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*Practical Reason, 'Civil Prudence' and the Law:*

*Vico's Epistemology and Economic Action*

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*Abstract:* Adopting a single and credible model of man in both law and economics would help the study of an appropriate legal framing of markets. An appropriate common philosophical approach could avoid the incommensurabilities existing between the two disciplines. The paper rests on the hypothesis that Vico's epistemology, based on a *practical approach*, is suitable to establish an original connection between economics and the law, assuming normative theoretical elements as relevant items in economic reasoning. The peculiar epistemology of Vico based on uncertainty is exposed and the specific model of man is discussed. It is shown how Vico's is a systematic and coherent scientific programme based on a specific open-ended view of man and society. Vico introduced also a vision of what our society ought to be, some *civilising* value that can constitute a bridge between law and economics. Besides those of his friends Genovesi and Galiani, the political economy approach most compatible with Vico's epistemology is Austrian economics, broadly intended. It shares a similar view of rationality and of the evolving order of society. However, it lacks a theorisation of *collective awareness* that was one of the major achievements of Vico.

*Keywords:* Vico; Uncertainty; Civil life; Austrian economics; Collective awareness.

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## 1. Reconsidering *homo-oeconomicus* in a legal context

Understanding man in relation to both economics and law is crucial for advancing the studies of law and economics with a view to constructing a good legal framing of markets. Such an understanding should be based on an appropriate philosophical approach, avoiding the incommensurabilities existing between the two disciplines. The way economics conceives man – *homo oeconomicus* – is particularly fruitful in industrial economics, but it presents some shortcomings in many other fields. In areas requiring a precise understanding of human action in relation to law and to the fundamental legal elements that characterise society, *homo oeconomicus* fails to support practical research because it simply has difficulty conceiving many

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aspects of law. Utilitarianism and narrow conceptions of consequentialism operate with some strong reductions of context, usually seeing the law from a limited view. Nonetheless, this is not so much a problem for the theoretical system of economics as an issue concerning the *practical use of theory*: economic man is good for economising, not much for acting practically where determining common ends is relevant and reciprocity is framed by the law. This paper rests on the hypothesis that a *practical approach* to political economy can find the best connection between economics and the law, assuming normative theoretical elements as relevant items in economic reasoning.

The *practical approach* is here defined as *economic reasoning addressed to concrete action*. It includes not only evaluating the ends of economic processes in interaction with others<sup>1</sup>, but also deciding action from a starting-point of uncertain knowledge, keeping the ends open to redefinition as in the best Aristotelian tradition (Crespo 2017). Consequently, the problem of theorising human action is related to the ends of action and to the evaluation of the choices that are feasible, but structural elements such as rules, rights, and institutions have to be harmonised with that view of man. Moreover, many indirectly legal elements that enter into juridical problems such as morality, values, commitment and duties should also be included in the way man conceives himself in society in view of action.

Giovanbattista Vico, although never proposing any economic theory, outlined the notion of *civil prudence* to define his comprehensive model of action that could also help defining practical economic reasoning<sup>2</sup>. Recently, Tyler Cowen (2003, 2009), has underlined the role that Vico's approach to agency can have as a ground for Austrian entrepreneurship theory. He has addressed Vico's view as *aesthetic*, which is not wrong, but in this contribution it will be shown that Vico's research programme is a systematic scientific enterprise that can be useful to law and economics as well as to any practical economic study. Vico's approach has been interesting for a variety of economists and has been important also for the development of statistics<sup>3</sup>. It unavoidably includes an ethical perspective: the definition of some guiding principles of what our society ought to be, some *civilising* value. His disciple, Genovesi, would later assume *public happiness* as the fundamental end of action. In this perspective, ethics is strictly related to the study of practical reason and defining a practical approach to economics means finding a role for ethics in its framework (Bruni, Porta 2003).

This paper discusses how the philosophy of Vico could be a valuable framework for understanding a practical approach to economic action, particularly as an alternative to the standard economic *epistemology of certainty* that dominates microeconomics. The aim is discussing the role of uncertainty and norms in a practical approach to economic agency, turning first to Vico's epistemology (in the sense of

1 The usual definition of economics is determining the best means to reach some end. See Ege and Igersheim (eds.), (2019).

2 The main interest of Vico was with policy-making.

3 John McCall (1987), relates the work of Bruno De Finetti to the epistemology of Vico.

a theory of knowledge), then to his view of agency based on prudence. The fourth section deals with the role of law and institutions and the relationship between the socially defined individual and the sphere of collective action for the achievement of some indivisible collective ends. The fifth expands the role of law and rights for individual agency and finally offers a synthesis of the economic theory of action in a Vichian perspective.

