Hugo Grotius and Natural Law: A Reinterpretation

Hugo Grotius was a seminal figure in the development of political and legal theory. Writing in the early 17th century, when much of his world was enveloped in turmoil, Grotius sought to identify principles of law that might provide a peaceful basis for resolving and preventing wars and conflict. His efforts resulted in the first exposition of international law and he has been widely cited as the originator -"' qt field of law. But he also made major contributions to the evolution of the idea of natural law. He played a critical role as the concept of natural law moved from the medieval to the 'modern era.

However, Grotius's contribution to the development of the natural law doctrines has not been given the recognition it deserves. "History does not seem to have given Hugo de Groot a fair chance," Arthur Eyffinger of the Grotius Institute, Royal Dutch Academy of Sciences, has written. "He was undeniably one of the most talented minds ever produced by the Netherlands and was at the same time a personality who was as striking as he was fascinating. In spite of this, few Dutchmen are aware of his importance, and there is no real biographical tradition whatsoever to correct this."' But perhaps even more serious is the failure by many scholars to understand Grotius's ideas and to appreciate the way he fused religious and modern thinking in explaining natural law. His great contribution was his ability to reconcile "modernism's" new insights and methodologies with religious belief. Christianity was for him compatible with the expansion of scientific knowledge, and that compatibility was particularly evident in the ideas on which natural law rested.

Many scholars, however, have described Grotius as a secularist who rejected theological considerations in political and legal philoso-

phy. "It was a definite epoch in the history of thought," Otto Gierke has written, "when Grotius proceeded to elaborate a purely secular philosophy of law which embraced the whole of the life of the State, external as well as internal."[2] Richard Coy in his chapter "Grotius," in *The History of Political Philosophy,* edited by Leo Strauss and Joseph Cropsey, emphasized in his review of the evolution of natural law the role that Grotius played in suggesting the "possibility of a secularized natural law which would still be fully binding on man."' Grotius "separated natural law from the *theologians* in the sense that he used it for a secular purpose, the creation of an international legal system, rather than as an adjunct of theological speculation," wrote Paul Sigmund, although he conceded that Grotius "did not develop his theory independently of theological assumptions."[4] John Hallowell argued that Grotius had "secularized the conception of natural law" by relying on a "new method" of determining its content, "a method that did not depend on revelation, but was, in seventeenth century terms, *scientific* ."[5] Henry Schmandt's *History of Political Philosophy* also concluded that Grotius had "divorced natural law from theology and religion by grounding it solely in the social nature and reason of men."'

Given the critical role Grotius played in the evolution of the idea of natural law, it is important to try to sort out the confusion surrounding his ideas and to develop an understanding of his views that is more faithful to the body of his writings. The problem seems to be rooted in the apparent unwillingness of many natural law scholars to accept or consider a very sophisticated conception of religion. They have presumably accepted the idea that since Grotius was an advocate of reason, he was a secularist. In contrast, Grotius believed that human reason was itself a gift of God and that reason was designed to permit men to communicate with God and to understand creation. The free exercise of human reason is not contradictory to a belief in God, but is entirely consistent with that belief. Grotius clearly argued that human reason was part of God's creation, and that reason could become corrupted as men moved away from God.

One simply cannot understand Grotius's ideas on natural law

without recognizing their theological nature. He held that there were several levels of natural or Divine law which could be known through reason and inspiration. This law, he realized, was of little importance unless man discovers it and applies its principles in fashioning human laws. Once discovered, it served as a higher law to which man-made laws were to conform.

Grotius's beliefs about God are also important in understanding his theory of natural law. For Grotius, God is activist and providential, in constant control of human affairs, in contrast to the beliefs of the Deists. Still, Grotius's God is consistent; His laws and commandments are logical and noncontradictory. Grotius's application of natural law requires an activist God since God is the author of nature and His laws are logical and discernible by man and revealed through nature. Grotius tells us that the Law of Nature is natural to man because, at his creation, it was written in his heart, and the human reason necessary to discover it was part of creation and a gift of God. Grotius believed God gave to man the power to reason so he could discover natural law and use it to guide his life. Without reason, man would not be free to choose how to conduct his life. Grotius did not believe human reason to be the end-all of knowledge. Reason was to him a *means* to gain knowledge from natural experience and from God. Grotius saw both revelation and the scriptures as vital informational sources.

These ideas about religion and natural law are explored in more detail below in an effort to construct a more accurate and complete assessment of Grotius's legal philosophy, and, in a broader sense, to demonstrate the compatibility of theology and politicalllegal philosophy.

Grotius as a Renaissance or Christian Humanist

It is often overlooked by legal and political philosophers that Grotius was a fully integrated participant in the tradition of Renaissance or Christian Humanism. His spiritual and intellectual roots complement the heritage of Arminius, Episcopius, Limborch, Erasmus, More, Colet, Ficino, and Petrarch, to mention but a few, with a commitment that eventually placed his freedom and his life in

jeopardy. Among his contemporary friends and acquaintances were, according to Charles Wilson, "Caspar van Baerle, the Great humanist and Professor. at Amsterdam University; Johan Blaue, the celebrated printer who published many of his books; Isaac Casaubon, the distinguished French humanist and theologian; Thomas Erpenius, the faithful Orientalist ... Simon Stevin, the formidable mathematician . . . Vossius, another great Dutch thinker with close ties to England; Johannes Uytenbogaert, once Chaplain to Prince Maurice, and a leading opponent of the theocratic ambitions of the extreme Calvinists."[7] Then there were P.C. Hooft, a humanist, poet, and historian; Joost van den Vondel, the leading poet and dramatist of the Netherlands; and, foremost, Johan van Oldenbarnevelt, Grand Pensionary and Advocate and Seal Keeper of the Province of Holland, the leader of the "States Party," and, according to John Lothrop Motley, "the prime minister of European Protestantism."'

This heritage made a life-long impact on Grotius's religious, political, and legal thought. It is critical in understanding and interpreting his writings, particularly the natural law doctrine found in his famous book *The Law of War and Peace.* "To do him justice," wrote G. H. M. Posthumus Meyjes, "we must regard him primarily as a Christian Humanist scholar, whose desire was to uphold and continue the religious programme as interpreted in the 16th century by Erasmus and others, in defiance of the bitter reality of a Christian world split and hardened by confessional differences." [10]

As a Christian Humanist, Grotius possessed a profound knowledge, fascination, and abiding love of both the Bible and classical antiquity, especially Greek philosophy, yet his primary allegiance would be to the Christ of the New Testament, whose life he would consider to be the great example for all men." His knowledge of both Biblical and Greek philosophy caused him to be deeply concerned with the soul of man, which he viewed as an eternal entity. He rejected as unreasonable and illogical the concept of determinism which ruled the orthodox Calvinism of his world, and defended the doctrine and ideal of freedom of the will. While he devoutly believed that Christ's atonement was potentially effectual for all people, he believed they had the freedom of choice whether or not to accept the

gift, and that faith and moral deportment were the keys to the unlocking of God's grace. The doctrine of freedom of the will informed every idea and ideal he offered. Freedom, he believed, was a gift of God. God had blessed mankind with the reason to understand His will and the ability to live according to His commandments, thereby bestowing upon them dignity, worth, and the responsibility to participate in their own salvation.

