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Jeremy Seth Geddert

Assumption College, j.geddert@assumption.edu

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Natural Rights and History: Hugo Grotius's Modern Translation of Aristotle

Jeremy Seth Geddert

Cicero writes in *de Finibus* that "nature never forgets its own primary properties." This leads him to inquire, "then how comes it that human nature alone abandons man?"¹ If Hugo Grotius were alive today, he might wonder the same thing. Grotius's language of nature remains surprisingly enduring in contemporary discourse. Yet most students of political thought seem to have forgotten the man. This inattention is a notable change from the seventeenth through nineteenth centuries, during which one contemporary described Grotius as "the greatest universal scholar since Aristotle."² Grotius's fame began in 1598, when King Henry IV of France pronounced the fifteen-year-old prodigy as "the miracle of Holland." By his early twenties he became the Pensionary of Rotterdam, and by his early thirties he penned major works of history, literature, political philosophy, and theology. After imprisonment for his ideas, and daring escape from prison in a chest of books, he spent the rest of his life in exile—first under a pension from King Henry's successor, then as Swedish ambassador to France. During this exile, he wrote his masterpiece, *de Jure Belli ac Pacis* (*DJB*), or *The [Natural] Right of War and Peace*—the first major work of international law. This work would remain almost continuously in print for the next two centuries. After Grotius's death, Samuel von Pufendorf would come to hold the chair in the "law of nature and nations"—a subject that Grotius was thought to have created. Rousseau would regularly use Grotius as a foil, describing him as a "dishonest child"; Kant would more politely criticize him as a "tiresome comforter." More positively, the American founders would read and recommend Grotius, citing him multiple times in the *Federalist Papers*.³

After a century and a half of neglect, scholars are increasingly seeking to restore Grotius's great legacy today. However, the content of that rediscovered reputation is remarkably contested. Is he a modern figure or a pre-modern one? Jean Barbeyrac, the translator of an influential 1724 edition of *DJB*, would portray Grotius as a great innovator: the first to "break the ice" after "the long dark medieval winter."⁴ Giambattista Vico would even consider Grotius to be one of the four "authors of history," following in the lineage of such modern trailblazers as Machiavelli and Bacon by introducing the methods of hypothesis and empirical verification into the historical-social sciences.⁵ Yet a recent translator, Oliver O'Donovan, sees Grotius instead as the last representative of a premodern conception of nature: "the last great figure in whose thought a unity of theology, law, philology, and history is effective."⁶

Grotius's chronology does little to settle the question, as he stands at the crossroads of the medieval and the modern. He was a contemporary of both Descartes and Hobbes, and lived in the Paris whose Mersenne circle included both of those figures. Grotius's final decade saw the groundbreaking—and fundamentally modern—publications of Descartes's *Discourse on Method* and Hobbes's *de Cive*. Yet Grotius himself would be unable to recall a brief meeting with Descartes early in Descartes's career, and his private letters express his disagreement with Hobbes's basic presuppositions in *de Cive*. Nor does Grotius's approach to international relations offer much help in clarifying the ambiguity. His world was that of the Thirty Years' War, in which the pluralism of Europe was becoming an accepted fact of life. Grotius's *DJB* anticipates the state sovereignty that would be enshrined in the 1648 Treaty of Westphalia that concluded the war, and offers much guidance on a secular basis acceptable outside Christendom. Yet Grotius would nonetheless advocate for such decidedly premodern concepts as punitive war, humanitarian intervention, and restraints based on religion.

Perhaps the most promising way to settle the question is to explore Grotius's conception of nature. Some observers portray Grotius as the first modern natural law thinker, or even the first to develop a modern natural rights theory. One representative (and influential) figure is Richard Tuck, who attempts to show the similarities between Grotius and Hobbes. In doing so, he positions Grotius as a progenitor of modern thought and as accomplishing a fundamental break with the ancient approach to nature. Indeed, Tuck locates his treatment of Grotius in the *Cambridge History of Medieval Thought* under the heading "The End of Aristotelianism."⁷

Tuck's argument for Grotius's essentially modern concept of nature has at least four elements. First, he sees in Grotius a preoccupation with skepticism and an unwillingness to take for granted a natural moral order, which distinguishes Grotius from medieval writers.⁸ In the third paragraph of *DJB*, Grotius admits that some see "good" as a name rather than a reality. He

proceeds to outline Carneades's argument on behalf of this premise, and then argues against it.⁹ In doing so, Tuck argues that Grotius has already moved the ground of the argument from that of natural law to that of skepticism. Rather than taking a natural right foundation for granted, he attempts to convince the skeptics on their own terms.¹⁰ He is not content to defend natural right on the authority of history and tradition, but rather undertakes to prove it as if from the ground up. In this way, Tuck argues that he prefigures Descartes and Hobbes's distinctly modern method of reasoning that begins from the individual rather than from authority.

Second, Tuck sees a further rejection of authority in Grotius's approach to Aristotle, the great philosopher of nature and touchstone of premodern political thought. Inasmuch as medieval thinkers ever set out to combat skepticism, they would do so by using the arguments of Aristotle. In contrast, Grotius remarks in his *Prolegomena to DJB* that Aristotle's preeminence has been turned into a tyranny, such that truth is nowhere "more repressed than by Aristotle's name." Rather than using Aristotle as an antidote to skepticism, Grotius apparently targets Aristotle for criticism in the same fashion as Carneades (if perhaps for different reasons).¹¹ In this reading, Grotius softens the ground for Hobbes's all-out attack on Aristotle.¹²

In keeping with this approach of conceding ground to skeptics, Tuck thirdly argues that Grotius's defense of natural law is rather skeletal. Grotius reduces the thick conception of traditional medieval natural law to a minimalism more defensible to skeptics. In particular, Tuck sees in him a defense of natural law only on the basis of self-interest. He cites a passage from Grotius's early *de Jure Praedae* stating that "[T]he first principle of the natural order . . . is the love whose primary force and action are toward oneself." Altruism is reducible to self-interest.¹³ This would prefigure Hobbes's contractarian political theory, one grounded on enlightened self-interest rather than natural human sociability.