## 2. The epistemology of Giovanbattista Vico

One of the fundamental problems of mainstream economics that renders it unsuitable as a practical approach is its *rationalism* and its full development according to the *epistemology of certainty*. It is integrally based on *verum-factum*: a man-made world of computable variables. Vico in contrast developed an epistemology that, while not denying the pertinence of mathematics, was based on the fundamental partiality and uncertainty of our knowledge (although not in a relativistic sense). His approach brought in rhetoric and common sense as bases on which action are decided and also on which scientific knowledge is built. This implied a *discursive* development of science, today comparable to the view of rationality of Jürgen Habermas or, better, John Searle. In this way, Capograssi has described Vico's theory of knowledge as an *epistemology of humility* (Capograssi 1925).

Vico developed his thinking in the context of at least two great quarrels: that of empiricism vs. rationalism (originally Boyle against Hobbes)<sup>4</sup>, and that between classical and modern conceptions of freedom (evolving from the *Querelle des anciens et des modernes*)<sup>5</sup>. According to Gangemi (2008, 2019), *De Nostri Temporis Studiorum Ratione* (1709), the inaugural speech (the seventh), of the Chair of Rhetorics in Naples, had a political aim related to the method of policy-making in the application of tax reforms. It was misunderstood and criticised as including some Hobbesian views, which was not very popular at the time. Thus in 1710, in the *De Antiquissima Italarum Sapientia*, he introduced a metaphysical element into his system of thought because he had been criticised for not having one (and probably he did not need it). In this work (1710), he emphasised that he completely aversed the method of Hobbes. He explicitly argued that he was against the pure rationalistic and conventionalist method and in favour of experimental science and of peer judgement as the criterion of validation. However, here he also clearly refused the *epistemology of certainty*, going beyond empiricism (Gangemi 2008), and in some way anticipating Rosmini's *non-perfectism*<sup>6</sup>. In this work he developed his position

4 Hobbes argued that the value of an experiment lies in its possibility of being expressed by mathematics, while Boyle claimed that the value of an experiment lies in peers' approbation.

5 See Miller (1993), for a general introduction to Vico's intellectual development.

6 The connection between Vico and Rosmini is due to both direct inspiration (also via Genovesi), and to the cultural context of Risorgimento in which Rosmini operated (affected by Romagnosi and other intellectuals after Cuoco). See Hoevel (2013).

on the different degrees of certainty of knowledge. His view was that we can know the truth only of man-made objects or theoretical systems. For the rest, we need some more complex way of judging, coping with uncertainty<sup>7</sup>.

Vico was a student of Giuseppe Ricci, a follower of Duns Scotus. We can well understand his position as an evolution of Mediaeval experimental canons, broadly supportive of the positions of Bacon, Boyle and Locke (Gangemi 2008: 595; Mondolfo 1969)<sup>8</sup>. Vico defended the logical chain that goes from perception to questioning and, then, to reflection. But Vico, although supporting Boyle, is not a true empiricist because, against empiricists, he asserts the relevance of rhetoric as a discovery device. The result is a kind of empirical approach focussed on the logics of discourse. In this view he proposed the distinction between *certum* (certain) and *verum* (truth). *Verum* can be easily achieved only in the case of man-made truths as in mathematics. *Certum* is relative and historical. In social facts we can hope to progressively get to the *verum* only by basing our knowledge on the *certum*. Consequently, we base our inquiry on what is *certain*, and in this regard, he develops a *common sense*-based theory of knowledge developed with the aid of rhetoric<sup>9</sup>.

Vico thinks that man cannot make sense of the world except by abstracting from immediate empirical sensations through language<sup>10</sup>. A fundamental peculiarity of his epistemology is that there is no distinction between language and communication, because thinking is semiosis. His theory of cognition is therefore of outstanding scientific importance, close to Piaget, anticipating the importance of “doing” for thinking (Mora 1976)<sup>11</sup>. The result is that Vico’s man is a *fallible creator* (Perkinson 1976), and creation is achieved by means of communication.

Similarly, Vico takes the classical side in the *Querelle des anciens et des modernes* that was ignited in France in 1687 and spread throughout Europe. However, his position is mainly due to his re-evaluation of rhetoric and not because he is completely averse to the Enlightenment and modernity<sup>12</sup>. His position cannot be definitively read as in opposition to modern thought. Actually, he recuperated classical methods – above all rhetoric – to complement modern science<sup>13</sup>. In his view, knowledge is based on experience and on the ways that individuals find a response

7 He assumed that we cannot deduce properties of natural things from their causes, but we can deduce consequences from properties of things that we can perceive, up to the point that we can affirm their causes (Gangemi 2008: 593).