The classical idea that different classes inherently acquired different virtues was unreasonable and unjust; all persons would be subject to the same commandments and requirements of virtue. Grotius was greatly taken with the scriptural concept of brotherly love and benevolence and preached religious "latitude" and tolerance. He de-emphasized confessions and catechisms, and rejected the idea that religious sacraments and doctrinal purity were the whole of religion, emphasizing instead the permanent canons of faith and moral theology, Christian unity through love and toleration. He believed that men and women had been created with certain traits or senses that empowered them to create complex communities and live according to law.

Meyjes summarized well the ideas of Christian Humanism that Grotius embraced: "Christian Humanism implies a view of life whose central elements are the dignity of man, his liberty, his God-given powers of reason, and his citizenship of the world." According to Meyjes, "It is to Christian Humanism that the characteristically optimistic, harmonious and universalist features of Grotius' theology may be attributed.... In them godliness and reasonableness, providence and liberty, piety and ethics intermingle freely." [12] Grotius stoodwithArminius, Episcopius, Uytenbogaert, and Oldenbarnevelt in the combined politico-religious conflict over freedom of the will, the power of the orthodox Calvinist church, and the local independence of the Province of Holland that were central concerns in the seventeenth century.

Grotius's Holland

When Grotius was born in Delft, Holland, Easter Sunday 1583, the revolt of the Netherlands against Spain was in the middle of its

second decade. By the turn of the century, due in great part to the stubborn resistance of the Dutch Revolt, the defeat of the Spanish Armada, and the rise to power of Henri IV in France, a tenuous peace with the United Kingdom of Spain and Por tugal was maintained. The historical context of Grotius's life is critical in understanding his ideas and is briefly reviewed below.

As the seventeenth century commenced, the Netherlands faced a number of problems, not the least of which was the separation of the southern from the northern provinces. The States General (legislature) of the Netherlands, under the leadership of Prince Maurice of Naussau, the executive magistrate of the union, was deeply troubled with a growing opposition in some of the provinces of the north to what was believed by many to be the authoritarianism of the virtual Calvinist theocracy. "Amongst them," wrote Charles Wilson, "were breakaway Arminians who objected to the extreme form of predestination doctrine, and Roman Catholics like Vondel. Mostly they were Protestants of moderate inclinations who felt that they had not thrown off the chains of the Inquisition to be sacrificed on the altar of Calvinist extremism. And this seemed to grow not mellower but less mellow with age as the mental arteries of Calvinism hardened."[13]

Hugo Grotius was intimately involved in the conflicts of these dynamic times. He attended the new University of Leyden as a child prodigy to study the classics and philosophy at a time of growing influence of Christian, or Renaissance, Humanism among faculty and students; just as at Oxford and Cambridge, this influence led to increasing emphasis on intellectual and religious freedom. In *1599,* Grotius received a Doctor of Laws at Orleans. Two years later, he accompanied his friend and tutor Oldenbarnevelt on an embassy to Henry IV of France in the hopes of convincing the sovereign to honor a treaty of 1596 which prohibited a separate peace with Spain. In *1603,* he was appointed as Historiographer of the States of Holland, with a special charge to record their battle for freedom. He was appointed Advocate before the Court of Holland, and in 1613 became Advocate-Fiscal (Attorney General) of Holland and Pensionary (legal adviser to the city's council) of Rotterdam.[14]

When the great debate broke out at Leyden between Jacobus Arminius and Franciscus Gomarius over freedom of the will versus determinism, it created a profound schism in society that continues today. Grotius lined up solidly behind Arminius, as did Oldenbarnevelt, Episcopius, and Uytenbogaert. When Arminius died at Leyden on October 19, 1609, Grotius helped his successor, Episcopius, in drawing up the famous Remonstrant, the five-point statement of Arminianism, which was presented before the States General as their justification. It was met immediately by a "counter-Remonstrant" from the "Gomerians;" reaffirming orthodox Calvinism. Given the times, it was inevitable that religious conflicts would engender political confrontation and that a struggle over political power and ecclesiastical authority would be the outcome. Since Calvinism was the established state church, any attack upon its doctrine and authority necessarily carried political overtones.

The controversy divided the republic, augmenting disputes between the province of Holland and the centralizing power of the stiff orthodox Calvinist majority of the States General under the leadership of Prince Maurice. Grotius's mentor, Oldenbarnevelt, found Arminianism and republicanism to be quite compatible, but that was unacceptable to the central powers, and demands for increased autonomy for the provinces caused mounting concern over the stability of the union. Members of the "states party" feared for the loss of their liberties and privileges, were opposed to a theocracy, and wanted greater independence and authority of the estates (local assemblies). They demanded that the States General be freed from what they considered to be the extremist control of orthodox Calvinism."

In their desire to build a unified Christendom based upon toleration and "latitude" in belief, Arminians added fuel to accusations of treason hurled against them by their enemies. Uytenbogaert, for example, was accused of having become a papist, that he and Arminius were pensioners of Spain, that they had been bribed by Rome, and that they were in constant contact with the Jesuits. From England, where Uytenbogaert had recently been called to negotiate a settlement of maritime problems between the English and Dutch,

the Archbishop of Canterbury accused him of being an agent of the Arminians, sent to gain the support of the ldng in the crisis that was developing in the Netherlands.

In 1613 Grotius published the *Ordinum Hollandiac etWestfresea Pietas,* a plea for moderation and consideration of the Remonstrant message. It was received with less than benevolence by the States General. When Prince Maurice came out openly on the side of the counter-Remonstrants, the far-outnumbered Remonstrant-Arminians were dealt a fatal blow. The Prince was in control of the regular troops, which gave him overpowering military superiority, and only one province out of the seven, other than Holland, openly supported the Remonstrant movement. In order to settle the problem once and for all, Prince Maurice, with the encouragement of the counter-Remonstrants, ordered the convocation of a national synod under the direction of the States General to discuss Arminianism. The synod was convened on May *30,* 1618, and its outcome was never in doubt. In successive trials and decrees, Oldenbarnevelt was condemned to death, Uytenbogaertwas forced into exile, Episcopius and over 200 Remonstrant preachers were deposed, with a number of them exiled, Remonstrant church services were banned, Arminianism was condemned, and Hugo Grotius was sentenced to life imprisonment. He was incarcerated in Loevestein castle, where he remained for two years before making a daring escape to France. [ls] These events helped shape his thinking and writing on natural law.

Natural Law as God's Law

Perhaps most important in understanding his concept of God and doctrine of natural law is to realize that Grotius's God is *a necessary* God. Grotius believed that God is an active, creative, intervening, providential God who is in persistent management of the application of Divine or natural law. He is omnipotent, omniscient, omnipres ent, and beneficent. Grotius emphasized that God was everything good and not the author of evil. He created the earth and man and governs His creation by reasonable law. He is not the God of the ancient philosophers or the Deists. This God did not create the earth with its natural laws-wind up the clock, so to speak-and then stand

aside. He remains in charge. He created the earth for mankind to fulfill His purposes. He has a plan and directs the fulfillment of that plan, although finite man understands but little of God's purposes.

The God of Grotius created in human beings needs, traits, desires, reason, and conscience so that they would be capable of establishing legal communities and survive on the earth. They were also blessed with freedom of the will, so that they might, if they so chose, participate with God in the salvific process through the atonement of Christ. As the author of nature, Grotius's God has established an incorporated body of moral Divine Law. This *includes* what is called natural law-a universal law of rectitude, which may be perceived by the right reason of human beings. Then there is a higher, primary law, whose obligations and exhortations tend to be of a more sacred nature and carry the higher blessings. Finally, through God's free will and volition, specific commands, obligations, and exhortations may be directed either to all mankind, to certain peoples, or to particular individuals, and may be related to time, place, or condition.

