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Grotius and Law

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The series *Philosophers and Law* selects and makes accessible the most important essays in English that deal with the application to law of the work of major philosophers for whom law was not a main concern. The series encompasses not only what these philosophers had to say about law but also brings together essays which consider those aspects of the work of major philosophers which bear on our interpretation and assessment of current law and legal theory. The essays are based on scholarly study of particular philosophers and deal with both the nature and role of law and the application of philosophy to specific areas of law.

Some philosophers, such as Hans Kelsen, Roscoe Pound and Herbert Hart are known principally as philosophers of law. Others, whose names are not primarily or immediately associated with law, such as Aristotle, Kant and Hegel, have, nevertheless, had a profound influence on legal thought. It is with the significance for law of this second group of philosophers that this series is concerned.

Each volume in the series deals with a major philosopher whose work has been taken up and applied to the study and critique of law and legal systems. The essays, which have all been previously published in law, philosophy and politics journals and books, are selected and introduced by an editor with a special interest in the philosopher in question and an engagement in contemporary legal studies. The essays chosen represent the most important and influential contributions to the interpretation of the philosophers concerned and the continuing relevance of their work to current legal issues.

TOM CAMPBELL
Series Editor
Centre for Applied Philosophy and Public Ethics
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Introduction

Hugo Grotius (Huig de Groot) was born in 1583 in Delft, the Netherlands. Today, in the square containing Delft's city hall and New Church (Nieuwe Kerk) there is a larger than life-size statue of Grotius, 'the miracle of Holland', as King Henry IV called him. It is common, although not uncontroversial, to say that Grotius is the founder of international law. In this book, the various selected essays will set out Grotius's views of international society and the *jus gentium*. But our volume also contains essays discussing a broad array of Grotius's views on other aspects of law that have also been influential. Indeed, Grotius is perhaps the most important secular natural law theorist to map the relations between natural law and civil law.

In what follows we will present the best of the extant scholarly literature on Grotius in English. In the English-speaking world Grotius is not as well known as his fellow seventeenth-century political philosophers Thomas Hobbes and John Locke, but in legal theory Grotius is at least as important. Even on central political concepts such as liberty and property, Grotius has important views that should be explored by anyone working in legal and political philosophy. And Grotius's work, especially *De Jure Belli ac Pacis*, is much more important in international law and the laws of war than anyone else's work from the seventeenth or eighteenth centuries. Our volume will include essays on all these topics of Grotian scholarship as well as discussions of Grotius's ideas of natural law and natural right, crucial ideas that were influential for centuries after he wrote and are still discussed as we continue to debate the nature and extent of human rights.

In this introduction we will attempt to set Grotius in the larger picture of legal and political theory, and then summarize the essays that we have included in the book. We were inspired to put this collection of essays together because of how hard it was to find good pieces on Grotius for a seventeenth-century legal and political philosophy course three years ago. And we were also inspired by the fact that so many international lawyers claim to be inspired by Grotius but have not read his work or the scholarship about Grotius. In addition, we want to show that Grotius's work is important not only for international lawyers but also for all others interested in the development of legal thought in the early modern period.

The Nature of Law

For Grotius, law comes in several types. Law in general is simply a 'rule of action'.[1] Law can concern equals or it can concern those who stand in relationship of ruler to ruled. In the latter case, 'there is another meaning of law viewed as a body of rights ... In this sense a right becomes a moral quality of a person' (*De Jure Belli ac Pacis*, p. 35). A 'legal right' is 'the right to one's own'. This is a right 'properly and strictly so called' (*De Jure Belli ac Pacis*, p. 35). Grotius then says that there is a contrasting kind of right that is not strict but which

[1] Grotius, Hugo (1925), *De Jure Belli ac Pacis* (*On the Law of War and Peace*) (1625), trans. Francis Kelsey, Oxford: Clarendon Press, p. 34. Hereafter cited in the text by title and page number.

connects 'with those virtues which have as their purpose to do good to others, as generosity, compassion, and foresight in matters of government'. Law is also more generally divided into 'the law of nature and volitional law', where the latter concerns what humans have made by their wills (*De Jure Belli ac Pacis*, p. 38).

Grotius seeks to establish the natural law foundations of domestic law. He then tries to extend the relationship between natural and domestic law to capture the relation between natural law and what he calls the law of nations. In addition, Grotius is also intrigued by the idea of how humaneness, including considerations of mercy and restraint, might limit the law of nations. In discussing all of these types of law, Grotius is not just interested in the abstract relationships among them but also in the practical implications of these relationships.