8 John Locke was never cited, probably because his work was considered including some irreligious element.

9 David Edward Rose (2013), conceives Vico’s epistemology as a “non-reductive naturalism”.

10 In this sense he is not a forerunner of utilitarianism (Gualtieri 2016).

11 Nonetheless, Zagorin (1950), criticised Vico’s theory of knowledge for not always being consistent.

12 Vico is actually against a certain elitarianism of enlightened ruling classes proposing “top-down” policies (Gangemi 2008: 579). But it is a mistake to see Vico as reactionary.

13 Vaughan notes a certain influence of Machiavelli on Vico’s *Scienza Nuova* (Vaughan, 1972: 37), while Gangemi (2019), sees Vico’s work as a continuation of Machiavelli’s themes.

to daily problems and difficulties<sup>14</sup>. He opposed the French tradition of *Sagesse* (modern moralists such as Charron, Montaigne, La Rochefoucauld, Vauvenargues, etc.), who centred wisdom on the individual sphere of the self. Vico is particularly opposed to their denial of *providence*. Instead, he looks for a concrete role for social morals, actually best understood as ethics, and centred on *civil life*<sup>15</sup>. Therefore, he situated the individual in civil life and this implies a social dimension of wisdom (through which providence acts). Moreover, wisdom is in a collaborative relationship with science; it is not founded on it because rhetoric is fundamental and constitutive of knowledge.

According to Vico, knowledge originates from the faculty of sense, which at the psychological level corresponds to the elaboration of perception (Tateo 2015). This first material, which is elaborated at the pragmatic level of language, constitutes the experiential fuel for the mind's faculties of *fantasia*, *ingegno*, and *memoria*<sup>16</sup>. The individual also actively configures reality symbolically through language. Sensation and perception transform in this way into expression (Gualtieri 2016: 54). Language is therefore important both for thinking and for communicating. Communication is fundamental because it is responsible for the sociality of thought. Human choice, by its nature most uncertain, is made certain and determined by the common sense of men concerning human needs or utilities, which are the two origins of the natural law of nations (Tateo 2015). *Common sense* is "judgment without reflection", shared by an entire class, an entire people, an entire nation, or the whole human race (Vico 1744/1948: 57).

The core of Vico's thought is the development of the notion of *civil doctrine* as an instrument of education and participation in political life. That leads to the idea of *incivilimento*, which will later be important for a variety of scholars (e.g. Romagnosi 1834, 1836), up to the twentieth century (Gangemi 2008). The end of this *civil doctrine* is connecting the theory of knowledge to the theory of societal evolution. Vico's fundamental political point is that men do not need any Leviathan to create society. They nonetheless need to improve their education and their institutions to achieve better levels of coexistence (*incivilimento*). In this way, he supports the *public function of wisdom*. The *civil*, for Vico, has an inherently practical dimension (Nuzzo 2007: 80). Knowledge should be oriented towards appropriately regulating people in civil society, which is not a top-down process. Therefore, compared to the view of the masters of Enlightenment, for Vico the end is preventing the removal of wisdom from civil ends. This is an end shared with Adam Smith (Gioia 2019), but in Vico it has deeper consequences for the definition of human action. *Prudence* should drive people to achieve practical happiness, that is to say, active or *civil happiness* (the term is inspired by E.S. Piccolomini). This is the sense

14 Nuzzo (2007: 20), argues that Vico defended religious orthodoxy, but from a humanistic perspective (actually reformulating the role of religion).

15 This idea of *civil life* became a peculiarity of the Neapolitan culture of the times. Besides Genovesi (1865), Doria (1852), also developed this view. It was later transmitted to Romagnosi and to scholars of the North by Vincenzo Cuoco (Gangemi 2019).

16 Fantasy, intelligence or talent and memory.

in which the end of Vico's science is practical: to support, guide and drive vulgar wisdom towards higher degrees of political autonomy (Nuzzo 2007: 93). We can affirm that his perspective is to support common sense, not detach from it (particularly in *De Sapientia*). Moreover, Vico does not deny the hypothesis that private vices could be publicly productive. However, *providence* and not simply the more specific mechanism of the market is responsible for harmonising the different motives into civil happiness.