Grotius emphasized that this body of Divine Law is compatible, a functioning whole, directed to the same ultimate purposes of God. Although the elements of the law may be referred to separately, they are not mutually exclusive but rather mutually reinforcing, overlapping, and supportive. As a united and complimentary force, this body of law forms a system of Divine justice and mercy. Although humans are blessed with reason, there is wide variation in that power and great differences in the way they use their freedom of will or volition. In Grotius we see a God who, while just and rational, may adjust the application of Divine or natural law, and in His infinite wisdom emphasize or soften the obligation concerning certain laws. Some laws will be held in abeyance, to be made operational at a given time. Still others may be fulfilled or superseded. God will exempt from divine punishment those who are not capable of understanding the law or who have not yet become acquainted with it. Thus, God's presence in the world, as law-giver and judge, remains necessary over time.

Grotius could not accept the idea that human reason alone will

be collectively sufficient to discover and apply all necessary law. Through corruption, human beings remove themselves from the understanding of Divine or natural law. Grotius finds much Divine and natural law in the Scriptures, and encourages his readers to consult them with all seriousness. In Christianity, he finds the surest way of not only learning about the law, but of finding the will to obey it. A belief in the existence of God as the author of nature and a just judge-which may be gained through reason and religion-energizes a concern for life beyond the present, stimulates the search for salvation, and legitimatizes the law. These concepts will be discussed and cited in detail below.

The Truth of the Christian Religion, Grotius's most important book on religion, was published after *The Law of War and Peace* and demonstrates clearly his persistence with deep religious faith in the tradition of Renaissance or Christian Humanism. Typical of those in that tradition, Grotius emphasized what he considered to be the purity of truth in the Bible over confessions and catechisms, and was especially concerned with the New Testament and the life and atonement of Christ. In his dissertation, his belief in "the immortality of men's souls and the last judgment,"[17] in conditional universal salvation and in freedom of the will, is ubiquitous. "Man is endowed with excellency of understanding, and liberty to choose what is morally good or evil" (CR,II,X,62). "The Almighty... created... Man ... endowed with *liberty of action;* which *liberty* in itself is not sinful, *yet* by its *power* some sins may be committed" (CR,I,VII,15-16). "Dominion" was "given to Man over his own actions" (CR,I,XXIII,44). Man was to be saved neither arbitrarily, nor by faith alone, but by faith and works-belief and "obedience" (CR,VI,XI,221).

Grotius's religious commitments were clear. He wrote movingly of the "divinity of Christ" (CR,II,I,85), of His "resurrection" (CR,IV,II,85,131), that there was "no other name upon earth by which we can be saved: And this they may rightly do, if they be verily persuaded that *eternal life is* prepared, not for such as in *word* only call *God* their Father, and *Jesus* their *Lord,* but for such as frame their life according to the *will* of *Jesus,* and their *Father* which is in Heaven. Furthermore, *Christians* are admonished faithfully, and

with due care to preserve the *doctrine* of *Christ* as the most *precious* treasure" (CR,VI,IX,221). The benefit bestowed by "the *Sacrifice* of *Christ" must* be earned (CR,VI,IX,114). "Forasmuch as *God* hath an *eye* unto all Men's actions, and in himself is *most just . . . ;* therefore we must expect that there will be some future judgment after this life, to the end that such *notorious transfigurations* [transgressions] may not remain unpunished, *nor well deserving virtue* be unrecompensed" (CR I,XX,40). "And for this cause," Grotius admonished, "let them often *read* and *mediate* the books of the *Holy Scriptures,* whereby no Man can be *deceived* unless first he *deceive* himself' (CR VI,XI,221). [18]

In the tradition of Renaissance Humanism, Grotius was characteristically enamored with virtue-a virtue which embodied certain Greek concepts impregnated and embellished with Christian moral theology. In this we see the foundation for his philosophy of Divine or natural law. These, he claimed, were *universal virtues-"common principles,"* which were "commanded by Christ," and "established by divine authority" (CR II,XVIII;XIX,80-81). [19] There is no doubt that Grotius looked upon these universal virtues as integral to natural law. And these laws of God with regard to virtue were not inscrutable; they were written with clarity and power in the Scriptures. Moreover, from whatever source they might otherwise appear, Grotius insisted that "there can nothing be found *commendable* and praiseworthy, either in the *philosophical* writings of the Grecians, or the sayings of the *Hebrews,* and other nations, which is not contained in the *precepts* of *Christianity"* (CR,XVIII,79-80). According to Grotius, through personal revelation and reason, which is itself a gift from God, "all nations . . . which have not utterly lost the light of reason and good manners" can understand virtue (CR,I,I,2). "In the soul there shall be an understanding without errour, even *of God* himself and his Divine Providence" (CR,I,XI,66). There is, he claimed, a "right reason, which is common to all men," but its ill-use and "corruption" can hide from men the reality of God, his Divine will and his commandments. The more virtuous a man was, "the more diligently did he preserve the knowledge of God" (CR,I,XI,3) and the principles of natural law. Indeed, the understanding of natural law may be "obliterated by depraved customs." [20]

Among the important virtues, Grotius listed "modesty, temperance, goodness, decent behavior, prudence . . . [and] liberality" (CR II,XVI;XVIII,78,80). On the other hand, he advised that the law of Christianity forbade "revenge" and "injustice" (CR,II,XIV; XVI,74,77). His Christian Humanist heritage taught him the paramount virtue of loving God and one's fellow human beings. Here were incorporated the Pauline virtues-faith, hope, and charity, or love, translated into benevolence. In benevolence we find the crux of Grotius's religious philosophy and a core element in his doctrine of the highest form of natural law. "The Law of Christ," he wrote, "would have us do good to all . . . after the example of God" (CR,II,XVI,74). The righteous were *"Stewards* and *Dispensers* under *God Almighty"* (CR,II,XVI,78), in those "duties we owe unto our neighbor" (CR,II,XIV,72). According to Grotius, "we ought to *love God* above all things, and our *Neighbors* as ourselves, that is, we must do as we would be done unto" (CR,II,XVIII,80).

Typical of Christian Humanist thought, the theology of Grotius emphasized the coming of Christ as the unfolding of a new dispensation and covenant, under which salvation was potentially achievable for all. The Abrahamic Covenant (to which the Calvinists referred as authority for theocracy) and the Law of Moses had been fulfilled or replaced. This new and individualist covenant, based on the love and sacrifice of Christ and freedom of the will, had, it was argued by the Christian Humanists, become universal and obligatory in application. As Grotius put it in his *The Law of War and Peace:* "Let us now widen the meaning of the word `neighbor' to include all men. For all are now received into God's common grace, and no people is doomed by him to destruction. What was a right then for the Jews is now a right for all, and as they were bidden to love one another, so now are all men bidden" (WP,I,II,35-36). "Christian kindness," he reasoned, should embrace "every opportunity to show mercy" (WP,I,II,37-38). A "principle of the law of nature dictates that men are by nature akin to one another, and therefore that it is a sin for one man to injure another" (WP,I,XV,168-69). In this factor we come to understand that Grotius's concept of natural law as Divine Law was not altogether free of broadening, and that the

violation of important aspects of natural law was more than unreasonable-it was *a sin.*

The Idea of Natural Law

As indicated above, Grotius believed that what was called natural law was included in Divine Law. In the tradition of the Christian Humanists-and what was later to become that of the American Founders-God was the Creator. He was not *in* nature, any more than he was *in* the state or the city; he stood apart from his creation and directed and judged. When the Roman Empire fell, its gods fell with it; when Israel fell, the God of Abraham, Isaac, and Jacob remained omnipotent. According to Grotius, there was one God and He was "eternal, omnipotent, omniscient, and absolutely good" (CR,II,V,9). "That which had a beginning, or had no beginning, is the perfection of God: and that which had a beginning of necessity must have something, that gave it such a beginning" (CR,II,III,7). God was "the author and cause of all things" (CR,II,VI,9). Under the title of "divine Majestie," Grotius referred to a "prime cause which never began to be, and which . . . hath its existence by necessity and not by any contingent manner. And this ... is that which is meant by divine Power or God-head" (CR,II,I,2). In fine, "this whole *Universe* is governed by the *providence of God,* who is both *omniscient* and *omnipotent"* (CR,II,IX,17).

