—a law which our own safety, our happiness, our dearest interests, ought to render sacred to every one of us. (*The Law of Nations*, Preliminaries, Sec. 10.)

Since men can live "consonant to their nature" only by the development of their creative potential through collaboration with others, a society which does not develop the emotion of *agapē* in its members, is self-destructive. Vattel leaves no doubt that he is diametrically opposed to the doctrines espoused by the Enlightenment philosophers such as Hobbes, Locke, and Jeremy Bentham. These doctrines, which the British oligarchy promoted, argued that the best society is achieved by each individual merely following his individual greed. Vattel writes,

> It is easy to conceive what exalted felicity the world would enjoy, were all men willing to observe the rule that we have just laid down. On the contrary, if each man wholly and immediately directs all his thoughts to his own interest, if he does nothing for the sake of other men, the whole human race together will be immersed in the deepest wretchedness. Let us therefore endeavor to promote the general happiness of mankind: all mankind, in return, will endeavor to promote ours, and thus we shall establish our felicity on the most solid foundations. (Preliminaries, Sec. 10.)

Vattel elaborates a program for national economic

development, which centers on the increase of the productive powers of labor. This makes possible the increase in the population density, which is a necessity for a successful society. However, economic development is only a means to allow the people to labor after their principal duty, and that is their own perfection.

The question of private property shows how the different natural law hypotheses of Locke and Vattel, lead to totally different conceptions of how society should be governed. John Locke's absurd formulation is, that the origin of private property can be traced back to antiquity, to a primitive man picking up acorns under a tree. According to Locke, an individual's private property is merely the result of his past labor. Locke concludes from this, that the rights of private property are sacred and cannot be regulated by society.[19]

Vattel locates the origin of private property in the increase in the population density, which necessitated the development of agriculture, to supersede a hunting and gathering society. "If each nation had, from the beginning, resolved to appropriate to itself a vast country, that the people might live only by hunting, fishing, and wild fruits, our globe would not be sufficient to maintain a tenth part of its present inhabitants." (Book I, Chap. XVIII, Sec. 209.) The advancement of society, to a more advanced mode of production, required that land be cultivated, with private property the best means for doing this.

Society has the need and, therefore, the right to regulate private property, to ensure development. Nations which claim uninhabited areas must develop them, for their claims to be valid, and the landed aristocracy is not allowed to hold large tracts of land without cultivating them. In addition, since government must provide direction to society to ensure the development of the productive powers of the nation, if the owners of a corporation act in a fashion that injures society, or which will ruin the corporation, the sovereign has the duty to constrain the prodigal.

Sovereign Nations, Not World Government

Vattel locates how the duty to contribute to the general happiness of mankind, is not removed by the formation of nation-states. Instead, when men join in a nation, they must still fulfill their duties towards the rest of mankind. He writes,

> That society, considered as a moral person, since possessed of an understanding, volition, and strength peculiar to itself, is therefore obliged to live on the same terms with other societies or states, as individual man was obliged, before those establishments, to live with other men … the object of the great society established by nature between all nations is also the interchange of mutual assistance for their own improvement, and that of their condition. (Preliminaries, Sec. 11-12.)

From this, Vattel arrives at the first general law of relations between nations:

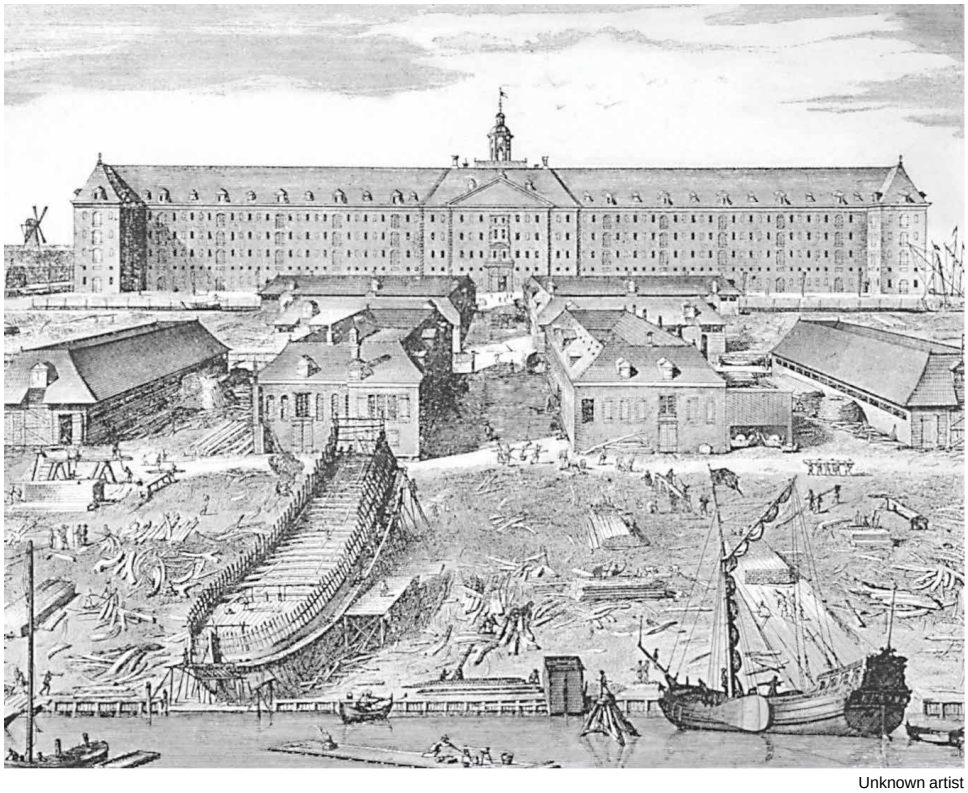
> The first general law that we discover in the very object of the society of nations, is that each individual nation is bound to contribute every thing in her power to the happiness and perfection of all the others. (Preliminaries, Sec. 13.)

The second general law of relations between nations is the sovereignty of all nations: "Each nation should be left in the peaceable enjoyment of that liberty which she inherits from nature." This is derived from natural law, since nations, like individuals, are naturally free and independent of each other, regardless of the size or strength of the nation. "A dwarf is as much a man as a giant; a small republic is not less a sovereign state than the most powerful kingdom."

Nothing makes most modern writers on international law more upset, than Vattel's explicit rejection of the idea of a world government, or supranational institutions, governing nation-states. Numerous writers in the early 1900s, raved that Vattel had to be reduced to obscurity, because of his defense of national sovereignty. Vattel rejects the formulation, advanced by Christian Wolff, that a *civitatis maximae,* or great republic, exists above all nation-states:

> It is the essence of all civil society ("*civitatis*"), that each member thereof should have given up a part of his rights to the body of the society, and that there should exist a supreme authority capable of commanding all the members, of giving to them laws, and of punishing those who refuse to obey. Nothing like this can be conceived or supposed to exist between nations. Each sovereign State pretends to be, and in fact is, independent of all others. (Preface, p. xiii.)

The sovereign nation-state is the best institution, to understand and perform the duties which the state owes to its citizens. As Vattel puts it, "A nation ought to know itself. Without this knowledge, it cannot make any successful endeavors after its own perfection." Furthermore, if nations reserve the right to judge other nations and intervene in their internal affairs, this "opens the door to all the ravages of enthusiasm and fanaticism, and furnishes ambition with numberless pretexts."



Unknown artist

Vattel: A program for national economic development is a duty of the sovereign. Dutch shipbuilding yard, 1694.

Law for Man, Whose Nature Is Creative Reason

Vattel derives a system of law governing the nation-state and relations between nations, from this natural law hypothesis. To have legitimacy, all law written by man must be coherent with this natural law hypothesis. Throughout his work, Vattel constantly addresses the leaders of nations, that a well functioning state will only exist, if they govern so that every citizen is encouraged to develop within himself those agapic qualities needed for society to flourish.

The Sovereign. When men join together in society, they must establish a Public Authority, or Sovereignty, to direct society in meeting its common aims, be it in the form of a Democracy, an Aristocracy, or a Monarchy. The rights and authority of the Sovereign are derived from his duties of preserving and perfecting the nation. Since the survival and perfection of man is based on his creative reason, the purpose of society is to create conditions for the development of those powers in each individual, and it is the duty of the sovereign to ensure that those conditions exist. Hence, the sovereign must not surround himself with a crowd of servile courtiers who convince him to consider "the kingdom as a patrimony that is his own property, and his people as a herd of cattle."