Fourthly, Tuck understands Grotius to base this limited natural law on a modern basis of *a priori* rationalism. *De Jure Praedae* begins with a series of nine fundamental rules and thirteen associated laws. Tuck infers a Grotian intention to introduce a mathematical model into the human sciences—a distinctly modern methodology.¹⁴ He compares it to *Leviathan*, which begins with the basic right of nature and proceeds to deduce nineteen subsequent laws of nature.¹⁵

Tuck does not put forward the fifth—and best-known—argument for Grotius's break with medieval world, but his reasoning is consistent with it. This is Grotius's (in)famous "impious hypothesis." After outlining his basic elements of justice, Grotius adds the following note: "what we have been saying would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God, or that the affairs of men are of no concern to Him."¹⁶ In granting to atheists the

ability to know natural law, some see Grotius as consigning to irrelevance the knowledge of God for the study of the human world. He appears to reduce political philosophy to deist or atheist premises—supposedly a clear break with the classical tradition.

These arguments all suggest that the ambiguity around Grotius's historical legacy can be solved by reference to his treatment of nature. Tuck thus uncovers a herald of modernity whose concept of nature is not a rich teleological conception of human flourishing but a thin rationalistic baseline of behavior. I would like to agree with the first premise about the importance of nature in Grotius; an examination of the concept helps to clarify the ambiguity around his legacy. However, I would like to take issue with the second. A closer look at Grotius's concept of nature actually reveals a thinker seeking to preserve a rich classical heritage in a modern world. The language may be new, but the concepts are not. Grotius is best understood not as a proto-Hobbesian enemy of Aristotle, but a translator of Aristotle in the idiom of modernity.

QUESTIONING THE "GROTIUS AS MODERN" NARRATIVE

Tuck is an erudite scholar, and all of the elements in this portrait of Grotius have a superficial plausibility. Before suggesting an alternative reading, it is necessary to engage with this portrait on its own terms. One basic and fundamental concern arises from Tuck's methodology, which prioritizes *de Jure Praedae*. Tuck portrays this work as paradigmatic and downplays *de Jure Belli* with the assertion that "the basic arguments . . . are presented unchanged, and indeed greatly clarified."¹⁷ Yet there are significant differences between the two. In *de Jure Praedae*, Grotius follows a voluntarist approach, which can perhaps be seen to prefigure Hobbes, and even the later post-metaphysical modern thought of Hume and Kant. Yet in *de Jure Belli*, Grotius clearly states that his natural laws are inherent in the nature of the universe, rather than deriving from the will of God. (If nothing else, his "impious hypothesis" makes this crystal clear.) If the truth of Grotius's argument is not dependent on God's action in the world (or even his mere existence), it seems clear that Grotius has fully repudiated the voluntarism of his earlier work. Defenders of scholasticism frequently point to the voluntarism of Scotus and Ockham as bringing about the end of naturalism. If this is indeed the relevant cleavage, Grotius appears to stand firmly with the Aristotelians.

Indeed, if there is a fundamental shift from the 1604 *de Jure Praedae* to the 1625 *de Jure Belli*, it seems reasonable to suggest that *de Jure Praedae* was the anomaly. Already in the 1611 *Meletius*, Grotius begins to move away from his early voluntaristic position. What is more, Grotius wrote *de*

Jure Praedae at the ripe old age of twenty-one, an age at which few figures are well-established in their philosophical and theological foundations. While Grotius was undeniably a child prodigy, it seems rather a stretch to suggest that he plateaued after his early twenties. Furthermore, unlike the rest of Grotius's vast corpus (including seventeen volumes of correspondence), all but one chapter of *de Jure Praedae* remained unpublished until discovered in 1868. Tuck's careful attention to *de Jure Praedae* has unearthed many insights into the work itself, but his attribution of its centrality to Grotius's thought is open to serious question.

This casts doubt on Tuck's first premise that Grotius is preoccupied with skepticism. If Grotius's main focus is to combat skepticism, his engagement with Carneades is rather weak sauce. He spends a scant few paragraphs dealing with skepticism, and never again refers to the subject in the remaining several hundred pages of *de Jure Belli*. Convinced skeptics would surely remain unmoved. Rather, Grotius's principal targets appear to be those who take up arms in defense of dogmatic minutiae, and his theological works show little concern for the need to prove the existence of natural right from the ground up.¹⁸ Ancient skepticism was indeed reemerging as a threat in the early seventeenth century, but Grotius did not seem to feel much of a need to prove it wrong. This seems to follow his medieval predecessors rather than to depart from them.

This cursory attention to skepticism also undermines Tuck's fourth proposition that Grotius is operating on the ground of the skeptics, or building an argument on *a priori* reason rather than traditional authority. In the very first paragraph of *de Jure Belli*, Grotius in fact sets out a tripartite epistemology, in which reason is supplemented both by revelation and history. He almost immediately employs this threefold approach to justify natural Right. Reason, as Plato has shown, demonstrates that justice brings peace of conscience,¹⁹ while injustice causes torments and anguish to the tyrannical soul. Revelation, which Grotius judges the most important of the three justifications, informs us that God eternally punishes injustice and rewards justice. Finally, history approves of justice and condemns injustice by "the common agreement of good men."²⁰ Elsewhere, Grotius will deepen this account of history as a source of knowledge, arguing that the content of revelation is known through sacred history.