Natural law involves 'certain fundamental conceptions which are beyond question ... almost as evident as are those which we perceive by the external senses' (*De Jure Belli ac Pacis*, p. 23). Grotius then explains his method and distinguishes natural law from the law of nations.

> in order to prove the existence of this [natural] law, I have furthermore availed myself of the testimony of philosophers, historians, poets, finally also of orators. Not that confidence is to be reposed in them without discrimination; for they were accustomed to serve the interests of their sect, their subject, or their cause. But when many at different times, and in different places, affirm the same thing as certain, that ought to be referred to a universal cause; and this cause, in the lines of inquiry which we are following, must be either a correct conclusion drawn from the principles of nature, or common consent; the former points to the law of nature; the latter to the law of nations. The distinction between these kinds of law is not to be drawn from the testimonies themselves (for writers everywhere confuse the terms law of nature and law of nations), but from the character of the matter. (*De Jure Belli ac Pacis*, pp. 23–24)

So, for Grotius, the laws of nature are correct conclusions from the principles of nature and the law of nations are rules derived from common consent of those nations.

Let us pause here to discuss briefly the method that Grotius employs that often makes it so hard to read his texts. Rousseau ([1762] 1979, p. 422) once said that the only difference between Grotius and Hobbes is that Hobbes supports himself by sophisms whereas Grotius supports his views by quoting the poets. And many others have had a difficult time seeing the relevance of all of the quotations that Grotius piles up before he draws his conclusion. As Grotius notes though, he uses poets and other historical figures only to show that an idea has been affirmed at many times and by many scholars to buttress his own arguments, not to use their writings solely to establish his various conclusions.

As to the law of nature, Grotius is at pains to distinguish it from God's law issued to particular people at particular times, as in many cases within the Old Testament (see *De Jure Belli ac Pacis*, p. 27). The laws of nature, as they are universally acknowledged, are thus nearly indistinguishable from objective morality for Grotius. This comes out clearly when Grotius defines the law of nature as

> a dictate of right reason which points out that an act, according as it is or is not in accordance with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God. (*De Jure Belli ac Pacis*, pp. 38–39)

Grotius also uses an expression to elucidate the character of the laws of nature that resonates with contemporary discussions today. Grotius says the *a posteriori* proof of what is contained in the law of nature has a universal cause, 'the cause of such an opinion can hardly be anything else than the feeling which is called the common sense of mankind' (*De Jure Belli ac Pacis*, p. 42).

This phrase, 'the common sense of mankind', is echoed in the Martens Clause of the Hague Conventions[2] as well as in Article 38 of the Statute of the International Court of Justice. The Martens Clause speaks of the gap filler in international law as concerning the 'laws of humanity and the dictates of public conscience'. And the Statute of the International Court of Justice speaks of one source of law as being '*ex aequo et bono*', laws of equity and good conscience of the peoples of the world. In this sense, Grotius would find contemporary debates about international law to be on the right track insofar as they draw on the common sense of mankind. And Grotius would insist that the law of nature, as universal law, be distinguished from the law of nations, which is merely contingently accepted at the moment among states.

Liberty and Natural Right

Liberty has a central place in Grotius's legal and political philosophy. In *De Jure Praedae*, Grotius says that

> God created man *autexouson*, 'free and *sui iuris*,' so that the actions of each individual and the use of his possessions were made subject not to another's will but to his own ... For what is that well-known concept, 'natural liberty,' other than the power of the individual to act in accordance of his own will. And liberty in regard to action is equivalent to ownership in regard to property.[3]

There thus seem to be natural liberties of action and property use that predate the beginnings of civil society.

One is tempted to say that these liberties are natural rights for Grotius. In *De Jure Belli ac Pacis*, Grotius says that a right is 'a moral quality of a person, making it possible to have or to do something lawfully' (p. 35). So, it is fair to say that freedom or liberty for Grotius is a kind of natural right. Natural rights are never discussed per se by Grotius but the close connection between rights and natural law makes it evident that Grotius thinks of at least some rights as grounded in nature, specifically the nature of the person. In this sense natural rights are distinguished from contractual rights which are only acquired due to the voluntary acts of two or more parties.

