LEO STRAUSS AND THE LAW OF WAR AND PEACE:
ESOTERIC TEACHINGS OF HUGO GROTIIUS

By

ADAM L. FULLER

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Abstract

Seventeenth century Dutch jurist, Hugo Grotius is considered one of the most prominent names in the academic study of international law and in political philosophy. However, Grotius was a political figure in his own right, and he was exiled from his native Holland for a crime he did not commit in order to suppress his unpopular views on divine predestination and individual responsibility. What if his famous treatise on international law uses esoteric writing to conceal these unpopular views? Political science professor Leo Strauss believed that as a tradition begun by the execution of Socrates, classical, medieval, and even some pre-modern political philosophers implement esotericism in their writing in order to hide unpopular messages underneath an exoteric guise. This thesis explores this ‘art of writing’ and examines the Law of War and Peace for a possible deeper, philosophical meaning. In doing so, I argue that Grotius was a realist who had little faith in international law, but at the same time, believed that men must aspire to use their capacity to act virtuously.
# TABLE OF CONTENTS

Abstract .................................................................................................................. ii

Acknowledgements ............................................................................................... iv

Introduction: “Two Political Philosophers” ......................................................... 1

Chapter 1: “Hugo Grotius and His Legacy”
  1.1 The Dutchman in Exile ................................................................. 7
  1.2 Grotius’s Influence on Scholasticism ............................................ 13
  1.3 Grotius and the Author of Nature ................................................ 19
  1.4 Grotius and the Social Life of Man ............................................... 20
  1.5 Laws and Rights ........................................................................... 24
  1.6 War and Natural Law ..................................................................... 26
  1.7 Grotius and Liberalism: Hobbes and Locke ................................. 27

Chapter 2: “The Pedagogy of Leo Strauss”
  2.1 The Jewish Refugee From Germany .............................................. 29
  2.2 Modern Political Philosophy and Its Crisis ................................... 31
  2.3 Classic Political Philosophy and the Modern Crisis .................... 34
  2.4 Strauss on Grotian Themes ........................................................... 39
     i. Just War ....................................................................................... 39
     ii. Natural Law vs. Natural Right .................................................... 43
  2.5 Strauss, His Critics, and Liberal Democracy .................................. 45
  2.6 The Art of Studying Esoteric Literature ...................................... 49

Chapter 3: “Laws and Noble Lies”
  3.1 Grotius’s Art of Concealment ...................................................... 53
  3.2 Defending a Falsehood ............................................................... 55
  3.3 The Real Purpose of the Law ....................................................... 57
  3.4 The Will of the First Citizen ....................................................... 69
  3.5 The Real Purpose of War ........................................................... 80

Chapter 4: “Virtues and Natural Right”
  4.1 The Grotian City of Virtue ........................................................... 88
  4.2 The Right of Self-Preservation .................................................... 95
  4.3 Virtues and Man’s Morality ........................................................ 100
     i. Friendship, Kinship, and Alliance ............................................. 100
     ii. Virtue During Adversity .......................................................... 101
     iii. Family Virtues and Gender ..................................................... 101
     iv. The Virtue of Philosophy ....................................................... 103
  4.4 The Conflict Between Sovereignty and Adherence ...................... 105
  4.5 The Benefits and Weaknesses of Democracy ............................... 110

Conclusion: “Strauss’s Grotius” .......................................................................... 114

Bibliography ........................................................................................................ 116
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Fear is a very daunting and highly frustrating human emotion. It is one of the more troubling obstacles to virtue because even the greatest deeds are sometimes the most threatening when they damage social and political harmony, or when they conflict with the agendas of powerful men. The gravity of the problem is worded most eloquently by Plato, who wrote, "...Courage and temperance and justice and, in short, true virtue, depend on wisdom, whether pleasure or fear and all other such things are added or taken away." Therefore, with so much depending upon wisdom, how can philosophers attain it without at the same time risking chaos and suffering or even their own capital punishment? Leo Strauss believed that as far back as the trial of Socrates, philosophers have been struggling with the problem of revealing unpopular philosophic truths without, while doing so, destroying the social fibers of their day or even worse, being declared criminal by their governments.

In the Seventeenth Century, Dutch jurist and philosopher, Hugo Grotius, was faced with this very dilemma. The purpose of this thesis is to illustrate the terror that consumed Grotius's life of undying adherence to philosophic virtue, which ultimately cost him his freedom, his wealth, and his citizenship. Moreover, this thesis will revise his most important treatise, *The Law of War and Peace*, using a Straussian re-analysis.

Posthumously, Grotius is credited as the "Father of International Law," as well as the "Father of Natural Law." While there is considerable debate about whether or not he is worthy of these distinctions, he has undoubtedly been the most widely read medieval jurist and legal philosopher over the last millenium. Grotius believed in a universal "brotherhood of mankind," which is based on common values, standards, and customs. In its traditional interpretation, this bond, for Grotius, forms the basis of international society, which, like domestic society, is equipped with laws and practices that serve to enhance every state's interests. In political science scholarship, Grotius's

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1 Plato, *Phaedo*, p. 472
traditional interpretation represents a paradigm within both international jurisprudence and international relations theory. His theories found the perspective of international liberalism, which views the world as an anarchical environment, but in contrast to realism, with a great potential for cooperation. Moreover, Grotius also bridges the gap between naturalism and positivism in international law. Legal academics use three common paradigms: 1) naturalists, who believe that international law is a set of universal norms, discoverable for some by reason and for others by divine prophecy, to which all states are obliged to conform, 2) positivists, who believe that international law derives only from treaties and conventions agreed upon among and between state governments, and 3) Grotians, who contend that both the natural and the positive are equally important sources of international law.²

Grotius believed that human beings, as creatures in pursuit of a secure social existence, possess a sense of goodness and morality. Some scholars notice a peculiar dissimilarity between Grotius's observations and empirical and psychological realities during his own century. Cornelius F. Murphy, Jr. (1982) writes, "Endowed with a capacity for goodness and altruism, he [man] can understand the essential moral principles derived from a rational social nature. This capacity of human nature makes the precepts of right reason the ultimate source of law." More importantly, Murphy continues, "It would prove to be the weakest part of Grotius's theory."³ Murphy notes that this optimistic position is especially assailable for the 17th Century, when political philosophy, such as the writings of Thomas Hobbes, tended to hold more cynical views of man's nature.⁴ German jurist Samuel Pufendorf also felt that Grotius had too high of a regard for man's capacity for even-handedness, because human beings often get away with rationalizing their subversive and ignoble

² Van Dervort, p. 4
³ Murphy, p. 483
⁴ Ibid.
behavior; therefore, Pufendorf chose to emphasize the *jus naturale* (natural law) component over *jus gentium* (positive law) in his own legal writings.$^5$

Grotius’s most influential work, *De Jure Belli ac Pacis*, or *The Law of War and Peace*, is an equivocal work written for two audiences. This thesis implements the methods outlined by Jewish emigree, philosopher, Leo Strauss in *Persecution and the Art of Writing*, as a way of looking deeper into this text. I will examine the work for hidden meanings in an attempt to exhume political ideas that Grotius clandestinely hid beneath words of optimism craftily geared towards his more cynical, but careful, and esoteric audience. It is rather curious how Grotius, who fell victim to political persecution himself, being framed for a crime he did not commit, and having to live in exile for most of his adult life because of it, would be so optimistic about man’s propensity to act virtuously. The Grotian tradition seems incompatible with the context of his personal biography. I believe that this inconsistency warrants exploration.

In a chapter on the law of trickery and telling falsehoods, Grotius writes, “...As you are not bound to tell others everything you know or wish for, it follows that it may be right to dissemble, that is, to conceal some things from some persons.”$^6$ And Strauss writes, “Persecution...gives rise to a peculiar technique of writing, and therewith to a peculiar type of literature, in which the truth about all crucial things is presented exclusively between the lines.”$^7$ Even in times and places that permit free speech, intellectuals are often silenced by social stigma. Strauss goes on to write that in places such as “Seventeenth century Holland and England, and in eighteenth century France and Germany—all of them comparatively liberal periods...A glance at the biographies of Anaxagoras...Grotius...[et al], is sufficient to show that they witnessed or suffered, during at least part of their lifetimes, a kind of persecution which was more tangible than social ostracism.”$^8$ And, as Socrates says in his

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$^5$ Ibid, p. 488  
$^6$ Grotius, Loomis ed., p. 273  
$^7$ Strauss, *Persecution and the Art of Writing*, p. 25  
$^8$ Ibid, p. 33
Apology, "...no man in the world will come off safe who honestly opposes either you [the state] or any other multitude, and tries to hinder the many unjust and illegal doings in a state."\(^9\) The problem, though, is that political philosophy must by its very nature be critical of the state. For this reason, perhaps the true virtues of Grotius's work is not in the literal translation, but instead hidden between the lines of the text. He even makes occasional hints about an esoteric message that can be found not so much by what he says openly, but by what he chooses to conceal. For example, in the Prolegomena, he writes, "...If I have here said anything at variance with piety, with good morals, with Holy Scripture, with the consensus of the Christian Church, with any phase of truth, let it be unsaid..."\(^10\)

In order to understand a philosopher, a reader must place himself in the author's audience, but first the reader must identify which kinds of people make up that audience. The question then, concerns Grotius's' intent and who he was trying to enlighten. Murphy states, "...The work was not an academic treatise. It had a didactic purpose. Grotius's aim was to touch the minds and hearts of men, especially rulers."\(^11\) However, as Strauss's theory suggests, perhaps Grotius had in mind a second audience when he wrote this work. Maybe it is politically acceptable, superficially, for Seventeenth Century publication, but it houses undertones of an ulterior, politically objectionable, and even criminal message that only this second readership can decipher. On one hand, he can encourage the common exoteric readership to live moral lives, but on the other, he writes for a minority, esoteric audience who will study the text closely and carefully, and who are familiar with the great philosophic books of Aristotle, Plato, St. Augustine, Seneca, Cicero, Xenophon, and the Bible, and the historical accounts of Thucydides, Plutarch, Tacitus, Sallust, Livy, and Lucan. It is especially important for Grotius, given that he was a lawyer and therefore considered by many the authority on legal rights, to be considerably cautious about what he writes overtly. According to

\(^9\) Plato, *Apology*, p. 437  
\(^10\) Grotius, Loomis ed., p. 16  
\(^11\) Murphy, p. 483
Strauss, Grotius’s aim was not to establish an authoritative guide to what is legal internationally and what is not, but instead to contribute to a philosophic debate in order to understand the truth about man’s nature and all political things. In concurrence with what Strauss might suggest, some Twentieth Century jurists, such as Lassa Oppenheim and Hersh Lauterpacht, have already noticed that Grotius seems more of an ethicist than an international lawyer.¹² For Strauss, studying both the parallels and contradistinctions of political philosophy will lead to philosophical insight about the good life.

Strauss also believed that the true, concealed knowledge is not only criminal in illiberal societies, but also dangerous if fallen into the irresponsible hands of the common man. For this reason, he and his disciples choose to follow the classical philosophers’ example by also concealing the esoteric teachings within their own commentaries of the great books.¹³ For example, Straussians will often tell careful readers inside of footnotes to compare one excerpt of a text with another; this tells the reader how to find the esoteric teaching without stating it overtly. However, this thesis will break from this one aspect of the Straussian tradition, but it will still implement Strauss’s methods of uncovering hidden meanings.

Since they are both concerned with reconciling reason and revelation, and since they both have an affinity for both ancient philosophy and for theology, Strauss and Grotius together make a very interesting pair. Both Grotius and Strauss say that ancient Greek and Roman philosophy represented a “nobler era.”¹⁴ It is also worth noting at the outset that both Strauss and Grotius were political escapees, therefore, they both had good reason to be cautious about stating unpopular political ideas outwardly. With these striking similarities in mind, this thesis will adjoin these two figures to extrapolate a hidden meaning within Grotius’s work.

¹² Thompson, p. 71
¹³ Drury, p. 4.
¹⁴ Grotius, Loomis ed., p. 15
Chapter 1 of this thesis surveys the life of Grotius as a thinker in his own time and explains the perils he experienced prior to the writing of his major work. Further, this first chapter highlights the traditional understandings of *The Law of War and Peace* by contemporary scholars of both political theory and international relations. It will highlight his major influences on the disciplines of political science and international jurispudence. Moreover, Chapter 1 presents an overview of the Grotian notion of “consent of mankind,” as a precursor to liberalism and how this affects the interpretations of his writings.

Chapter 2 turns to the pedagogy of Leo Strauss. It explores the Straussian technique of reading the Great Books of political philosophy. It will not only address Strauss’s method of line-by-line text analysis, but it will also examine how Grotius may have been forced to use this particular style of writing in order to avoid persecution and losing France’s sanctuary. Moreover, this second chapter will present the political ideas of Strauss himself, as he is well regarded as one of the most important political philosophers of the Twentieth Century. This aids the analysis of Grotius’s text because it helps show the kinds of hidden teachings that Straussian tend to find inside of the Great Books. Additionally, this chapter will explore some of what Strauss and some of his followers have already written about Grotius and his political ideas.

The third chapter begins uncovering the possible hidden meanings within the *Law of War and Peace*, focussing on the natural and positive law components of his work, which for Straussian suggest very different esoteric commentaries about the real world than those discussed in the traditional literature. Chapter 4 deals with Grotius’s natural right purely as a philosophical concept, and it reveals what he believes must be done in order to achieve the good life.
CHAPTER ONE
Hugo Grotius and His Legacy

I. THE DUTCHMAN IN EXILE

Huigh de Groot, known more prominently by his Latin name, Hugo Grotius, was born into a family of immensely influential Dutch commoners during the sixteenth and seventeenth Centuries. When young Hugo was born on Easter Sunday, April 10, 1583, his father, Jan Huigh de Groot, M.A., LL.D., was burgomaster (mayor) of Delft, Holland and was a talented Latin poet, astronomer and mathematician; his uncle, Cornelius de Groot, was head of the faculty of law at the University of Leiden, which was one of Europe’s most prominent universities in the seventeenth century. The de Groots were predominately Calvinist, but Hugo’s mother was born Catholic and had been converted when Hugo was twelve years old; this aspect of his upbringing played a crucial role in his work as both a statesman and as a jurist.¹

As a child, Grotius was a true mastermind. At the young age of eleven, he was already enrolled in the Liberal Arts program at the University of Leiden, majoring in philosophy and classical philology, and minoring in Oriental languages. His knack for language enabled him to write Greek and Latin poetry; these works are well regarded even today, having been translated into several different languages. While at the University of Leiden, he developed student-mentor relationships with some of the most distinguished scholars of his time. At age fifteen, Grotius was given a position with a diplomatic mission in France; the purpose of this mission was to seek France’s help in Holland’s struggle for independence from Spain.² While in Paris, he completed his “doctor of laws” degree at the University of Orleans, and two years later, he left France to return to Holland where he began practicing law at The Hague. In 1608, by arrangement, he married Marie

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¹ According to Max Weber, Calvinism cultivated liberalism in the 17th Century, which greatly influenced the capitalist ethic in Europe in the pre-modern and modern eras. See Strauss, Natural Right and History, p. 59. This implies that Grotius’s religious faith provided him with an affinity for liberalism.
² Edwards, p. 1
van Reigersbergh, who was the daughter of the burgomaster of Veere. With Marie, Grotius had eight children, but three of them died before reaching adulthood.

Grotius was such a successful lawyer that in 1607, he was appointed attorney general of Holland. Very soon after accepting that position, the States-General asked him to write a history of the Netherlands. Grotius was held in such high esteem during the early part of his adulthood that he began to rapidly rise up through the ranks of Dutch public service. In 1613, he was given the position of city governor of Rotterdam, a seat in the Dutch Parliament, and membership in the Committee of Maurit’s Counselors. Maurit was the highest-ranking general in the Dutch army. During his diplomatic work in France, King Henry IV awarded Grotius a gold medallion displaying the royal visage; King Henry is said to have introduced Grotius at a royal gathering by shouting, “Behold the miracle of Holland! Look you upon the miracle of Holland!”3 It was predicted that Grotius would eventually succeed Elias Oldenbarnevelt as the chief policymaker of the Netherlands.4 However, this prediction was challenged by the zealous Prince Maurice, who had plans to oust Oldenbarnevelt and take control over the Netherlands government for himself.

Grotius’s first major work on international law was written in 1609, entitled De jure praedae, or the Law of Prize. However, he never had it published. The manuscript was not even discovered until 1864. Interestingly, after its discovery, a short essay that was anonymously published in 1609, the Mare liberum, or Freedom of the Sea, was recognized as praedae’s twelfth chapter. In both of these works, he asserted that the Dutch East India Company had every legal right to claim a Portuguese vessel as a prize on the grounds that no state can legally declare monopolistic claim over common waters.5 He bases this conclusion on the theory that private ownership must constitute some

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3 Ibid.
4 Gellinek, p. 3
5 Brierly, pp. 27-28
form of enclosure, and since no permanent or temporary structure can be built on the sea, it has to be common territory; this, for Grotius and later for John Locke, became a principle of natural law.⁶

According to David J. Hill (1901), the bulk of praedae was a less detailed and less sophisticated overview of the same ideas expressed in the Laws of War and Peace.⁷ Gwladys L. Williams (1950) explains in the preface to praedae, that the relationship between the three texts indicates that the ideas propounded by Grotius in the Laws of War and Peace culminated a work in progress through the duration of thirty years.⁸ The two suspicious aspects of this earlier text are the stealthy nature of its publication and its timeliness, and yet on the surface of it, the work is in full support of his country’s legal claims in the Portuguese dispute. Why Grotius was so apprehensive about publishing this book remains an unanswered question. However, he did say in his Commentaries that he published the one chapter in the hopes that it would “add courage to our countrymen not to withdraw a title from their manifest right and might find out whether it were possible to induce the Spaniards to treat the case a little more leniently.”⁹

Twenty years after praedae was written, in 1619, a political incident broke out, blocking Grotius’s path to attaining the coveted position of chief-policymaker and placing Prince Maurice into a strategic position to take power. It began when Jacobus Arminius, a theologian at the University of Leiden, argued his “supralapsarian” position concerning divine predestination. His position conflicted with the more conservative Calvin Protestants in Holland. Arminius did not believe in “unconditional predestination,” instead, he suggested that there are a variety of possible paths to salvation.¹⁰ In response to Arminius, his colleague in Leiden, Franz Gomarus led the opposition against this new Arminian religious movement. The tensions between both Arminian and Gomarist factions grew tremendously within the following few years, and they seeped into Dutch political

⁶ Arneil, p. 590
⁷ Hill, p. 7
⁸ Williams, preface, x
⁹ Arneil, p. 588
¹⁰ Edwards, pp. 2-6
squabbles. Holland and Utrecht supported the Arminian position while the remaining five provinces supported Gomarus. Soon, each faction of this religious debate began to symbolize secular political principles. The Arminians called for provincial sovereignty, greater religious freedom, and peace with Spain. The Gomarists adamantly opposed the Arminian platform on all of these issues, advocating further armed confrontation with the Spanish, stronger centralization in Dutch government, and establishing the “only true Calvinist church” as the speaker for the state religion.¹¹

Uncomfortable with internal religious conflict, Grotius initially chose a neutral stand in this political episode, while Prince Maurice recognized political advantages in being aligned with the status quo, as represented by the Gomarist faction. Grotius was later assigned to mediate a compromise between the two groups, but Maurice interpreted his intervention as supportive of the Arminian camp. After being politicized by Maurice as an Arminian supporter, Grotius had no choice but to officially and formally affiliate with the Arminians, a decision that tremendously grew Maurice’s contempt for Grotius.¹² Grotius asked Maurice for a provincial synod in Holland to hear the Arminian position preceding a national synod that would review the provincial opinion, but Maurice insisted that no provincial synod was needed – only a nationwide committee with representatives from each province.

Maurice publicized the idea that Arminians threatened social order; he avowed to use any means necessary to “stop the Arminian threat,” including military force.¹³ When Grotius attended a meeting of Arminian leaders in Utrecht to discuss steps they were going take to resist Maurice, the discussion was cut short as Maurice and his troops marched in and sequestrated the city. Grotius and his friends were eventually arrested. While the Arminians were in prison awaiting trial, Maurice

¹¹ Ibid.
¹² Ibid.
¹³ Ibid.
called a national synod that found the Arminians as corrupters of Calvinism.\textsuperscript{14} After trial, Oldenbarneveldt was found guilty and beheaded; Grotius was sentenced to life imprisonment.

The tale continues as Grotius begins his incarceration at the age of thirty-six at the fortress at Loevenstein. At first, his predicament was difficult to bear, but they later allowed his wife and children to stay with him in the prison. He was also allowed to have books brought in so that he could resume his study of the humanities. A friend who lived three miles away from the prison sent trunks of books back and forth regularly. One day, his crafty wife designed an escape plan for Grotius by fitting him inside one of the trunks. Dressed only in his underwear and resting his head on a leather-bound copy of \textit{The New Testament}, Grotius mailed himself out of jail in the spring of 1621.\textsuperscript{15} Later that year, his wife and children connected up with him in Paris, where he began the remainder of his life in exile.