In fact, *de Jure Belli* is littered with references to classical sources, and its Index of Authors Cited comes to a full forty pages. Grotius makes over a hundred citations each of Augustine, the Bible, Chrysostom, Cicero, Justinian, Livy, Plutarch, Seneca, and even the Aristotle whose authority Grotius is allegedly attempting to undermine. In fact, if one looks immediately prior to the quote Tuck uses as evidence of Grotius's anti-Aristotelianism (his second argument), one finds the statement, "Among the philosophers Aristotle deservedly holds the foremost place." Soon after, Grotius states that "Our pur-

pose is to make much account of Aristotle."²¹ Indeed, he begins his discussion of many legal and political concepts with Aristotle, and in fact translates the entirety of Aristotle's *Nicomachean Ethics* V.8 in the midst of his own discussion of guilt and injury. This approach of heavy citation is consistent with his emphasis on history as a source of knowledge, as well as with his emphasis on incorporating and building off of those who have gone before.²²

It is not even clear that Grotius breaks with the medieval tradition to create a proto-Hobbesian minimalist natural law, *pace* Tuck's fourth argument. Some identify in Grotius a modern innovation that considers parts of the Decalogue as only divine law and not part of the natural law. However, this interpretation was not original to Grotius; over three hundred years earlier, Scotus had made a similar argument. Furthermore, Grotius's *DJB* applies the principles of natural law to innumerable potential situations of international practice in much the same way as did the scholastics to the moral life. Grotius's recognition that not all truths of Christian revelation are accessible to natural reason is hardly new or radical. If he is an innovator, it is in his attempt to extend the reach of classical natural law outside the confines of the political community, not to limit it.

Finally, Grotius's use of the "impious hypothesis" is arguably less impious than it appears. For one thing, Grotius immediately emphasizes the purely counterfactual nature of the hypothesis. Employing his aforementioned tripartite epistemology, he promptly defends God's existence by reference to natural reason, divine miracles, and unbroken human tradition.²³ More importantly, even his hypothetical may be less impious than it appears. He may be proposing a materialistic world with no God whatsoever, or a cosmos with a prime mover, or in fact a deistic universe in which "the affairs of men are of no concern to [God]." Should he mean one of the latter two options, this statement would be no more controversial than the naturalistic metaphysics of Aristotle himself, which were in fact embraced by scholastic thinkers as a way to counter the proto-modern voluntarism of their (impious?) adversaries.²⁴ Even if one remains unconvinced of Grotius's piety, one must at least acknowledge that this "impious" claim far precedes Grotius. It traces its lineage back to the fourteenth century in Gregory of Rimini and Gabriel Biel, and even the neo-Scholastic Suarez made a similar assertion.²⁵ Thus, the mere presence of the "impious hypothesis" is insufficient evidence on which to judge Grotius an essential modern, let alone an enemy of the premodern tradition.

GROTIUS'S HUMAN NATURE AS NON-REDUCTIONISTIC

These arguments suggest that Grotius does not comfortably fit the portrait of "modern revolutionary." However, they do not yet demonstrate the substan-

tive classical continuity of his approach to nature. A closer look at Grotius's foundations helps to fill in the positive elements of the picture. However, his understanding of human nature, like many concepts in his writing, is not straightforward and accessible. As one commentator notes, in some places Grotius seems to say one thing, in other places another. For instance, in some passages Grotius refers to man's self-seeking nature. Certainly these passages do not escape the notice of observers such as Tuck. Yet in other places Grotius speaks of altruism. This has led some to conclude that Grotius is simply inconsistent in his portrait of human nature.²⁶

Yet perhaps it is more plausible to interpret Grotius's apparent contradictions as a consistent belief that human nature is not monistic. To draw a parallel, Plato's typology of souls shows that human nature can be focused on reason, honor, or the passions. Yet the simultaneous existence of tyrants and philosophers does not mean that Plato's understanding of human nature is inconsistent. This pluralistic (or at least non-monistic) view of the human soul can be more concretely inferred from Grotius's view that it is better to enter into civil society, even though man is social and can already punish wrongdoing in the "state of nature" (a term Grotius never uses). He justifies the institution of third-party judges by reference to the fact that individuals "too often have their own interests in view."²⁷ This indicates that individuals sometimes act according to justice and sometimes according to self-interest. Thus, there must be at least two parts of the soul—the justice-oriented part and the self-interested part—which are in tension with each other. Furthermore, there must also be times when the just part of the soul is victorious and the individual consequently acts in an altruistic manner.

This non-reductionistic conception of the soul is also evident in Grotius's statement that "man is, to be sure, an animal, but an animal of a superior kind, much farther removed from all other animals than the different kinds of animals are from one another."²⁸ Man shares some characteristics with animals, and some men (particularly children) may share many of these characteristics. However, man also possesses a unique capacity of discursive reason, allowing him to develop his capacity for practical wisdom. If a man chooses to correctly orient his will, he may become a "mature man,"²⁹ which brings to mind Aristotle's conception of the *spoudaios*. Such wisdom cannot be characteristic of mere animals. Nor is it the automatic possession of all men, as Hobbes seemed to view all human abilities.³⁰ Rather, it must be developed through uniquely human skill and experience.³¹ This process of movement toward what seems to be a human *telos* implies the concepts of potentiality and actuality, which again bears an Aristotelian imprint.