Vattel discusses the duties of the sovereign to perfect the nation, under three headings: (1) by procuring the accommodations of life, (2) by procuring the true happiness of the nation, and (3) by ensuring the nation's defense against external violence. Likewise, since the individual in the state, finds a well-regulated state the most powerful succor to enable him to perfect himself, he is obliged to contribute all in his power to render that society more perfect.

Constitution. Each nation must be governed by a constitution, or a fundamental regulation, which determines the manner in which government functions. The nation must choose the best constitution to allow the foundation for the nation's preservation, safety, perfection, and happiness. Since the constitution of a nation is determined by what is best for the perfection of the nation, it can be changed. However, the constitution ought to possess stability, so its alteration should not be taken lightly, and requires the support of the entire nation. Neither the legislature, nor the sovereign, has the power to change the constitution on its own.

The assertion that each state must be governed according to a constitution, which meets these conditions, was a very revolutionary idea at that time, when

Germany was made up of approximately three hundred separate, little states. In each, the prince or duke could rule with complete disregard for law. Even worse, the constitution of Germany, under the Holy Roman Empire, was a reactionary force on the German states. Vattel takes the opportunity to urge that a new constitution be adopted, so that the German nation might flourish.

Legislative Power. The legislative power is the body which makes civil and political laws to "furnish the state with laws suited to particular conjunctures," for the perfection of the nation and its people. The nation may entrust this function to the prince or an assembly, but the laws enacted by the legislature must be consistent with the laws of nature and the constitution. "No engagement can oblige, or even authorize, a man to violate the law of nature."

Judiciary. Vattel establishes the basis in natural law for the establishment of an independent judicial system. Since men have joined society and given up a part of their natural liberty to live in peace, the nation and its sovereign have a duty of ensuring justice. This requires both good laws, and a system which ensures that these laws are executed. It is in the interest of the sovereign, whether he be an assembly or a prince, that the people have confidence in the judicial system. "Confusion, disorder, and despondency will soon arise in a state, where the citizens are not sure of easily and speedily obtaining justice in all their disputes; without this, the civil virtues will become extinguished, and the society weakened." The judicial system must be independent of the sovereign; a nation has the right, "to establish a supreme tribunal to judge all disputes, independently of the prince." This independent judicial system should decide all disputes between the sovereign and the citizens. The state should also practice distributive justice in giving out rewards of the state, such as public employment, rather than treating these benefits as patronage. Vattel also stresses that the nobility must obey the laws, and attacks dueling, a "frenzy" and "manifest disorder, repugnant to the ends of civil society," as an example of how the nobility set themselves above the law.

Three Principal Objects of a Good Government

1. To Provide for the Necessities of the Nation. The first duty of the sovereign is "providing for the all wants of the people, and producing a happy plenty of all the necessaries of life, with its conveniences and innocent and laudable enjoyments." This allows them to better labor after their principal duty, which is their own perfection. In other words, *a program for national economic development is a duty of the sovereign*. Vattel describes the key areas necessary for a national economic development program:

• Economic development requires "a sufficient number of able workmen in every useful or necessary profession." Wise regulations and assistance properly granted will work better than constraint which is always fatal to industry. "Liberty is the soul of abilities and industry."

• The development of agriculture. Large landholders cannot leave large plots uncultivated. Vattel proposes a program for public granaries to guarantee a secure food supply. These granaries must be used to keep the price of grain from wildly fluctuating. This both allows the nation to feed its people at a reasonable price during times of scarcity, and to preserve the farmers and gain higher export prices during times of plenty.

• Commerce must be regulated from the standpoint of national economic development. Trade, within the nation and with other nations, is necessary and beneficial. However, each nation has the right to impose controls on imports to protect and encourage its own industries. Therefore, nations often sign treaties to regulate trade. Nations have a duty to trade, when another country is threatened. For example, if a nation is suffering a famine, other nations with surplus food have a responsibility to ensure that it receives necessary food supplies.