France’s reverence for Grotius was particularly helpful now that he had become a fugitive on the run. Louis XIII granted him sanctuary and awarded him a small pension fund. He was unable to work as a lawyer or at a university because he would not convert to Catholicism, nor was he able to receive royalties for any of his published works. Since his Dutch estate had been confiscated, he was constrained considerably in financial resources. The pension was often deliberately slowly delivered because of his refusal to become Catholic.\textsuperscript{16} Grotius may have had his freedom, but his resources and income were very limited. During this time, he wrote his two most famous political works, \textit{Justification on the Lawful Government of Holland and West Friesland} (1622) and \textit{The Law of War and Peace} (1625). It is no coincidence that he dedicated the latter to King Louis XIII.

His resentment toward the corruption in the United Provinces clearly affected his political writings, including the \textit{Law of War and Peace}, in which he writes, “...For this now is all the occupation left me, undeservedly exiled from the country to which my many labors had brought

\textsuperscript{14} Ibid.
\textsuperscript{15} Ibid.
\textsuperscript{16} Gellinek, p. 4
distinction."\textsuperscript{17} After a few years of Grotius's exile, Salvius, the protestant vice-chancellor of Sweden, chose him to be the Swedish emissary to Paris. In the summer of 1634, Grotius made the difficult decision of renouncing his Dutch citizenship and declaring his new allegiance to the young Queen Christina of Sweden.\textsuperscript{18} Surprisingly, Grotius was not requested to represent any country when the initial proceedings of the Peace of Westphalia talks began in 1644. Grotius very much wanted to be a part of this process either as a representative or as a mediator, but the overall consensus in Europe was that Grotius, while truly a brilliant scholar, lacked the sort of personality needed for this kind of negotiation through bargaining.\textsuperscript{19}

Grotius's deteriorating health sparked him to retire; this came as another difficult decision. His ship left Stockholm in August of 1645 to a destination unknown to history. His voyage was hindered by a raging storm in the North Sea that shipwrecked his vessel on the Pomeranian coast. After he traveled sixty miles by cart from the grounded ship to the city of Rostock, his deteriorating health could no longer cope with the immense fatigue. Early the next morning, Grotius passed away at the age of sixty-two.

The publication of the \textit{Law of War and Peace} was a financial loss for Grotius. It took over a year for him to complete the book, and then four months were required in order to just have it printed. Once the first edition was finally published, copies were sent to a fair in Frankfort, but he was given two hundred of them as an honorarium. A significant number of these copies Grotius gave to his friends and acquaintances, including Louis XIII. He chose to sell the remaining surplus at a crown each, but unfortunately, the revenue was insufficient for Grotius to recompense his expenses. In August of 1625, he told his father in a letter that he would be satisfied as long as he had the moral

\textsuperscript{17} Grotius, Loomis ed., p. 11
\textsuperscript{18} Edwards, p. 7
\textsuperscript{19} Gellinek, p. 5
support of his family and friends. Interestingly, even after giving a leather-bound copy to Louis XIII, the king still did not extend to him a customary monetary gratuity.\textsuperscript{20}

II. GROTIUS'S INFLUENCE ON SCHOLASTICISM

Martin Wight (1987, 1991) divides international relations theory into three distinct categories: realism (Machiavellism), rationalism (Grotianism), and revolutionism (Kantianism).\textsuperscript{21} Realists believe that states are the primary actors, while individuals and intergovernmental agencies and non-governmental organizations sit at the back of the political arena. Realists are skeptical about the notion of international society because there is no Hobbesian leviathan, nor a legitimate social contract binding states together; therefore they deny that common values and customs exist at all between states, although they acknowledge that alliances can be built when interests coincide. This view holds that in a state of nature, which characterizes the international system, countries are always in a state of conflict. Realism is inspired by this passage from Hobbes' \textit{Leviathan}:

\...
...During the time men live without a common Power to keep them all in awe, they are in that condition which is called Warre; and such a warre, as is of every man, against every man. For Warre, consisteth not in Battell onely, or the act of fighting; but in a tract of time, wherein the Will to contend by Battell is sufficiently known...and therefore the notion of Time, is to be considered in the nature of Warre; as it is in the nature of Weather. For as the nature of Foule weather, lyeth not in a showre or two of rain; but in an inclination thereto of many dayes together: So the nature of War, consisteth not in actuall fighting; but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is peace.\textsuperscript{22}

Thus, for realists, the imminent security of the state and the citizens who inhabit it is the highest moral obligation of any state. For realist thinkers, including Hobbes, Machiavelli, Rousseau, and Spinoza, every sovereign ruler has the right to protect his citizenry in the same way that every

\textsuperscript{20} Hill, p. 7
\textsuperscript{21} Jackson, p. 114
\textsuperscript{22} Hobbes, p. 100
individual has the right to protect his own body in a state of nature. Furthermore, for realists, there are no other moral obligations; value judgments, such as "right" and "wrong" are matters of preference rather than absolute qualities. Realists have little time for natural law.

The Kantians, in contrast, believe that if an international society exists, it is not composed of states, but rather of people, and that regardless of state boundaries, duty, cooperation, and the promotion of human rights are the only bases of moral behavior. They see the system of states as only temporary and as a transitory phase for mankind. Immanuel Kant was concerned primarily with individual behavior, such as his "categorical imperative," which as Thomas Donaldson (1992) explains, "bids us to treat others as having value in themselves and to act in accordance with principles that are valid for all other actors." Kantianism is similar to the notion of "deontology," which is the philosophy that every action has a moral value independent of its consequences. Kantians believe that when human beings take a moral action, they are not doing so to benefit their own self-interest or national needs. Human beings through the capacity of reason know these principles and so moral value is innately understood.

Grotianism sits between these first two classifications. Grotians see an international society that will indefinitely remain state-centered. Wight argues that the Grotian tradition embodies constitutionalism and moderation as two fundamental western values. Grotius uses the western notion of constitutionalism, or perhaps "contractarianism," as a framework for moral and legal restraints, based on common customs, that are placed on state behavior. For example, the Law of War and Peace is filled with rules of international relations conduct, ways of assessing the justness of war, and the subtleties of contracts and exchanges. A. Claire Cutler (1991) argues that Grotianism gives birth to a theory of international society by fusing the extremes of both realism and Kantianism. Further, Grotianism does not reject war altogether; on the contrary, a just war waged under moral

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23 Murphy, p. 484
24 Donaldson, p. 137
25 Cutler, p. 51
dictates will consequently save innocent lives, therefore it is righteous. He writes, “that men may neither suppose that nothing in the way of war is lawful, nor that everything is.” Nevertheless, wars must be averted if at all possible, and once begun, must be quickly concluded. Instead of beginning with the premise that every state is always in a Hobbesian “state of war,” scholars such as Arend Liphardt take him to offer a “systems” approach to envisioning world order, because intergovernmental organizations and other nonstate actors help to provide opportunities for permanent peace within the context of an anarchical global environment. One important Grotian scholar, Hedley Bull (1977), in his groundbreaking book, *The Anarchical Society*, states that:

> International politics, in the Grotian understanding, expresses neither complete conflict of interest nor complete identity of interest...The particular international activity, which on the Grotian view, best typifies international activity as a whole is neither war between states, nor horizontal conflict cutting across the boundaries of states, but trade — or, more generally, economic and social intercourse between one country and another.

For Bull, this conception of international society inspires world politics in the post-World War I era. These principles, for example, are in the idealistic spirit of Woodrow Wilson’s “Fourteen Points”; the Covenant of the League of Nations, the United Nations Charter, and the Paris Pact are quintessential examples of the “neo-Grotian” philosophy. However, in another essay, Bull acknowledges that problems arise when Grotius is used as a source for stating and identifying the law. Yes, it helps to explain the system and the basic attributes of a just international society, and it does this, at least for Bull, indiscriminately and without much contradiction. However, Bull finds that there is much confusion in discerning between the law of nature and the law of nations in cases when they conflict. Bull writes:

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26 Grotius, Loomis ed., p. 11
27 Holsti, p. 33.
28 Bull, *The Anarchical Society*, p. 25
If we treat *De Jure Belli ac Pacis* as the exposition of a system of law, rather than as a contribution to philosophy or political theory, it has the grave weakness...that while it tells us what is said about international relations by various laws (the Roman Law, natural law, the law of nations, divine law, canon law, the mora law) it nowhere forges these into a system by stating unambiguously what is the law.\textsuperscript{29}

While Bull is correct that extracting actual, indisputable answers as to what is legal and what is not from Grotius’s writing is downright impossible, conflicts between the *jus naturale* and the *jus gentium* are always settled in favor of the natural. Agreements made among and between nations that do not comply with the principles of natural law are, in the eyes of God, illegal laws. One example raised by John Salter (1999) is breaking municipal law for the sake of preserving one’s life, such as those in extreme poverty who are forced out of expediency to steal food to feed their families. Salter explains that for Grotius, laws exist for rational necessity, for the protection of rights, and since food is a natural commodity grown on Earth’s soil, private ownership of it is not as simple as other types of territorial possession. For Salter, Grotius sometimes permits food theft without sanction.\textsuperscript{30} This is one example of natural law taking precedence over a community’s legal code.

However, Bull’s point is well taken since Grotius has such high faith in man’s ability to discover natural law through a rational reason that is independent of divine prophecy or even moral philosophy. Unlike Pufendorf and Vattel, who believe that one only needs to open a Bible to settle conflicts between one’s impulses and one’s morals, Grotius, according to traditional readings of his work, greatly downplays the importance of religious guidance.

There is another relevant distinction in the academic study of international jurisprudence that warrants mentioning. There is “solidarity” or “naturalism,” traditionally represented by Grotius, and “pluralism” or “positivism,” which became prevalent in the Twentieth Century through the legal writings of Lassa Oppenheim and Hersh Lauterpacht. The former views the world as a collective

\textsuperscript{29} Bull, in *Diplomatic Investigations*, p. 59
\textsuperscript{30} Salter, p. 206.
society with a set of binding laws and customs that can be legitimately enforced through a just war. The latter, in contrast, is realist; it contends that the world is not necessarily a monolithic community, because national interests always instigate each country’s offensive actions, regardless of a supposed common morality. Kenneth W. Thompson (1994) provides the example of the United Nations’s difficulty to make a definition of aggression that accomodates everyone’s interests and perspectives; the UN inevitably gave up on the idea. Without a common agreement among men, pluralists prefer to base international law on positive law, through treaties and conventions that address very specific war-related issues. The question of just war is of very little interest to pluralists because whether it is just or unjust, it is still a very real instrument of statecraft.

J. L. Brierly (1955) explains that Grotius’s tremendous influence on international legal theory derives from two key facts about his life. The first is that he was so well regarded by many intellectuals, diplomats, and statesmen that anything written by him was received with the utmost prominence. With all due respect to Grotius, Brierly, like other scholars, contends that while the Law of War and Peace is indeed a splendorous work, crediting him as the “Father of International Law” is a grave exaggeration and unfair to the great minds of Pufendorf, Vattel, Suarez, and the classical philosophers who preceded him, on which he draws constant reference. However, Pufendorf himself was very willing to praise Grotius with this distinction. According to A. P. D’Entreves (1950), Pufendorf once stated that Grotius “dared to go beyond what had been taught in the Schools, and to draw the theory of the law of nature out of the ‘darkness’ in which it had lain for centuries.”

Charles S. Edwards (1981) reconciles this argument by giving Grotius credit for being the first to add a secular dimension to natural law, while merging it with positive law, or law as a set of contractual agreements between states. This secular dimension, as D’Entreves points out, is

31 Thompson, pp. 70-73
32 Brierly, p. 28
33 D’Entreves, p. 50
especially important in the so-called postmodern, relativist, non-theistic world where religion has lost its power and validity in people's everyday lives. D'Entreves, however, also acknowledges that Richard Hooker too presented a less developed version of this non-sectarian defense of natural law.\(^3\)

Additionally, Edwards posits that even if the text is not as original as its reputation deserves, Grotius was clearly responsible for compiling old ideas into one single text, and moreover, he added to the theoretical foundations laid down by earlier jurists and philosophers.\(^5\) Acknowledging that he was not the first to give thought about the law among nations, Grotius too intends the *Law of War and Peace* to be the first compilation of those thoughts. He states in the opening paragraph of the prolegomena, "...no one as yet has discussed it in a comprehensive and systematic way, important as it is to mankind that this should be done..."\(^6\)

Secondly, Brierly points out that it can be argued that the Netherlands enjoyed a status as Europe's hegemony during the seventeenth century. Brierly continues to argue that the war of Dutch independence from Spain marked the first demonstration of nationalistic fervor in the modern states system and for the first time, legitimated revolution. Moreover, as Europe's hegemonic power in the seventeenth century, the Netherlands supposedly represented and promoted a certain degree of liberal values, such as free enterprise, contested elections, and freedom of religion.\(^7\) Brierly believes that Grotius was particularly revered because of his seventeenth century Dutch statehood, having been brought up on the "cutting edge." Ironically, even with such a liberal reputation, the Netherlands was almost torn apart by religious disagreement, and Grotius jailed for a crime that he did not commit.

It has been argued that Dutch colonial interests significantly swayed Grotius's legal philosophy, particularly in matters of the land and sea. Barbara Arneil (1992) writes, "Grotius's

\(^3\) Ibid, p. 52; "...Grotius's aim was to construct a system of laws which would carry conviction in an age in which theological controversy was gradually losing the power to do so."
\(^5\) Edwards, p. 21
\(^6\) Grotius, Kelsey ed., p. 3
\(^7\) Brierly, p. 28
natural man lived in a state of 'primitive simplicity', identified from the outset as that of the American Indian" in the New World. She goes on to suggest that using the native American tribes as a metaphor for the natural man permitted Dutch and English settlers to justify aggression and the seizure of the natives’ lands, to “rescue” these primitive groups from the backwards state of nature. For Arneil, Grotius’s natural law treatise of land and sea became a legitimization of colonialism in the New World and in the East Indies.\textsuperscript{38} Richard Tuck (1999) in concurrence accuses Grotius of having “fundamentally revised Western political thought itself” in his “commitment to defend them [the Dutch].”\textsuperscript{39} Most of these supposed revisions are found in his earlier work, \textit{Praedae}, which, while forming the skeleton of the eventual \textit{Law of War and Peace}, was written prior to Grotius’s expulsion from the Netherlands. Nevertheless, this is likely just Grotius trying to appear to be a supporter of his state, his countrymen, and one of the most prevailing industries of his time, colonialism. It is far too risky for him to denounce colonial policies in the seventeenth century.

\textbf{III. GROTIUS AND THE AUTHOR OF NATURE}

Grotius’s belief in God derives from three sources: reason, “unbroken tradition,” and the biblical narrative.\textsuperscript{40} For Grotius, God is much more than the creator of all things; he is the supreme lawmaker. He believes that God is the source of all laws of nature, including everything concerning man’s social life. For Grotius, natural law governs social interactions by mandating the restraint of human impulses. Thus, if a man is “guilty of injustice,” he is thereby guilty of irreverence.

Since God is the author of nature, no individual, singularly or collectively, has the power to legislate natural law. It is a fixed institution; no country or alliance of countries can make modifications of any sort to what is moral and what is not. Governments can make statutory laws and reform them as they wish, just as individuals can make civil law by forming contracts with one

\textsuperscript{38} Arneil, p. 590-91
\textsuperscript{39} Tuck, p. 81.
\textsuperscript{40} Grotius, Kelsey ed., p. 13
another. They can collectively alter its particulars or even declare it null and void altogether. But natural law cannot be changed.

Interestingly, just as the will of man cannot adjust the laws of nature, God cannot modify them either. Virtue is a fixed, unchanging condition. Grotius writes, “Just as even God, then, cannot cause that two times two should not make four, so He cannot cause that that which is intrinsically evil be not evil.”

IV. GROTIUS AND THE SOCIAL LIFE OF MAN

Even if there is no material benefit from forming a community, Grotius believed that men would still desire to seek social membership because man cannot be completely self-sufficient on his own. He wrote, “...Among the traits characteristic of man is an impelling desire for society, that is, for the social life.” Communities are a vital part of a person’s survival; therefore, he believed that the purpose of community is expediency. Grotius says:

The law of nature nevertheless has the reinforcement of expediency; for the Author of nature willed that as individuals we should be weak, and should lack many things needed in order to live properly, to the end that we might be the more constrained to cultivate the social life.

Grotius’s next conclusion is that social life requires man’s subjection to laws and the ruler’s obedience to their people’s rights. If communities are based on mutual convenience, the culmination of interests within a society will inevitably lead to havoc in the absence of some form of mutual consent and agreement. Like Hobbes, authorities obtain their power from consent of the people. Unlike Hobbes, Grotius felt that this is true in the international community as well as in municipal (domestic) law. Further, Grotius was interested in the issue of sovereignty in international relations.

41 Ibid, p. 40
42 Ibid, p. 40
43 Grotius, Kelsey ed., p. 15
He did not want to see any one state become the sole legislator of the international community. Therefore, Grotius believed that in addition to natural law as a source, international law is derived from mutual consent. It is not one state, but international society that should make law.

...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.\textsuperscript{44}

For Grotius, states abide by international law for the same reasons citizens of a country abide by municipal law. There are advantages to following rules, such as future reciprocity, fear of sanctions, political respect and credibility, and individual safety. Grotius believed that while states are forced to forego a behavior within their own self-interest, they understand that it is also in their best interest to maintain the law as a "safety-net" in case current trends and conditions of the world slip out of their favor. Grotius is also determined to suggest that, regardless of whether or not states realize it, justice for all men is in the rational self-interest of each and every individual, and he is optimistic that states recognize it. Further, Grotius wrote:

\textit{Even if no advantage were to be contemplated from the keeping of the law, it would be a mark of wisdom, not of folly, to allow ourselves to be drawn toward that to which we feel that our nature leads.}\textsuperscript{45}

It seems that Grotius was optimistic about human beings' strong desire to construct political and legal institutions that prevent deadly conflict. It is a curious and paradoxical notion that both sovereignty and restrictions upon independent states can exist in the same legal structure. Are they not contradictory? Hobbesians and Machiavellians within the realist paradigm argue that neither natural law nor common morality exist at all in international relations. They argue that because

\textsuperscript{44} Ibid.
\textsuperscript{45} Ibid, p. 16
international law is disobeyed regularly and there is no effective means of enforcing it, then it does not restrict state behavior. In essence, this is the view that might ultimately makes right in world politics.

In *Politics Among Nations*, Hans J. Morgenthau (1948), says, “A great power can violate the rights of a small nation without having to fear effective sanctions on the latter’s part.” To make matters worse for small states, international law prohibits states to rally to the defense of their weaker allies. Morgenthau explains, “…The victim, and nobody but the victim, of the a violation of the law, has the right to enforce the law against the violator. Nobody at all has the obligation to enforce it.”

Grotius, however, did not support non-intervention in all cases. For example, Grotius is a key thinker for human rights activists who argue for humanitarian intervention. Grotius states, “If the wrong is obvious [and some tyrant] should inflict upon his subjects such treatment as no one is warranted in inflicting, the exercise of the right vested in human society is not precluded.” Theodor Meron (1991) believes this permits other states to impose military sanctions on tyrant governments who are clearly guilty of abhorrent human rights abuses. Aside from this, as a devout Christian, Grotius felt that natural law would enforce itself by punishing heretics. Murphy explains “…Those who denied justice would suffer inner torments, while obedience would bring peace of conscience.”

But practically speaking, Grotius did feel that international lawbreakers are morally inferior, and thus are subject to some degree of collective punishment from other nations acting in good conscience.

Grotius would defend modern international law on the grounds that it is not necessarily imposed, but rather invited. International law, for Grotians, is a social contract that will from time to time benefit even the most powerful states of the world, so to continuously disobey it would discredit its legitimacy. Furthermore, for Grotius, even the great powers benefit from the predictability

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46 Morgenthau, p. 298
47 Ibid.
48 Meron, p. 111.
49 Ibid.
50 Murphy, p. 484
provided by international law. Grotius writes, “All things are uncertain the moment men depart from law.” Hobbes, however, did not believe in a social contract at the international level; in the Hobbesian vision of the world the relationship amongst and between states is analogous to that of individuals in a state of nature. But even exoterically, Grotius and Hobbes are not so different in this respect. Tuck explains that in Grotius’s view, individuals in nature are “morally identical to a state,” in the sense that individuals in nature are each their own sovereigns, and that when they meet for mutual benefit, they still maintain their individual sovereignty. Unlike Hobbes, Grotius believed these individuals could eventually cooperate with one another out of necessity. And since states are identical to it, international law is much the same concept at a higher level. This view is considered a precursor to western liberalism. In Praedae, he writes, “The gods had empowered the Romans to tolerate no judges but themselves.”

In further contrast with Hobbes, Grotius had a stronger sense of egalitarianism. Human beings can be seen as a “brotherhood,” in which everyone descends from the same creator. For Grotius, this natural kinship gives humans a reason to ensure that their fellow neighbors are treated justly. Moreover, in A History of Western Philosophy, Bertrand Russell (1945) credits Grotius for being amongst the first of the western philosophers to disavow the “Divine Right of Kings” and instead base hierarchies in human relations purely on non-sectarian circumstances. In the international society, he believes that all sovereign states have an equal place, but some tend to have greater capabilities and resources than others. This position is in accordance with the modern liberal tradition.