This multifaceted conception of the soul points toward a classical inspiration. Many modern thinkers such as Hobbes, Marx, and contemporary advocates of *homo economicus* attempt to create a science of man by eliminating all but one variable. Man's behavior can be predicted by reference to single-

cause explanations such as fear of violent death, class struggle, or desire for economic gain. Each of these three modern positions suggests a monistic view of the soul. In contrast, Grotius's pluralistic conception of the soul leaves room for a will whose actions can never be predicted with certitude.

GROTIUS'S HUMAN NATURE AS RATIONAL

Grotius develops this idea of natural human reason more concretely when he suggests that reason ought to control man's self-interested passions.³² He writes that animals have a sort of nature which allows them to "secure advantage for themselves." However, man has a moral faculty, which leads a man to refrain from harming others, even when it causes him a disadvantage.³³ Thus, reason is not merely a calculating tool used to procure the "predetermined" end of advantage. Rather, reason itself can discern a good that transcends advantage. He states that man's nature is to "follow the direction of a well-tempered judgement, being neither led astray by fear or the allure-ment of immediate pleasure, not carried away by rash impulse."³⁴ The concept of a rational will which can deliberate on moral ends further emphasizes Grotius's Aristotelian heritage and his opposition to Hobbes. Hobbes argues that reason is simply a calculative function, in service to man's passions. As Alasdair MacIntyre has argued, the move from a rational will which could deliberate on moral ends toward a calculative reason that could only determine means to ends is a defining feature of modernity.³⁵

This difference is evident in Grotius's and Hobbes's treatment of specific behaviors. Grotius accepts Aristotle's understanding that fear of pain is incontinence, and that men have a moral responsibility not to succumb to it.³⁶ For this reason, although a promise made under fear is binding, the one who caused the fear is under a moral obligation to release the promisor.³⁷ In contrast, Hobbes argues that man naturally fears violent death. Men can thus have no obligation to overcome this passion, but rather should calculate how political institutions can be structured to prevent its negative external effects. The same difference applies to vainglory, which Grotius sees as symptomatic of moral weakness, implying that it must be overcome by moral effort.³⁸ In contrast, Hobbes sees vainglory as a constant and permanent striving of man, to be subdued only by the coercive force of the Leviathan. Even in regard to man's desires themselves, Grotius refers to Aristotle's distinction between natural desires and unnatural ones.³⁹ Once again, in reductive scientific fashion, Hobbes sees only natural desires. Some observers may read that Grotius sees man as an animal, or as having passions, and conclude that he must be similar to Hobbes. However, for Grotius, the animalistic passions are not the *whole* of man. To assert that man is an animal is insufficient evidence of

modern materialism; one would have to further assert that man is *only* an animal. Grotius clearly espouses the former.

GROTIUS'S HUMAN NATURE AS SOCIAL

The idea that man is capable of acting altruistically and out of motives other than fear is crucial to Grotius's understanding of human nature as inherently sociable. In this regard, one of the most important statements in the entire *de Jure Belli* is Grotius's assertion, contrary to Carneades, that "the very nature of man, which even if we had no lack of anything, would lead us into the mutual relations of society."⁴⁰ Human nature—man in the state of nature—is inherently social.

The importance of this statement can be seen by contrasting it with Hobbesian man. Hobbes holds that individuals are motivated by acquisitiveness, diffidence, and vainglory. However, the resulting goods are external goods, which is to say that they are limited. Thus, their possession is relative; if every person has societal glory or honor, no person has it. Because everyone desires these zero-sum goods, the world is characterized by scarcity and competition. There cannot be friendship, only mastery. As Hobbes says, "every man has a right . . . to one another's body"—and he is hardly referring to Plato's utopian community of wives and children.⁴¹ Society arises precisely because we lack things: specifically, basic security of body. Even physical external goods (those corresponding to the body rather than the passions), while perhaps not entirely zero-sum, are necessarily limited and subject to scarcity.

In contrast, Grotius states that man would enter society even if he had no lack of anything, including security of person. Even if everyone possessed all the external, physical goods they could want, they would still want intangible goods—specifically, social existence. Men desire not only physical goods but friendship. Friendship is an internal, intrinsic good, corresponding to the part of man's nature which transcends either (self-interested) physical existence or the (self-interested) desire for mastery of others. As an internal and nonrelative good, it cannot be described as zero-sum, and thus is not diminished by being shared.⁴² This likely explains Grotius's assertion that the state with justice is more fortunate than the state with arms.⁴³ Hobbes would surely disagree.

The related concept of a social and political realm, characterized by other-oriented friendship, has some roots in Aristotle. However, the Christian view of self-giving love further develops the concept of friendship as an internal good not subject to scarcity or zero-sum status. In fact, it is precisely in such sharing that one receives. Although *de Jure Belli* is not a treatise on friendship, Grotius's reference to friendship indicates that he is firmly in the Aris-

totelian-Christian camp. As he says, "We are drawn to friendship spontaneously and by our own nature . . . charity often advises me to put the good of many above my own good."⁴⁴

GROTIUS'S NATURAL REASON AS PRUDENTIAL

Just as Grotius's concept of human nature draws on the ancient model, so does his understanding of natural reason. He begins his theory of knowledge by asking the question of how one can discern the law of nature. He lists two possible approaches. One is through *a posteriori* reason, which gathers evidence of those principles common to all nations—or at least all civilized nations. The other is *a priori* reason, producing conclusions to which any rational person must assent upon demonstration. Such knowledge is akin to mathematical proofs "which are at once recognized and admitted."⁴⁵

At first glance, these approaches may appear similar to those of Hobbes and Locke, who argue that nature can only be known through the senses and that the rules of logic then guide the mind in synthesizing this sense-data. Hobbes, in particular, equated reason with mathematical calculation, and one might be inclined to see in Grotius's reference to mathematics a latent Hobbesian position. Yet for Grotius, *a priori* reasoning is not the only way to determine the (obviously moral) laws of nature. More importantly, however, he cites Aristotle on the matter: "certainty is not to be found in moral questions in the same degree as in mathematical science."⁴⁶ This explains his earlier statement that a not-entirely-universal acceptance of a particular notion does not jeopardize its status as true. He points out that honey does not cease to be sweet simply because a sick man is unable to perceive its sweetness.⁴⁷ This is a contrast to Hobbes, who repeatedly discerns universal laws of nature in what he self-consciously considers a purely deductive fashion.