The principles of Vico's science of man are summarised in the idea that mind and civilisation are co-constitutive. Human beings are active agents creating their own world, but at the same time their *modes of thought* are framed within the forms of civilisation which they have helped create through collective action under specific historical conditions. The *modes of thought* and the forms of civilisation are connected by language and products of art, which register the development of both. Vico affirms that, in this way, human nature is not fixed, it is becoming. *Religio* is seen as a meta-political foundation of civil life<sup>17</sup>.

Practical philosophy means practical orientation in the epistemic sense: the civil orientation and destination of wisdom. Isaiah Berlin (1971, 1976), acknowledged Vico's specific theory of knowledge. He underlined (1971: 652), the difference between Vico's idea of Providence compared to the *cunning of reason* expressed by Hegel and the invisible hand of Adam Smith. Providence preserves and improves human societies by means of unintended consequences of the operation of human passions and desires (including vices), not so differently from Mandeville's view. Desires are dynamic forces generating social change. However, Hegel's mechanism has an ultimate goal wherein the idea becomes fully conscious of itself. In Smith the invisible hand guarantees some general satisfaction of a common interest through market clearing. In Vico actions are creative and generate social tensions, which transform people's minds so as to create new forms of social life. That generates an open-ended succession of phases of social development, sometimes of greater well-being, sometimes of decadence (*corsi e ricorsi*). There is a vision of improving civilisation, but without a specific end and, above all, without the conscious realisation of it. The fundamental variable in this field is (social), education, seen as a non-additive variable (in contrast to the view of human capital of contemporary economics).

### 3. Agency in Vico

As Vico opposed the prodromes of utilitarianism, it would be absurd to fit his understanding of man into a utility function. Vico believed that utility and need are not efficient and sufficient causes of human action (Botturi 1992: 108). Moreover, Vico's form of rationality is not reducible to utility maximisation. Tateo (2015),

17 Vico eschews both Stoicism and Epicureanism, as he considers them solitary ethics of lone individuals.

argues that “Giambattista Vico aimed at developing an original and all-embracing solution to the problem of explaining the relationship between human mind, civilization, and divine design” (Tateo 2015: 31). Vico’s human is an imperfect being and consequently is not necessarily perfectly rational, but simply seeks satisfaction of wants. Actually, he or she has a large variety of basic motives for action. Moreover, human actions are not only oriented to achieving some end, but also have social consequences – they are *creative actions* that affect the context. That produces social tensions, inducing individuals to transform their minds in such a way that new forms of social life emerge.

Vico’s anthropology consists of the three faculties of *memory*, *fantasy* and *talent*. Man has to see a reason to act. This reason is often determined in a dialogic way, and in any case refers to a social meaning framed by institutions. Moreover, the two-way connection between the idea and concrete action is fundamental for decision-making and for learning. *Sapientia* is not only knowing, it is a composite of *certo scire* (knowing what is certain, experience), *recte agere* (behaving correctly), and *digne loqui* (speaking properly and respectably) (Botturi 1996: 112)<sup>18</sup>. We cannot separate what we say and do from what we know. So language reflects both our speculative and practical attitudes. The relationship between mind and culture developed by Vico was extremely innovative at that time. In fact, he conceptualised the complex process of co-development of humanity as historically situated, language-based, and action-based<sup>19</sup>. A central role is played by human agency, the distinctive characteristics of which are will and intellect. Will is “the property of human nature which not even God can take from man without destroying him” (Tateo 2015: 33).

In *De Constantia* (1720), as well as in the *New Science* (1844), the drivers of action are the *conatus* (the development of a morally regulated will) and, above all, *pudor*, which is responsible for constant perfecting of man and of law (Gualtieri 2016: 95). *Pudor* has different dimensions. First of all, it consists in the moral consciousness of our ignorance of truth; second, it is also a sense of guilt and inadequacy framed by common sense, which is the fundamental cause of the development of natural law; third, *pudor* takes the form of curiosity, an impulse to inquire into the truth; finally it becomes industriousness (Botturi 1996). Moreover, *pudor* also sets some limits to individual behaviour (Reggio 2018: 11). This original impulse is relevant as it is not simply self-referential, as in the case of utility. On the contrary, it is socially regulated and oriented towards improving the conditions of life; therefore it has a precise social direction in the sense of a creative action. Therefore, the individual is not seen as acting in sight of a possible utility – that would introduce the perspective of *certainty* – but rather is moved by an intrinsic motivation, socially mediated, related to inadequacy and to uncertainty.

18 On the relationship of truth and *ingenium* see Sanna (2018).

19 The originality of Vico was to conceive the products of human activity based on language – such as art, law, myths, religion, etc. – as an acceptable object of science (Tateo 2015: 32).