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51 Grotius, Kelsey ed., p. 17. Grotius also says in #27 of the same page, “It is a vast help to have a reputation for making war neither recklessly nor unjustly, and for fighting it honorably, since no one readily allies himself with persons who he believes treats justice, uprightness, and good faith as things of little account.”
52 Tuck, p. 82.
53 Grotius, De Jure Praedae, I, 24-5.
54 Russell, p. 630
But it is important to note that Grotius did not discourage inequalities altogether. He said that the only "one form of social relationship without inequality, as between brothers, or citizens, or friends, or allies." But problems arise in defining these terms, as Grotius goes on to say that there are inequalities in man's social relations; he is subordinate foremost to God, and secondly to his king, and he is dominant over his children and his slaves. Grotius does not firmly indicate whether or not these kinds of inequalities can exist between states, but it is unlikely because he consistently asserts that countries are equally sovereign. For Grotius, God is the only authority above the state.

V. LAWS AND RIGHTS

"Laws" and "rights" are somewhat interchangeable terms in Grotius's writing. Rights, after all, are only as good as the laws that enforce them; as already noted, God, the supreme lawmaker, establishes through contracts, government authority, or laws. Laws governed by the state are called "statutory"; laws of the many states are called "positive"; and laws of God are called "natural."

Grotius sees "laws" as a "body of rights" that can be attached to a person, making it lawful for that individual to behave in a certain fashion or claim jurisdiction or ownership. Laws are conventionally viewed as limits to an individual’s behavior, but Grotius preferred to view them as "rights" making behavior permissible. Further, some scholars credit Grotius as the originator of the modern use of the term, "right," as a noun as opposed to an adjective.

For Grotius, each person possesses a "moral quality," that can either take the form of a "faculty" or an "aptitude." By "faculty," Grotius includes all those things that are within our natural power to do for our own selves or for those subordinate to us, such as our right to claim ownership of property, or the right to expect contractual obligations to be met. Grotius takes the notion of

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55 Grotius, Kelsey ed., p. 35  
56 Haakonsen, p. 240.  
57 Grotius, Kelsey ed., p. 35
“aptitude” from Aristotle, who calls it “worthiness.” Aptitude involves the notion of fairness, derived both through reason and natural law, but it is more ambiguous and less objective than faculty because it varies from each circumstance. It is concerned with what is “fair,” what is “fitting,” and what is “suitable.”

It is also important to note Grotius’s distinction between “private” and “public” law. Private laws are those that concern the interests of individuals, whereas public laws are practiced on behalf of the community. Private law, which can be equated with civil law, deals with the interpersonal relations among private citizens. But for public law, the locus is the common good; it involves taking actions that benefit the community at large. “Thus,” Grotius wrote, “each citizen is under a greater pecuniary obligation to the state, for the meeting of public needs, than to a private creditor.”

Grotius further explains that private laws imply “expletive justice,” or *iustitia expletrix*, which Aristotle describes as “contractual.” However, he objects to the narrowness of Aristotle’s term for this kind of justice because contracts are not always the claims to ownership. For example, if an item is returned from a borrower to a lender, this exchange is not necessarily mandated by a contractual obligation. Rather, it could be a non-contractual understanding by both parties that the item belongs to the lender and therefore it must eventually be returned. Grotius prefers to call it “restorative justice.”

He terms public law as “attributive justice,” or *iustitia attribtrix*. Like aptitudes, public law is concerned with even-handedness. Grotius explains it best in this paragraph:

This Aristotle called ‘distributive’ justice. It is associated with those virtues, which have as their purpose to do good to others, as generosity, compassion, and foresight in matters of government.

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58 Ibid, p. 36
59 Ibid, p. 36
60 Ibid, p. 36
61 Ibid.
Grotius adds the component of virtue into his definition of laws and rights. Regardless of the rationality of an act, it will always contain a moral foundation that makes it either righteous or immoral. The component of virtue, however, is strictly one of nature, and cannot be modified or reformed by the will of man. For Grotius, acts are "in consequence...either forbidden or enjoined by the author of nature, God."\textsuperscript{62}

\section*{VI. WAR AND NATURAL LAW}

Grotius believed that war is consistent with the basic essence of natural law. In its most primitive form, war is no more than a mechanism for survival. He says, "the end and aim of war being the preservation of life and limb, and the keeping or acquiring of things useful to life, war is in perfect accord with those first principles of nature."\textsuperscript{63} God has given all animals a fighting tool; horses have strong legs for kicking, bulls have horns, and bears have sharp teeth. While human beings are not directly born with these kinds of weapons, they are given hands and thumbs to build devices for survival. The belief that war is often unavoidable combined with his focus of states as the primary international actors denotes Grotius's sympathy for the tenets of realism, yet his faith in cooperation, institutions, and international law makes his outlook particularly unique.\textsuperscript{64}

Moreover, it was earlier discussed here that human beings, out of expediency, form communities for mutual survival interests and that the difference between humans and animals is that man has the capacity to reason, whereas animals do not. Grotius believed that morality, as natural law, and the state are the two most important instruments for ensuring an individual's survival; as long as the state is functioning to secure people's rights, there should be no need for any individual to unilaterally take up arms. Likewise, as long as norms and contracts of the international legal system function to protect the rights of states, there should be no need for war. However, Grotius realized

\textsuperscript{62} Ibid, p. 39
\textsuperscript{63} Ibid, p. 52
\textsuperscript{64} Forde, p. 64
that conflicts are not always resolved by reason or through the channels of established institutions. For Grotius, such a case warrants the use of force. War can also be used as a sanction when no other form of institutional or diplomatic measure can venture to resolve a dispute. Grotius quotes Cicero, who eloquently wrote, “Since there are two ways of settling a difference, the one by argument, the other by force, and since the former is characteristic of man, the latter of brutes, we should have recourse to the second only when it is not permitted to use the first.”

VII. GROTIUS AND LIBERALISM: HOBBES AND LOCKE

Jeremy Rabkin (1996) suggests that a major difference between Grotius and the Swiss jurist Emmerich de Vattel is analogous to the contrast between Hobbes and Locke. He says that Grotian thought is an “anticipation of Hobbes,” while in a Lockean sense, “Vattel affirms a whole series of inalienable rights.” For Rabkin, Grotius believed that rulers owe certain rights of treatment to their people; however, their first duty is to themselves and to their states. Instead of making the impression of the people their first concern, sovereigns ought to be concerned primarily in the development of the respect and admiration of their fellow sovereigns. In fact, some scholars find that Grotius believed that sovereigns should have nearly absolute rule over their people, with only rational limits, such as expediency and consent. Rabkin writes, “It follows...from all that Grotius says, that peoples may be owned by rulers.” Despite Grotius’s reputation as a codifier of natural law, both Pufendorf and Vattel have stated that he placed too high an emphasis on consent and the jus gentium component of the law of nations. In the Hobbesian spirit, according to Rabkin, Grotius contended 1) that political societies are based on expediency and 2) that the law of nations, first and foremost, promotes world order.

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65 Grotius, Kelsey ed., p. 54
66 Rabkin, pp. 296-306
67 Ibid., p. 300
This interpretation radically downplays the traditional take on Grotius that sees his vision of *jus naturale* similar to that of St. Thomas Aquinas but like Cicero and the Stoics, as a secular, scientific, or even philosophic axiom rather than one known necessarily through divine prophecy. Some scholars, such as Rabkin, feel that Grotius’s methodology is so different from traditional natural law theorists that the results will be too dissimilar to even categorize them together. Other interpreters, such as Bull, however, predict that a non-sectarian basis of natural law will produce the same behavioral results as one within a Judeo-Christian framework. Strauss and his disciples have made the same criticism of natural right without theological grounding.68

While Grotius has been an immensely influential political philosopher all over the world, including Europe and the United States, his impact on the American study of international politics has been less important than the writings of Vattel, who’s ideas, according to Rabkin, was a precursor to the Lockean tradition. Like Locke, Vattel is concerned primarily with the state’s obligation to protect life, liberty, and property, principles of inalienable rights that for the American forefathers forms the basis of the Declaration of Independence. Additionally, Vattel reserves the right of revolution to discontented parties within states who feel that these basic rights are not being safeguarded. Vattel writes “political societies or nations live together in a mutual interdependence in the state of nature, and that as political bodies, they are subject to the Law of Nature...independent of their will.” Further, Vattel asks, “Did not Grotius perceive that in spite of all precautions added [by him]...his view opens the door to all the passions of zealots and fanatics and gives ambitious men pretexts without number?”69 He believes that Grotius founds his theories too much on ancient writings and not enough on modern principles, such as human rights.

68 Smith, p. 611: “...These particular truths need to be promulgated because human judgment can be led astray about them in a few instances...Straussians argue that...not everyone knows to love God and neighbor – therefore these things are not part of a universal body of practical truths.”
69 Rabkin, pp. 302-03
CHAPTER TWO
The Pedagogy of Leo Strauss

I. THE JEWISH REFUGEE FROM GERMANY

This second chapter highlights Strauss's views on the three ages of political philosophy (classical, medieval, and modern), his belief in hermeneutics, or careful textual analysis, and his views on Grotian themes. Moreover, it will address what Strauss and his disciples have previously said about Grotius and how to study political philosophy that was written in the seventeenth century. This chapter is highly descriptive; it highlights the most relevant components of Strauss's pedagogy for interpreting Grotius's *Law of War and Peace* within a Straussian framework. Before the methods of esoteric writing is exemplified, it is important to first grasp the reasons for this kind of writing and the kinds of knowledge that philosophers were trying to conceal, according to Strauss.

German-Jewish émigré, Leo Strauss, was a professor of political science at the University of Chicago from 1949 to 1968; as an immensely consummate academic, he authored approximately fifteen books and eighty essays and articles.\(^1\) Born in Germany in 1899, he went on to earn degrees in philosophy, mathematics, and the natural sciences. As a philosophy student, he took courses from many notable German philosophers, such as Edmund Husserl and Martin Heidegger. But when Hitler rose to power, he quickly fled to the United States where he lived until his death in 1973. While at the University of Chicago, he earned a place of university prominence, having been awarded the title as the “Robert Maynard Hutchins Distinguished Service Professor of Political Science.” In North America, Strauss is regarded as one of the most well revered scholars of political philosophy, particularly amongst his disciples, including Nathan Tarcov, Joseph Cropsey, Thomas Pangle, and many others.

Straussians have a special affinity for the philosophers of classical antiquity. In addition, Lessing, Spinoza, and Alfarabi, because of their revolts from modern rationalism and their beliefs in

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secret writing\textsuperscript{2}, are three especially influential figures in forming Strauss's theories. His study method of political philosophy also seems to be inspired by Jewish Kabalistic mysticism.\textsuperscript{3} Strauss's critics are very passionate about their contempt for his views on political philosophy, and in particular, for his contention that there exists a divide between esoteric and exoteric teachings within "great" philosophical texts.

Strauss and his disciples, as college professors, emphasize their role as teachers; it is the profession of teaching that stimulates the young mind and shows him how to think critically and to form value judgments about the most crucial philosophical question, which, for Straussians and classical philosophers, asks what is the best way of balancing "order which is not oppression with freedom which is not license," which is the "political question par excellence."\textsuperscript{4} He wanted to teach future leaders how to be "perfect princes."\textsuperscript{5} Strauss was supposed to have been a very engaging lecturer and discussant, and he made it a point to become personally involved in his students lives' and future ambitions. He wanted to guide his students to love wisdom and to treat the learning of political philosophy as more than just a requirement for a diploma in political science, because a philosopher is not an ordinary man, but instead one of the elite. But, for Strauss, a crisis of modern liberalism is that it has taken philosophy to the people, because freedom of speech now permits philosophers to practice their venture openly. Yet, for Strauss, even though the modern liberal state grants free expression to any and all, this knowledge should still only be expressed privately, because the common man can still only handle the noble lie. It has thus been suggested that Strauss's

\textsuperscript{2} Colmo, p. 966. Also see Deutsch & Niegoski, p. 4.
\textsuperscript{3} Strauss, "How to Begin to Study Medieval Political Philosophy," p. 212. Also see Strauss, "Exoteric Teaching, pp. 63-71.
\textsuperscript{4} Strauss, \textit{Persecution and the Art of Writing}, p. 37.
\textsuperscript{5} Strauss, \textit{Liberalism: Ancient and Modern}, p. 9.
teachings have a political aim of their own – to encourage a resurgence of Socratic discourse and esoteric writing in the social sciences.6

II. MODERN POLITICAL PHILOSOPHY AND ITS CRISIS

Hobbes is the founder of the third strand of political philosophy, the modern strand. At a time when religious guidance of the Middle Ages lost its muster and scientific rationalism took over as the foundation of all knowledge, Hobbes, according to Strauss, was the first to implement rational methods to the study of the age-old question of what is the right way of life, or the *summon bonum*. Instead of dwelling on romantic ideals, Hobbes was interested in the way human beings actually behave rather than how human beings ought to behave. It was Hegel who insisted that political philosophy cease to teach the state how it ought to act, but instead to understand the state as a rational entity. The discipline of political science soon followed. However, for Strauss, the modern approach of ignoring value judgments is “from the point of view of the classics, as absurd...as the idea of a medicine which refuses to distinguish between health and sickness.”7 Political science, according to Strauss, needs to become rewilling to accept value judgments as real truths, or else an actual social phenomenon, such as “tyranny,” will go unnoticed because tyranny is a negative condition and therefore based on a value judgment.8

Two products of modernity, historicism and positivism, both pose challenges to natural right. For the historicists, natural right is a matter of tradition: things are the way they have long been. But to link natural right with tradition assumes that one’s ancestors were much wiser and more enlightened than men of today. Burke can be placed into the historical school; he believed that his constitution, the British Constitution, was superior because it was the result of centuries of planning

6 Pippin, p. 467. See Pippin’s sixth footnote. “Strauss himself is supposed to have criticized ‘modern social scientists’ for their ‘indiscretion’ in pointing out what Plato also knew, ‘the irrationality of the masses and the necessity of elites’...”

7 Strauss, *What is Political Philosophy?*, p. 89.

and gradual modification. Historicists are rather conservative; in fact, it developed in response to the impulsive nature of the French Revolution. Historicists wanted to preserve the traditional order, which they believed to be man's natural order precisely because it has been so for hundreds of years. Strauss largely attributes the historicist school to a radicalization of Rousseau's thought, which claimed that the truth is the general will of a given state at a given time and that there is no universal norm.

Moreover, historicism became a form of positivism. While Strauss values science and its methods, he is highly critical of it. Rationalism in its orthodoxy assumes that all problems can be solved with science, which Strauss believes is simply untrue. Thus, like the natural sciences, the study of politics, for the modern historicists and positivists, requires empirical data. But empiricism by its very nature ignores philosophy because it exceeds the real, observable world. Therefore, the only empirical evidence one can acquire about the study of political order is actual facts and cases from history. And since different historical examples show different modes of behavior, there is no observable universal norm. Strauss writes, "By denying the significance, if not the existence, of universal norms, the historical school destroyed the only solid basis of all efforts to transcend the actual." While Strauss tends to agree with the historicist preference for keeping peace, he believes that the paradigm of historicism has hurt the enterprise of philosophy.

Both science and philosophy are products of individual genius, but they are often threats to the public good. Strauss believes that civil societies therefore need to promote the practice of religion to serve as a "noble lie." Important to mention, though, that for Strauss, the noble lie is not a lie in the sense that the philosopher knows it is untrue, but in the sense that it is a "likely tale" or a "probable opinion," that is, the philosopher is aware that it is open to doubt, but the common man is

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9 Strauss, Natural Right and History, p. 13.
10 Ibid., p. 15.
not. Like Karl Marx, he believed that religion is "opium for the masses," but unlike Marx, Strauss felt that this opium is socially prudent. But this has become part of the crisis of the modern state now that revealed religion is supposed to play no open role in western politics. Strauss considers this especially problematic in the modern state; the good life is now viewed merely as a condition in which man is allowed to achieve his passions and what "blind preferences" tell him to achieve. If this is the criterion being used for natural right, it tends to follow that all things that man is willing to dare is permissible. For Strauss, religion would restrain man’s passions, as they should be for the good of social order.

Many modern political philosophers implement esoteric writing, but they do it for a different purpose than their classical and early medieval predecessors. It is not practiced so much anymore to avoid persecution or social misconduct of the masses, but instead to recruit support for liberalizing the body politic. Robert Howse (1999) writes, "[Esotericism] is aimed at enlisting an army of nonphilosophical students and disciples in the political project of protecting philosophy and its reputation in the political community. Esotericism...is thus a form of philosophical rhetoric; it entails an appeal to a non-philosophical political elite." For Howse, the exoteric teaching, on these grounds, contains the hidden meaning, not the esoteric one. But it seems that Howse is not entirely correct, because he wants to show that a solicitation of the elite’s support is what Strauss found to be the purpose of esotericism even "as practiced by the ancients," but in Persecution and the Art of Writing, Strauss explains that this represents the fundamental shift between the styles of ancient and modern writing.

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11 Strauss, Persecution and the Art of Writing, p. 35. Also see Strauss, “Exoteric Teaching,” p. 66. He writes, “The exoteric presentation of the truth makes use of statements which are considered by the philosopher himself to be statements, not of facts, but of mere possibilities.”
12 Strauss, Natural Right and History., p. 4.
13 Howse, p. 61.
14 Strauss, Persecution and the Art of Writing, p. 34.
III. CLASSICAL POLITICAL PHILOSOPHY AND THE MODERN CRISIS

Classical antiquity is the first age of political philosophy. Strauss contends that classical political philosophers, such as Socrates, Plato, Aristotle, Cicero, and the Stoics, comprised a separate, morally superior group. These philosophers were distinguished from the common men and "gentlemen," who are the most worthy and responsible amongst the common men; philosophers were the true intellectuals who were willing to modestly admit that a world of knowledge awaits, but with little hope of human comprehension. Thus, in its Socratic definition, philosophy is the study of things that man does not know; therefore, it is not about the here and now, but rather the answers to the most fundamental questions about mankind's nature, which cannot be found empirically.

Further, philosophy is a very dangerous enterprise. Philosophers must be responsible with what they have come to learn; they keep their ideas secret from the irresponsible common man, who would undoubtedly take advantage of it by using it instrumentally, which completely contradicts its function. For Strauss, their ideas, if espoused publicly, would either be criminal or socially unacceptable to the points of humiliation and social ostracism, or they would cultivate social havoc. In fact, secret writing is the mark of a philosopher, for if he writes his ideas overtly, he is not a true philosopher, but instead a Sophist\textsuperscript{15}; the word, "philosopher" presupposes esotericism, because "philo" refers to a small, select coterie of individuals who are interested in a specific subject matter. In order to keep the coterie small and selective, which it must be for social and political reasons, philosophy must only be made available to philosophers. However, since philosophers are not the only literate members of a community, they have to express their ideas secretly underneath exoteric texts.

Strauss believed that the life of the philosopher is naturally a higher moral virtue than the life of the common man. Philosophers live on the "fringes of civil society,"\textsuperscript{16} discussing and debating

\textsuperscript{15} Strauss, "Exoteric Teaching," p. 67.
\textsuperscript{16} Strauss, Natural Right and History, p. 113.
the nature of all things, both political and nonpolitical. By “nature,” Strauss means the behavior of human beings that do not derive from convention or tradition or even desires or passions, but instead from a higher, transcendental ideal. He is not talking about a romantic vision of order, because that is based on a dream of how things “could” be, independent of its natural rightness, but rather an aspiration to organize society according to how things are supposed to be, or meant to be, by nature. For Strauss, only the philosophical minority live according to nature, while everyone else within the city is living within a “permanent cave,”\(^{17}\) where people are kept in the darkness and told noble lies to protect them from the daunting truths. In Plato’s Republic, the philosopher-kings rule the city from the outside, on the “islands of the blessed,”\(^{18}\) by facilitating human progression. However, Strauss understands that philosopher-kings are merely an unattainable, romantic ideal. Nevertheless, Strauss, like the classical philosophers, was concerned with the “ought,” or that nature prescribes a certain order that may never be the actual reality. Only philosophers are aware that the “is” and the “ought” do not match; the common men are led to believe that what is by nature just is actually unjust.

Strauss embraced Socrates’ notion of an archetype, the idea of a thing’s nature or character that transcends human perception. But this is not its eidos, or its “What,” which is perceivable to all who look at it. Instead, one would have to keenly look deeper inside it in order to answer the more fundamentally rooted questions, such as those that begin with “Why?” or even “How?” Also required is additional insight in the form of other philosophers’ opinions of it. The debates and discussions fostered within philosophy and science lead to a better understanding of justice and right. For this reason, even some of Strauss’s followers have touted him as a “closet Nietzschean,” because he rejects the claim that science can provide the truth about all things and that discourse and debate

\(^{17}\) Pippin, p. 451.
\(^{18}\) Strauss, “Exoteric Teaching,” p. 68.
leads to a better philosophical understanding. In a way, there is a postmodernist element to Strauss; for example, his view that discussion, i.e. "discourse," is the highest virtue in the absence of true knowledge is also a tenet of postmodernism. The difference, however, between Strauss's classical affinity and postmodernism is that the latter rejects the possibility of the existence of absolute truth, whereas Strauss believes it exists but transcends human grasp.