Furthermore, Grotius goes on to refer to the fact that moral life often involves determining a mean—one that is prudential rather than mathematical.⁴⁸ Grotius thus acknowledges a difference between natural law reasoning and good judgment.⁴⁹ The latter is a foreign concept to Hobbes, whose *Leviathan* has no prudence, only volitional law. Grotius's emphasis on prudence, the fundamental political virtue of Aristotle, is another indicator of a classical understanding of politics, one which holds that a good state arises only through virtuous character. This stands in contrast to a modern scientific view of politics suggesting that proper institutional design and law is sufficient. Not surprisingly, Grotius uses the term "science" less than a dozen times in his work. In contrast, Hobbes makes it clear that he is applying the methods of modern political science, of which he is the founder.⁵⁰ It is worth noting that in his theory of knowledge, Grotius does not deny the existence of faculties, such as *a priori* reason, employed by moderns like Hobbes and

Locke. However, he does not view the use of these faculties as exclusive of all others. This refusal to take a reductionistic approach to reason echoes his aforementioned multifaceted conception of human nature.

GROTIUS AND HISTORY

Grotius's *a posteriori* reason further illuminates a source of knowledge outside the *a priori* reason often attributed to him as evidence of his essential modernity: that of history. His aforementioned tripartite epistemology identifies history as an important source of natural Right. However, it also serves as an organizing principle for the third book of *DJB*. Here Grotius devotes one chapter to enumerating the restraints of reason on carrying out war. He then proceeds to add a hefty six more exploring the restraints arising from historical tacit agreement. This suggests that the counsel of nature is most fully manifested in the historically evolved practices or agreements of man's free will.⁵¹ Throughout *DJB*, Grotius provides a detailed treatment of international custom (*jus gentium*) as morally binding on nations.⁵² By using historical examples and citations, he attempts to demonstrate the congruence of many positive laws with natural law.⁵³ Grotius in fact criticizes writers of his own day for having neglected to supply illustrations from history and endeavors to correct this oversight.⁵⁴

Some might argue that this focus on history opens up history as an independent agent with a logic of its own. This might be seen to relativize truth or even to suggest an achievable end of history that inevitably precipitates millenarian violence. Strauss's *Natural Right and History* famously suggests history as a modern force opposed to classical natural right, and Voegelin repeatedly warns against immanentizing the eschaton. On the contrary, however, I would suggest that Grotius's approach to history is not so much modern (let alone eschatological) as it is Christian. The ancient Greek conception of history is cyclical; Plato expects the ideal city to decline simply because the seasonal patterns of growth and decay flow inexorably from the nature of things. To this cyclical view Augustine counterposes a linear theology of history, one that points to a release from inevitable decline at the end of time. On this foundation of possible progress the church then builds the idea of development of doctrine; Christians are better off knowing that Christ is one person with two natures. Even more central to Christianity, however, is the fact that the birth, death, and resurrection of Christ are moments in human history without which, as St. Paul says, "faith is in vain."⁵⁵ To be a Christian is to assent to a truth unavailable during earlier periods of history. What is more, Christ does not give a new Ten Commandments but instead speaks in parables. The spirit of the law cannot be propounded in formulations; it must be illustrated in narratives. In this way, Christ points to the

limits of the Hebraic law; for instance, in the act of healing a man on the Sabbath, he shows that its spirit supersedes its letter. (St. Paul will further deemphasize the law; it can convict but cannot justify.)⁵⁶ Because God reveals himself most fully through the person of Christ, one can only come to know the heights of divinity through the historical record of his actions—most notably his passion and death.

Indeed, Grotius's oeuvre is self-consciously Christian. In addition to his counsels of Christian virtue in *de Jure Belli*, he also wrote several theological and political treatises, one of which put forward a theory of Christ's Atonement still current in the Methodist Church. Grotius also wrote a work of Christian apologetics that would be published over a hundred times in a dozen languages. Finally, he devoted his last decade to a massive two-million-word commentary on the Bible that particularly seeks to illuminate the historical circumstances that surround the words of Scripture.⁵⁷ For instance, when Christ says that he has come not to oppose but to fulfill the law, Grotius points out that Christ is referring both to the Hebraic civil law and the law of God and that Christ fulfills the law not only through his doctrine but through his example.⁵⁸

Moreover, this Christian emphasis on fulfilling rather than overthrowing the Hebraic law might just as well apply to the ancient conception of natural Right as residing in the character of the philosopher. Plato illustrates this conception in his *Statesman* by outlining the sixfold typology of regimes more commonly associated with Aristotle's *Politics*. He then adds a seventh type, that of statesmanship, which is characterized not by law but by the art of ruling. Here the statesman acts as a sort of "living law."⁵⁹ This shows that the depersonalized law is one step removed from (and thus ontologically dependent on) the personal art of ruling, just as *dianoia* depends on a higher *nous*. Aristotle also illustrates this conception with his idea of the *spoudaios*, who must discern the good in particular situations, but cannot make universal prescriptions of his actions. For this reason, Strauss himself writes that Aristotle's concept of natural Right resides more in concrete decisions than in general propositions.⁶⁰ Hence, in order to learn practical wisdom, one must observe the *spoudaios*. Without direct personal access to Plato's statesman or Aristotle's *spoudaios*, one must rely on historical accounts. This substantiates history as revealing nature rather than sweeping it away. In this way, Grotius's approach to history as a source of knowledge is not a modern proto-Hegelian stance but a Christian incorporation of the insights of ancient natural Right.