The principles of Vico's view of agency constitute an early form of cognitive constructivism:

(a), human beings are essentially imaginative and *poetic* creatures, that is to say, they imagine new realities and moreover rely on myths to hold on to their forms of social life,

(b), the empirical and the rational spheres are interdependent,

(c), human behaviour is historically defined and has a collective dimension; institutions are shared mental models produced by language and structuring civil life;

(d), language has a fundamental role in creating a shared human reality<sup>20</sup>.

Individual rationality is here conceived as "civil", that is to say, *inter-subjective*, *communicative*, and *praxis-oriented*<sup>21</sup>. It is based on semantic-pragmatic communication, and agency is based on *certum* (Nuzzo 2007: XLII). This agency occurs with a symbolic relation to laws, institutions and customs that assure a certain coherence to individuals' actions. Therefore, our action is regulated by the meaning we attribute to shared linguistic elements. Institutions are shared symbolic systems and therefore the logics of language are fundamental in the rational process of guiding action.

#### 4. From agency to institutions

Passions cannot be dominated by reason (as in Stoicism), but only by other stronger (hopefully virtuous), passions (*Scienza Nuova*). Thus in this way Vico displays a positive attitude towards passions, which makes the domain of ends quite wide, including a relevant role for virtuous pro-social passions. We may say that *forma mentis* dominates the body. Therefore, Vico underlines the importance of a complete education for achieving a good society able to counterbalance bad passions. This view of deliberating action is coherent with the ordinal system of choice conceived by Aristotle (based on priorities, Crespo 2013a).

Imagination is a further element that makes Vico's system open-ended. The possess of the faculty of imagination (particularly metaphores), is a requirement for foresight, comparison, and the development of moral law. Imagination works by explaining things and events through metaphors that associate the different situations and connect them to specific passions and sensations (Rose 2003: 318). According to Vico, the law and the principle of rule-following are a development of poetic attempts to understand the world. Law emerges from a particular consciousness and its *conceptual understanding* of the world (Tateo 2015). Therefore, action and institution-building are strictly connected. Human imagination creates the basic axioms of practical reason and substantiates them in institutions. Imagination allows the formation of a conception of the collective good and its related

20 This list is taken from Tateo (2015: 34), and modified.

21 A further kind of rationality, at a different level, is political prudence, or wisdom in political action. The latter needs an intelligibility of the world for feasible actions, which Vico outlines in *La Scienza Nuova* (Nuzzo 2007: XLII).

social values and meanings. Moral conscience considers both real needs and social or spiritual needs. This plural dimension grounds the necessary dichotomy characterising practical reason (Rose 2003).

Vico argued that the distinctive feature of human nature has been the capability of creating products of civilisation – namely divinity worship, marriage, and burials – as self-regulatory systems that were able to act “on the bestial passions” of primitive humans and transform them into “human passions” (*Scienza Nuova*: 90). That means that institutions are also seen as cognitive elements and that they are regulative elements needed to regulate social life. Moreover, Vico centred wisdom in the social sphere, outlining a social morality pertaining to “civil life”. Prudence has a public function, as it should drive people to achieve practical happiness, that is to say, *active or civil happiness*.

Persuasion has a relevant role in this view of agency. Individuals can change their mind, and this *education* is a fundamental element of societal progress (*incivilimento*). Moreover, the individual is not moved by strict self-interest, but by *aequum bonum*, that is to say, an idea of a participatory and fairly defined good. This idea will be passed on to Genovesi (1865), who will name it *public happiness*. Unlike in the study of economics, Vico’s individual has a practical attitude that takes means and ends as interdependent, which means that the individual has no fixed preferences in his or her evaluations (more in line with marketing studies than with micro-economics). Moreover, sociality affects individual evaluation, as the common good (or public happiness), is an end for action. Therefore, there is a normative dimension in individual action that is usually not theorised in economics. Finally, this structuring of practical rationality determines a tendency towards human progress (civilisation). Compared to Hegel, who will develop a similar ethical theory, Vico’s system is not limited and made deterministic by a cumbersome dialectics. Therefore, the individual is more inclined to innovation and there is less determinacy of individual action.

## 5. The law and collective awareness

It is relevant to understanding economic evaluation in relation to the law that for Vico, the guide for human prudence is jurisprudence (Verene 2008: 1107). Laws are not a system of restrictions on free actions but are the principles whereby man as both a social and a rational animal can engage in self-knowledge and self-determination. On the *De Nostris Tempore Studiorum Ratione* Vico takes a position on the *Querelle des anciens et modernes*. Against Descartes and the logic of Port Royale he reaffirms the role of humane letters in right reasoning. The aim of humanistic education is *prudence*. Actually, Vico aims at finding a balance between the scientific rationalism of moderns and the rhetorical *civil wisdom* of the ancients (Verne 2008: 1112). Wisdom is relevant as it is able to have an effect on hearers. It moves the hearers to act in a different way. It is a pragmatic function of knowledge and communication. Eloquence affects both reason and feelings; language has both a cognitive power and an emotional power.