Later philosophers in the medieval and modern ages considered justice and righteousness to be whatever is decided upon through mankind's consent. But for Strauss and the classical philosophers, there can never be actual consent. The word "consent" presupposes a certain kind of unanimous agreement amongst all parties that granted a certain order; this convention is historically rooted, either from a coming together of all male, property-owning participants from long ago, or as a set of habits or traditions that have over the course of history become "the norm." But no one agrees on all matters, because not everyone is rational, therefore the consent of mankind is not a suitable or necessary prerequisite for the ways and customs within a city, nor is it a pre-condition for natural right. However, what can be realistically achieved is "potential consent"; what matters is not what men have agreed to, but instead, what rational men, or philosophers, would agree to as the "one true view of justice."\(^{20}\)

If it is true, as Hobbes, Locke, and Rousseau contended, that the organization of political society should revolve around the premise that men are ruled by their passions, especially their prime passion for self-preservation, this opens the doors for all kinds of injustice and morally reprehensible decision-making on the part of statesmen, even those who are elected by the will of the people. Strauss criticizes all forms of political hedonism, including utilitarianism, which posits that the "greatest good" is whatever maximizes the pleasures of the constituency, while minimizing the pains of that same constituency. For the philosophers of Greek antiquity, this modern notion was unheard

\(^{19}\) Pippin, p. 449.
\(^{20}\) Strauss, *Natural Right and History*, p. 125.
In *Natural Right and History*, Strauss says, “The thesis of the classics is that the good is essentially different from the pleasant, that the good is more fundamental than the pleasant.”

Classical philosophy depreciates the role of convention as the root of law within a civil society. According to Strauss, contemporary scholars of political philosophy need to be aware of this fact when they study anything classical that discusses the significance of positive law. Agreements among men derive from the personal desires of those same men rather than intrinsically moral, or philosophical notions of right and wrong.

Strauss attacks modern philosophy because it ignores virtue. He draws upon the classical belief that the “good life” does not come from the achievement of man’s passions, but instead from the achievement of every man’s greatest potential. If all men strive to make the most of their own natural inclinations and abilities, and if every man keeps his soul healthy, they will each live the good life. The soul, being the place of man’s speech and understanding, as distinguished from the body, stands higher than the body. The good life is, therefore, “the life of a man in whose soul nothing lies waste.”

It is the perfection of the soul, through the exercise and strengthening of the moral human virtues, e.g. courage, moderation, generosity, magnanimity, integrity, delicacy of wit, friendship, self-control, clemency, prudence, and wisdom. Modern rationalism, according to Strauss, is too preoccupied with the pursuit of material and tangible ends; modern philosophy treats property, power, safety, and prestige as if they represent proof to the Almighty of one’s caliber of character, or as if they will invite spiritual salvation.

In the secular, post-modern age, the religiosity of the modern philosophers becomes unimportant, but some, like Strauss, believe that it still gives its exoteric audience notions of grandeur for being materially prosperous. In *Natural Right and History*, he spends a segment discussing Weber’s thesis that Christianity, and Calvinism in particular, has promoted the idea that

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21 Ibid, p. 126.
22 Ibid., p. 127.
23 Pangle, p. xv
the most energetic, most ambitious, and hardest-working capitalist will have God’s approval and will therefore be awarded a prosperous life. This has led to Spencerist beliefs about the good life in western civilization. Christianity, for Strauss, is a religion permeated in dogmas, lacking any particular set of laws or codes of conduct derived from God and discoverable not through careful study, but through the undisputed word of papal authority. He explains that for this reason, Christianity and philosophy are inseparable, but the Semitic monotheisms, i.e. Judaism and Islam, can do without philosophy because the *Halakah*, or “science of law,” is already a core component of both of their faiths. Further, Judaism and Islam are not progressive religions; they are concerned with the restoration of the past. Times and places may change, but the principles of human virtue always remain stagnant. In Judaism, the Torah is the law. Interestingly, Strauss’s awareness of the modern crisis seems to be attributed to his own Jewishness. While he was not himself a practicing Jew, it is easy to see how his Jewish background influenced his scholarly ideas.

In short, Strauss’s main grievances with the modern philosophers, particularly with Machiavelli, concern their failure to conceal the truth about what is real. They write about what “is” rather than what “ought.” In the modern tradition, philosophers freely disclose that men are driven by their passions for self-preservation, power, property, and prestige. Modern philosophy, especially when it is used instrumentally, creates a dilemma where anything is permitted. Rulers can rule as they wish without moral restriction; their only hindrance to governing by their passions is expediency. No modern society can exist without some form of binding convention, and liberal democracy is more equipped, than any other known system of governance, to assure agreement and allow men to decide their own means of self-preservation. Everyone is willing to make sacrifices for

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24 Strauss, *Natural Right and History*, p. 59. It is worth pointing out here that the fact that Grotius was a Calvinist is irrelevant in a Straussian analysis of his text, because as a thinker, Grotius was not blinded by his religious beliefs.

25 Strauss, “How to Begin to Study Medieval Political Philosophy,” p. 221. “…The status of philosophy is, as a matter of principle, much more precarious in the Islamic-Jewish world than it is in the Christian world.” Strauss also discusses this in his Introduction to *Persecution and the Art of Writing*.

26 Strauss, “Progress or Return?,” p. 228.
the promise of reciprocity, but requiring the promise of reciprocity presupposes fear; if every man is struggling only for survival, his whole life is spent in despair. For Strauss, this cannot possibly be the good life by nature. Straussian scholar Thomas L. Pangle (1992) calls it a “purposeless purposefulness,” and Strauss calls it a “joyless quest for joy.”  

Grotius, as a medieval political philosopher from the seventeenth century, stands in the middle of the two traditions of classical and modern. Technically, Grotius postdates Machiavelli, but he is writing with a different observance to the art of political philosophy and with a very different set of personal and political constraints placed over him. Superficially, he seems to have embraced the conventionalist approach, which holds expediency and reciprocity as the binding force of social life, yet there is a deeper, more philosophical intimation running through his text that can be traced back to Greek antiquity. In the Strauss and Joseph Cropsey (1963) edited, *History of Political Philosophy*, a chapter appears by Richard H. Cox, who sources Grotius’s philosophic origins back to the classics of antiquity. Cox writes, “...In spite of this proximity in time [with Hobbes], and in spite of a superficial agreement, such as the common use of the concept of the “law of nature,” the fact is that Grotius still looks mainly to the classics of antiquity whereas Hobbes explicitly sets out to build anew.”

IV. STRAUSS ON GROTIAN THEMES

i. Just War

Strauss was highly state-centered; nevertheless, he does address international justice. He has insinuated that the only real importance of a state’s external relations is the set of potential lessons that can be learned from it. Wars are hard for rulers to grapple with because they become the ultimate test of their subject’s feeling of national pride and willingness to put their lives on the line.

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27 Pangle, p. xxiii
28 Cox, p. 394.
for the sake of the state. Philosophy is an especially threatening enterprise to rulers because it has the potential to endanger people’s “warlike spirit.”\textsuperscript{29} At the same time, though, philosophy can serve to boost ideological sentiments in irrational men, but philosophers greatly want to refrain from affecting civil society in either way; this is why philosophy must be kept hidden. The three best sources for Strauss’s views on just war are \textit{The City and Man}, in which he examines Thucydides, \textit{Natural Right and History}, and a lecture he gave at the University of Chicago Hillel Foundation, titled, “Why We Remain Jews.”

In \textit{The City and Man}, Strauss says that war is a “violent teacher.”\textsuperscript{30} It is a necessary political activity between states, yet it is also a tough lie for rulers to sell to the people. For rulers, every individual war must not only be just, but it must also be the most just of all wars. They have to tell their people that the cause they are fighting for outweighs the sacrifices made along the way. Philosophers notice that war cannot help but teach the common man a bit of truth: that while “there must be an absolute duty directing us toward universal peace or universal brotherhood, a duty conflicting with the equally high duty that directs us to participate in the ‘eternal struggle’ for ‘elbow room’ for our nation,”\textsuperscript{31} the former cannot stand a chance against the latter in the real world.

Moreover, war is the middle ground between peace and civil war. Like civil war, international war has bloodshed and immense suffering, but it does not directly subvert the state; on the contrary, it strengthens its unity. The “plague” of civil war is comparatively just as bloody, but it tears the state apart. “A strife torn world demands a strife torn individual,” Strauss says in \textit{Natural Right and History}.\textsuperscript{32} In order to ensure his subjects’ loyalty and maintain his sovereign authority, a ruler needs to engage in war once in a while to teach the people the tragedies of war so that there will be no armed resistance to his leadership. While rulers want to create in their subjects a repugnance to

\textsuperscript{29} Strauss, \textit{Natural Right and History}, p. 257.
\textsuperscript{30} Strauss, \textit{The City and Man}, p. 147.
\textsuperscript{31} Strauss, \textit{Natural Right and History}, p. 65.
\textsuperscript{32} Ibid.
war, they also need to engage in it from time to time. Since these occasional wars tend to foster this aversion, the problem of avoiding war helps to solve itself. Stable states are those that desire the preservation of peace. In *The City and Man*, Strauss writes, "...Moderation, justice, and piety and the praise of these ways of conduct are at home in the city at peace rather than in the city at war.... It would seem to follow more particularly that a good regime (like the Spartan) is averse to war and will avoid every war which can be avoided."\(^{33}\)

However, Strauss is skeptical about international law that limits a state’s actions during active warfare; sometimes, the state has no other recourse. In *Natural Right and History*, he writes, "But what it [the state] will do during a war will depend to a certain extent on what the enemy – possibly an absolutely unscrupulous and savage enemy – forces it to do. There are no limits, which can be defined in advance..."\(^{34}\) Natural right is universally valid, but its rules must be flexible to accommodate each unique circumstance because there is often an even higher natural law mandate to protect the state from external and internal threat.

In "Why We Remain Jews," Strauss talks about the state of Israel and Jewish persecution. He espouses a moderate position between the political Zionists and people such as the poet Heinrich Heine, an advocate of total assimilation of Jews into gentile culture.\(^{35}\) While he does not explicitly deny the Jewish right to self-determination, he believes that it would be more honorable for Jews not to exercise such a right if it means using aggression to maintain its sovereign independence. For Strauss, what distinguishes the Jewish nation from other nations is its preference for peace. Jews believe that *The Bible* prophesizes a coming of a Messiah who will peacefully return the Diaspora to the Holy Land; therefore the return to Israel should be left to God, not to military fighting. Strauss believed that political Zionism is "based on a radical break with the principles of the Jewish tradition," and that the Jewish people should put its "trust in God instead of trust in one’s own power

\(^{33}\) Strauss, *The City and Man*, p. 147
\(^{34}\) Strauss, *Natural Right and History*, p. 160.
\(^{35}\) Strauss, "Why We Remain Jews," p. 44. Heine says, "Judaism is not a religion but a misfortune."
and 'hardware.' Strauss goes on to say, "...Zionism was strictly limited to political action. The mind was in no way employed in matters Jewish." Contrary to the Zionist belief, maintaining an occupation of Holy territory with aggressive capabilities is not a sign of Jewish dignity, but rather a bereavement of Jewish honor. It can be learned from this that a war of self-determination, for Strauss, is not just. This holds true for the Jews, and since for Strauss there is no plurality of right, it is also true for all other nations.

Although he tends to be highly state-centered, Strauss's critique of modern liberalism provides evidence of his possible neo-Kantian perspective of international society. Contrary to what his critics say about his anti-egalitarianism and his so-called promotion of a state religion, Strauss treasured diversity of ideas, because a plurality of opinions is the only way to shed light onto universal truth. In "Why We Remain Jews," he catches an important omission in Leo Pinsker's Autoemancipation, a key book on political Zionism from the 1880's. Pinsker quotes a proverb from The Sayings of the Father: "If I am not for myself, who will I be for? And if not now, when?" This indicates a realist, self-help component to political Zionism, but one that forgets the succeeding line of that proverb: "But if I am only for myself, what am I?" For Strauss, the liberal state should demonstrate a concern for all of mankind and not just for itself. To use his words in The City and Man, "The city, if it is healthy, looks up, not to the laws which it can unmake as it made them, but to the unwritten laws, the divine law, the gods of the city." Strauss was very devoted to justice and moral earnestness. But, Strauss also demonstrates that Thucydides silently conveyed that cities are mostly not so noble.

36 Ibid., p. 51.
37 Drury, Leo Strauss and the American Right, p. 11. "Every Society needs a single public orthodoxy or a set of ideas that defines what is true and false, right and wrong, noble and base. Religion is the traditional most powerful instrument for the inculcation of such values. If a political society is to hold together and function as a unit, it must have a set of shared truths that are inculcated by one religion or another."
38 Strauss, "Why We Remain Jews," p. 50.
Both the Francis W. Kelsey (1925) and Louise R. Loomis (1949) versions of the *Law of War and Peace* translate Grotius’s uses of the terms “jus” and “juris” to mean “law,” whereas A. C. Campbell (1901), in his edition, translates it as “right.” Both seem to be adequate. This will be discussed in greater detail in the next chapter, but very briefly, it is important to note that a Straussian interpretation permits both translations, but the former is exoteric while the latter is esoteric. If Grotius were to mean “law” without confusion, he would have been wise to say “lex.” But the term “jus” is ambiguous and equivocal, because there is an important distinction between a law and a right, according to Strauss.

What is generally considered “right” in modern civil society is either a matter of what is pleasurable, what is useful, or what is noble. But for Strauss, what is right by nature concerns only what is noble. “Nature” is a term that, for Strauss, must be defined in contradistinction with what it is not, or namely, convention. Therefore, convention, being useful and pleasurable, is not natural, but instead, hides nature. Social contract is not a noble covenant, but rather, an expedient one. To be truly noble, an act must be done solely for its own sake.

“Law” is a social word. It presupposes authority; he explains in *Natural Right and History* that “natural law” derives from divine revelation. This is the Thomistic, Christian view of natural law, largely influenced by the Stoics. However, in *Studies in Platonic Political Philosophy*, Strauss makes a separate distinction between natural law, which is law that is inherently just or țzedek, justice meaning that every individual is doing what he can do well, versus “divine positive law,” which are God’s precepts revealed through divine covenant. Divine positive law is also known as *nomos*, which is a term Strauss takes from Rabbi Maimonides. “Natural right,” in contrast to natural law or *nomos*, presupposes the doubt of authority. The search for natural right is the enterprise of

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41 Ibid., p. 138.
responsible philosophy. But since the bulk of mankind either does not or cannot practice responsible philosophy, most people need to be duped by religion and convention. Both religion and convention essentially make the quest for natural right unimportant for the city at large. Natural law is an unchanging disguise for natural right. It may seem good enough, because law is presented as noble since it exists only to benefit the common good. The good is properly identified with justice, but what is the common good? It cannot derive from convention because the will of the people can be and often has been unjust. Therefore, Strauss writes:

The nature of things and not convention then determines what in each case is just...Knowledge of what is just here and now, which is knowledge of what is by nature, or intrinsically, good for this city now, cannot be scientific knowledge. Still less can it be knowledge of sense perception. To establish what is just in each case is the function of the political art or skill [known as political philosophy]. That art or skill is comparable to the art of the physician, who establishes what, is in each case healthy or good for the human body. \(^{42}\)

Strauss believes that self-preservation is the most fundamental natural right, which quite often places him in agreement with modern philosophy, but for different reasons. Instead of viewing self-preservation as a human passion, Strauss views it in what he would call a “noble” context, or as a right. It is not the same as conventional justice, for conventional justice, defined as the “good of the city,” or the *summum bonum*, is only a matter of expediency because even a gang of robbers require conventional justice to conduct their avaricious activities. This is the justice of injustice, or vice versa. No, Strauss believed that “natural right...delineates the minimum conditions of...life, so much so that sound positive right occupies a higher rank than natural right.” \(^{43}\)

Furthermore, self-preservation itself can mean different things to different people, but there is only one meaning. Natural right is not an untenable concept. Bernard Susser (1988) eloquently

\(^{42}\) Strauss, *Natural Right and History*, p. 102.
\(^{43}\) Strauss, *Studies in Platonic Political Philosophy*, p. 140.
explains that for Strauss, "Traditional truths must become problematic, chastened by the relativist
dilemma, before they can emerge philosophically mature and self-conscious."\(^{44}\) There does seem to
be evidence that Strauss was covertly sympathetic to Nietzsche. Moreover, in *Persecution and the Art of Writing*, Strauss humbly admits that his method of reading does not necessarily provide the
correct and final truth of an author’s meaning, but he suggests that his style is at least as good as any
approach to studying philosophy that has so far been employed.\(^{45}\) Strauss would likely be reluctant
to use the language of relativism, or even to admit that classical philosophy bears any resemblance to
it, nevertheless Susser’s point is well taken that Strauss is arguing for doubt, but it is not safe for
anyone but philosophers to engage in it. Nietzsche proclaims an escape from reason to solve the
modern crisis, whereas Strauss finds solace in classical political rationalism. Like science,
philosophy is progressive in that what it has already learned about man’s nature will be significantly
revised and modified after another two hundred years of study. But while the knowledge has
changed, its subject, the "being," will remain the same as it has always been. The human pursuit of
understanding, namely science and philosophy, is mutable. It can differ from time and place.
However, according to Strauss, natural right is as fixed a concept as the principles of chemistry or
physics. Since natural right is a philosophic quest, philosophers cannot submit to the authority of
natural or positive law, whereas the common man must.

V. STRAUSS, HIS CRITICS, AND LIBERAL DEMOCRACY

Strauss’s critics, such as Shadia B. Drury, and others, call him an “anti-liberal” and say that
he had an “antipathy to American liberal democracy.”\(^{46}\) This label is both unfair and inaccurate; there
is a large difference between being an anti-liberal and a critic of the modern liberal state. They say

\(^{44}\) Susser, p. 502.
\(^{45}\) Strauss, *Persecution and the Art of Writing*, p. 30. "...If this is an objection to reading between the lines as such,
there is the counter-objection that neither have the methods generally used at present led to universal or even wide
agreement in regard to very important points."
\(^{46}\) Drury, *Leo Strauss and the American Right*, p. 3.
this because his belief in a hierarchy of moral virtue among men makes him seemingly anti-egalitarian, and because he criticizes moral pluralism and vehemently deplore cultural relativism. Bruce Russett (1993) says that Strauss interprets Thucydides to say that democracies cannot actually exist because “power was really in the hands of the first citizen.”47 Certainly, Strauss has bones of contention with democratic rule, but this is not the same as denying that all people are to be treated equally in the eyes of the law or that democracies are not the most ideal forms of government short of philosopher-rule. These criticisms do not themselves presuppose anti-liberalism or anti-democracy. Since Strauss believed that ancient to early modern philosophers propounded these criticisms between their lines, it is important to understand exactly what Strauss feared about liberalism and early American political philosophy before one looks for these types philosophical questions within Grotius’s Law of War and Peace.

True, Strauss opposed the kind of reform liberalism expounded by John Stuart Mill, Isaiah Berlin, and John Dewey, but Strauss identifies himself as a liberal and pays homage to the American founding fathers, including Thomas Jefferson and The Federalist, who held the unalienable rights of men as self-evident truths. He opens Natural Right and History with a celebratory preface on the Declaration of Independence. Therefore, even though he greatly hesitated about combining theory with practice, the American founding, i.e. the creation of a political community on the basis of theory and natural right seems central to his teachings. After all, for Strauss, early modern political philosophy is based on the notion of natural right; “nature” as such is not rejected and replaced with historicism until a little later with Burke and Rousseau, neither of whom influenced American constitutional democracy. Further, Strauss believed in a natural right of self-reliance, and he believed that the U.S. Constitution, better than any other modern form of government, upheld this freedom as a natural right. Wilson C. McWilliams (1998) explains that in regards to early American political thought, influenced so heavily by Locke and Hobbes, “Strauss sided with the earlier

47 Russett, p. 45.
moderns, especially since constitutional democracy, tied so closely to their teaching, approaches the classical standard – or so Strauss argued – more closely than any available alternative.  

However, Strauss’s criticisms of early American political thought are similar to those of early modern philosophy; it possesses “Machiavellian republicanism.” Civil society exists to protect the right of individuals to “pursue their productive-acquisitive activity without obstruction.” This Lockeanism, for Strauss, has diminished the value of political philosophy in two ways: 1) it opposes the classical tradition of natural right, it places the pleasure-seeking tendencies of common men as the summom bonum of civil society, and 2) it reveals too much of the truth to the masses, because it is, de facto, the summom bonum for common men. Regarding this second point, however, Strauss acknowledges that Locke was much more careful about writing the truth so liberally than Machiavelli or his successors; he explains that Locke conceals the true, cold reality of acquisitiveness by hiding it between discussions on the religiously-based duty of charity. Further, Locke rarely refers to natural right or even natural law, but instead he talks about “natural duty,” which insinuates to the vulgar reader a certain moral necessity for moderation.

In addition, Strauss is not suggesting a return to the Greek polis. Contemporary political society is organized just fine; it is just that principles of ancient wisdom need to be recaptured. Strauss himself acknowledged that no political community could be based on the ideal of philosophy, since only a few individuals are philosophers and since no community based on convention would ever rationally privilege a small class of philosophers over the common “many.” On the contrary, the res publica must keep separate theory and practice; it is far too dangerous for philosophical truths

48 McWilliams, p. 240. This scholar also points out that later American political thinkers, such as Emerson and Thoreau, embraced the natural right espoused by their early modern predecessors, but 20th Century political thought in the U.S. turned to utilitarianism, reform liberalism, and to a small degree, postmodernism.
49 Ibid., p. 237.
50 Strauss, *Natural Right and History*, pp. 246-51. “Locke’s doctrine of property is directly intelligible today if it is taken as the classic doctrine of ‘the spirit of capitalism’ or as a doctrine regarding the chief objective of public policy...By building civil society on the ‘low but solid ground’ of selfishness or of certain ‘private vices,’ one will achieve much greater ‘public benefits’ than by futilely appealing to virtue, which is by nature ‘unendowed.’”
51 Ibid., p. 248. Look at Strauss’s footnote n. 126 and compare it with Locke’s *Treatises*.
to be revealed to any common man or to any Prince. The modern liberal state has collapsed the distinction between political philosophy and scientifically based theories of public administration. Strauss is not a historicist; he does not want to return modern society to the ways of the past, but instead for social science to revive the moribund wisdom of classical philosophy.