Yet, in *De Jure Praedae*, Grotius says that the idea that people have natural liberty is 'sanctioned by the common consent of all nations' (p. 18). Here Grotius seems to equate the law of nations with the law of nature. But in *De Jure Belli ac Pacis*, as we have seen, Grotius distinguishes these two types of law, equating the law of nature with 'the common sense of mankind' (p. 42). What is the common sense of mankind can be true even if not consented

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[2] See the Preamble to the 1907 Hague Regulations, all four Geneva conventions of 1949, the Preamble of the 1977 Additional Protocol II, Article 1, para. 2 of the 1977 Additional Protocol I, and the Preamble of the 1980 Conventional Weapons Convention.

[3] Hugo Grotius (1950), *De Jure Praedae* (*On the Law of Prize and Booty*) (1605), trans. Gwladys L. Williams, Oxford: Clarendon Press, p. 18. Hereafter cited in the text by title and page number.

to by all nations, and this is at least one reason why in the later work, *De Jure Belli ac Pacis*, even if not in the earlier work, Grotius seems to recognize natural rights, of which liberty of action and property are of prime importance.

Grotius maintains that freedom or liberty is the right or power 'over oneself' (*De Jure Belli ac Pacis*, p. 35). And this natural liberty sets limits on what can be done to an individual by other individuals or by the society. Indeed, on the basis of natural liberty one has a right to act that creates a corresponding duty on the society, through its laws, to treat these acts as lawful. There has been an interesting debate about whether liberty for Grotius is best understood as republican, where liberty is understood as freedom from domination, or as proto-liberal, where liberty is understood in terms of freedom from control, which allows one to do something lawful. It seems to us that there are texts that support each interpretation, although there may be more texts that treat liberty as a proto-liberal concept.

In *De Jure Praedae*, Grotius asks about the priority of individual good or social good and this question bears on how we understand natural liberty's place in civil society:

> Although ... one's own good takes precedence over the good of another person ... nevertheless, in questions involving a comparison between the good of single individuals and the good of all (both of which can be correctly described as 'one's own,' since the term 'all' does in fact refer to a species of unit), the more general concept should take precedence on the ground that it includes the good of individuals as well. (p. 21)

The collective good of all can justify restrictions on individual liberty in this analysis, but only because the individual's good is already part of the collective good.

For Grotius, natural rights to action and to property use can be restricted in civil society insofar as the restriction works out for the common or collective good. And such a position is supported by the idea that it only makes sense, common sense, to see that some restriction must be acknowledged for the overall prosperity of the society. As Grotius quotes Livy, '"In nowise will you be able to protect your own interests by betraying the public interest"' (*De Jure Praedae*, p. 22). And Grotius makes the point even clearer, concerning rights to property and contract, when he sets the following rule: '*Whatever the commonwealth has indicated to be its will, that is law for the individual citizens in their mutual relations*' (*De Jure Praedae*, p. 24).

Yet, there are limits on what the society can do to the individual even given the consent of the individual to be governed by the laws of that society: 'For no one shall be compelled to throw away his own property' (*De Jure Praedae*, p. 30). And Grotius then says that the idea of a right also gives us a sense of what counts as a wrong:

> that action is just whereby a right is awarded to the party to whom it is conceded by the various rules and laws, whereas actions of a contrary nature are unjust. (*De Jure Praedae*, p. 30)

Natural liberty is a kind of natural right that can be restricted partially but not completely. The submersion of the individual into the society must still leave room for the individual as autonomous actor.

Property and Contract

Grotius begins his discussion of property and contract by first discussing promising. Interestingly, Grotius sets out his view by noting that of course promises are binding even if there is no consideration. And Grotius supports this view by pointing out that requiring consideration is counterintuitive because it would mean that kings cannot be bound by the creation of treaties.

> we must add the accordant opinion of wise men. For just as the jurists say, that nothing is so in accord with the law of nature as that the wish of the owner should be held valid when he desires to transfer his property to another, in like manner it is said that nothing is so in harmony with the good faith of mankind as that persons should keep the agreements which they have made with one another. (*De Jure Belli ac Pacis*, p. 329)

Grotius does recognize, though, that 'if a promise has been based on a certain presumption of fact which does not obtain, by the law of nature it has no force' (*De Jure Belli ac Pacis*, p. 333).