• Transportation and communications. France and Holland, for example, benefit from good transportation systems. The whole nation should contribute to such useful undertakings. Vattel defends the practice of charging tolls to pay for investment in infrastructure, but attacks the strangulation of trade, by tolls charged merely for the right of passage, a practice which was strangling the German economy at the time.

The sovereign has the right to control the issuance of money. He must guarantee the value of the coin. Unstable money hinders production and trade.

2. To Procure the True Happiness of the Nation. All the measures required for the development of the nation, are necessary, but not sufficient, to ensure its happiness. The desire for happiness ought to be the grand object of the public will. True happiness, or *agapē,* is attained when the people recognize that the development of creative reason is the true human

identity. "To succeed in this [happiness], it is necessary to instruct the people to seek felicity where it is to be found; that is, in their own perfection,—and to teach them the means of obtaining it." The sovereign, and the entire nation, must fund and encourage the arts and sciences, and useful inventions. Public education is one of the most important concerns for government. A just ruler encourages learning; a tyrant demands ignorance. Freedom of philosophical discussion is necessary for a climate of discovery.

Merely to instruct the nation is not sufficient, however. The ruler must inspire within the people, the love of virtue and love for their country. The leaders of the government should set a personal example by themselves not indulging in hedonistic pleasures. If the rulers govern the country thus, they will inspire the citizens with an ardent love for their country. Each will then apply all his powers and abilities to the advantage and glory of the nation.

Piety and religion are essential for the happiness of a nation. Vattel is addressing this question a century after the end of the Thirty Years' War, which was caused by Venetian manipulation of religious conflicts between Protestants and Catholics, and in which approximately a third of the population of Germany was killed. By piety, Vattel means, "the disposition of the soul that leads us to direct all our actions towards the Deity, and to endeavor to please him in everything we do." The leaders of the nation should endeavor to practice piety in everything they do, and encourage piety in the people. The sovereign should allow freedom of religious belief; however, he must control actions, which are committed in the name of religion, from the standpoint of the happiness and perfection of the state. Disorders, in the name of religion, or doctrines which threaten the state, are not to be tolerated. "It is a principle of fanaticism, a source of evils and of the most notorious injustice, to imagine that frail mortals ought to take up the cause of God, maintain his glory by acts of violence, and avenge him of his enemies." Vattel criticizes those doctrines of the Church which he believes violate national sovereignty.

3. To Fortify Itself Against External Attacks. A nation is imperfect if it cannot repulse an unjust enemy. The state strengthens itself through increasing the number of its citizens, and improving their wealth and military virtues. These ends are met through the measures described in the first two objects of a good government. The nation must increase its population, through the improvement of living standards, so people can raise families. The increase in the wealth of the nation is also necessary, so spending on defense will not be an excessive burden. True glory, or the cultivation of wisdom and discernment, is intimately connected with a nation's power. "The glory of Henry IV saved France. In the deplorable state in which he found affairs, his virtues gave animation to the loyal part of his subjects, and encouraged foreign nations to lend him their assistance. In his circumstances, a weak prince of little estimation would have been abandoned by all the world; people would have been afraid of being involved in his ruin." (Book I, Chap. XV, Sec. 188.)

A Nation Considered in its Relation to Others

"It is impossible that nations should mutually discharge all these several duties if they do not love each other."

Having established the principles of nations considered in themselves, Vattel next establishes the rights and duties of nations in relation to others. He opens this section by stating that his "maxims will appear very strange to cabinet politicians; and such is the misfortune of mankind." He summarizes the basic principles, which he developed in the "Preliminaries," that the ordering principle governing relations between nation-states, must be each nation contributing everything in its power to the perfection and happiness of other nations. Vattel lays out a detailed set of laws governing relations between nations, regarding such areas as aid and treaties. However, these agreements are meaningless unless they flow from a spirit of friendship and mutual affection between nations. He writes,

> How happy would mankind be, were these amiable precepts of nature everywhere observed! Nations would communicate to each other their products and their knowledge; a profound peace would prevail all over the earth, and enrich it with its invaluable fruits; industry, the sciences, and the arts would be employed in promoting our happiness, no less than in relieving our wants; violent methods of deciding contests would be no more heard of; all differences would be terminated by moderation, justice and equity; the world would have the appearance of a large republic; men would live everywhere like brothers, and each individual be a citizen of the uni-

verse. That this idea should be but a delightful dream! Yet it flows from the nature and essence of man. (Book II, Chap. I, Sec. 16.)