It is important to bear in mind too that one of Strauss's criticisms of liberalism and positivism (or conventionalism) is that, in their own way, they pose a threat to equality. However, unlike the inequality of moral virtue that becomes inevitable in Strauss's writings, liberalism and conventionalism, as he shows, are especially anti-egalitarian; they are a de facto, or even a legal hindrance to equality. Strauss makes a good case for this in *Natural Right and History* when he talks about how citizens of a state are "made" and not "born." He writes, "It is convention that arbitrarily cuts off one segment of the human race and sets it off against the rest." Discrimination is practiced every day within the walls of a liberal city. To make any kind of a decision, such as which university to attend or with whom to make friends, human beings need to use some kind of criterion for discrimination between one choice and another.

But liberalism embraces the highest natural rights – that of deciding the means of self-preservation for one's own self. The problem is insoluble as long as the private sphere remains, but for the government to eliminate the private sphere, or even to hack away at it, would violate natural right and the state therefore loses its quality of liberalism, so the problem, therefore, has no solution. Scientific rationalism cannot resolve every vexed question, because science requires variables, which in political matters are intangible to human reason. The only two kinds of data that science has available are history and human preferences, and neither says anything about what is noble.

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52 Pippin, pp. 450-451. Although, it is important to note that the Prince does know more of the truth than the common man, thus he tells noble lies. However, he does not need or want this knowledge for the sake of philosophy, but for the sake of keeping his power.

53 Strauss, *Natural Right and History*, p. 104.
VI. THE ART OF STUDYING ESOTERIC LITERATURE

The idea of secret writing does not originate with Strauss. Henry David Thoreau, Alfarabi, Maimonides, Gotthold Ephraim Lessing, Thomas Paine, Archibald MacLeish, the “Free-Masonry,” etc. each publicly claim to believe that great books contain deeper meanings for only the careful, thoughtful reader to decipher. In fact, in Walden’s chapter titled, “Reading,” Thoreau said that the classics were written not only in Greek and Latin, but also in the “secret language of literature.”\(^{54}\) Thoughtless men are careless readers,\(^{55}\) but for Strauss, any “well-trained student of Plato” ought to be able to descry the esoteric teachings in any great text. Esoteric literature stands and falls by the higher virtue of philosophy; if careful readers were not by nature trustworthy with important knowledge, esotericism would not be a possible way for writers to conceal their true meanings, thus they would not use it.

There are countless ways that philosophers have concealed hidden meanings. To begin with, it is important to be open-minded to the possibility that, as Strauss put it, “The real opinion of an author is not necessarily identical with that which he expresses in the largest number of passages.”\(^{56}\) Therefore, what the philosopher rarely says is often his “Forbidden Fruit.” In addition, the following is a suggestive, but not exclusive list of some of the strategies, that according to Strauss, are employed by “well-trained students of Plato” to hide the truth: 1) use ironic language, 2) make faint nuances and obscure intimations that are of greater significance than the common thread of the text, 3) send the philosophic reader to the library for clues. Make references to other authors and other books that state clearly the esoteric teaching, 4) use repetition. If a statement is said repeatedly but each time out of context, it may be the hidden meaning, 5) express the esoteric teaching through boring characters who are unpopular amongst the common readers, 6) if the character is a philosopher and remains silent throughout the passage, the author does not accept the idea being

\(^{54}\) McWilliams, p. 236
\(^{55}\) Strauss, Persecution and the Art of Writing, p. 25.
\(^{56}\) Ibid, p. 30
discussed, 7) bore the common reader with long speeches and tedious narratives, but slip the secret
teaching directly after them, 8) write in Latin, 9) force the careful reader to reread a tersely written
passage, 10) make occasional blunders on purpose. After all, “to err is human.” It is especially
crafty to discuss blundering overtly whenever a mistake will soon arise, 11) become more publicly
respected than the censors; use early writings to earn the reverence of the political elite. This only
works for a few philosophers, such as Grotius, 12) communicate orally with like-minded colleagues
who know what to look for, 13) support the government’s policies throughout the text, but use a
subtle a touch of sarcasm, 14) mask the esoteric teaching with religious references. In many
societies, religious expression is permitted but free inquiry is not, (15) write with confusing double
and triple negatives, 16) insert the kernel of truth into the middle of the book, and do the same
throughout the text in the middle of passages, and17) make the writing so vague to the censor that he
will not understand it well enough to disapprove. Needless to say, there are many other creative
ways that truths have been hidden, but these are some of the most basic philosophic tendencies,
according to Strauss.

Paradoxically, the criticism against “reading between the lines” is largely what makes it
work. For most people, the idea that classic writers concealed hidden meanings is far-fetched,
therefore its possibility is quickly dismissed, and so no one even thinks twice about ambiguous
language, etc. For a Straussian, the more the notion of secret writing is ridiculed, the better it is for
philosophy. While this might be true in an illiberal, totalitarian society, Straussians call for social
scientists in modern, liberal states to resume the practice of esoteric writing.

Seventeenth century political philosophy is especially unique in that it has full knowledge of
the ancients, it has slight foreknowledge of the modern age, and yet it comprehends neither.
Moreover, like modern philosophy, seventeenth century philosophers had access to the ideas of
Greek antiquity, but unlike the modern era, the medieval period took the ancients for granted; they
did not doubt the necessity of ancient knowledge like the philosophers of modern. It is also
important to remember that, unlike classical and modern philosophy, medieval philosophy is permeated by religion and dogma. In fact, theologians, such as St. Thomas Aquinas, Maimonides, and St. Augustine are three of the most studied and debated philosophers of the medieval period.

To study classical or medieval political philosophy, one must shake off inherited knowledge of the present day. A modern historian of philosophy must himself become a philosopher, and pretend that he is a colleague of the writer of the text. He must become an anachronism. The attributes of modernity must be forgotten; to study medieval political philosophy, one must bear in mind that the writer was unaware of or uninterested in modern concepts such as civil liberties, civil rights, religious freedom, democratic-republicanism, Newton's scientific method, art, poetry, etc.

To a certain extent, philosophy relies on history to provide knowledge of what the writers of the past knew and did not know. But Straussians believe that in the modern age, philosophy has become too dependent on history. For this reason, Nathan Tarcov (1994) proposes a special kind of history set aside only for philosophic use. The classical writers did not have this problem because knowledge had not yet become vibrant and scattered, because philosophy and science were relatively new enterprises. Classical philosophers did not have to worry about history because there was very little of it available compared to today, thus Susser calls the classical age, mankind's "Archimedean point."

Historicists often start studying a text under the assumption that the present is superior to the past. They do not explicitly state this, but it becomes the unintended implication of a lot of the questions they ask, such as "how did this idea contribute to (a future event)?," or "what is its meaning in light of later knowledge?" However, a well-trained student of Plato must be able to treat a past writer as independently enlightening and insightful. The philosopher must not read a text merely to understand the thinker and his impact on practical history, as a historicist would, but rather

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57 Tarcov, p. 271.
58 Susser, p. 504.
59 Strauss, "How to Begin to Study Medieval Political Philosophy," p. 209.
to ascertain what that thinker wanted to contribute to the sociology of knowledge. Writers of the past believed that they were bestowing knowledge of the universal truth, not the truth of their own times. To study a text, the philosopher must narrow himself to the question being asked by the writer, and remained concerned only with that question or set of questions. To look for answers to irrelevant questions would lead to a grave misinterpretation of the text. This is no easy task if the writer concealed his pertinent questions. Once the philosopher understands the writer's meaning and learns the secretly conveyed truth, he must revert to his modern character and put this knowledge into a more holistic philosophical perspective. In “How to Begin to Study Medieval Political Philosophy,” Strauss writes, “We can understand medieval philosophy only if we are prepared to learn something, not merely about the medieval philosophers, but from them.”

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60 Ibid., p. 211.
CHAPTER THREE
Laws and Noble Lies

I. GROTIIUS'S ART OF CONCEALMENT

Grotius warns, “not to let ourselves be deceived by ambiguous terms, or by the outward appearance of things.”¹ He often appears to hint that he is telling certain truths esoterically, and that he is doing so because particular interpretations cause harmful social consequences. He also suggests that equivocal statements contain real truths. In Book I, he writes, “...General expressions should be taken in a limited sense, and ambiguous sayings given a suitable meaning.”² He also seems to say at the outset of the second chapter of Book I, that the Law of War and Peace supports a falsehood, and that esoteric readers might be skeptical of his seemingly sound arguments. He writes, “Let us see now by what arguments the contrary opinion is supported, that the conscientious reader may judge more easily which side has the stronger.”³ The falsehood will prevail as truth in the minds of most readers, but his philosopher friends will notice the hidden maxim, which is that his seemingly adequate defenses of the exoteric interpretations are actually counterfeit.

He often states a natural right as an “ought,” rather than as an “is.” This is confusing because most common readers might have a blurred distinction between natural right and natural law. Law can only be an “is” statement, while right is expressed as an “ought.” Further, it seems that he avidly uses the method of sending esoteric readers to read other great books for clues. For example, the “is” and “ought” dichotomy is shown through Aristotle’s Metaphysics, in which Aristotle explains the difference between “faculty” and “aptitude.” Faculty is human behavior that is actually exhibited, whereas aptitude is the potential of all “natural things.” Grotius is separating human law from natural right; being law-abiding is not the same as being righteous. Within the category of faculty, Grotius intends to place all expectations governments have for their people that are legitimate

¹ Grotius, Loomis ed., p. 49
² Ibid, p. 32
³ Ibid, pp.32-3

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because they are either prudent or inspired by human passions. By aptitude, Grotius places all "noble deeds" that cannot necessarily be expected, except from righteous people. Aptitude is about attaining the good life, the project of political philosophy.

In searching for the esoteric truths, a careful reader must begin by being keen on Grotius’s seemingly sardonic tendencies. Secondly, there are a number of different tactics he uses to throw off the common reader, such as stating that nearly impossible things will occur with nearly impossible conditions. For example, he sometimes gives a conditional statement saying that something happens "if what we say is correct." However, what he may not be saying outwardly is that the condition cannot ever hold up because "what we say" is in fact not correct. Sometimes, he uses his discussion of positive law to slip in a hint of his methods of concealing truths for esoteric readers. For example, in Book III, he writes, "...We may as well say that a man who states anything is actually denying it, and a man who denies it is stating it."4

In addition, Grotius is very careful about his wording. He often chooses not to separate "law" and "right" within the same sentence. For instance, he writes, "the former, if I am not mistaken, may be called the law or right of equality, and the latter the law or right of superiority."5 Now, by stating both terms, exoteric readers might come away thinking that these words are interchangeable, whereas esoteric readers may realize that one must be removed because they have very different meanings. The conjunction, "or" indicates that one is correct and the other is not. As previously shown, "laws" and "rights" are two different concepts. Moreover, the phrase, "if I am not mistaken," makes this a conditional statement. Grotius is in all likelihood purposely being wrong, but perhaps only esoteric readers know that. Another interesting example is in Book II, where he talks about the right of embassy. In the midst of a long discussion on the subject, he says, "...By a similar fiction, it is held that ambassadors are, as it were, not a part of the country to which they are

4 Ibid, p. 280
5 Ibid, p. 18
sent. The word “fiction” might be the magic word; it might suggest that ambassadorial immunity is just a sham. More than that, however, Grotius is perhaps secretly showing that custom does not really pertain to philosophical matters because standards and protocol are always human constructs that serve practical interests shared by all individuals. Esoteric readers, it seems, are careful readers; they do not succumb to his tricks and they pay close attention to his underlying argument.

II. DEFENDING A FALSEHOOD

Natural law is just another form of positive law, but it is supposed to be created and enforced by a higher authority. Natural law, for Grotius, is only natural in the sense that man prefers not to assign social origins to it because it requires a kind of enforcement and legislation that is higher than man’s power and authority of his brethren. The existence of God is unimportant to natural law’s validity, but man’s belief in God’s existence is both its critical starting point and its aim. Essentially, Grotius could be saying that natural law is a hoax that must be preserved and defended for the sake of social order. There is a place in Book II where he might be blundering by saying, “...The phrase, ‘law of nature’ signifies what is widely received as accepted custom.” But customs are man-made traditions; they are not dictates, because if they were, they would not be customs, but rather they would be laws. In Grotius’s world, the author of nature is not so much God as it is the individual who concocted natural law for the purpose of duping the masses. Strauss calls this person the “first citizen.” It appears that Grotius makes occasional allusions to the author being a writer, or a storyteller. For example, in the prolegomena, he says, “writers are apt to confuse the terms, law of nature and law of nations.” For Strauss, the distinction helps leaders maintain the social order, but philosophers, like Grotius are interested in preserving peace at the same time as seeking truths; therefore, maybe Grotius uses esoteric teaching to communicate to his colleagues that the distinction

6 Ibid, p. 197
7 Ibid, p. 155
8 Ibid, p. 13
is a sham. Natural law might be nothing more than a disguised form of human law and is inconsistent with the absolute truths of natural right.

This view is well-expressed by Horace, who Grotius quotes, “Expediency is the mother of justice and right.”\(^9\) Perhaps Grotius intends exoteric readers to take from this that justice and right exist because they are prudent to uphold, but a careful reader will find that Horace is instead saying the reverse, that any given interpretation of justice and right at any given time will only accommodate expediency. But Grotius omits a very key qualifier to the sentence from Horace, which is indicative of the sporadic nature of expediency; he instead might assume that esoteric readers will find it for themselves. In \textit{Satires}, Horace wrote, “Feelings and customs rebel, and so does Expedience herself, the mother, we may say, of justice and right.”\(^10\) In other words, expediency is not concerned with social bonds, or with feelings or customs.

The esoteric teaching within the \textit{Law of War and Peace} does not hold as much faith in permanent peace as its exoteric message might show. On the contrary, in all avenues of life, such as property ownership, crime and punishment, war between nations, or civil rights, Grotius ultimately seems to concur with Thucydides’ thesis that might makes right.\(^11\) Moreover, Grotius says that this lesson is believed by both the ignorant and the wise. Wherever he refers to a position held by the wise, esoteric readers are supposed to assume that there is a philosophical message buried deeper within that portion of the text. Grotius begins the prolegomena saying that Carneades was “so skillful...that he could muster the full power of his eloquence as easily to defend a falsehood as to defend a truth.”\(^12\) But Grotius is not talking about Carneades, but rather, perhaps he means himself because maybe he is about to pursue the art of defending a falsehood. He then proceeds to paraphrase and criticize Carneades’ attack on justice, which holds that true justice is non-existent.

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10 Horace, p. 41.
11 Grotius, Loomis ed., p. 3. Grotius writes, “On most men’s lips are the words of Euphemus, quoted by Thucydides, that for a king or a free city nothing is wrong that is to their advantage.”
12 Ibid, p. 4.
because might ultimately always makes right, because the position backed up by force rarely accords with natural right. However, it seems that Grotius's reproof of Carneades is only a falsehood that he gears toward an exoteric audience because it is absolutely crucial that the knowledge of philosophy, which is that natural law is a hoax, does not get into the hands of the irresponsible. The language he uses against Carneades' position is not very condemnatory possibly because he doesn't really oppose him. On the contrary, Grotius might agree that whoever shows greater strength of force will always ultimately be the author of justice. In a discussion about social contracts in the fifteenth chapter of Book II\textsuperscript{13}, he cites Sallust's \textit{Jugurthine War}, where it says in the same cited passage, "...Nobles started to use their position, and the people their liberty, to gratify their selfish passions, every man snatching and seizing what he could for himself."\textsuperscript{14} Moreover, as Grotius says early in the prolegomena for all eyes to see, "Law is whatever satisfies the stronger."\textsuperscript{15}

III. THE REAL PURPOSE OF THE LAW

For Grotius, a law presupposes the notion of will. A prerequisite to law is some sort of convention or covenant either between men or between God and man. In Book I, Grotius writes, "Anaxarchus vaguely said that God does not will a thing because it is lawful, but that it is lawful, or lawfully due, because God willed it."\textsuperscript{16} This possibly means that, like everything, all laws must have a cause, and for natural law, the cause is God. However, natural right is a concept entirely independent of either God's will or humans' will. Within this same paragraph, he continues with short panoply to satisfy the Christian church, explaining that God's laws are binding on all of mankind.

\textsuperscript{13} Ibid, p. 168
\textsuperscript{14} Sallust, p. 77
\textsuperscript{15} Grotius, Loomis ed., p. 8
\textsuperscript{16} Ibid, p. 23

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God cannot alter natural law, not because it is based on fixed principles, but because God has no control over the free will of men. There are avenues of agreement among men concerning what is right or wrong, which Grotius calls, “common sense,” but this is purely coincidental; prudence will usually be the same for different kinds of people who find themselves in similar situations. But while his exoteric audience may read Grotius to say that common morality has God as its universal cause, what he might really be saying is that common morality is the product of a popular opinion that is either freely developed or more likely, the result of individuals prudently being conditioned by more powerful individuals to accept it. He states, “Unquestionably, human laws can add many provisions to natural law, though they can add nothing contrary to it.”17 But this statement seems counterintuitive. Humans cannot add anything contrary to natural law because its shape and character evolves with each added provision.

In Book I, Grotius explains that there are two ways of proving the law of nature, “priori” and “posteriori.”18 Priori is natural right, which is the philosophic quest; it is only attainable by asking questions and seeking answers with an open mind to the likelihood that the truth may never be learned. Posteriori, however, is the method of putting together a worldwide consensus of natural law; this agreement, however, only reflects prudence and human passions within civilized nations. It is crucial that civilization is a qualification of this agreement because again, civilization is the outcome of human desires, but it is not necessarily a naturally better condition. Natural law is then touted as the will of God because it seems acceptable to human reason. Many readers think Grotius is fond of human reason, but it seems instead that he is poking fun at its philosophic inefficacy. While it is undoubtedly prudent and good at preserving peace, it is not the truth. For Grotius, posteriori might be analogous to a journalist making a story actually happen just so that he can have something to write about.

17 Ibid, p. 90
18 Ibid, p. 22
He says sardonically in Book II, "...This agreement on such a variety of laws and other ideas shows plainly that the tradition has been handed down to us from the first men, and never positively refuted, a fact which alone is sufficient to make us believe it."\(^{19}\) History is the historicists' proof of natural law, as Grotius points out, but Strauss dismisses this method. There are many places in which Grotius shows the weaknesses of historicism. For example, he concurs with the Spanish jurist, Fernando Vasquez, that time has no bearing on the entitlement of property ownership in regards to international law.\(^{20}\) It is not a matter of the duration of possession that gives individuals their land deeds or states their territorial jurisdictions. Although some municipal laws permit history as evidence, just because something is so for many years is not an indication of its legality in natural law or even of its concordance or discordance with natural right. Might, along with strong, seemingly logical political rhetoric, but not history, is inevitably what allows men to defend their usufruct. Both contractual arrangements and length of time using the land for harvest are legal mechanisms but they ultimately have to be backed up by either a real threat of force or other drastic consequences for invasion. The esoteric message behind his reference to Vasquez could be that historicism dupes the masses into believing that things are true because it has been so for a long time.

Law has many functions, but to begin, it is there for the sake of maintaining false appearances, such as the rule of the sovereign, or claims of ownership, i.e. things that have no footing in natural right. Law also keeps the sense of hope that problems will one day be solved, such as war and famine. Internationally, law is especially important because there is no supranational leviathan that is legitimated by subjects, but it is not any more of a hoax internationally than it is in domestic government. At times, Grotius makes Machiavellian statements that might be designed only to instill citizens' loyalty to their rulers, such as his reference to Marcus Aurelius, who said, "No one but God

\(^{19}\) Ibid, p. 230  
\(^{20}\) Ibid, p. 96
alone can judge an emperor." This might affirm the false power of natural law while it reattaches a special brand of legitimacy to ruler's right to govern. Perhaps to satisfy the Church, in Book I, Grotius shows that Christianity is superior to Judaism because it says in *Hebrews* (VII, 19) that the old law contains flaws, and in *Romans*, it is revealed that Christ is "the end of the law"; by this, perhaps exoteric readers are intended to assume that the faults of the first revelation were solved by the coming of Christ. However, if one goes to the actual passage in the book of *Hebrews*, one will find that Grotius did not quote it exactly. It reads, "For the law made nothing perfect, but the bringing in of a better hope did; by the which we draw nigh unto God." For Grotius, God and law are essential for boosting a sense of optimism through the prevention of chaos and suffering. Grotius seems to suggest that religion is another good hoax for the masses. Moreover, rulers implement whichever religion suits their needs.

Grotius appears to secretly say that God forbids the making of war in both Judaism and Christianity. However, the divine law against war could simply be a sham to keep nations from fighting wars too often, or it could be a way of keeping people of different nations from intermingling, and thereby learning from each other's truths. But again, the divine law and the positive law work in conjunction to concoct a false philosophy – love thy neighbor, except for when it seems prudent to kill him.