When discussing the law of nature concerning property, Grotius provides a very subtle analysis:

> It is necessary to understand, further, that the law of nature deals not only with things which are outside the domain of the human will, but with many things also which result from an act of human will. Thus ownership, such as now obtains, was introduced by the will of man; but, once introduced, the law of nature points out that it is wrong for me, against your will, to take away that which is subject to your ownership. (*De Jure Belli ac Pacis*, p. 39)

Property rights as ownership rights are a seventeenth-century staple. Grotius holds a view that seems to have influenced John Locke. In effect, there is a natural right of ownership that is made applicable whenever one is able to acquire property through social institutions. The acquiring is social but the right against theft is natural in Grotius's view.

Here is what Frederick Pollock has written about Grotius's use of Roman law, especially in Grotius's conception of property. Pollock points out that Grotius does quote Gaius concerning the '"occupation" of *res nullius*, such as wild animals'

> but almost in the same breath he quotes the Old Testament, Plato, Xenophon and Aristotle. He denies that enemy land can be acquired by mere invasion short of permanent occupation in force. He seems to think private plundering admissible in strict right, but elsewhere under the head of *temperaments* – a kind of counsels of perfection to mitigate the rigor of war, most of which have since been adopted as rules – he suggests that captured property should be restored on the conclusion of peace, so far as is practicable ... It is difficult to find here much adoption of the Roman law of Occupancy. (Pollock, 1906, p. 237, n. O)

The distinction here between strict right and what is counselled by moderation is crucial for nearly all aspects of Grotius's thought, as we will soon see.

Contractual rights are treated similarly to property rights for Grotius. Contracts are 'all acts of benefit to others, except mere acts of kindness' (*De Jure Belli ac Pacis*, p. 346). Several kinds of equality are necessary for a valid contract. First, there must be 'equality as regards preceding acts', where this means that there must be a mutually acknowledged reciprocity,

where something recognized as equivalent is contracted for (*De Jure Belli ac Pacis*, p. 346). Second, there must be equality 'as regards knowledge of the facts' (*De Jure Belli ac Pacis*, p. 347). Grotius thinks that there is a 'duty' to disclose faults in the thing that is offered as part of a contract. Here, as is true later in *De Jure Belli ac Pacis*, Grotius discusses this duty as 'a duty of love', once again calling attention to the special relationship that is created by contracts and that carry with them duties that are not of strict justice but still binding duties nonetheless (*De Jure Belli ac Pacis*, p. 347). Violating such a duty nullifies the contract.

Grotius also holds that valid contracts require equality 'as regards freedom of choice' (*De Jure Belli ac Pacis*, p. 348). He does not rule out all fear-driven contracts, but only those that involve fear caused by one of the parties to the contract. Here as elsewhere Grotius distinguishes the contract conditions that arise from the law of nature from the much more lenient contractual conditions that arise from the law of nations. We will explore this general issue more directly in the next section. Suffice it here to say that the law of nature binds in property and contract law even when the law of nations may allow for exceptions.

The Laws of War and International Law

Grotius is best known for setting the moral basis for humanitarian law and generally for international law today. Yet, in the early chapters of *De Jure Belli ac Pacis* Grotius seems to say that very little is denied to those who fight a just war. Indeed, Grotius is often accused of being callous concerning the plight of those civilians and soldiers who are injured or killed in war, even seemingly thinking that slavery of prisoners is acceptable during war. But this interpretation only makes sense if one fails to read through to the end of Grotius's text.

In the final sections of *De Jure Belli ac Pacis* Grotius says that he is forced to take back nearly all of what he has previously said about what the law permits concerning the *jus in bello* when he looks at the rules of war from the standpoint of moderation and charity. Here one of Grotius's lasting influences concerns the idea of *meionexia*, demanding less than one is due. Justice had been understood at least since Aristotle to be simply demanding what was one's due. Justice, like all other virtues, sat between two extremes, one of excess and one of deficiency. The excess was *pleionexia*, demanding more than was one's due. Aristotle did not name the deficiency but later Greek philosophers called it *meionexia*. This form of justice is not a matter of strict right, but rather a matter of charity and moderation. Out of such considerations the rules of humane treatment during war are constructed by Grotius.[4] And in addition, *meionexia* also plays a prominent role in what today is being called *jus post bellum*, especially concerning reconciliation and rebuilding.