However, disorderly passions, and private and mistaken interests, prevent most nations from acting this way. Therefore, nations must act to protect themselves, since the law of nature cannot condemn the good to become the dupes and prey of the wicked, and a nation cannot be obliged to strengthen another, which seeks to destroy it. Instead, it must use its policies to encourage other nations to become more moderate and virtuous, setting a good example for others, with its own virtuous conduct. A learned nation should assist another nation which desires to shake off barbarism. And, although nations have the duty to assist each other in seeking happiness, no nation has the right to impose its view of happiness on others.

Endnotes

1. Emmerich de Vattel, *Questions de droit naturel, et observations sur le Traité du droit de la nature de M. le baron de Wolf* (Berne: Societé typographique, 1762).

2. Emmerich de Vattel, *The Law of Nations; or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns.* All quotes are from the edition published by Joseph Chitty, Esq. (Philadelphia: T. & J.W. Johnson & Co., Law Booksellers, 1857). Chitty was an ardent promoter of Vattel. The Carnegie Institution's 1916 translation by Charles Fenwick, who expressed hostility to Vattel in published articles, seems stilted and designed to destroy the beauty of the work.

3. John Locke, *An Essay Concerning Human Understanding* (New York: Dover Publications, 1959), Vol. I, p. 145.

4. Thomas Jefferson, Letter to John Trumbull, Feb 15, 1789, in *Thomas Jefferson: Writings* (New York: Library of America, 1984), pp. 939-40.

5. Thomas Jefferson, Letter to Jean Baptiste Say, Feb. 1, 1804, in *Writings, op. cit.*, pp. 2243-44.

6. Thomas Jefferson, Letter to James Madison, Oct. 1, 1792, in *The Papers of Thomas Jefferson*, ed. by John Catanzariti (Princeton, NJ: Princeton University Press, 1990), pp. 432-33.

7. Thomas Jefferson, *Notes on the State of Virginia*, in *Writings, op. cit.*, p. 290.

8. Leibniz wrote *New Essays on Human Understanding* as an explicit refutation of Locke's *An Essay Concerning Human Understanding.*

9. "On Platonic Enthusiasm," in *Gottfried Wilhelm Leibniz: Philosophical Papers and Letters*, ed. by Leroy E. Loemker (Dordrecht: Kluwer Academic Publishers, 1989), pp. 592-95.

10. "Elements of Natural Law," in Loemker, *op. cit.*, p. 133.

11. "On the Radical Origination of Things," in Loemker, *op. cit.*, pp. 486-491.

12. "Discourse on Metaphysics," in Loemker, *op. cit.*, pp. 316-17. Leibniz cites sections 97-99 of Plato's *Phaedo.*

13. Hugo Grotius, *De jure belli ac pacis libri tres (On the Law of War and Peace, Book III)* (Oxford: Clarendon Press, 1925), p. 40.

14. "Preface of the 'Codex Juris Gentium Diplomaticus,'" in Loemker, *op. cit.*, pp. 421-424.

15. "On Natural Law," in Loemker, *op. cit.*, pp. 428-30.

16. See Philip Valenti, "The Anti-Newtonian Roots of the American Revolution," *Executive Intelligence Review*, Dec. 1, 1995 (Vol. 22, No. 48); H. Graham Lowry, *How the Nation Was Won, America's Untold Story. Vol. I: 1630-1754,* (Washington, D.C.: Executive Intelligence Review, 1987); Renate Müller de Paoli, "Gottfried Wilhelm Leibniz: A Guide for Europe's Future" and "Leibniz and the American Revolution," *The New Federalist*, July 8, 1996 (Vol. X, No. 21).

17. Grotius, *op. cit.*, p. 105.

18. Christian Wolff, *Jus gentium methodo scientifica pertractatum (The Law of Nations Treated according to a Scientific Method)* (Oxford: Clarendon Press, 1934), p. 91.