Since God is obviously "reasonable and intelligent," and since man can see that the "whole *Universe* is in subjection," then his God-endowed "reason," and "sense" can manifest to him that there is a God, "that there is some superior and higher cause" (CR,II,VI,10) and "that the world was made for Man's sake" (CR,II,VI,13). Indeed, in the philosophy of Hugo Grotius, we do not find nature divorced from God. Nor do we find a random creation. According to Grotius, natural law can be found in the Scriptures. In this regard, he seems to indicate again that there is a higher, more sacred level in natural law-a "Primary law of Nature," deriving its authority from the express will of God, alawwhich is thus subject to the higher blessings. He wrote that "the Old Testament may be cited as a source for natural law, provided we distinguish correctly between a law of God,

which on occasion he executes through men, and a law made by men for one another." But he used the New Testament in order to find that which he "could not learn anywhere else, namely, what is permissible for Christians. Contrary to the practice of others," he continued, "I distinguish this from the law of nature, convinced as I am that the most holy law requires a greater holiness on our part than the law of nature alone demands" (*WP,* Preface,8).

The Gospel contained more, not less, than natural law. Nor was natural law separate from Divine Law; the latter included, but went beyond the former. Therefore, while "nothing that is not by nature good is commanded in the Gospel," there is "no reason for saying that the laws of Christ impose no duties on us beyond those imposed by the law of nature alone." For instance, "who would say that the Christian precept of laying down our lives for others was an obligation of the law of nature?" (I John III: 16) (WP,I,II,30).

Grotius believed that in the Scriptures can be found numerous "precepts and expressions of God's free will," offered at a given time for a specific purpose. However, given the nature of God, which is logical and reasonable, these never do "violence to true natural law" (WP,I,II,15). This "divine volitional law," as Grotius defines it, obviously "has its origin in divine will," and "is distinguished from natural law"; although Grotius reminds us again that natural law "may be called divine also." Three examples of "divine volitional law" were dispensed from the free will of an activist God to the human race: the "first, immediately after the creation of man, the second, on the restoration of mankind after the Flood, and third, on that more glorious restoration of mankind through Christ. These three bodies of divine law are undoubtedly binding on all men, as soon as they come to a sufficient knowledge of them" (WP,I,I,23). Clearly, in this exposition, Grotius sees an historical expansion of Divine or natural law in application.

Actions as "determined or defined by Divine Positive Volitional Law are such as were prescribed by God, some to all men, some to one people, some to single persons, namely to Abraham, Isaac, Moses and other servants of God."[27] At least on one occasion God selected one nation "out of all the nations" to receive "laws of a

particular kind, and that was the Hebrew people, to whom Moses thus speaks in Deuteronomy, iv, 8: 'What nation is there so great, that hath statutes and judgments so righteous as all this law, which I set before you this day.' Although this law was enjoined upon only one people at that particular time, Grotius will not allow us to suggest that this does a disservice to natural law. "The Hebrew law," he insists, "enjoins nothing contrary to the law of nature. For since the law of nature is permanent and unchangeable, nothing contradictory to it could be commanded by God, who is never unjust. . . . Whatever the law of Moses commanded regarding the virtues which Christ demanded of his disciples should be obeyed by Christians now, to even a greater degree. This is for the reason that the virtues of humility, patience, and charity are required of Christians in a higher measure than they were of Jews under the Hebrew law; and rightly so, because the promises of heaven are far more clearly laid before us in the Gospel. Hence the old law, when compared with the Gospel, is said to have been neither perfect nor faultless (Hebrews vii, 19; viii, 7), and Christ is said to be the end of the law (Romans x, 4), and the law our schoolmaster to bring us to Christ (Galatians iii, 24)" (WP,I,I,23-24).

It appears, then, that according to Grotius, natural law, while "unchangeable" in principle, may expand or evolve over time in the unfolding of God's history. Its application may be adjusted by a Divine Will and Providence according to time, place, or condition. There are eternal laws known only to God, or restricted to a few, for which men will not be held personally accountable until they become aware of them. Obligations once restricted may, over time, become universal in application. Virtues and commandments lost over time may be restored in another period. God is the legitimator; that is, when the will of God is expressed, the reasonableness and timeliness of the law may emerge later. At this point, "it is lawful, or lawfully due, because God willed it" (WP,I,I,23).

Grotius points out that the obligations of the Decalogue took on special and broad significance as direct commandments from God, although some of its precepts had been advocated previously and apparently accepted as natural law: "For the Divine Law of the

Decalogue saying to the Jew, *Thou shalt not kill, Thou shalt not steal,* and the rest, not only declared what was the Law Natural, but by the precept, added a new Obligation to the former, so that the Jew, doing the contrary, not only offended in doing an unvirtuous act, but an act forbidden; because by the transgression of the Law he dishonored God.... As it is in the Divine Law of the Decalogue, so also it is in Man's Law. "[22]

The Nature of God and Human Nature

With this background in his religious doctrine and philosophy, plus the events of his life as a Christian Humanist-Remonstrant-Arminian, we can better understand Grotius's philosophy of natural law as found in *The Law of War and Peace,* which was first published in 1625.[23] The Preface makes several points which reaffirm a continuity of Grotius's thought, especially that God, as a Creator, was in command of all things, that human nature was imbued by God, that there was a universal law of rectitude which was associated with humans as rational creatures, and that, as such, human nature and natural law were intimately connected. In this regard, the holistic, interrelated concepts of "right" and "justice" were regarded as permanent standards.

In the beginning of the Preface, Grotius takes to task those scholars and philosophers who make light of the idea of natural law, to whom all moral values are relative, and who place their faith in fate. "In our own time, as in the past," he wrote, "there is no lack of men who make light of this branch of the law, as if it were nothing but an empty name. On most men's lips are the words of Thucydides, that for a king or a free city nothing is wrong that is to their advantage. To this may be added a similar saying, that for fortune's favorites might makes right; also, that a state cannot be run without some injustice." Still others contended that "the disputes that rise between nations or kings are in fact usually decided by Mars, and that `nature cannot tell what's just from unjust ¯ (WP, Preface,3-4). He challenged the Greek Sophist Carneades, "who could muster the full power of his eloquence as easily to defend a falsehood as to defend a truth." Grotius was most concerned with what he believed to be the

philosopher's contention-one that the reader will recognize is common in modern thought-that all "laws were imposed by men on themselves in their own interest, varying as customs varied, and often altered by the same people as times changed; that, accordingly, there was no such thing as a law of nature, seeing that all creatures, men as well as other animals, were inspired by nature to work only for their own advantage; and that, therefore, there was no justice, or if there were any, it was the height of folly, because a man who considered other men's welfare was only doing himself an injury" (WP,Preface,4).