Laws are fundamental elements of civilisation and evolve with it (*Scienza Nuova*). The law emerges from a particular consciousness and its conceptual understanding of the world. Similarly to Hegel, for Vico laws are not a system of restrictions on the individual negative freedom but are fundamental elements of the formation of a socialised individual reason. *Civil human reason* is inter-subjective, communicative, and oriented towards praxis (socialised and operating in community). Laws, according to Vico, always reflect the spirit of the entire society concerned. Laws as well as the idea of rights evolve with society (Reggio 2018).

Institutional change is driven by some reasons for action, particularly *conatus* (the effort of self-determination), and *pudor* (the feeling of needing amelioration of our imperfect and corrupted nature), which are responsible for constant cultural evolution of both humanity and law (Gualtieri 2016: 95). Vico denied that man had natural, inalienable rights at any time. Natural law in Vico means that laws are produced by common sense and according to customs. Man is not only socially conditioned but above all *historically* conditioned. This will open the way to the idea of *recognition* (developed by Fichte, Hegel and Rosmini), as a fundamental process for the historical definition of legal elements. Law is in this way the foundation of acknowledged rights. However, it is not formal law, but the idea of law that individuals share. In Vico there is a parallel development of language and society: the legal system is continuously changing with the evolution of language.

In *De Uno Universi Iuris Principio et Fine Uno* (1720), we find an inquiry into the end of law. *Certum* substitutes for *verum*, widening the idea of truth into an evolving discourse-centred principle. Vico's *Certum* is related to plausibility (*verosimile*), and to common sense. This aspect of Vico's theory anticipated the notion of *reflexivity* as he described an evolving cognitive self-reference situated at the societal level, mediated by the relationship between the individuals and the entirety of social wisdom. A single conscience is (badly), fallible. It should be guided by community conscience and in this way it becomes always organic to the whole. Language and society are two co-evolving elements, interrelated and depending one each other. The ethical conscience of humanity is born in the social as a self-description that society makes of itself, which is a narration taking various forms (Botturi 1992: 115). David Rose argues that "like the Aristotelians and the Hegelians, Vico holds that the human being is malleable and that society (although artificial), is necessary for a certain species of animal to become human through the re-channelling and redirection of desires and passions into the creation of a moral, socially adjusted being" (Rose 2013: 317). However, unlike Aristotle, "origins of civilisation are non-rational and although society is not an organic development, human beings (as we properly understand them), cannot exist without society" (Rose 2013: 317).

Vico affirms the role for comparative studies to single out some stable legal forms expressed by all societies. He acknowledged some common *proto-juridical* categories: *dominium*, *libertas* and *tutelage*. The *aequum bonum* that pushes man to evolve from a natural state into a civilised society is a *collective awareness* that, joined to *vis veri*, represents the main source of natural laws.

Law changes and transforms itself according to the historical and social characteristics of communities. Law is seen as a process and not as a static contract (Vico studied Grotius in particular), (Gualtieri 2016: 93). Vico developed a critique of Grotius because he isolated the laws from history, while according to Vico laws evolve with history and are not instrumental for *reasons of state* as in Machiavelli (Barbuto 2013)<sup>22</sup>. Therefore Vico is not a voluntarist-functionalist as it concerns legal evolution. There is a certain dynamics in the definition of laws given by recognition and by the fallibility of human nature that allows Vico to see the legal system as an on-going process, thus conflicting with the epistemology of contract, which needs a rational and self-interested human as its subject.

Consequently, the study of collectivity is important to understanding humanity (not atomistically). Vico proposes a kind of historical-communitarian view of the transforming polity characterised by a plurality of forces. But there is no necessity in this evolving system, contrary to what will be developed by some forms of German historicism<sup>23</sup>. This systemic view of the unfolding of history is dominated by *providence*, which leaves much room to chance<sup>24</sup>. Prudence is in harmony with providential *spontaneous order*, which is not necessarily assured and stable; it is subject to set-backs and degradation<sup>25</sup>. This order is particularly exposed to the degradation of education or of some of its aspects. In this sense, societal order should be informed by philosophy. According to Valagussa (2018), Vico's providence is dynamic but it is not deterministic; it does not determine either the ideal or the sustainable path.