19. See John Locke, *Two Treatises of Government* (Cambridge: Cambridge University Press, 1988), pp. 285-302.

'To Procure the True Happiness of the Nation'

The following is from Emmerich de Vattel, The Law of Nations, *1758, Book I, Chap. XI, Sec. 110-113: "Second Object of a Good Government."*

Let us continue to lay open the principal objects of a good government. What we have said in the five preceding chapters relates to the care of providing for the necessities of the people, and procuring plenty in the state: this is a point of necessity; but it is not sufficient for the happiness of a nation. Experience shows that a people may be unhappy in the midst of all earthly enjoyments, and in the possession of the greatest riches. Whatever may enable mankind to enjoy a true and solid felicity, is a second object that deserves the most serious attention of the government. Happiness is the point where center all those duties which individuals and nations owe to themselves; and this is the great end of the

law of nature. The desire of happiness is the powerful spring that puts man in motion: felicity is the end they all have in view, and it ought to be the grand object of the public will. It is then the duty of those who form this public will, or of those who represent it—the rulers of the nation—to labor for the happiness of the people, to watch continually over it, and to promote it to the utmost of their power.

To succeed in this, it is necessary to instruct the people to seek felicity where it is to be found; that is, in their own perfection,—and to teach them the means of obtaining it. The Sovereign cannot, then, take too much pains in instructing and enlightening his people, and in forming them to useful knowledge and wise discipline. Let us leave a hatred of the sciences to the despotic tyrants of the east: they are afraid of having their people instructed, because they choose to rule over slaves. But though they are obeyed with the most abject submission, they frequently experience the effects of disobedience and revolt. A just and wise prince feels no apprehensions from the light of knowledge: he knows that it is ever advantageous to a good government. If men of learning know that liberty is the natural inheritance of mankind; on the other hand they are more fully sensible than their neighbors, how necessary it is, for their own advantage, that this liberty should be subject to a lawful authority:—incapable of being slaves, they are faithful subjects.

The first impressions made on the mind are of the utmost importance for the remainder of life. In the tender years of infancy and youth, the human mind and heart easily receive the seeds of good or evil. Hence the education of the youth is one of the most important affairs that deserve the attention of government. It ought not to be entirely left to fathers. The most certain way of forming good citizens is to found good establishments for public education, to provide them with able masters—direct them with prudence—and pursue such mild and suitable measures, that the citizens will not neglect to take advantage of them.

Who can doubt that the sovereign—the whole nation—ought to encourage the arts and sciences? To say nothing of the many useful inventions that strike the eye of every beholder,—literature and the polite arts enlighten the mind and soften the manners: and if study does not always inspire the love of virtue, it is because it sometimes, and even too often, unhappily meets with an incorrigibly vicious heart. The nation and its conductors ought then to protect men of learning and great artists, and to call forth talents by honors and rewards.

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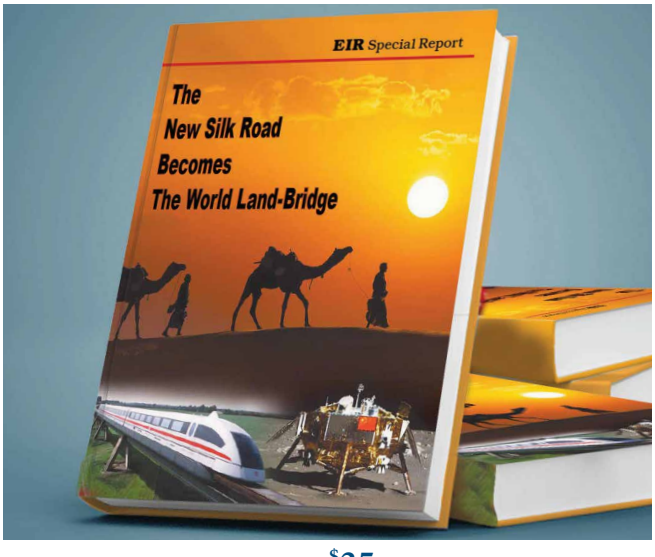

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