In particular, Grotius argued for moderation in terms of who could be killed even in a just war – ruling out the killing of anyone who could plausibly be said to be innocent or for whom it was unclear whether they were innocent. He also called for moderation in the destruction of enemy property during war as well as in regard to captured property. In a now-famous section, Grotius also argued for moderation concerning prisoners of war. What Grotius says about the proper treatment of POWs is similar to the way that the issue was dealt with in the Geneva

[4] On Grotius's conception of *meionexia*, see *De Jure Praedae*, p. 3, where Grotius is sceptical of *meionexia* as a virtue. But in *De Jure Belli ac Pacis*, as we will see, the idea is supported especially so as to achieve reconciliation.

Conventions. Grotius even argued that there should be moderation in terms of the acquisition of sovereignty – 'Moreover to leave to the vanquished their sovereign powers is not only an act of humanity, but often an act of prudence also' (*De Jure Belli ac Pacis*, p. 773).

Grotius argued for moderation even in a just war on grounds of what he called 'humanity':

> An enemy, therefore, who wishes to observe, not what the laws of men permit, but what his duty requires, what is right from the point of view of religion and morals, will spare the blood of his foes ... Furthermore, from humanitarian instincts, or on other worthy grounds, he will either completely pardon, or free from the penalty of death, those who have deserved such punishment. (*De Jure Belli ac Pacis*, p. 773)

Once again, we see here Grotius reaching for a broader notion of justice that does not demand all that is one's due. Grotius links this broader notion of justice with mercy and honour in a way that provides a moral underpinning for international humanitarian law today.

Finally, we should note that although surely not the first, Grotius is one of the most significant historical figures to embrace the idea of a 'society of states'. This idea sits halfway between the idea of a state-centred perspective, which recognizes no binding international law, and a cosmopolitan perspective, that sees all of international law focused on the relations of individuals and not of states. The society of states perspective sees an analogy between how individual human persons formed states and how states came to form a larger society composed of states.

Grotius first addresses issues of international justice and law in Chapter II of *De Jure Praedae*:

> For just as the common good of private persons gave rise to the precepts above set forth, so also, owing to a common good of an international nature, the various peoples who had established states for themselves entered into agreements concerning that international good. (p. 26)

And while Grotius recognized the importance of sovereignty as a precept requiring that no power be above that of the state, he also held that if a state transgresses against another state or against its own citizens, 'one state is made subject to another' (*De Jure Praedae*, pp. 28–29).

Grotius argues for a similar position in *De Jure Belli ac Pacis*. Here is what he says in the Prolegomena to that work:

> But just as the laws of each state have in view an advantage of that state, so by mutual consent it has become possible that certain laws should originate as between all states, or a great many states; and it is apparent that the laws thus originating had in view the advantage, not of particular states, but of the great society of states. And this is what is called the law of nations, whenever we distinguish that term from the law of nature. (p. 15)

Here, Grotius recognizes the existence of a 'society of states' just as there is a society of individuals that forms a particular state. And the laws of this society of states are what we know as international law.

The essays that we will now summarize take up many of the themes we have just discussed. Grotius is a towering figure in seventeenth-century legal and political philosophy, especially concerning international affairs. But as we will see, Grotius also made major contributions to

most other areas of legal theory. We hope that this collection of essays on Grotius will inspire more good scholarship on Grotius whose ideas have already influenced scholars for 400 years.

Summary of the Essays

We here summarize the essays in our collection.

Grotius's Place in the History of Legal and Political Thought

In the first of our essays, Chapter 1, 'Hugo Grotius', Martin Wight argues that Grotius doesn't believe in historical progress. Grotius's natural law doctrine, according to Wight, is a static and unchanging moral doctrine known to us through reason. As such, it presupposes a moral order which, although differing across different places, remains the same throughout time. Wight discusses several aspects of Grotius's theory that demonstrate this stability, including usucaption or the acquisition of a right to property by uninterrupted possession of a territory over a period of time, multiformity or the development of political variety, and the lack of a right to revolution. Wight contrasts Grotius's focus on stability as the chief political virtue with Kant's focus on moral progress. The difference between the two represents a question in moral philosophy – that is, is there only one way to achieve the good life or are there many ways? Grotius, of course, adopts the latter position. Wight ends by offering Grotius's natural law theory as an explicitly individualistic one, where individual moral decisions set the tone for all of society. Although contemporary international law focuses on states as actors, Grotius focuses chiefly on the individual.