Since some scholars have equated Grotius's own ideas with Sophism, his response is of interest. It was his contention that "we should not grant as a universal proposition the statement that nature impels every animal to aim only at his own advantage." Human beings had been given the capacity to step above instinct. Granting that man may be referred to as an animal, "he is an extraordinary animal, differing far more from all other animals than they differ in kind from one another." Among these differences, Grotius claimed certain "traits peculiar to the human species," which were more than instincts, such as man's "desire for society, that is, for life in a community; not any sort of life, but one that is peaceful and organized to suit the measure of his intelligence, with persons of his own kind. The Stoics called this trait `friendliness' [or] `sociability.'"[24]

This, however, was more than just companionship; it involved love and concern, which spring "from some extrinsic, intelligent principle"; a reasonableness that characterized the nature of God. Therefore, the existence in man of "reason," or "right reason"-or "moral sense" as taught by the philosophers of the Scottish Enlightenment and which was so important to the thought of Thomas Jefferson-was not an accidental occurrence of a mindless nature, but was, Grotius insisted, imbued by God in man's creation and could be seen even in children, "for even before their training begins, they display an inclination to do good to others, as Plutarch acutely observed. Thus even at that early age they break out spontaneously into pity." Furthermore, the "man of maturer years, as a part of his intense desire for society, has knowledge that makes him act in a similar way under similar circumstances." And, not the least among

man's faculties was "the special instrument of speech, and the faculty of understanding and conducting oneself in accordance with general rules" (WP, Preface,4, 5). Humans alone, then, were capable of law. As Charles Edwards puts it in his analysis of Grotius, "only a creature who was able to apply general principles, who was able to differentiate them from instincts, was capable of law .....Grotius draws a clear distinction between instincts, which come first in the natural order, and principles which come later and which take precedence over the instincts.'"

Grotius saw "this care to preserve society . . . which is characteristic of human intelligence" as critical to the understanding of human nature. Herein, he claimed, could be found "the source of all law" (WP, Preface,5), and the reasonable imperatives of *justice-"that* virtue which looks to something outside itself"-as a vital obligation of natural law (WP, Preface,9). "Good men," he wrote, "unite in praising justice and condemning injustice. . . For justice brings peace of conscience, and injustice torment and anguish.... Most important of all, God is a foe of injustice, a protector of justice, and though he reserves his judgments for the next life, yet he often makes their power evident in this" (WP, Preface,15).

As a foundation, Grotius used the concept of justice to interpret obligations between individuals, between governments and citizens, between nations, and even to the probing of the question of a "just war." From the ideal of justice "come[s] the rules that we must not take something belonging to another, must restore whatever we have that is another's with the profit we made from it, must keep our promises, and must make good a loss incurred through our own fault; and also that it is right to punish men who deserve it" (WP, Preface,6). According to Grotius, who once again involves God with natural law, "God himself, who can be limited by *no* established law, would act contrary to his own nature if he did not fulfill his promises. . Whence it follows that the obligation to keep a promise springs from the nature of that unchangeable justice which is, in its own way, an attribute common to God and to all who have reason" (WP,II,XI,137).

Along with the social faculties, or attributes of human nature, Grotius emphasized man's "judgment to weigh his joys and pains,

both present and future, and whatever conduces to both." Otherwise there would be no freedom of choice. Here Grotius unites freedom of the will, human nature, and the "Law of Nature." The capacity for human reasoning is a gift of God that gives them the opportunity to discover principles of natural law and to choose to live by them. "It is part of human nature, as far as the capacity of the human mind allows, to follow in these matters well-framed judgments, and not be led astray by fear or the temptation of present pleasure, or be carried off by reckless impulse. *Whatever we do that is plainly contrary to good judgment is contrary also to the law of nature, that is to say, of the nature of man."* What is more, Grotius contended that "through the laws he has given us, God has made these traits still more clear, even to persons whose minds have feeble powers of reasoning. For he has forbidden us to yield to distracting passions that would harm either ourselves or others, effectually checking our more violent impulses and controlling them within bounds and limits."

Continuing in the tradition of Christian Humanism, Grotius placed God in every phase of this trilogy. According to him, the belief that there is a God and that He takes great interest in human affairs "has been instilled in us, partly by our reason, partly by an unbroken tradition, confirmed by many proofs and miracles attested through every age." Therefore, it is only reasonable *"that we should without exception obey God as our Creator, to whom we owe ourselves and all that we have,* especially since he has shown himself in many ways most good and most mighty." Again, the ideals of freedom of the will and of the potential of future reward are expressed: "Thus, being himself eternal, he is able to offer those who obey him the greatest rewards, even those that are eternal" (WP, Preface,5-6) [26].

Crucial to the understanding of Grotius is his belief that human nature, including traits of reason, was a divine gift of God. "Natural law" and the "nature of man" were, first, closely related, and second, had their source in God. "The law of nature of which we have spoken-both that which relates to man in society and that which may be taken in a broader sense-although it springs from man's inner, fundamental traits, *may rightfully be ascribed to God, for the reason that he willed we should have such traits."* The nature of man

as created by God, then, becomes "the mother of natural law." In effect, God is "the author of nature" (WP, Preface,6-7)[27] and, presumably, of natural law. More explicitly, in his *Florum Sparcio,* Grotius wrote that the laws of nature can rightly be ascribed to God.[28]

Grotius saw the expression of natural law "as a dictate of right reason, showing the moral necessity or the moral baseness of any act according to its agreement or disagreement with rational nature, and indicating that such an act is therefore either commanded or forbidden by the *author of nature, God"* (WP,I,1,20-21)[29].

Natural Law, Civil Law, and the Law of Nations

Grotius carried his concept of natural law and a Creator-endowed human nature into his discussion of civil law and the law of nations. In the nature of things, he submitted, there existed an essential justice and morality, an objective reality which was independent of human volition and which applied not only to individuals, but to nations as well, and was expressed as right reason. Here he brought the concepts and obligations of "contract" and "consent" into the realms of civil and natural law. According to Grotius, "the law of nature requires us to abide by our promises"; and "since it was necessary that men should have some way of binding themselves to one another, and no other natural way can be imagined," we have "the origin of civil laws." Out of this consent emerges an obligation to "all that have consented, by the natural law, concerning the keeping of Covenants, in those things, which were in the right and powers of the Covenanters.[j30] Once promises and covenants are made-be they between individuals, governments, and society, or between states-"they all should be guarded with the utmost scrupulousness and good faith . . because good faith is sacred," and hence, natural law. "Not merely perfidy but anything irritating should be carefully avoided" *(WP,* III, *)OXV;* VII, *443).*

Mutual consent, then, derives its authority from natural law. As Grotius described it, since "the mother of natural law is human nature, which, even if we were not in any need, would still lead us to desire social companionship," and since "the mother of civil law is that bond of consent which derives its force from natural law," it

follows "that nature maybe called the grandmother, as it were, of civil law" (CR, Preface, 6-7).