In Vico's system civilisations develop and sometimes decay. Education is the crucial variable to ensure progress and avoid the regress of civilisation. The *civil theology* permeating the human and civil minds of man's *animus* is fundamental to ensuring progress. Although Vico takes up some modern thought, he is against the rationalistic view of the instrumentality of religion (or the idea of a society of virtuous atheists). He acknowledges the importance of religious rules for practical life. Religion is a *mysterium tremendum*, as well as the civil ethics of a population, the ethos of the people (Barbuto 2013). Barbuto argues that Vico embraces the Spinozian view that considers religion born into human imagination, turning it into a Catholic view through an anti-intellectualist perspective. The result is a *natural theology* of a divine design acting through a *potentia ordinandi*. In this way, the providence of God is a principle explicating

22 Piro (2000), affirms that the difference to the natural law scholars of the times (Grotius etc.), is that Vico's system attributes an essential role to education, culture, the improvement of human-social capital. The discussion also involves some theological aspects.

23 In German historicism this was shaped by individualism and an autonomy of history.

24 The notion of providence in Vico is particularly complex. Some relevant aspects have been highlighted in Heritier (2018), Sherwin (2018), Tateo (2015), Valagussa (2018).

25 This providence does not exactly correspond to the market logic of economists because, although it is based on decentralised decisions, these are not utility evaluations but rather include different mental processes and individual conscience is always socially defined.

in the historical process, but Vico looks only at the practical-civil and moral aspects of the religious dimension. (Nuzzo 2007: XXXIV). Providence assures the minimal foundations of civil life by the self-regulation producing the fundamental knowledge forms and affective forms guaranteeing the persistence of *vis veri*. This helps particularly when man is not guided by a true science-knowledge (Nuzzo 2007: XL).

## 6. The practical action of a prudent man

Vico's man is not *homo oeconomicus*, he is a prudent man. The human is pragmatic man, looking at concrete action from his experience but also moved by *aequum bonum*, caring for collective ends. This prudent being can change his mind, adapting preferences to the social context or to experience. Prudence can be modelled in various ways (Yuengert 2012); however, Vico's real innovation is the role he saw for rhetoric in rationality, that is to say, the linguistic dimension of reason. In fact, the role of rhetoric that Vico aimed at retaining in modern science is not only functional to scientific research methodology – in any case a relevant contribution – but also a concrete object of research. The individual is conceived as fundamentally a rhetorical being, self-constructing a symbolic world able to reduce uncertainty and shape civil life. This linguistic dimension should not be seen as vague imagery, but as a concrete fact (*certum*), ascending to the level of reliable knowledge. Without a doubt this perspective anticipated cybernetic views of individuals and society. At the same time we can perceive an affinity with the attempts to define a methodology based on self-referential uncertainty-reduction or *deep-complexity* as can be found in Proudhon (1943), Dewey (1929), and Delorme (2010)<sup>26</sup>.

An important result of this linguistic approach to law and institutions is that it can represent the point of contact between law and economics, leading to an integrated study of practical reason. In Vico's model, reasoning is defined in symbolic-linguistic terms and action is framed starting from this inclusion of both legal and economic elements in a single prudential evaluation. Such prudential evaluation can combine the *certum*, including economic variables, laws, rights, and institutions as well as obligations and other normative elements as the *aequum bonum*, in a multi-dimension model of discourse. This practical reason is not a substitute for standard theoretical rationality, but it can become a reliable framework for the study of concrete individual decision-making.

This aspect leads us closer to the contemporary study of rationality of John Searle (2001). Modelling this practical rationality means understanding how the individual chooses and puts together the reasons that justify a certain action. The idea emerging from Vico is that the individual elaborates some narrative of his ac-

<sup>26</sup> On this aspect of doing science from uncertain knowledge, see Solari (2012), and Child (1970).

tion whereby he fixes the various reasons for action, reflecting on the appropriateness of the resulting story. Therefore, there is no mathematical function but rather the creation of a coherent self-justification of action. This self-justification can take into account the *aequum bonum* as well as consider other aspects of the collective awareness of the individual. Some reasons for acting can be quantifiable and subject to trade-offs. Others may be non-comparable or based on duty, affection, etc. The way we put together these reasons is in part tied to priorities, as in Aristotle's way of deciding (Crespo 2007), but also to a comprehensive method based on the acceptability (judging by common sense), of the way we include our actions into a wider story.