Richard Tuck also draws our attention to Grotius's individualism in Chapter 2, 'Hugo Grotius', devoted to providing a historical backdrop for Grotius's humanist thought. Grotius's desire to defend the Dutch and their aggressive war to dominate trade, as well as his desire to respond to the moral sceptic, led him to revise traditional principles of international relations, a revision which resounded through Western political thought. There are several aspects of Grotius's theory that are tailor-made as a response to the Dutch situation and as a response to the sceptic. First, Grotius argues that individuals in nature are morally identical to sovereign states; both individuals and states may use violence in the same way and for identical purposes. This analogy allows Grotius to argue that private trading companies can make war in the same way as traditional sovereigns.

The analogy also allows Grotius to argue that we can punish people over whom we don't possess political rights, and that the Dutch have a right to seek trade, just as all private individuals have a right to acquire goods and to protect them. Second, according to Tuck, Grotius argues that private property can only exist in things we can consume or transform. This argument allows Grotius to say that the sea, because it can't come under the control of a state, can't become private property, and thus the Dutch have an equal claim to it. Tuck ends by suggesting that Grotius attributes strong rights to both the state and the individual, and thus equipped modern liberal rights theories with an account of how individuals can act in the state of nature and in the international arena.

In Chapter 3, 'Hugo Grotius and the History of Political Thought', Knud Haakonssen also sees in Grotius a focus on the individual. According to Haakonssen, Grotius's greatest influence on the history of political thought is his theory of subjectivized rights – that is,

Grotius sees ius as something an individual has; this aspect of Grotius's thought has influenced modern individualism. Grotius's subjective rights theory connects to his theory of the state. Haakonssen explains that under natural law, individuals form a universal society, but corruption makes it impossible to live socially without a civil authority. Sovereignty is thus created by the voluntary consent of individuals.

Haakonssen also discusses what he takes to be the basis for natural law on Grotius's account. Although Grotius ultimately thinks that the obligation to follow natural law is imposed by God, he also argues that our own empirical methods are enough to allow us to understand natural law – God is not necessary for this understanding. Grotius thus has a secularized account of natural law. He does, however, ultimately think that God's will is necessary to explain our obligation to follow natural law. Haakonssen argues that Grotius thus fails to form a theory of practical reason that accords with his subjective theory of rights. For this theory, Haakonssen turns to Scottish eighteenth-century moral thought, specifically Hume and Smith, who take up central aspects of Grotius's natural rights theory. For Haakonssen, then, Grotius's influence extends beyond seventeenth-century Europe into eighteenth-century Scotland and beyond.

Natural Law and Natural Right

In the previous section we considered Grotius's place in the history of legal and political thought. One of his most important contributions to legal and political thought has been his secularized theory of natural law. In this section, then, we have included three essays that examine Grotius's theory of natural law and natural right.

J.B. Schneewind, in 'Natural Law Restated: Suáez and Grotius' (Chapter 4), argues that Grotius creates a new theory of natural law both to serve political purposes and to respond to the sceptical challenge that common binding laws did not exist. He starts by explaining the natural law view of Suárez, who saw natural law as a domain of theology. According to Suárez, God created rational beings and the law that binds them; law requires the command of God. Suárez also argues that the entire realm of moral goodness falls within the domain of natural law, which is the same for all men even though not all men have knowledge of it. The political situation inspiring Grotius was different than that of Suárez, and revolved around the Dutch expansion of trade. Grotius is influenced by this situation and by the sceptic to argue that human beings are both self-preserving and sociable. These two aspects of our nature raise the question of how we are to live together in society. To answer this question, Grotius disagrees with Suárez and maintains that the laws of nature are empirically discoverable by us, and show us how to solve the problem of our dual nature. This, according to Grotius, is the point of natural law.

Theodor Meron, in Chapter 5, 'Common Rights of Mankind in Gentili, Grotius, and Suárez', also examines the relationship between Grotius and Suárez, although he also considers Gentili to a greater extent than Schneewind. Meron argues that the concept of humanitarian intervention, often attributed to Grotius, is actually a pre-Grotian concept, dating back to Suárez and Gentili. Grotius himself generally accepts a principle of non-intervention, but thought this principle could be violated if citizens were being gravely persecuted. Grotius also argues that we have a right to punish the perpetrators of gross violations of human rights, even if these perpetrators are in other states.