As indicated above, Grotius saw nature as reasonable, expressing the character of its author, God. That two and two are four is an objective reality, and God could not will otherwise. The mere idea of it is foreign to the nature of God, upon which it is based on the "nature of things"-in short, reality. Otherwise, "right reason" would be impossible. Without this there could be no continuity, no predictable rule of law, no reliability of cause and effect. "Thus," he wrote, "even God cannot cause twice two not to make four; nor, again, can he make what is intrinsically evil not evil"; nor, one might deduce, can He make that which is intrinsically good not good. Therefore, with regard to natural law, dictates, by command or forbiddance, from "the author of nature . . . are related to acts that are *in themselves either obligatory or unallowable, and therefore recognized as necessarily being either commanded or forbidden by God."* A "foul deed" is a "foul deed" is a "foul deed," and a just God cannot treat it otherwise. "So do even the Philosophers teach that no foul deed is to be committed, because God is everywhere present."[al]

Human knowledge and wisdom is minuscule when compared to that of God. However, individuals may gain knowledge and may be directed to certain characteristics and practices by God-imbued instincts, traits and senses. Humans are thus able-through their relationship to God, and nature, bolstered by their ability to use their God-endowed reason and sense, to make choices and learn by experience-to use their volition to build and create in their environment. Motivated by a desire for community, human beings enact laws, rules and regulations; establish rights and obligations; and develop customs, expectations and mores which will be beneficial or utilitarian in character. This Grotius called "expediency."

While rejecting Carneades' assertion that "Expediency is the mother of justice and right," Grotius conceded, "Expediency does enter into natural law; for the Author of nature willed that we as individuals should be weak and in need of many things to live properly, the lack of which would drive us to seek society." Expediency, then, also provided "the occasion for the rise of civil law; for the

formation of groups ... ; and submission to authority took place first for some reason of expediency. Moreover, those who prescribe laws for others usually have, or ought to have, some purpose of expediency in view. And while the laws of nature remain irrefutable, civil laws maybe more fluid, especially to the extent that they relate to time and place, and often unique situations and conditions (WP, Preface,7). There are certain "actions" that may be legally stipulated as either required or prohibited, or changed, by human authority, where natural law or Divine Law are silent or indefinite, leaving these decisions free of moral restraint. "Actions undetermined," he wrote, "are the matter of human law. . . . When as things unlawful are determined, and therefore immutable, as to moral good or evil (i. e., natural law), it follows that indefinite actions are left as the only matter of such change." Therefore, "human Authority may morally direct things that ought to be done, and those that ought not . . . so far as the circumstances are undefined by the nature of the thing (i.e., Natural Law), and the Law of God."[32]

In summary, civil laws are human laws. They may be called "volitionary," or "positive," laws. They derive their origin from the human will, just as *sacred* volitionary law derives its source from the Will of God; but, as indicated, neither may reasonably be in conflict with natural law. "Civil Law," wrote Grotius, "is that which issues from civil power. Civil power is that which governs a state. A state is a complete association of free men, combined in order to enjoy their rights and provide for their common advantage" (WP, I, I, XIII; XIV, *22-23).*

Grotius carried the same reasoning into his discussion of the law of nations. Here, the same factors which exist regarding human nature and the state also abide. Natural law binds all mankind beyond civil statutes and municipal customs. The rule of law, then, is applicable not only to the citizens of a single country, but to the nations of the earth and each should be measured and judged with reference to universal standards.

According to Grotius, "natural laws are forever the same and hence can be easily assembled into a system. But the provisions of positive volitional law are constantly changing and differ from place

to place, and so lie outside the scope of a systematic treatment, as do other notions of particular things" *(WP,* Preface, 11). On the one hand, the Law of Nature is associated with "certain ideas so unquestionably true that no one can deny them without doing violence to himself. For the principles of that law, if only you look at them fairly, are in themselves plain and evident, almost as clear as the things we perceive with our external senses." At the same time, "A rule that cannot be deduced from fixed principles by a sure process of reasoning and that is yet apparently everywhere observed must have originated in the free will of man." Furthermore, one can distinguish "between what really and on every occasion is the law and what merely produces an external effect resembling that of the original law" *(WP,* Preface, 14)[33]

Expediency also plays a role, along with natural law, in the law of nations. "Now just as there are laws in each state that aim at securing some advantage for that state, so between all or most states some laws could be and have been established by common consent, which look to the advantage not of single communities but of the whole great concourse of states. And this is the law we call the law of nations, *whenever we distinguish it from natural law" (WP,* Preface, 7)[34]. The law of nations is broader in scope than civil law, and, he argued, "derives its forceful authority from the will of all, or at least of many nations. I added `many nations'," he cautioned, "because scarcely any law can be found common to all nations except the law of nature, which is itself often called the law of nations. Frequently indeed, in one part of the world, there is a law of nations which does not exist in another. The proof of a law of nations is the same as that of unwritten civil law, long custom, and the testimony of experts. For this law as Dio Chrysostom well observes, is `a work of custom and time'" *(WP,* I, I, XIV, 23).

But Grotius does not allow human volitional laws-civil (positive) laws and the laws of nations-to escape the universality and the fundamental nature of natural law. The basic law in either of these societies remains the Law of Nature and the individual remains the ultimate subject and object of the law. While volitional laws serve to clarify and determine certain cases and circumstances in their

setting, thereby assisting the development and perpetuity of society, they are morally bound to complement, or at least not to abuse or contradict natural law. Reasonable and valid positive norms and laws may be deduced from natural law. As Peter Pavel Remec summarizes in his interpretation of Grotius, "The law of nature is fundamental in relation to volitional laws. The latter cannot exist without the former. . . . While expediency is not the primary reason for laws of nature, it nevertheless reinforces them. . . . The law of nature .. . governs all relations between men as human beings. Hence each individual has a common share in this law not because he belongs to this or that particular community, but because he is a human being. "[35]

Natural law is above and antecedent to volitional laws of men; as such, the principle of right and justice remains mandatory and universal. According to Remec, in the last analysis it "is the moral law binding all men capable of using reason at all times and in all places. Human laws are volitional, not deduced from principles of reason, but established by the `will of man' because of expediency and common advantage. They can be known through an examination of statutes or customs, where the will of the lawgiver is expressed. Though positive in content, they never can be contrary to the law of nature, to the moral conscience of acting individuals. If they happen to be so, they are invalid, not binding, and hence should have no legal effect.""

Natural Law, Natural Rights, and Resistance

As Grotius himself put it, the principle that "God [is] to be obeyed rather than men," is "engraved on the hearts of all men." Therefore, "if ever our rulers command anything contrary to natural law or to divine ordinance, their command should not be obeyed" (WP,I,IV,I,59). In his *Authority of the Highest Powers,*[37] Grotius wrote that "no man can honestly will that, which is dishonest to be done."[38] A command by what Grotius called "Human Power" is not without its moral limits. The earthly "Supreme Power" is morally limited to commands which are not "repugnant either to the Natural, or to any other Divine Law. . . . The things defined in the Law Divine

(wherein I comprehend [include] the Natural), are of two sorts; some commanded, some forbidden. Therefore, there are two acts of Empire, which belong *not* to the Right of him that Ruleth: *To command what God forbids; to forbid what God commands...* . Wherefore such Commands, so far as they do contradict the Divine, cannot have the proper effect of Commands; they cannot impose an Obligation."[39] In fine, "obedience to Laws and Decrees be not absolutely due, but so far as it may be given, without violation of God's command."[40] "The commands of the Highest, bidding or forbidding, whether in Sacred things or Secular, bind us not, *to do or omit any thing against the Law of God, either Natural or Positive."*[41] This includes decrees "against the Rules of Faith and Religion prescribed by God; or ... against the perpetual rule of equity."[42]

These restraints on power include commands both to citizens and to members of the ruling establishment; that is, if a superior power commands a lesser power to commit an act which is against Divine or natural law, that command, too, is morally void of authority. For example, Grotius submits: "Yea, the Judge that receives his Commission from the Highest Power, being commanded by the same to judge against right and reason, is not bound to obey, or rather, is bound not to obey; which comes to pass, not because the private man, or the Judge is not subject to the Higher Power ... but because both the *Power* and they are all subject unto God."[43] Even if citizens "are commanded to do military service, as usually happens, and if it is clear to them that the reason for the war is unlawful, they should absolutely refuse to serve" (*WP,* II, XXVI, XXVI, 264).