To support the facade, Grotius defends the so-called right of kings to rule. There is a very important paragraph in Book I, in which Grotius wrote:

The arguments produced on the opposite side are not difficult to refute. In the first place, the assertion that the one who confers authority is superior to the one on whom has conferred it is true only in cases where the authority is continually dependent on the will of

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21 Ibid, p. 46
22 Ibid, p. 33, and p. 75. Grotius sardonically says that if the whole world is Christian, there will be no more wars.
23 Ibid, p. 36
the conferrer; but not in cases where the authority, though it derives its origin from another person’s will, becomes later a necessity...\textsuperscript{24}

But authority is in all cases dependent upon the will of the conferrer, whether the will given is tacit or direct. If rulers cannot maintain a loyal following, then their power will cease to carry legitimacy. Thus, the will of the conferrer is always a necessity. Grotius is again deliberately defending a falsehood with impossible conditions; no argument is difficult to refute if the counter-arguments are moot.

Just before this discussion, he says that Cicero concurred with the sovereignty of dictators, but if one goes to his cited footnote, a possibility becomes evident that Grotius might have planted it there to secretly reveal a truth about how rulers manage to maintain their popularity. According to Cicero, rulers need to uphold a certain degree of discretion in order to keep the facade active. Near the cited passage, Cicero wrote:

\begin{quote}
Now as it is not sufficient for a man to get riches unless he has the wisdom to dispose of them, so as thereby to furnish out all his expenses, not only those of his bare necessities, but those of his bounty and liberality too; so neither is it enough for a man to get glory, unless he knows how to make use of it with discretion.\textsuperscript{25}
\end{quote}

Moreover, laws of property ownership are also a hoax. Secretly, Grotius might be saying that everything occupied by man is free for the taking, even when it is claimed by an individual and everyone else sees his deed as legally binding, it is still not his property by nature. Law does not determine ownership; force secures a man’s desire to claim land as his own. Private individuals are not strong enough on their own to defend their land; therefore, people rely on their government to protect their usufruct. Cicero, he writes, offers the metaphor of a theater, which is a public place but anyone who pays for a ticket is allowed to occupy any seat they wish. He writes, “As to wild beasts,

\textsuperscript{24} Ibid, p. 47
\textsuperscript{25} Cicero, \textit{The Offices}, p. 90
fishes, and birds, we must observe that whoever controls the lands and waters where they are found can by his order prohibit anyone from capturing these beasts, fishes, and birds, and thereby acquiring them."  

But on a different page, he writes, “Permission to pass through [someone else’s property] should first be asked, if it is refused, the crossing may be made by force,” and he gives the example from Plutarch of Agesilaus who had to trespass through private land on his return from Asia. In a later discussion about trespassing, Grotius continues, “…Any obstruction to their enjoyment of that right [to walk through] is an injury sufficient to furnish a lawful excuse for war.” All individuals have the natural right to walk on any part of the earth or sail on any part of the sea, but strength and prowess either keeps men away or gives them legal title to parts of it.

He writes, “…There must be an outward act, from which others may understand that the sea is occupied.” The law is merely a way to dupe people to think that private land belongs to a private citizen, and international territorial law provides this kind of a delusion. The multitude of countries are willing to accept that most of the seas and oceans are common territory only because it is not feasible for any one country to militarily defend vast amounts of water, nor is it likely that a country will keep it with the mode of political rhetoric. Property has to be within one’s zone of control in order to be owned, however far that zone may extend. Another interesting statement to this effect is in Book II, where he writes, “Ulpian, for instance, says that pigs carried off by a wolf

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26 Grotius, Loomis ed., p. 82. “We must observe” is a very important qualifier, because it indicates that this unfortunate truth has no basis in natural right, just in reality.
27 Ibid, p. 85
28 Ibid, p. 125
29 Ibid, p. 92
30 Ibid, p. 92. Grotius writes, “Whoever takes possession of a part of the sea cannot prohibit unarmed and harmless navigation…” It is both very difficult and very costly for states to control waters because their navies have to remain stationed there on boats. The expense of such an enterprise would outweigh fishing profits, so there is no rational reason for it.
and goods lost in a shipwreck cease to be ours, not immediately, but when we cannot recover them...”

Further, Grotius says:

From what we have said it is plain that a king may in this way acquire a right against another king, and an independent nation against another nation either by express agreement, or through one party’s relinquishment of a right and the others subsequent taking possession of it, or taking more forcible possession.

The bottom line here is that might makes land one’s own, the law does not. Therefore, in the final analysis, international law carries no weight according to Grotius other than being a threat of a future use of force by a more powerful nation. What this amounts to is that Grotius, the jurist touted, as the “Father of International Law” may not believe in the independent strength of international law. If this is true, it is not the law that states pay attention to, but rather the vigor of their adversaries, in which the law only masks temporarily until there is a shift in the balance of power. When the power changes, the law changes.

In the traditional interpretations, Grotius believes that sovereignty and ownership are two different concepts entirely; the king possesses sovereignty, whereas private citizens hold ownership. He refers to On Benefits, in which Seneca writes,

And so we are able to give a king a house, or a slave, or money, and are not said to be bestowing upon him a gift of his own property; for the right of ownership of all things belong to the king, the actual ownership to the individual citizen.

31 Ibid, p. 97. However, only to satisfy the rulers wish to regain lost territory through legal channels, Grotius does go on to say that lawful ownership is still entitled to ones who never cease to express the desire to have the property returned.
32 Ibid, p. 100
33 Seneca, On Benefits, p. 467
However, it is actually the other way around if one reads Grotius and Seneca carefully. He seems to suggest that both sovereignty and ownership are one and the same because both depend upon one’s ability to control a particular piece of land and sustain jurisdiction over all inhabitants within it. Just as ownership requires the approval of the state, unless it can be defended by force through other means, sovereignty requires the recognition of the international community. In short, both sovereignty and ownership require recognition, which can be attained either through force or through persuasion. Legality is a form of persuasion because most citizens abide by it for mutual self-interest and because there are consequences for non-compliance that single individuals within the state are too weak to avoid. Seneca continues, “...Although they [our lands] are said to belong to the state, because in one way, they are the state’s, in another, mine.”

Further, Grotius explains that the law of property ownership becomes increasingly necessary as mankind becomes more advanced, and therefore more materialistic. He appears to be secretly revealing that primitive cultures have no need for such a law. In a sentence lost inside of a long paragraph of Book II, he writes, “This condition of affairs could have lasted if men had continued living in great simplicity, and with remarkable charity towards one another.” Exoterically, he appears to link a good man’s corruption to his association with barbarics, but he seems to be secretly saying that man becomes corrupt when they desire more than what permits them to survive. The latter might be the esoteric observation; the former is a historicist, exoteric message, which is similar to the principles of Rousseau’s Social Contract.

Later in Book II, Grotius writes, “The most natural measure of the value of any article is the need for it, as Aristotle correctly stated.” However, this reference to The Nichomachean Ethics can be ignored as meaningless to the careful reader because Aristotle says nothing of the sort in the cited

34 Ibid.
35 Grotius, Loomis ed., p. 79
36 Ibid, p. 149
passage, nor is the subject of Aristotle's discussion even remotely similar.\textsuperscript{37} The bogus example might indicate another false truth. While Locke argues that the value of property is determined by the amount of human labor that went into cultivating or manufacturing it, Grotius doubts that things have any intrinsic natural value other than what man's passions assign to them. He goes on to outwardly quote Cicero who, in his speech Against Verres said, "The limit of value for such things [as statues] is the same as the limit of men's desires for them."\textsuperscript{38} Items are rated at the highest worth because they are scarce and highly desirable to people. In the cited passage from On Benefits, Seneca says that even if another value does indeed exist, that value makes no difference in a transaction if the buyer and the seller agree to their own price.\textsuperscript{39} However, Grotius's aim here is probably more than just to provide a macroeconomics lesson in the law of supply and demand. More than that, he might be poking fun at its unfortunately true premise, which is mankind's tendency to succumb to its inner appetites. For example, he references Pliny's Natural History; in Pliny's story, pearls are valuable commodities because wealthy women desire them for beauty and sign of status, not because oysters are any more valuable in the natural sense. Pliny's story is quite comical, filled with irony and wry humor. He exasperatingly says that fishermen go through serious pains to fetch pearls because their "dames and gentlewomen must have their ears behanged with them..." And Pliny continues, "Nay, our gentlewomen are come now to wear them upon their feet...For it will not suffice nor serve their turn to carry pearls about them, but they must tread pearls, go among pearls, and walk as it were on a pavement of pearls."\textsuperscript{40} In Book III, he ironically shows that material objects tend to become treated with higher importance than human lives. He says, "...Merchandise is frequently granted immunity from attack in war."\textsuperscript{41}

\textsuperscript{37} Aristotle, The Nicomachean Ethics, pp. 128-130.
\textsuperscript{38} Grotius, Loomis ed., p. 149
\textsuperscript{39} Seneca, On Benefits, p. 393
\textsuperscript{40} Pliny, pp. 103-104
\textsuperscript{41} Grotius, Loomis ed., p. 368
There is a discussion towards the middle of the text about punishments; he says that some are committed out of necessity, and others out of greed. He shows, in legal language, the justice of making allowances for the former and punishing the latter. By citing Demosthenes, he sends careful readers to the *Apollodorus Against Stephanus*, where it is shown that the most wealthy and powerful take advantage of their good fortune to oppress the weak. As the prosecutor against Stephanus, Demosthenes addresses a jury of Athenian citizens and explains that his “cheerful countenance” is just a criminal’s disguise:

> [Stephanus’s]...demeanor, then, is nothing but a cloak to cover his real character, and he shows therein the rudeness and malignity of his temper. Here is proof...While lending money at interest and regarding the misfortunes and necessities of others as your own good fortune, you ejected your own uncle Nicias from the house of his fathers, you have taken from your own mother-in-law the resources upon which she lived, and you have, in so far as it depended upon you, rendered homeless the son of Archedemus.42

Through Demosthenes, Grotius might be showing here that men who appear philanthropic, who have a superficial patriotism and a respect for God are often the very persons who subdue and exploit the weak. The more a man accumulates material wealth, the more he is inclined to act without a trace of actual virtue. He is warning his philosopher friends to be suspicious of men in good fortune.

Next, Grotius exoterically suggests that a nation is a solid, indestructible organism that cannot be divided, as if its formation is some kind of natural phenomenon. He writes, “Isocrates, and after him the emperor Julian, said that states were immortal, or could be so. For a nation is one of that kind of bodies, which are formed of separate, particles but included under one name...”43 But Grotius cannot outwardly say that he disagrees because governments rely on this justification to prevent their countries from crumbling. Possibly to get around this problem, he says that for Plutarch, the state possesses a single “character,” and for Paulus the jurist, it has a single “spirit”;

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42 Demosthenes, pp. 225-227. Stephanus was charged with providing false testimony.
43 Grotius, Loomis ed., p. 127
Grotius might know that disciplined readers will visit his references. In the cited passage of Justinian’s *Digest*, Paulus does not even mention the state or a nation. States are a collection of individuals and any appearance of symbiosis among these individuals is only constructed over time and binding only in human law. As it has already been shown, for both Strauss and Grotius alike, natural right does not depend on the number of years that something has been so. Therefore, states or nations as monolithic entities are not of a natural right. Paulus comes to Grotius’s aid in his own work, where he writes, “…In the case of things which consist of a number of individual objects [such as a state], it is accepted that all of them retain their separate identities, as, say, individual men or individual sheep.”

Grotius also says overtly that states can be compared to rivers, because as individuals are born and die every second of the day, the flow of the water puts the river in a similar kind of flux. This is the example from Aristotle’s *Politics*, but what Grotius neglects to outwardly tell his readers is that Aristotle does not accept his own example. In the cited passage, Aristotle goes on to say that he prefers a different view, that a polis is a form of association among individual men, not a single physical body; therefore, when it is somehow altered, it takes on a new form. Perhaps in Grotius’s esoteric view of the world, attachments are only temporary; he is a believer in the individual. Nations can indeed be destroyed by the dispersion of their parts.

While he believes that laws and noble lies are necessary for the sake of order, Grotius might be secretly expressing his wish to see individualism preserved as much as possible. It seems that he implores esoteric readers not to make impractical, unnecessary promises. Moreover, he strongly encourages individuals not to make agreements that might sometime become impossible, or irrational to uphold. Even if the promise is presently in one’s best interest, there may come a time when it is wise to withdraw consent but the legal precept of *pacta sunt servanda* makes it nearly impossible to back out. He seems to constantly warn that however the state transforms through the course of time,

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44 Justinian, p. 205
its treaties are still valid for the length of time specified in the agreements. If a state, after changing governments, chooses to opt out before the agreed day of termination of the contract, the state is still bound by the international community to abide by the agreement in good faith. A key reason for this is that the people, not the king, possess actual, independent sovereignty. Even if it is indirect, done through deception or even unwanted, the people ultimately give their governments the right to speak on their behalf on the world stage. He writes, “Even if the form of the state changes to a kingdom, the treaty will remain in force...the sovereignty which is now exercised by a king does not cease to be the sovereignty of the people.”

While they do not always enjoy the rewards granted to their kings, the people always somehow suffer their kings’ punishment, which is why Grotius is warning against individuals and states, in essence, selling themselves into slavery to more powerful forces. He points to Roman Questions, where Plutarch wrote, “Every oath ends in a curse on the one who breaks it.” While this is indeed some of the esoteric moral, there is more involved in Grotius’s reference to Plutarch. Disciplined readers who examine the cited passage thoroughly find that Plutarch wrote:

...An oath ministered unto freeborn men, is as it were the rack and torture tended unto them? For certain it is, that the soul as well as the body of the priest ought to continue free, and not be forced by any torture whatsoever.

He is not encouraging men to break the law but perhaps instead to be careful about how much freedom they willfully surrender. Nevertheless, despite the fact that the law is a sham, Plutarch clearly shows that no one will be safe who either exposes the falsehood or exercises one’s independent freedom by breaking established human law. This is why the falsehood must remain concealed. One of the reasons for this involves natural right, meaning that virtue sometimes warrants

46 Grotius, Loomis ed., p. 181
47 Ibid, p. 158
48 Plutarch, Roman Questions, pp. 72-73
men to obey the law; not only is it wise to preserve social order, but many of the principles of natural and positive law do, in fact, coincide with morality. Additionally, however, Grotius provides one practical, amoral argument to justify the importance of consenting to human law. Quite simply, Grotius argues that the force behind the law is generally stronger than the lawbreaker. *Pacta sunt servanda* and the social contract may be hoaxes because no one by nature must obligate oneself to anything forever, but it is very difficult for weaker individuals to defend against it. Besides, for the sake of good politics it is very important for states to sustain a reputation for good faith, so that the rest of the international community can predict somewhat accurately that this is a state that honors its vows. But the less sovereignty individuals freely concede, the less will be expected of them, or forced on them, in the long run. It may be under the guise of God or social contracts, but power is truly in the hands of the first citizen.

**IV. THE WILL OF THE FIRST CITIZEN**

In many examples, subjection is the only preferable alternative to death. In Book II, Grotius cites St. Augustine's *The City of God*, who said, “In almost all nations this word of nature has in some way been heard, that men may choose to submit to conquerors instead of being destroyed in the manifold devastation of war.”49 But is this not obvious? There appears to be a deeper message within it that represents the kernel of his esoteric truth. This message is that the king, the conqueror, or the first citizen, is the dictator to whom everyone else must yield. One way or another, whether the king backs up his will with force, or if he molds his support through non-forceful measures, the first citizen, even in a democracy, is always the key decision-maker.

Moreover, esoteric readers are familiar with Augustine, and they know that he believed that men put their selfish appetites above the public good. Mankind can be expected not to govern their

49 Grotius, Loomis ed., p. 111
daily lives in the name of virtue, but rather with vice.\textsuperscript{50} The exoteric theme in the *Law of War and Peace* is that human beings only do evil things if they have a good reason to, yet tucked away in between this meaningless text is an occasional remark suggesting, to the contrary, that, “most men are led by their desires to commit sin.”\textsuperscript{51} In addition, by referencing Book XXVIII of *The City of God*, esoteric readers might go back and find Augustine’s valuable political lesson:

\begin{quote}
...Each group pursued its own advantages and sought the gratification of its own desires. In such pursuits not everyone, perhaps no one, achieves complete satisfaction, because men have conflicting aims. Hence human society is generally divided against itself, and one part of it oppresses another, when it finds itself the stronger.\textsuperscript{52}
\end{quote}

Grotius clandestinely says that rulers are not concerned with the good life of their subjects, although their political rhetoric seems to reflect a false occupation for such a goal. War, for example, is supposed to benefit the “Empire,” and therefore it benefits the people, but it actually only benefits the sovereign ruler, or the first citizen. For Grotius, the problem with a society that promotes individualism is that private, human passions often conflict with the public good, as Augustine shows in *The City of God*. Private citizens will have desires that depart from the wishes of their ruler. Therefore, rulers have no choice but to reshape human passions in such a way that private citizens identify themselves with a religion, a nationality, a state, or a creed, and ultimately see the good of the larger group as an individual passion for themselves. The ruler has to feign an appearance of concern for all his people in order to sustain support for his own cause. After all, to make war, he needs soldiers.

\textsuperscript{50}Fortin, p. 183. Fortin writes, “The present economy is marked by the anarchy of man’s lower appetites and an invincible tendency to place one’s selfish interests above the common good of society.” The word “invincible” is key because it implies that it is rigidly in man’s nature to be self-interested and to have no self-discipline over one’s vices.

\textsuperscript{51}Grotius, Loomis ed., p. 221. Just prior to this, Grotius writes, “Scarcely anyone is wicked without some reason, or if he delights in evil for its own sake, he has passed outside the nature of humankind.” These two points contradict one another. Grotius knows that if he floods the text with statements like this, only careful readers will notice the esoteric truth, that human beings are by nature consumed by their selfish appetites.

\textsuperscript{52}St. Augustine, p. 762
Grotius seems to make it clear to his common audience that only rulers have the special right of governance. He writes, “And here, first of all, we reject the opinion...that sovereignty lies in the people...No wise man can fail to see how much mischief such an opinion has brought about...”\(^{53}\)

However, the important qualifier might be “and here,” because while he rejects this view in his exoteric project of codifying the law of nations, it does not follow that the opinion must be rejected elsewhere, in a discussion amongst philosophers, for example. Yes, wise men do see how much mischief the opinion can create, which is why it must be concealed in this book. It seems that Grotius continues to say that the masses are too irresponsible to know how to ensure their own good life. He cites a comedic play by Terence called, “The Self Tormentor,” possibly to poke fun at this falsehood without overtly disagreeing with it. Perhaps he uses this play to show that governments are always imperfect and that the public good would be better served if men were left to their own devices to ensure their own good life for their individual selves.\(^{54}\) This is not to say that the good life varies from citizen to citizen. Instead, he might mean that a man who delegates another man to provide for him his private good is tormenting himself, because he is usurping his own sovereignty.

Grotius seems amused by people’s immense, undeserved devotion to their kings. In Book II, he says that certain people have a duty to be especially careful not to die because their lives are too important, as their death would cause a thousand more deaths. He includes rulers, even aggressive rulers, in this small category of people. In the words of the historian, Lucan in *Pharsalia*, he writes, “When the lives and the safety of so many nations hang on thy breath, and so great the world that has chosen to make thee its head, thou art cruel to have chosen to die.”\(^{55}\) However, Lucan is perhaps being sarcastic about this too. After Caesar returns safely ashore, his officers tell him this, but they also show embarrassment for being fast asleep while their emperor was battling the sea. They also

\(^{53}\) Grotius, Loomis ed., p. 44

\(^{54}\) Ibid. Grotius wrote: “For whatever form of government you devise, it will never be free from imperfections and dangers.”

\(^{55}\) Grotius, Loomis ed., p. 74-76
think his life his so important that the gods cast him back ashore. Then, one officer asks him, “Did none of us deserve the honor of dying with you?” Both Grotius and Lucan might use this passage sarcastically, to show and poke fun at the masses of subjects who have been convinced by all the noble lies to believe that they are instruments for their ruler. Rulers who are especially crafty can even transgress their people’s desire to remain alive and view their king’s life as the most important. People can be persuaded to forget their instinct for self-preservation in the name of some grand material cause; even gangs of robbers have allegiances to their leaders; they also take risks with their lives for the chance to become wealthy.

The classification of war into public, private, and mixed is key because it raises questions about who is legally entitled to make war, and why. According to the law of nations in Grotius’s exotericism, only the sovereign ruler is permitted the right of making war. Authority to make war rests with the chief of state, and he is therefore responsible for everything that happens on his watch. However, it does not necessarily follow that he alone enjoys all rewards gained by his decisions, and more importantly, he is never alone in enduring punishments if his orders are irrational or go awry. With consequences at stake, people need to feel that their rulers are legitimate and acting in the best interests of the people rather than just of himself. Therefore, rulers must forge a way to earn the people’s loyalty; the first citizen has to dupe the masses into restraining their personal passions for the sake of a public good that have no basis in natural right either.