GROTIUS AND SUBJECTIVE NATURAL RIGHTS

Grotius's emphasis on history continues when he seeks to justify the existence and origins of private property. Here he proceeds in much the same way as had Pope John XXII in the Franciscan property dispute that Brian Tierney identifies as the origin of natural rights.⁶¹ Grotius does not provide a theological Filmerian argument that property was present from the very beginnings of man and passed down from Adam. Neither does he propose a proto-Lockean argument that property ownership is inherent in work of one's hands. Rather, he draws on history and prudence. At some early point in history, humanity prudentially determined that the institution of private property could enable man to more fully live out his rational and social existence. This collective reasoning was manifested in the consent of men to these arrangements.⁶² This is consistent with Grotius's conception that rational natural law may usefully be supplemented by practical judgment. Humans are free to make behavior-limiting contracts that go beyond the duties imposed by natural law.

However, this introduction of subjective natural rights to property has led some observers to argue that Grotius is fundamentally modern. After all, if one has a right to property, one can then do with that property what one will; the possession in no way depends on a teleological account of the proper role of property in human flourishing. Indeed, any subjective right confers an absolute sphere of freedom on its holder, connoting a realm of individual sovereignty. In other words, subjective natural rights seem to give the holder the freedom to act against an overarching standard known to classical philosophy as natural Right. Is this not good evidence that Grotius is finally a modern? Why allow individuals the right to ignore the higher ends of human existence?

I would suggest that the answer to these questions draws on the same logic as does Grotius's emphasis on history, again rooted more in Christianity than in modernity. The ancient concept of nature certainly points toward an overarching standard of rightness. However, it lacks a deep concept of conscience. Indeed, classical philosophy generally assumes that the problem of politics is ignorance; if people know the truth (or are governed by philosopher-kings who do), they will act virtuously. However, Christianity develops the idea of the individual will and the possibility of its weakness. As St. Paul writes in the Epistle to the Romans, "for what I would, that do I not; but what I hate, that do I."⁶³ To this idea of individual conscience Christianity adds the idea of individual salvation. No longer is eternity available through a national covenant with God (as in the Hebrew world) or through the moral education of philosophical governors (as in Platonic philosophy). Rather, Christ announces that "the Kingdom of God is within you."⁶⁴

For this reason, one's character when carrying out an act is more important than the act itself. It is now better to do the wrong thing for the right reason than vice versa. Indeed, orthodox Christianity is reluctant to condemn all those outside the church. Despite their ignorance of Christianity, their intentions—known only to God—may yet be justified. Christianity thus introduces the concept of invincible ignorance—a concept incompatible with the strict nature of pre-Christian reason. (To use an analogue from physical nature, the natural law of gravity makes no exception for skydivers who earnestly seek to open their unknowingly defective parachutes.)

The implication of this emphasis on intention is that true virtue cannot be coerced; the Christian cannot force the cavedweller to turn around. Rather, virtue must be freely chosen. Christian grace does not compel; it can only sweetly inspire. Hence, Christianity grants to humanity the freedom to act against God and nature, and to refuse grace. By granting this right, one can be sure that any subsequent good act is freely chosen and thus genuinely (and not only apparently) virtuous. In this way, one might argue that subjective natural rights actually deepen natural Right. Natural rights need not oppose natural Right, because one can very well exercise his individual natural right according to the higher standard. However, such exercise is more praiseworthy when one had the right to do otherwise.

Moreover, the concept of natural rights may in fact awaken a sense of ownership in the agent who holds a right. If one is now saved as an individual soul rather than as a member of a chosen nation, one cannot shift the responsibility onto others and hope to free-ride to salvation. Nor can one blame the shackles of circumstance; if one is now only accountable for his response to the light he has been shown, the absence of a Socratic guide toward the sun is no excuse for inaction. This emphasis on personal responsibility further accounts for Grotius's belief that self-interest and charity simultaneously coexist in human nature. The former is, in fact, the gift of a provident God, because one's self-interest requires cooperation with others, thus leading one to take on freely chosen responsibilities.⁶⁵ Much like Tocqueville's concept of "interest rightly understood," one's own right may lead to an enlargement of one's sense of responsibility. The extrinsic incentive may gradually lead to the development of intrinsic (and thus genuinely virtuous) motives.

For this reason, medieval theorists had argued that individual rights and the common good are complementary rather than conflicting aspects of the human condition. Because Grotius's philosophy leaves room for intrinsic, incorporeal goods, he continues in this tradition. Once again, commentators might focus on the appearance of "self-interested" Grotius and read in him a proto-Hobbesian conception of man. But because Grotius has a non-reductionistic concept of human nature, man is self-interested while also being more than merely self-interested.⁶⁶ In other words, individual rights do con-

fer an absolute modern liberty to reject the teleology of ancient natural Right. However, Grotius introduces them not to allow an escape from natural Right but in the hopes of making the instantiation of natural Right a more fully praiseworthy choice. He may thus help to enlarge the possibilities of human action in the hopes that it will lead the person toward an end that transcends humanity.