Through natural law, men enjoyed certain basic rights, among which were life, liberty, and property. Indeed, as far as Grotius was concerned, the protection of natural rights formed a crucial part of the core of legal regulation, and placed responsibility, too, on the individual for the preservation of those rights. "The law of nature," wrote Grotius in *The Authority of the Highest Powers,* "commands every one to have a care of his own life and safety."[44] And from *The Law of War and Peace:* "A man who holds so cheaply the life granted him by God as a great gift sins both against himself and against God" (WP,III,XX,413).[45] The right to life was in the character of "perfect,

inherent justice." Not even masters "have rights of life and death over their slaves. . . nor can any man lawfully kill another man, unless he has committed a capital offense" *(WP,* II, *V,* XXVIII, 107). The phenomenon of life, then, was a gift of God, therefore sacred, and held within it both a temporal and a spiritual purpose. "Right reason dictates" the importance of life, for it is "the foundation for all temporal goods, and the opportunity for good eternal" *(WP,* II, XXIV, VI, *258).*

Grotius taught that all persons are by nature free (although he still countenanced slavery under certain circumstances, and the right of an individual to contract away his freedom).[46] As a Renaissance, *or* Christian, Humanist, Grotius was particularly concerned with freedom of the will, another gift from God. Through freedom of the will, conscience, and right reason, human beings are able to participate in their own salvation, while remaining responsible for their own actions before a just God. Grotius's love for freedom, his contracturalism-consent of the governed-and his latitudinarian philosophy concerning religion, together with his antipathy toward the dogmas of determinism and theocracy, were undoubtedly the outgrowth of his Christian Humanist background. In this regard, the political leadership-the highest powers-were charged with the proper obligation to assure "that we have liberty and convenience to do the things which God commandeth, being free from impediments, and supplied with helps."[47]

In his discussion of tangible property, Grotius again demonstrates that times and conditions may have an impact on the universe of natural law; that is, that a Divine Law may become fulfilled on the one hand, and assume greater variety under its aegis on the other. "At the first creation of the world," he wrote, "God gave to mankind in general dominion over all things of inferior nature, a grant renewed upon the restoration of the world after the Deluge." Then, as Justin had stated, all things "were the common and undivided property of all men, as if all were heirs of one general patrimony." Therefore, "every man could take at once for his own use whatever he wanted and consume whatever was consumable; the general exercise of this right supplied the place of private property. For to deprive anyone

of what he had taken for himself became an act of injustice" (WP, II, II, 78).

This form of life, however, where the earth brought forth its own abundance, required "great simplicity," "innocence," and "remarkable charity" and would not long continue. Clearly using the Bible as the basis of his reasoning, Grotius describes the fall of Eden. First, men began "to use their minds to invent various arts, the symbol of which was the tree of knowledge of good and evil, that is, the knowledge of things which maybe either used well, or abused.. . . The most ancient arts, agriculture and pasturage, appeared with the first brothers, along with some interchange of products." However, "from these differences in occupation arose rivalry, even murder. At length the good men became corrupted by their association with the bad," spending their lives in violence.

Even though this world of violence and corruption was cleared by the Flood, that "savage life was succeeded by a greed for pleasure out of which sprang lawless passions. But the greatest breach in the harmony of men was made by a nobler vice, namely, ambition, the emblem of which was the tower of Babel. Later on, men divided up the land and took possession of different parts" (*WP,* II, II, 79). According to Grotius, men had "departed from the primeval state of common ownership of things" because they "were no longer content to live on the spontaneous products of the earth, or to dwell in caves ... and wanted a pleasanter way of life." Too, population multiplied, and there developed increasing differences in interest, faculty, aptitude, and moral quality among men; It was then that industry became both possible and necessary, "and each individual applied himself to some particular craft" (*WP,* II, II, 80; I, I, 18-19).

The domain of right became increasingly complex and evolutionary as it related not only to "things that are ours by a right we share with all other men," but to things that are ours by "individual right" (WP, II, II, 78). In the beginning, God had granted to men in their simple, primeval state of existence-in general and in common-"dominion over all things of inferior nature." But as men themselves and their relationship to their physical environment became increasingly complex, the right to and law of private ownership of property

appeared, and although the concept and practice evolved from human will, it was not foreign to natural law. "Once it was introduced," confirms Grotius, "the law of nature tells me that it is wrong for me seize what is yours against your will" (WP, I, I, 21).

Understanding Grotius and Natural Law

Grotius's understanding of natural law, together with its contribution to the political practice of Anglo-American liberty, cannot be divorced from his theology, which is sophisticated and complex, and entirely consistent with his commitment to reason and his ideas about law. Attempts at separation fail to acknowledge the full range of his thought.

Yet many scholars, in their eagerness to isolate the development of the "secular" in political thought, have tended to take for granted the meaning of this modern notion, and have therefore failed to explore the complex inter-relationship between natural and divine themes in the development of modern political ideas.

These scholars often fail to recognize and appreciate the various levels of the compatibility of philosophy and theology. By ignoring or refusing to grapple with the richness and intricacy of Christian theology, while simultaneously isolating the secular from other influences, they can provide only a partial and distorted account of the evolution of such ideas as natural law, natural rights, and freedom of will, all of which have played a central role in modern Western political theory.[48]

Fortunately, Dutch scholars, particularly those associated with the Grotius Institute of the Royal Dutch Academy of Sciences, have begun to recognize the importance of Christian Humanism in the development of Western political theory and Hugo Grotius's role as a seminal figure in that intellectual movement. But the history and development of Christian Humanism deserves much wider study and recognition. It is a sorely neglected part of the enlightenment, yet it has had a profound impact on the rise of the ideas of freedom and human dignity that are central to the Western political heritage. The ideas of Hugo Grotius and the other Christian Humanists-the Oxford Reformers and the Cambridge Platonists, for example-

permeated the evolution of political thought during the Enlightenment and beyond and provided a significant portion of the philosophical underpinnings of the American Founding. Much work remains in exploring and illuminating Grotius's contribution to natural law in the context of Christian Humanism and, in turn, its role in the rise of our modern understanding of human freedom and dignity.[48]

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NOTES

1. Arthur Eyffinger, "Hugo de Groot," in *Hugo Grotius: 1583-1983,* by members of the Faculty of Law, University of Limburg (Assen, Netherlands: Van Gorcum, 1984), 1.

2. Otto Gierke, *Natural Law and the Theory of Society: 1500 to 1800.* (Boston: Beacon Press, 1950), 36.

3. Richard Coy, "Grotius," in Leo Strauss and Joseph Cropsey, eds. *History of Political Philosophy.* (Chicago: The University of Chicago Press, 1987), 389.

4. Paul E. Sigmund, *Natural Law in Political Thought* (Cambridge, MA: Winthrop Publishers, Inc., 1971), 62.

5. John H. Hallowell, *Main Currents in Modern Political Thought* (New York: Henry Hold and Co., 1959), 95, 97, (emphasis in original).

6. Henry J. Schmandt, A *History of Political Philosophy* (Milwaukee: The Bruce Publishing Co., 1960), 220.

7. Charles Wilson, "Hugo Grotius and His World," The Royal Netherlands Academy of Arts and Sciences, *The World of Hugo Grotius (1583 -1645)* (Amsterdam: Holland University Press, 1984), 4.