Phrases such as “extreme necessity” seem ambiguous. This phrase recurs throughout the book in passages that discuss natural law. Every situation has a static, natural truth until it becomes “extreme necessity” that the law be altered. Neither natural law nor positive law has one consistent dictate governing human life. He writes, “...All human laws are so arranged that in a case of

56 Lucan, p. 125
57 Grotius, Loomis ed., p. 69
extreme necessity they may be relaxed." But what conditions constitute “extreme necessity”? Grotius does not clearly explain himself, leaving the meaning of it vague and maybe therefore open to multiple interpretations by exoteric readers. In Book III, he sardonically says that it is a “necessity” for dignified persons to be accompanied by their servants when they travel. Everyday, people are stretching the meaning of “necessity” to all-new heights of absurdity. Esoteric readers, therefore, might not even bother to look for Grotius’s meaning of it because they might know that even for him, extreme necessity is merely a matter of what people desire or, say they desire at a given moment. Seneca posits, “Necessity, the great protectress of human infirmity, breaks all law...” to which Grotius adds, “…and all rules made in the spirit of human law.” But what is the difference between a rule in human law and a rule in the spirit of human law? By the latter, Grotius means, “a rule with a human law face.” Human passions determine the urgency of an act. It will be shown in the next chapter that the greatest human passion is the will to survive. It is this passion that ultimately decides exigency, but that is not to say that it cannot be determined by other desires as well. Moreover, rulers can only obtain their subjects' support to tighten or loosen the slack of public policy by pandering to their people’s passions. The desire of wealth, the fear of death and destruction, and the yearning for power usually succeed at making men affirm.

Moreover, rulers are often good at brewing a false fear to keep their subjects duped and maintain their allegiance. The emotion of fear fosters hate and “collective madness.” It cultivates a nationalistic fervor amongst the masses. Fear makes men do wicked things to one another. In Book II, Grotius says that fear is what causes people to injure others; people strike first before their neighbors have an opportunity to attack them. If they do not strike first, they at least prepare for

58 Ibid, p. 198
59 Ibid, p. 427
60 Ibid, p. 83
61 Gupta, pp. 15-18. Gupta says that collective madness emerges when and where there is a rise of charismatic leadership, an ideology of paranoia, a clear identification of “the enemy,” increasing rewards for group membership and costs for non-joiners, and a lack of free-flow of information. However, Gupta does not say whether or not the ruler intentionally instigates this fear, nevertheless, it implies that the ruler does take advantage of his people’s emotions. (Special thanks to Professor Gupta for his theory and access to his manuscript.)
some kind of eventual armed conflict. Realists call this the security dilemma; countries prepare for war because they are afraid of how little they know about their neighbor's intentions. Cicero, according to Grotius, said that most wicked deeds are incited by fear. However, Cicero only makes one passing remark to this effect. If one reads the cited passage from *Offices*, it becomes clear that other passions of avarice, such as the desire for wealth and power, play perhaps an even larger role. Cicero writes, "...Generally speaking, the great source and fountain of all injustice is the satisfying of some irregular and exorbitant appetite." These other appetites, if manipulated properly, can transform into fear. Grotius may not be able to say this outwardly because it conflicts with his exoteric message, that most men by reason and a sense of concern for their neighbors, tend towards peace, cooperation, and even altruism, therefore, perhaps he sends esoteric readers to find it in Cicero.

To satisfy the rulers' wish to keep the masses duped, Grotius writes, "Another argument is taken from the saying of the philosophers, that all government was created for the benefit of the governed and not of those who govern." But then he continues to explain that this is not universally true. As the statement reads, this is the position of the philosophers, not of the rulers, nor of jurists, nor of the historians. Historical examples can be provided which suggest that the polity's interests take precedence over those of the statesmen; nevertheless, these historians might be in league with the rulers. Again, historians are storytellers, which does not necessarily imply that all history is fiction, but that historians are duped just like most everyone else into believing that the ruler has altruistic intentions. Unlike philosophers, historians are not in the business of challenging knowledge, but instead revealing knowledge.

Grotius cites Bishop Gregory of Tours, who as a cleric, addresses the king of the Franks; Gregory tells the king that his people have trusted him to act fairly on behalf of his ward, and that

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62 Cicero, *Offices*, p. 11
63 Grotius, Loomis ed., p. 47
God, as the only authority above him, will eventually chastise him if he acts with villainy. But Grotius copies only this portion from Gregory because it is perfectly safe to tell a king’s subjects that rulers are only accountable to the Almighty. But in his esoteric teaching, Grotius could be saying that rulers are also accountable to their subjects. In the same chapter, Gregory tells the king to beware of disharmony amongst his people because it will be his downfall. For the sake of Grotius’s secret truth, this is a crucial passage from Gregory:

Seek that which Orosius writes of the Carthaginians, when he records the ruin of their city and all their land after flourishing seven hundred years; he adds these words: ‘what preserved their State so long? Concord. What destroyed it after all that time? Discord.’ Beware of discord; beware of civil wars that crush both yourselves and your people.64

Grotius seems to be giving rulers a rational reason to promote peace internally. Rulers should act justly because injustice triggers discontent. And, as Gregory demonstrates, discontent threatens a king’s power. As a different way of explaining it, Grotius offers the term, “mutual subjection”65; this means that the standard of governing well is dictated not by him, but by his subjects, because if enough of the masses wish for him to be overthrown, his days as king are numbered. One person cannot possibly control so many men for a long time without appealing to the desires and to the passions of his people. At one point in Book II, he makes another bold remark about kings having to ultimately rely on their subjects’ approval; he writes,

...Their will would undoubtedly have to be obeyed, nor could even a king who had obtained the sovereignty disregard it, because it would have to do not with sovereignty but with the mold of holding it.66

64 Gregory of Tours, p. 168
65 Grotius, Loomis ed., p. 48
66 Ibid, p. 101. The exoteric message in this passage explains what Grotius says should be done in the event of abandoned sovereignty. But this exoteric message is meaningless because Grotius knows that sovereignty is not abandoned, it is lost. Furthermore, it does not make sense that new regimes have to be democratic but the ones they replace do not, nor does Grotius provide a reason for this inconsistency.

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Nevertheless, the king has the greatest power of influence, especially in places and times where the state is so closely aligned with the church. A good king can act viciously for a long time by manipulating the people’s innate wickedness. As long as the king’s desires come close to matching the wishes of the polity, he is in no danger of losing internal favor. For the sake of preserving social order, Grotius has to conceal both that kings owe their sovereignty to the people and that the king has to manipulate them in order to prolong it.

Given the king’s enormous power of manipulation, subjects could merely be “instruments for the ruler” in the esoteric Grotian view. Exoteric readers for some reason seem to ignore a key sentence in Book I, “Those who have written on duty rightly say that nothing is more useful to a man than another man.”67 In practice, human beings seem only to rely on one another for instrumental purposes. This very much poses a challenge to the view that Grotius saw societies as cooperative brotherhoods of mankind. In the next chapter, this will be explored as a violation mankind makes of natural right.

Rulers are sometimes able to get away with blatant injustice if they do so under a guise of good intentions. For example, governments can call an ignoble act God’s test of the people’s strength and fidelity.68 Or, a seemingly base political move can take on an appearance of religiosity. Grotius might be referring to his own situation in Holland as an example of this; his conviction and imprisonment at Loevenstein had nothing to do with a religious dispute, but instead Maurice’s political zealotry. At one point, Grotius even argues that some injustices have value, but he shows this by referencing Plato’s Apology69; thus, perhaps he means it only in the Socratic, pedagogical sense, which is only of interest to philosophers, not to kings.

In a brief discussion about kings becoming irrational and incompetent rulers, Grotius cites The Histories of Tacitus, who says that these occurrences are unusual. But if one reads Tacitus

67 Ibid, p. 68  
68 Ibid, p. 48  
69 Ibid, p. 60
carefully, it becomes evident that Tacitus might mean to say the opposite; this happens more often than not. Rulers, like all human beings, have one flaw: avarice. The desire to accumulate wealth is a temptation nearly impossible for most men to overcome. Man's materialist passion repeatedly leads him into war and turmoil. Tacitus writes, "Riches and resources are the main causes of war."70

Even worse, rulers manage to convince other men to fight their wars for them. Kings are able to convince their subjects that wars of the state are in every individual's self-interest. Individuals put an enormous amount of trust in the state; but perhaps only wise men are keen enough to realize that they are being duped. Governments are even able to convince their citizens that individuals are less important than the state; Grotius writes, "The state is able to bear the calamities of individuals, but individuals are not able to do the same for the state." He goes on to restate Pericles' argument in Thucydides:

...Even for the individual citizen it is more to his advantage that the state should prosper than that he in his private fortunes should flourish and the state in general be in a bad way.71

But Grotius might imply that this is nonsensical. Perhaps he knows that exoteric readers will take the argument of Pericles as the lesson learned from this chapter in Thucydides. Nevertheless, esoteric readers may discover that Pericles was not a popular or well-liked figure, and this argument did not initially carry weight amongst the masses. On the contrary, the Athenians were desperate to make peace with Sparta, but Pericles, on behalf of the emperor, had a different agenda.72 Nevertheless, Pericles managed to sway enough of the Athenians to support continuing war against Sparta.

Grotius later speaks to rulers by reciting the words of Cicero, "Carry your struggles within the commonwealth only so far as you have the approval of your fellow citizens."73 First, the phrase, "fellow citizen" seems to imply an inherent equality between the king and his subjects, but he may

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70 Tacitus, The Histories, pp. 72-3
71 Grotius, Loomis ed., p. 61
72 Thucydides, pp. 156-64
73 Grotius, Loomis ed., p. 67
not want to say so outwardly. Secondly, a significant portion of the polity has to approve of any of
the king’s moves because they are the ones holding the guns. Cicero’s advice to rulers provides
insight about natural right that will be explored in the next chapter.

He discusses the need to get rid of unlawful rulers perhaps as a hint to his natural right
philosophy, but he is not able to explicitly state the qualities of a bad king because it could reveal too
much of the esoteric truth. If he overtly discusses the crude, rash, and deceptive tendencies of
leaders, he would reveal too much about the noble lie. For example, when he cites Tacitus’s passage
about Julius Sabinus, the leader of a dissention of Roman rule, it is a clue for esoteric readers to go
and find the cited passage. The story goes as follows:

He [Sabinus] then hastily led a large and ill-disciplined mob of his
countrymen against the Sequani, a neighboring state faithful to us
[Rome.] Nor did the Sequani decline the challenge...Sabinus’
rashness in forcing an encounter was equaled by the panic that made
him abandon it. In order to spread a rumor that he was dead, he set
fire to the farmhouse where he had taken refuge, and people thought
that he had committed suicide there...With the Sequanian victory the
war movement came to a halt. Gradually the communities began to
recover their senses and honor their obligations and treaties.74

And then, Tacitus explains, the matter was taken to a conference whether or not they wished to
continue fighting for independence or to restore peace. Peace was found preferable, but Rome lost
enormous trust in the fidelity of these communities. Grotius might be esoterically showing the
blundering idiocy of many leaders and that only competent and careful men win and maintain mass
support for extended lengths of time. But in addition, Grotius also reinforces the wisdom of Plutarch,
who in the Life of Brutus said, “Civil war is a worse evil than unlawful government.”75

74 Tacitus, The Histories, p. 251
75 Grotius, Kelsey ed., p. 161. He also mentions Cicero, who said, “Peace on any terms between citizens seems
more advantageous than civil war.”
oppression is an unchangeable attribute of human life. Even secessionist movements require organization that ultimately diminishes individual sovereignty; it is still based on a lie that supports only the passions of the first citizen of the group. Therefore, very little is accomplished by it and so it is usually more wise to abide. Moreover, the rule of law should not be compromised, but this point will be taken up with greater detail in the next chapter.

In regards to the utter stupidity of many rulers, Grotius is very careful about criticizing the fitness of many kings to govern. He seems to do his best to address this topic secretly. In Book II, he writes, "...The law of nations has in the general interest introduced a rule that infants and demented persons may receive and own property, the human race meanwhile acting, as it were as their representative." By infants and demented persons, Grotius is perhaps referring to certain kings of the world who, despite being half-witted, have still managed to convince others that they have the right to be the sovereign. The human race, especially his local citizenry, as their representative, incurs whatever consequences come from their king's poor judgment. It is not so much that these rulers are literally demented, but rather that they lack virtue, like infants who need to learn righteousness. Esoteric readers might pay special attention to his precise wording; he says, "the law of nations," initiates this rule, as opposed to municipal law. This might be key because the international community only cares about the actual heads of state and their ambassadors. In domestic politics, however, there is more interest in technicalities such as age requirements for public service.

There is a paragraph in Book II where Grotius furtively explains that everything that the state does is only in some way for the ruler's benefit. He does this by showing that all alliances are for his own personal advantage. He distinguishes between two types of alliances, "personal" and "acceptable." The latter, he says, are those that create peace efforts and stimulate international trade.

76 Grotius, Loomis ed., p. 68. Esoterically, Grotius is saying that most people in the world are "unjustifiably oppressed."
77 Ibid, p. 90

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States can even form military alliances as long as peace is the eventual outcome. But the distinction between these two types of alliances is meaningless in the esoteric teaching, because he never addresses the alternative to what he calls “acceptable.” Just what is a personal alliance? All he says about them is that they are odious. Perhaps it can be deduced that all alliances are in some way personal. His definition of an acceptable alliance is quite broad because all treaties have at least something to do with issues of war, peace, or trade. What more is left for a personal alliance? It is likely that he only mentions this type of treaty to nonchalantly drop a careful insinuation that all alliances have a personal element because the ruler will always gain a personal advantage in some form or another. He then goes on to offer another classification of acceptable alliances for war, this time dividing alliances of war into “defensive” and “offensive.” The former is “welcomed,” but the latter is “burdensome.” He also says, “...All alliances for war are not odious.”78 The structure of this sentence might essentially imply that no alliances for war are objectionable; therefore no war is objectionable, yet some are burdensome, which is not quite the same thing.

Grotius freely repeats the words of Plutarch who, in the *Life of Pyrrhus* said, “Most kings use the two words, ‘peace’ and ‘war’ as coins, to buy not what is lawful but what is to their advantage.”79 However, the passage from Plutarch seems to show an even deeper secret that Grotius is trying to convey, which is that rulers must be cognizant of their subject’s nature as men, which can be expected to be just as avaricious and self-absorbed as the king. Plutarch cryptically continues:

...Kings have no reason to blame the mass of humanity if it changes sides to suit its own interests, for the people are only imitating the kings themselves, who set them an example of bad faith and treachery, and who believe that the man who shows least regard for justice will always reap the greatest advantage.80

V. THE REAL PURPOSE OF WAR

78 Ibid, p. 181. The Kelsey and Campbell editions also support this word structure.
79 Ibid, p. 245
80 Plutarch, *Pyrrhus*, p. 397
Grotius writes, "Justice is one thing between equals and another between the governor and the governed." But what does this tell exoteric readers about international law if it holds the principle of equality of all sovereigns? For someone touted as the bridge between realism and liberalism, Grotius seems to have little faith in justice or cooperation.

Grotius provides several hints to suggest that the law of nations is only powerful if it is kept as a sham, and that philosophers try not to concern themselves with the pursuit of understanding an imaginary concept. In the prolegomena, Grotius says that the ancient Greek philosophers wrote only a small amount on the subject, except for Aristotle’s The Rights of War, which is the most notable of these rare works. Moreover, much of what has been written has for some reason not survived the centuries between Antiquity and Grotius’s time. He then proceeds to present the flaws of the late-ancient and early medieval writers on the subject of international law; such as explaining what he felt was wrong with the treatises of Vitoria, Henry of Gorkum, Ayala, and Gentile. He continues to say “a rule that cannot be deduced from fixed principles by a sure process of reasoning that is yet apparently everywhere must have originated in the free will of mankind.”

As a subject within a state in nothing more than “an instrument for his ruler,” this principle might also apply to relationships between private citizens, which is especially important at the international level since states are independent citizens of international society. Grotius says that instruments are men, or states, who “in action voluntarily make their wills dependent on another’s will.” Aristotle shows in The Nicomachean Ethics that doing a good deed on this basis is not noble because virtue requires choice, not incentive. Virtue requires that men are not instruments, but instead freethinking, moral decision-makers. This is why the aforementioned virtue is nearly impossible the way things currently are. This is the tragedy of the commons; an individual’s will to

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81 Grotius, Loomis ed., p. 18
82 Ibid, p. 14
83 Ibid, p. 69
84 Aristotle, The Nicomachean Ethics, p. 53
do a good deed is always dependent upon one another's will to do a noble act, and thus, in the end, no one acts virtuously. Virtue is seldom expressed because there is no trust between equal citizens.

Especially challenging of the traditional interpretations of Grotius, he could have been clandestinely telling readers that the capacity to reason makes humanity more susceptible to war. While exoteric readers find that humans prevent conflict by reasoning and resolving disputes through peaceful measures, Grotius says even overtly that human intelligence often becomes an instigator of war rather than an obstruction. He writes, "God bestowed...on him wisdom, he gave along with other gifts this feeling of devotion, so that man would defend, love, and cherish man and in face of every peril would receive and proffer aid."85 But optimism is a safe outlook to tell the common reader; otherwise he might be perceived as condoning evil. Mankind does possess a potential for virtue, or "aptitude," which is the Aristotelian term Grotius uses for it in many instances, but even for Aristotle, potencies are only actualized through practice and guidance, therefore virtue cannot be expected to become manifest without the agency of another thing.86 Moreover, human beings put their brain talents to aggressive use, whereas animals are only shrewd enough to survive. He writes, "God, who did not give the other animals wisdom, made them more secure from attack and danger by natural weapons."87 Human reason leads to corruption and evil tendencies. As barbaric as the animal world might be, the jungle of mankind could be far more dangerous because people seek in it more than just self-preservation.

Feminists argue that this theory is male-centric. Feminist international relations theorists argue that women being life-bearers and natural nurturers are more compassionate than men and

85 Grotius, Loomis ed., p. 69
86 Aristotle, Metaphysics, p. 223. Aristotle writes, "Potencies in the proper sense are originate sources and are so called by reference to a primary kind (a), that which is a source of change in another thing or in that thing itself qua other. The derivative kinds are (b) the power of being acted upon, of being changed by another or by the thing itself qua other, and (c) insusceptibility to change for the worse and to destruction by the agency of another thing or of the thing itself qua other..."
87 Grotius, Loomis ed., p. 68
therefore less prone to resorting to violence. Even Rousseau argues this, but with very different conclusions, in *Emile*, his book about child rearing. In more detail, the next chapter will delve into Grotius’s concurring belief that women have a slightly higher natural instinct for peaceful conduct than men and a greater appreciation for natural right; nevertheless, it needs to be first shown here that these feminists may not have Grotius totally on their side in this debate. While everyone possesses a natural, moral sense to act virtuously, they also have passions running through them that are often more difficult to resist than abiding by natural right. There is a passage in Book II that addresses the law of land inheritance amongst male and female successors. For this, he cites a chapter from Tacitus’ *Agricola*, in which he writes of the British way of handling this; Tacitus says, “...They [the British] make distinction of sex in their government.” But Grotius seems to purposely take this out of context. Tacitus is writing about female leadership during war. Following the sentence Grotius cites, Tacitus writes, “For they all make war,” and then proceeds to tell a story about the wicked, barbaric acts done by the mean-spirited, female leader, Boudica. And then, as the story continues, two male leaders come in and save Britain with compassion and integrity.\(^9\) The bottom line here might be that the gender dichotomy is irrelevant when it comes to human passions and only slightly relevant in matters of the instinct of natural right, as the next chapter will discuss further.

Human law does not in all cases prohibit the use of force, but it is often an effective tool in abating aggression between sovereigns, which is, after all, the purpose of international law. In Book I, Grotius writes, “It is plain, then, that not all wars are condemned by the law of nature, which may also be designated as the law of nations.”\(^9\) On one hand, he is saying that there is no single legal

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\(^88\) Tickner, p. 42. Tickner writes, “When [male] realists describe the international behavior of states more generally, they present us with similarly masculine images of stag hunts or “games nations play.” It is also interesting that most scholars are uncertain of Grotius’s position on gender related issues. In his exoteric teaching, does he believe that men and women are unequal? What are the legal rights granted to women? Scholars are still debating this. See Gobetti, p. 38, n. 12. Esoterically, it is obviously, however, that men and women are naturally equal, and the male sex achieves its political and legal dominance using the same means as any ruler uses to subjugate a weaker group of people.

\(^89\) Tacitus, *Agricola*, p. 14

\(^90\) Grotius, Loomis ed., p. 28
principle that forbids the use of force; on the other hand, he is suggesting that the law of nature is the same as the law of nations. This is further evidence that natural law is only important to Grotius as a form of human law. In addition, Grotius goes on to say, “We have, I think, said enough to show that the law given to man does not have the meaning ascribed to it by those who cite it as an argument against all war.”\footnote{Ibid, p. 29} A careful reader may find that, in Grotius’s mind, war is not itself against the law of nature. Esoterically, Grotius might also be asserting here that natural law is simply a sham fabricated by the people who have an interest in minimizing outbreaks of war.

Treaties and other conventions do not reduce a state’s sovereignty. He is very explicit about this in Book I; he says, “...Even though he promises his household that he will do something relating to his government of them, does not for that reason cease to possess supreme authority over the household...” Importantly, he adds that this is so “as far as the life of the household is concerned.”\footnote{Ibid, p. 52} However, he does not seem so much to say that state sovereignty is unrestricted by promises as he is saying that chiefs of state should not be expected to abide by their agreements, although the latter presupposes the former.