NATURAL RIGHTS AND HISTORY: GROTIUS'S MODERN TRANSLATION

Has nature lost its appeal in the modern world? The word "teleology" would fail a first round of political focus groups, and even the mere language of virtue tends to arouse mental images of Saudi morality police. Yet the prevalence of human rights discourse around the globe suggests that the implicit concept of natural rights retains wide currency. If they do not mandate a movement toward the fullness of human flourishing, they do prevent the worst abuses against humanity. Individual natural rights are thus unlikely to recede anytime soon, and despite the occasionally absurd inflation of rights claims, even most critics of rights would be sorry to see them disappear. In this way, Grotius may offer a way to maintain some link to the ancient understanding of nature in a pluralistic modern world that resists legal mandates based on comprehensive doctrines.

Nonetheless, if rights are here to stay for the foreseeable future, there are surely better and worse ways to conceive of them. The task is to emphasize that rights are a beginning, not an end. Grotius does precisely this. By conferring a sphere of individual sovereignty on the right holder, Grotius conceptualizes rights as protecting the freedom to make a truly virtuous choice. Rights are grounded on a rich conception of the subject amenable to contemporary discourse. Yet while Grotius's natural rights can be promulgated on a non-teleological basis, they ultimately point toward a vision of human flourishing. The careful reader will find that Grotius's concept of subjectivity is ultimately rooted in an older Christian development of the ancient emphasis on virtue as residing in the soul.

The same is true of the political language of history. Few today would respond to a political discourse that rejects the several past centuries as a grand mistake. Grotius's concept of history allows for the possibility of progress and thus avoids the kind of fatalism or even cynicism that consciously propagates self-defeating practices from a belief that decline is inevitable. Likewise, a belief in the relevance of particular historical circumstances allows for legitimate diversity among societies, combating an unsophisticated application of nature as a one-size-fits-all proposition.

Yet Grotius sees history not as an autonomous force, but rather as the locus in which nature is revealed. His Aristotelian concept of nature implicitly justifies history as the realm in which the virtues of natural Right are instantiated and thus known. This allows for a culturally sensitive understanding of nature that nonetheless rejects cultural relativism. Furthermore, his Christian development of history makes him fully aware of the reality of sin and the impossibility of perfection in secular history. Progress is anything but guaranteed or linear. This guards against ideologies that would promise a utopia at the cost of trampling the human dignity of enemies of the revolution.

In this way, the ambiguity of Grotius's legacy, following from his situation at the crossroads between the ancient and modern world, may allow him to maintain one foot in each. His modern idiom of natural rights and history offers a (perhaps compact) entry point to nature. However, his ancient conception of man as fundamentally rational and social bids the right holder to exercise his liberty in a way that points to a higher conception of human existence rather than permitting him to ignore it. Thus, the rearticulation of a Grotian approach to nature (and its implicit classical-Christian foundations) may offer a realistic way to enrich contemporary political discourse. If the modern world generally has ears to hear talk of nature in only one language, Grotius may be a valuable translator.

NOTES

1. Cicero, *The Morals of Cicero*, trans. William Guthrie (London: Wallter, 1744), Book 4, chap. 3, 193.

2. Hugh Trevor-Roper, *From Counter-Reformation to Glorious Revolution* (Chicago: University of Chicago Press, 1992), 79.

3. Jean-Jacques Rousseau, *Emile*, ed. C. E. Vaughan (Oxford: Oxford University Press, 1915), 2:147 (Rousseau also uses Grotius as a foil in every book of the *Social Contract*); Immanuel Kant, *Perpetual Peace*, ed. Pauline Kleingeld, trans. David L. Colclasure (New Haven: Yale University Press, 2006), 79; Renée Jeffery, *Hugo Grotius in International Thought* (New York: Palgrave Macmillan, 2006), 77–84 (see *Federalist* 20 and 84).

4. Brian Tierney, *The Idea of Natural Rights* (Grand Rapids, MI: Eerdmans, 1997), 318.

5. A. C. 't Hart, "Hugo de Groot and Giambattista Vico," in John Dunn and Ian Harris, eds. *Grotius*, vol. 2 (Lyme, NH: Edward Elgar Publishing, Inc., 1997), 187–89, 199–200.

6. Oliver O'Donovan and Joan Lockwood O'Donovan, "Hugo Grotius (1583–1645)," in *From Irenaeus to Grotius: A Sourcebook in Christian Political Thought* (Grand Rapids, MI: Eerdmans, 1999), 787–93.

7. Richard Tuck, "Grotius and Selden," in *The Cambridge History of Political Thought 1450–1700*, ed. J. H. Burns (New York: Cambridge University Press, 1991), 506–19; Tuck, "Grotius, Carneades, and Hobbes," in Dunn and Harris, 263. Others include Michel Villey, *La Formation de la Pensée Juridique Moderne* (Paris: Montchrétien, 1975), 619–20; John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 1980), 205–8; and Charles Taylor, *A Secular Age* (Cambridge, MA: Belknap Press of Harvard University Press, 2007), 115–27, 157–70. Knud Haakonssen, who selected Tuck to edit the most recent translation of *de Jure Belli*, puts forward a more nuanced view. Nonetheless, he sees much merit in the hypothe-

sis that Hobbes was a descendant of Grotius. (Knud Haakonssen, *Natural Law and Moral Philosophy* [New York: Cambridge University Press, 1996], 31.)

8. Tuck, "Grotius, Carneades, and Hobbes," 271.

9. Hugo Grotius, *The Law of War and Peace (De Jure Belli ac Pacis Libri Tres)*, trans. Francis W. Kelsey (New York: Bobbs-Merrill, 1925), ProL. 3-5, 9-10.