## 7. Conclusion: Vico and Austrian economic theory

Vico had two immediate followers: Genovesi and Galiani. They developed different insights of the master. Genovesi developed the idea of public happiness and therefore the idea that there is a social dimension in individual cognition. Galiani, according to Tagliacozzo (1969), based his theorisation of money on a fundamental subjective theory of value derived from Vico's epistemological principles. That, in the historical research of Tagliacozzo (1968), constituted a certain connection between Vico and Menger (and Böhm-Bawerk), as concerns the development of the notion of subjective value. More recently, Tyler Cowen (2003, 2009), discussed the proximity of the Austrian entrepreneurship theory and the role that individual creative imagination plays in Vico's *Scienza Nuova*.

In a certain sense, Vico's theory of action may be seen as quite similar to some Austrian economics – certainly not to the a-priorism of Mises, but surely to some aspects of Menger (1882), and, above all, to Hayek (1945). The specific turn towards subjectivism effected by Menger is compatible to Vico's view of individual action. Similarly, Hayek (1945), affirmed that our imperfect mind works with information that is not objectively accurate and exhaustive. Knowledge is therefore by its very nature contextual and subjective. Only interaction between individuals in the market let emerge a reliable information on scarcity (prices), which becomes intersubjective, but not objective. In a way, Hayek developed his view of markets from an individual knowledge close to Vico's *certum*. That argument was used in favour of the working advantages of a decentralised market, which Vico would have subscribed. That does not mean that markets are always and in any case the best way to deal with allocation, but we cannot reasonably derive more than this from Vico's writings.

The *poietic* (in specific cases *poetic*), or creative role of human mind can be a solid epistemological perspective to ground the Austrian theorisation of the entrepreneur, as underlined by Cowen (2003). Surely, Vico would support the creative version of the entrepreneur without denying the arbitrating role. This is particularly relevant in regard to the fact that entrepreneurs imagine and produce new sources of value, and not only arbitrage between existing opportunities. On the other hand, *ingenium* and the *conatus* are elements that will be de-

veloped also in early Schumpeter's theory (1911) of the entrepreneur producing *creative destruction*<sup>27</sup>. This is due to the similar attention that these scholars had for cognitive studies<sup>28</sup>.

Finally, there is some affinity between the conception of society in Vico and the *organic phenomena* theorised by Menger (1882), or the Augustinian view of *Ordo* expressed by Hayek (1973). Similarly to Hayek, Vico's fundamental epistemology was based on a methodological critique of top-down conceptions of law and government. Moreover, the *boria dei dotti* (conceit of the eggheads), expressing the *epistemology of haughtiness* (or pride), leads them to think that *homo intelligendo fit omnia* – which instead is the cause of disasters. Therefore man cannot suppose to give form to the world according to his will (Gangemi 2019: 132). Such kind of reforms would be an act of arrogance against providence, which is in line with the idea of *fatal conceit* expressed by Hayek. Therefore, the model of society of Vico is surely a *cosmos* and not a *taxis*. However, Vico's thought is not compatible with pure individualism and instrumental rationality<sup>29</sup>. In Vico dialogue and the search of consent are fundamental, which is not the individual *exit* (accepting / non-accepting), normally theorized in the study of markets. In a situation of uncertainty, social practices and the *aequum bonum* are fundamental to decision-making and not an indirect outcome of human choices. Market outcomes or institutions are not simple emergent properties; they are the result of a collective dimension, *collective awareness*, that guides individual action. Imagination also plays an important role that is often neglected by Austrians when dealing with social phenomena. Moreover, *providence* and markets are two distinct mechanism of evolution. Therefore, the Vichian individual lives in a higher state of uncertainty, moderated by discursive practices that help people to make up their minds. Individual reason is socially shaped, distancing Vico from pure individualism. Certainly, there is no path from here to centralized planning or to state bureaucratic administration, but there is a more direct reference to civilisation and to the common good that is not a simple emergent order. Civilisation is a complex linguistic element, pointing to a symbolic dimension and to the way we make sense of our action. All that remained in the background of Austrian theorisation.

In conclusion, Vico suggests a specific view of cognitive processes connecting the individual and the collective based on communication that creates a certain collective awareness. Laws and rights are part of this communication and symbolic system, which are fundamental to shaping prudent individual agency. This dimension allows for a certain order in society as well as allowing society and institutions to evolve, maintaining the open-ended feature of complex systems.

27 This is different from Kirzner (1973) theory of the entrepreneur, which is purely allocative and not directly connected to Vico's notions.

28 It is more difficult to find similarities with Herbert Simon's idea of *procedural rationality*.

29 Moreover, we cannot deny that Vico's comparative method has also some affinity with the German Historical School, even if the idea of history is clearly different.

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