8. John Lothrop, *The Life and Death of John of Barnevelt,* Vol. II (New York: Harper and Brothers, 1874), 29. By "Holland" is meant the province of Holland and West Friesland, and not the United Netherlands.

9. His father, Jan Grotius, appointed Curator of the University

of Leyden in 1594, was described as a "precursor to Galileo" and a typical representative of "the Dutch Renaissance man." W.S.M. Knight, "The Infancy and Youth of Hugo Grotius," *Problems of Peace and War,* Vol. VII (London: Wildy and Sons, Ltd., 1962), 5; Arthur Eyffinger, "The Dutch Period in the Life of Hugo Grotius;" R. Fenstra, et. al., *Hugo Grotius: A Great European, 1583-1645* (National Commission for the Commemoration of the Hugo Grotius Quartercentenary, 1983), 8.

10. G.H.M. Posthumus Meyjes,"Grotius as aTheologian," *Ibid.,* 52.

11. C. Van Vellenhoven of the University of Leyden claimed Grotius "practically knew everything written by sacred or classical authors and who knew practically every event in ancient history,"C. Van Vollenhoven, "Grotius and the Study of Law," *The American Journal of International Law,* Vol. 19 (1925), 4.

12. Meyjes, "Grotius as a Theologian," 52.

13. Wilson, "Grotius and His World," 4.

14. W.S.M. Knight, "Grotius' Earliest Years as a Lawyer," *Problems of Peace and War,* Vol. VIII, 1-19.

15. Immediately after his escape from prison to France, Grotius wrote his *Apology,* which appeared in 1622. In it he continued to represent the United Provinces of the Netherlands as corporate bodies, ruled by international law, and not as federal states ruled by national law.

16. See Eyffinger, "The Dutch Period in the Life of Hugo Grotius," 5-24; Wilson, "Hugo Grotius and His World," 1-12; Motley, *The Life and Death of John of Barneveld,* Vols. I, II; Edward Dumbauld, *The Life and Legal Writings of Hugo Grotius* (Norman, OK: University of Oklahoma Press, 1969), 3-11, 83-122; "Grotius' Defense of the Lawful Government of Holland," *Journal of Public Law,* Vol. III (Spring 1954), 192-213. W.S.M. Knight, "Grotius in England," *Problems ofPeace and War,* Vol. V, 1-38; R. Warden Lee, "Grotius: The Last Phase:1635-1645," *Problems of Public and Private International Law,* Vol. XXXI (London: Wildy and Sons, Ltd., 1965), 193-215.

17. Hugo Grotius, *The Truth of Christian Religion: in Six Books*

(London: Printed in English for Rich, Royston, Bookseller to His Most Sacred Majesty, at the Angel in Amen Corner, 1680), 41. "God's*judgment* to come after this life." *Ibid.;* "the *Souls* of*Men* do survive their Bodies." *Ibid.,* 40. See also pp. 13, 42, 44. In all quotes in this volume, italics are in the original. CR in the text indicates a citation to this work. It will be followed by volume, section, and page numbers.

18. Emphasis in the original.

19. Italics added.

20. Hugo Grotius, *The Law of War and Peace,* translated by Louise P. Loomis (Roslyn, New York: Walter Black, 1949 [published originally in 1625]), Book I, Chapter II, 29. WP in the text indicates a citation to this work. It will be followed by book, chapter, section, and page numbers.

21. Hugo Grotius, *The Authority of The Highest Powers About Sacred Things,* translated into English by C. B. M.A. (London: Printed by T.W. for Joshua Kirton, 1651), 30-31.

22. Ibid., 32-33.

23. For commentary, see Jesse S. Reeves, "The First Edition of Grotius *`De Jure Belli ac Pacis, 1625, ¯ The American Journal of International Law,* Vol. 19 (1925), 12-22; James Brown Scott, "Grotius' *De Jure Belli as Pacis Libri Tres," Ibid.,* 461-468; David Jayne Hill, "Editorial Comment: The Commemoration of Grotius," *Ibid.,* 118-122.

24. The term "sociability," is preferred by F. W. Kelsey in his translation of *The Law of War and Peace* (New York: The Bobbs-Merrill Co., 1925), "Prolegomena," 6.

25. Edwards, "The Law of Nature in the Thought of Hugo Grotius," *op. cit.,* 788-789.

26. Italics added.

27. Italics added.

28. Hugo Grotius, *Florum Sparcio Ad Jus Justinianeum* (Paris: 1642), 20. Quoted in Dumbauld, *The Life and Legal Writings of Hugo Grotius, 171.*

29. Italics added.

30. Grotius, *The Authority of the Highest Powers,* 60.

31. Ibid., 14.

32. Ibid., 30-32.

33. Italics in the original.

34. Italics added.

35. Peter Pavel Remec, *The Position of the Individual in International Law According to Grotius and Vattel* (The Hague: Martinus Nijhoff, 1960), 62-63.

36. Ibid., 90.

37. Anton-Hermann Chroust claimed this is Grotius' best philosophical work. See "Hugo Grotius and the Scholastic Natural Law Tradition," *The New Scholasticism,* Vol. XVII (April 1943), 126.

38. Grotius, *The Authority Of The Highest Powers, 29.*

39. Ibid., 33-34.

40. Ibid., 69.

41. Ibid., 71.

42. Ibid., 46. Italics, added.

43. Ibid., 51. Italics in the original.

44. Ibid., 60.

45. Grotius also opposed indiscriminate killing in war. Indiscriminate killing was "contrary to right reason and to the commandments of God. . . . If the object at stake, such as the safety of many innocent persons, is worth a war, it should be striven for with all available strength. To resort to set combat as a proof of a good cause, or as an instrument of divine judgment, is senseless, and not really reverent. "

46. Grotius, *The Authority of the Highest Powers,* 111.

47. Ibid., 44.

48. Among the authors who are concerned about this problem are: Robin G. Collingwood, *The Idea of History,* (Oxford: Clarendon Press, 1946); Jaroslav Pelikan, *The Vindication of Tradition,* (New Haven, CT: Yale University Press, 1984); Steven E. Ozment, *Protestants: The Birth of a Revolution,* (New York: Doubleday, 1992); Emery E. Neff, *The Poetry of History,* (New York: Columbia University Press, 1961); Milton R. Konvitz, "The Confluence of the Torah and the Constitution," *Jews, Judahism and the American Constitution,* (Washington D.C.: American Jewish Archives, 1982);

Ralph C. Hancock, "Religion and the Limits of Limited Government," *The Review of Politics,* (Fall 1988); and John Witte, "From Homer to Hegel," *The University of Michigan Law Review, Vol.* 89 (May 1991).

49. Some contributors to this enterprise include: Frederic Seebohn, *The Oxford Reformers,* (London: Longmans, Green, 1887); Rosalie Colie, *Light and Enlightenment: A Study of the Cambridge Platonists and the Dutch Arminians,* (Cambridge: Cambridge University Press, 1957); Quentin Skinner, *The Foundations of Modern Political Thought,* Vol. II (New York: Cambridge University Press, 1978); Norman Fiering, *Moral Philosophy at Seventeenth Century Harvard: A Discipline in Transition,* (Chapel Hill, NC: University of North Carolina Press, 1981); Beatus Rhenanus, *Christian Humanism and the Reformation: Selected Writings From Erasmus* (New York: Fordham University Press, 1975).