10. Tierney, 321.

11. Tuck, "Grotius, Carneades, and Hobbes," 263-65; Grotius, *DJB* ProL.42, 24.

12. "And I believe that scarce anything can be more absurdly said in natural philosophy than that which now is called Aristotle's *Metaphysics*; nor more repugnant to government than much of that he hath said in his *Politics*, nor more ignorantly, than a great part of his *Ethics*." Thomas Hobbes, *Leviathan* (London: Penguin, 1985), 686.

13. Tuck, "Grotius, Carneades, and Hobbes," 272; Tierney, 322.

14. Tuck, "Grotius, Carneades, and Hobbes," 270-71; Tuck, "Grotius and Selden," 506-7, 515-19.

15. Hobbes, 215.

16. Grotius, *DJB* ProL.11, 13.

17. Tuck, "Grotius, Carneades, and Hobbes," 275.

18. Tierney, 321.

19. Again, compare this to Hobbes's assertion that "the Felicity of this life, consisteth not in the repose of a mind satisfied . . . for there is no *summum bonum*." Hobbes, *Leviathan*, 160.

20. Grotius, *DJB* ProL.20, 16-17.

21. Grotius, *DJB* ProL.42, 24; ProL.45, 26.

22. By way of comparison, *Leviathan* has no footnotes.

23. Grotius, *DJB* ProL.11, 13.

24. This is how Leo Strauss seems to read Grotius, assuming that his hypothetical situation envisions an Aristotelian prime mover. See *Natural Right and History* (Chicago: University of Chicago Press, 1952), 94.

25. Tierney, 320n18. Grotius also qualifies his statement by saying that the natural law would have merely a *degree* of validity in God's absence.

26. See Joan D. Tooke, *The Just War in Aquinas and Grotius* (London: S.P.C.K., 1965), 207-13.

27. Grotius, *DJB* 1.3.1.2, 91.

28. Grotius, *DJB* ProL.6, 11.

29. Grotius, *DJB* ProL.7, 12.

30. Grotius, *DJB* ProL.6-10, 11-13.

31. Grotius, *DJB* 2.23.2-4, 557-59.

32. Grotius, *DJB* ProL.45, 25-26.

33. Grotius, *DJB* 1.1.11, 41.

34. Grotius, *DJB* ProL.9, 13.

35. Alasdair MacIntyre, *After Virtue*, 2nd ed. (Notre Dame, IN: University of Notre Dame Press, 1984), 51-55.

36. Grotius, *DJB* 2.20.29, 495.

37. Grotius, *DJB* 2.11.7, 334-35.

38. Grotius, *DJB* 2.20.29, 495.

39. Grotius, *DJB* 2.20.31, 498.

40. Grotius, *DJB* ProL.16, 15.

41. Hobbes, *Leviathan*, 190.

42. This concept of internal and external goods is largely drawn from Alasdair MacIntyre. As he states, "And in any society which recognized only external goods competitiveness would be the dominant and even exclusive feature. We have a brilliant portrait of such a society in Hobbes's account of the state of nature." See MacIntyre, 196.

43. Grotius, *DJB* ProL.24, 18.

44. Grotius, *DJB* 2.1.9, 177.

45. Grotius, *DJB* 1.1.12, 42; 2.20.43, 507.

46. Grotius, *DJB* 2.20.43, 507-8.

47. Grotius, *DJB* 1.1.12, 42.

48. Grotius, *DJB* 2.23.1, 557.
49. Grotius, *DJB* Prol.10, 13.
50. Thomas Hobbes, "Elements of Philosophy, The First Section; Concerning Body," in *The English Works of Thomas Hobbes*, ed. Molesworth (Longmans, 1845), I, ix.
51. In regard to international law, Grotius further divides the third category (that of human positive law in history) into three subcategories: the law of nations, civil law, and canon law. See Grotius, *DJB* Prol.37, 22.
52. Grotius, *DJB* Prol.1, 8; Prol.11–12, 13–14; Prol.20–21, 17.
53. See Grotius, *DJB* Prol.40, 24: "For whatever cannot be deduced from certain principles by a sure process of reasoning, and yet is clearly observed everywhere, must have its origin in the free will of man." For more examples of Grotius's use of history, see Prol.27 and Prol.46–49. Many observers have seen this approach as original, particularly as it relates to international law/relations. For example, see James Turner Johnson, "Grotius's Use of History and Charity in the Modern Transformation of the Just War Idea," in Dunn and Harris, 241–54.
54. Grotius, *DJB* Prol.38–39.
55. I Corinthians 15:14, King James version.
56. Mark 2:23–3:6; Romans 3:20, King James version.
57. This vast theological corpus also sheds another light on Grotius's "impious hypothesis"; it is hard to imagine that this is all subterfuge to cover an implicit deism.
58. Hugo Grotius, *Operum Theologicorum: Annotationes, Evangelia et Acta Apostolorum* (Amsterdam, Joannis Blaeu, 1679), 35 (commentary on Matthew 5:17).
59. Plato, *Statesman*, trans. J. B. Skemp, rev. Martin Ostwald (Indianapolis: Hackett, 1992), 63–84 (292a–303b).
60. Leo Strauss, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 159.
61. See Tierney chap. 6, 131–69.
62. Grotius, *DJB* 2.2.2, 190. See also Tierney, 331–33.
63. Romans 7:15, King James version.
64. Luke 17:20–21, King James version.
65. Grotius, *DJB* Prol.17.
66. Tierney, 322–23, 334–35.

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