Even though states agree to sign into a contract, it does not follow that they are bound by their agreements indefinitely, or even throughout the duration of the agreement. All contracts, even under municipal governments, have no footing in natural right. Just because a piece of paper tells a landowner that he is entitled to a few acres of soil, he does not possess natural ownership. Contracts are nothing more than a mechanism in both domestic and international law for claiming a title without having to defend it with force. All men are sovereign over themselves and can do whatever they desire, and any contract, whether it is a political constitution or just a deed of property ownership, is nothing more than a fabrication that everyone has bought into. The first citizen is the

\footnote{Ibid, p. 29} \footnote{Ibid, p. 52}
individual who, by his labors has “secured his own victory.” He claims whatever rights over others that he can practically sustain, either through force or through manipulation. Grotius writes, “...It does not follow therefrom that the king by his promise has put himself under a superior, for his act in this case is nullified not by any superior force but by the law.” This is because a superior must have real force, whereas the law, as just a sham, poses only the threat, or potential of force.

Moreover, it is not always expedient for people to keep their promises. It does not take a wise philosopher like Grotius to observe that humans tend to strive toward maximizing their interests, and that decisions people make reflect what they hope to gain. It is rarely the case that keeping a promise is the most crucial end. Promises are never really promises, because there is no law in nature prohibiting people from changing their minds if they find later that their prior commitments achieve lesser payoffs. Even though he purposely blunders when he says this, the sentence in which this is stated is tucked away in a chapter in Book II, so it tends to be overlooked. He writes:

For the human mind has not only a natural power but a right to change its opinion...So if there is anything wrong in the change of intention...it is not inherent in the act of change, but is due to some circumstances, as when, for instance, the original intention was the better.

For Grotius, people do not enter into agreements in order to help others; they do so because they hope to gain something from it. Grotius is saying here that if a state changes its position and ultimately receives lesser payoffs, it was wrong for the state to break its promise. While it may have been an act of vice incited by unrestrained human passions, which the next chapter will address the virtues of promise keeping, human beings have no observable natural instinct for sacrifice for the benefit of others, unless there is something for them to be gained by it. Despite what the natural law

93 Ibid, p. 317
94 Ibid
95 Ibid, p. 136
jurists say, there is no natural law binding mankind to fulfill promises. Further, he sardonically writes that noble, virtuous promises where nothing has been personally gained but advantages to other people, "cannot be made by madmen, idiots, and children," all of whom, it seems for Grotius, lack virtue.

Exoterically, Grotius seems to assert that wars should be waged only as a last resort. He writes, "Demosthenes well said that wars should be made only against those who cannot be restrained by courts of law." But this view is difficult to impose upon seventeenth century international politics because there was no such thing as a non-sectarian court of law capable of restraining rogue states. Therefore, wars are the only recourse to punish states that rebel against international law. Moreover, perhaps according to Grotius's vision of international order, a state's weakness itself restrains it, not the law of nations. Esoterically, Grotius does not seem to despise warfare because, as the next chapter will show, adversity fosters virtue, and virtue is fundamental to the good life.

Furthermore, Grotius appears to believe that war is often the only prevention to one's own annihilation. In a passage in Book II about punishment and vengeance, he writes:

...Julius Caesar, who, while still a private citizen, pursued with a hastily assembled fleet some pirates by whom he had been taken prisoner, put some of their ships to flight, and sank others. And when the proconsul delayed punishing the pirates who had been captured, he put out again to sea, defeated and crucified them. The same liberty survives in the desert, or where men live as nomads.

In this last sentence, Grotius uses nomads in a desert as metaphor for a state of nature where there are no laws restraining men from satisfying their inner appetites at the expense of others. In order to ensure survival in such an anarchical environment, people have to take up arms and shoot to kill.

96 Ibid, p. 137  
97 Ibid, p. 9  
98 Ibid, p. 211
Where there is no law, squabbles can often only be settled by the sword. Likewise, it has been shown that there are no purely legitimate restraining apparatus in international law as there are at the domestic level, even less so in Grotius’s time than currently in the late twentieth century. Therefore, violent reprisals are necessary on occasion. In Questions on Heptateuch, St. Augustine designates lawful wars as “those that avenge injuries.” Wars are also bound to occur when middle-sized states feel international order is being threatened by the emergence of new global or regional powers. Grotius seems to let more of his realist colors out when he cites Thucydides to show that states prefer to balance power rather than to align with whichever country happens to be the most powerful at the given time.100

99 Ibid, p. 211
100 Ibid, p. 245. Grotius writes, “Similarly, Thucydides calls the real cause of the Peloponnesian War the growing power of the Athenians and the Spartans’ suspicion of it, though the dispute over Corcyra, Potidaea, and other things was the ostensible pretext.”
CHAPTER FOUR
Virtues and Natural Right

I. THE GROTIAN CITY OF VIRTUE

Grotius’s esoteric views on noble lies might instill within this special audience feelings of pessimism and despair. Nevertheless, there appears to be hope. Man may be driven by “forbidden pleasures,”¹ but for Grotius, it seems that men are still capable of being righteous and inner appetites can be sacrificed for higher ideals. While the last chapter talked about human passions, this fourth and final chapter discusses the virtues that man is capable of to attain the good life. Grotius believed that survival, in addition to the maximization of these virtues, is mankind’s natural right and therefore is what is right. However, as people have to be duped to keep their passions restrained for the sake of social order, they also have to be taught to use their innate moral spirit that is housed deep within them.² The endeavor does not rely so much on human laws or noble lies, because virtue, by its very nature, cannot be forced or coerced. This chapter is about cultivating a virtuous society of men and women; it is not about natural law, but about natural right, as Strauss defines it. This is where Grotius is truly optimistic. Virtue is defined as a moral excellence, or a goodness that is inherent in human nature.

One problem with philosophy’s pursuit of a true, one-and-only knowledge of natural right is that it is impossible; one cannot possibly know what is truly right by nature. But that is precisely why it is not an enterprise for the common man. As Grotius shows early on, Xenophon poses this problem in Cryopaedia in a passage in which two young boys of different body sizes own tunics; the small boy has a large tunic and likewise, the big boy has a small tunic. Xenophon’s main character, Cyrus the Great, as the story goes, decided that the just, and most obvious solution would be to have the boys exchange their tunics. It is supposedly in accordance with natural law for each boy to have

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¹ Grotius, Loomis ed., p. 244
² Ibid, p. 343. Grotius writes, “The God, in fear that the human race might perish utterly, bestowed on men a sense of justice and honor, as ornaments for cities and ends to unite men in friendship.”
the properly fitted clothes. And again, for Grotius, justice in natural law derives from this kind of rationality. This may appear to be right according to utilitarian justice, but there is still no way of knowing if this is right according to nature. In a legal setting, Grotius shows that this is proper if the correct authority, such as an appointed judge had mandated it. However, this solution is not so manifest because if, for example, the small boy is forced into giving up his large coat for the large boy against his own will, is this still just? According to classical philosophers, including Plato, Aristotle and Xenophon, it seems that the boys have to be educated in the niceties of mutual cooperation so that the small boy will voluntarily choose to trade coats. *Cryopaedia* itself is a biography of Cyrus’s education and upbringing that is meant by Xenophon to describe how people, especially rulers, are taught to appreciate justice and virtue.

Straussians seem to like this overly simple scenario as a way of addressing the question of justice without resorting to the kind of intense melodrama found in Plato’s writings. Cyrus’s story demonstrates what Strauss finds to be an interesting theme in Xenophon’s political writings, which is that utilitarianism, which uses logic to maximize the attainment of an individual’s preferences and natural desires, does not make it necessarily a just end. In *Xenophon’s Socratic Discourse*, Strauss writes, “...A man can be unjustly happy.” This seems to be crucial to Grotius’s esoteric teachings; he appears to argue beneath the surface of the text that men are blinded by their passions and they tend to think that all is just when things “feel right.” And simply because an action is permissible by human law does not necessarily mean that it is morally right. But for Grotius, human society needs philosophy to transcend those feelings for a definition of justice that is above and beyond rationality, instinct, and emotion. They must learn to appreciate the distinction between virtue and vice as Aristotle has defined it: “Emotions and actions...only voluntary actions for which praise and blame

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3 Ibid, p. 20  
4 Bruell, 91  
5 Strauss, *Xenophon’s Socratic Discourse*, p. 119.  
6 Grotius, Loomis ed., p. 155
are given.” Clearly, teaching this is very difficult, but many philosophers believe that it is worthwhile. And through Xenophon’s example, Grotius seems to be agreeing that virtues and other values of an orderly world must be taught domestically. Plato, he recalls, says in *The Laws*, that legislators should be teachers of virtue.8 While these philosophers are not suggesting that virtue be forced upon people and tendencies of vice necessarily be punished9, he sees no reason why citizens of a state cannot be educated in the values of morality. Cyrus’s education, as explained by Xenophon, is one of the better-known models for this in political philosophy. As another example, through a citation to Seneca’s *On Clemency*, Grotius shows that clemencies of the truly guilty are injurious to a nation because they blur the distinction between good and evil.10 It is absolutely critical that the laws are right to begin with, or else the people will become confused in matters of justice.

Commitments are a virtue precisely because they are difficult to form and sustain. They are also noble because they require oaths11; they require the courage to go before God and willfully make promises to allies, a spouse, or friends. Intentions are very important because deeds and commitments do not become noble unless they are made voluntarily and for the best intentions. This is where Grotius seems to agree with Kant’s “categorical imperative.” He says, “As for a promise made by deliberate intent, but not with the purpose of conveying a special right to compel its fulfillment; yet it creates an obligation both of honor and of a kind of moral imperative.”12 The notion of good faith is same as good intention. Aristotle says that an act is involuntary and unintended if it is 1) done out of compulsion, or through force, 2) done out of ignorance, meaning that the agent was unaware of the deed until it was completed, or 3) done without the contribution of

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7 Aristotle, *Nicomachean Ethics*, p. 53  
9 Ibid, p. 218  
10 Ibid, pp. 219-220. Grotius writes, “...A lawmaker ought not to repeal a law except for reasonable cause. Otherwise he will be sinning against the principles of governmental justice.” Also see Seneca, *On Clemency*, p. 140.  
11 Ibid, pp. 156-157  
12 Ibid, p. 137

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an agent, such as if the agent performed the act unwillfully, either by accident or by other circumstantial means. Moreover, even if the act is done voluntarily, it must also be done for the right reasons, regardless of whether or not it was necessary. Grotius cites a passage from Aristotle’s *Nicomachean Ethics*, in which a sailor throws his cargo overboard in order to save the shipmates. Although he later discovers that this sacrifice was unnecessary for saving the ship, it was still very much an act of honor.

As it was just shown in chapter 3, the purpose of the law is to benefit in some way its maker and thus to prevent social chaos because order relies on that lawmaker. But in the *City of God*, St. Augustine argued that this realist, or authoritarian explanation of the origin and intent of law neglects actual justice and virtue. Machiavelli, for example, used the philosophic approach to reveal this one and only reality, but he seemed to have ignored another very crucial problem; modern philosophy is less concerned with what is by nature “right,” but rather with what is by nature “legal.” As Strauss argued, medieval philosophy held on to the classical belief that there is more to life than simply staying alive and appeasing one’s natural instincts. How can mankind pursue the most virtuous and meaningful existence while at the same time facing the dark and difficult challenge of survival?

Human beings are animals in the scientific sense, but they also have the ability to transcend the so-called “human condition” and seek resolutions to greater confusions, such as what is just and what is noble. Neither Augustine nor Grotius, nor even Strauss for that matter sees the aforementioned natural instincts and human tendencies as an excuse to lower the standards of social activity, but instead they wish to raise these expectations. Grotius seems to prefer the Augustinian approach; this is seemingly evident by the vast number of references made in the *Law of War and Peace* to the political and religious writings of Augustine. There are only a few references to *Summa Theologiae*, which is the natural law doctrine of another notable medieval Christian philosopher, St.

\[13\] Aristotle, *Nicomachean Ethics*, p. 53

\[14\] Grotius, Loomis ed., p. 140. Also see Aristotle, *Nicomachean Ethics*, p. 53-57
Thomas Aquinas. This is likely because Grotius may not have agreed with strict Aquinian natural law theories. Thomas, unlike Augustine, does not merge natural law with positive law under the larger category of "human law." There is also only one reference in the entire text to Rabbi Moses Maimonides, which indicates that Grotius is not so enthusiastic about the "Rambamian" formula either. But like Augustine, Grotius felt that religion, or most precisely, Christianity, is a good supplement to Plato's *Republic*, where the philosophy and theology have an important place in politics. Grotius said that religion is the "first of public concerns." And, as Xenophon wrote of Cyrus's education, "The more his subjects fear God, the more devoted they will be to him."

In the Loomis edition of the *Law of War and Peace*, there is a quote omitted that might be of special importance. He quotes Justin, who says, "To live according to nature is the problem of him who has not yet become a believer." What Grotius might mean by this is that the enlightenment of religion advances a primitive society out of a state of nature into a more civilized one, because it takes belief in a higher, transcendental order to achieve peace and civility. Along the same lines, Grotius says that Christ is a king unlike any other king, because he does not resort to military force. He believed that Christ is the epitome of the virtuous man because he knew, more than anyone, about the nobility of self-restraint. Moreover, he cites an important line from Dio Chrystotom, who said, "To govern by compulsion is for kings but not for bishops." If men are just left to fend for their own individual appetites without the aid of Christian enlightenment, it will be, as Hobbes puts it, a war of all against all. This view is ubiquitous in medieval political philosophy.

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15 Ibid, p. 228  
16 Ibid, p. 228  
17 Grotius, Kelsey ed., p. 61  
18 Grotius, Loomis ed., p. 248  
19 Ibid, p. 255  
20 Ibid, p. 248
He also notices a common morality in the belief systems of world religions; he says that Judaism, Christianity, and Islam each forbid the same wrongs. If, as he says, the Hebrew Bible binds only Jews, how does he account for his other assertion that God cannot command injustice onto one nation and justice onto another? It logically seems to follow that the scripture of the Hebrew Bible is only read and cherished by Jews, but the essence of it is found in the texts of all religions. Without being able to say much on this subject, he seems to see any popular religion as a good moral foundation. However, there also appears to be an inherent affinity for Christianity, most likely because it seeks and welcomes conversion with opened arms, but this reason is only speculation. Also seemingly supportive of this view of man's common morality, he says that it is unjust to be irreverent and undutiful to gods, even if they are false gods. All people believe who believe in a god believe that irreverence is wrong. At an earlier point in the text, Grotius says in self-concurrence, "Even if a man swears by false gods, his oath is binding; for although his notions are false, he still has a general idea of deity and reverence for it." He later says that for something to be obvious, "The reasons should be evident to everybody." And he does appear to believe that religion is especially value in an international society, because in the absence of a perfect efficacy of the rule of positive law, only natural law governs mankind in an anarchical environment.

It was shown in the last chapter that human laws are a hoax, but natural right is a real truth independent of what men do or say about it. He begins to show this early in Book I where Grotius cites a passage from Cicero, but he does not quote it directly. He explains that as Cicero wrote after Herodotus, the purpose of government is to promote justice. At the actual passage from Offices, Cicero writes, "...Superficial virtue is not virtue at all, and that power mixed with glory cannot be a facade or it will whither away like a flower." Another implication of this is that time is a good
assessment for justice. If a state collapses, it means that the values of its existence were both superficial and imaginary to begin with, or it means that somewhere through the course of history, the state lost its facade of genuinity. “True glory takes deep root,” Cicero continues, and “nor can anything be lasting that is only counterfeit.”

This might possibly be, for Grotius, why the virtues listed here are crucial for mankind. The opposite of virtue is vice, which is defined as immoral conduct stemming from an unrestrained fulfillment of natural appetites for temporary satisfaction or for selfishness. Human beings are always engaged in unhealthy, temporary gratification of nothing but the senses, and while they are pleasing for a short while, they lead to harmful consequences.

If Grotius is going to be critical of the vices of rulers and of mass society, he can do it by the example of cultures already thought to be uncivilized. Another interesting example of this is his reference to Strabo’s Geography in Book II, in which Strabo writes, “To drive away strangers is to act like barbarians.” Strabo is talking here about Arab and African tyrants. While suggesting that the fables of Egyptian evils are false, Strabo vividly describes murders and robberies that occur along northern African and Middle Eastern shorelines on route to Egypt. He writes:

The Carthaginians drown any strangers who sail past, on their voyage to Sardinia or to the Pillars. Hence much of what is related of the parts towards the west is discredited. The Persians were also treacherous guides, and conducted the ambassadors along circuitous and difficult ways.

Grotius seems to do his best, using a vast array of this kind of esoteric literature, with both expert and eyewitness accounts from the great historians and geographers, to both revise and support the popular and politically correct conceptions and misconceptions of places outside of Europe. At the same time, he is secretly revealing some truths about injustice and the dangers brought upon the world by man’s vicious nature.

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26 Cicero, p. 90
27 Grotius, Loomis ed., p. 87
28 Strabo, p. 240
Moreover, being ignorant of the consequences of vice and being unacquainted with virtue he shows to be a sign of the primitive. A civilized culture has to tame its barbaric instincts. He poses some other examples in Book II, where he explains that the native tribes in America, including a group of primitive religious orders called “Essenes” are primitive because they only appear to feed their natural desires. These groups, he argues, are backwards because they are unacquainted with the sort of good life that can only be achieved through the defeat of vice and the instilment of virtue. He accomplishes two goals with these examples; on one hand, he shows that civilization, he believes, should replace primitive simplicity. On the other hand, however, European governments are marveled with excitement because this position seems to justify colonialism. But as a philosopher, Grotius is not so much interested in justifying Europe’s actions abroad, but instead simply trying to make a point about the urgency of domestic civility. Regardless of Grotius’s position about the morality of colonialism, to overtly say that it is immoral would anger many monarchs throughout Europe. He was, after all, writing philosophy during a time of immense colonialism. The politics of his time did not so much reflect his views as it restrained a public expression of them. France, in particular, which was providing for him his sanctuary, was a colonial giant particularly in northern Africa, and it would have been irrational for him to offend Louis XIII.

II. THE RIGHT OF SELF-PRESERVATION

Both “extreme necessity” and natural desire compel men to do bad things, but while the latter, he believes, can be controlled, the former is not quite as easy to penetrate. As the wise men said on behalf of the Maccabees, “Peril to life does away with the Sabbath.” Self-preservation is the highest natural right, and it therefore is the only extreme necessity. It is not only a justifiable

29 Grotius, Loomis ed., p. 79
30 Ibid, p. 62
excuse but also a moral obligation to put matters life and death at the top of all priorities. It is the only right that takes precedence over all other institutions and arrangements. For example, he writes:

Masters do not have rights of life and death over their slaves (I am speaking now of perfect, inherent justice); nor can any man lawfully kill another man, unless he has committed a capital offense.\(^{31}\)

He also says at an earlier point:

We must note that the right of self-defense derives its origins primarily from the instinct of self-preservation, which nature has given to every creature, and not from the injustice or misconduct of the aggressor.\(^{32}\)

This last part of the quote might also imply that the right to stay alive is more important than the war's cause, unless that war is fought in the name of self-preservation. "Aggression" comes in different forms; it may or may not constitute a threat to the lives of the people. For example, if the war were fought over land claims, this is not a justified reason to send people into a suicide mission. Like Augustine shows in The City of God, many nations have chosen to submit to conquest over complete devastation in war.\(^{33}\) As a result, people have to take whatever precautions are necessary to deter aggressors in the first place.

Moreover, there is a sense in Grotius's writing that he believes that all individuals should have control over deciding the means of their own survival. He writes, "By nature a man's life is his own, not indeed to destroy, but to preserve; his own too are his body, limbs, reputation, and actions."\(^{34}\) And in Book III, he concurs again, "Nature gives me [the right] to look out for myself."\(^{35}\) This position is shown by the implicit irrelevance Grotius asserts of the classification of wars into

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\(^{31}\) Ibid, p. 107
\(^{32}\) Ibid, p. 72
\(^{33}\) Ibid, p. 111
\(^{34}\) Ibid, p. 188
\(^{35}\) Ibid, p. 270
public and private. In the fifth chapter of Book I, there is a passage that seems on the surface to argue that only wars begun by proper authorities are just. However, there is a key sentence that if treated with greater vitality in light of the possibility that he was trying to conceal dangerous truths, seems to indicate that anyone should fight the law if their life is being threatened by it. Grotius writes, "...By nature every man is a defender of his own rights. Hands were given us for that purpose." Rulers rely on the distinction between public and private war so that civil war not only remains illegal, but also remains to be without a moral justification. He cannot outwardly state that self-preservation is more important to loyalty to a ruler. How an individual chooses to secure that survival should reflect both expediency and virtue. This means that a man cannot break all other conditions of natural right to diminish future threats against life and limb. However, defending oneself to imminent danger of death can take the highest precedence above all else. Many rulers are successful at convincing their subjects that this is wrong.

Rulers are also successful at convincing their subjects that a king is more worthy of survival than anyone else within the state simply because he is responsible for the lives of the entire citizenry. While Grotius might see this as a falsehood, as it was shown in the last chapter, he might still be open-minded to the idea that certain people are more important than others. If it can be rationally shown that a vast number of men rest their lives on the survival of one man, then it is logical for that one man's life to take greater precedence. But it seems that for Grotius, this is generally just a false justification for an unfortunate act of prudence and rarely a genuine concern for those who rely on the survival of the ruler. Without mentioning rulers, he openly says this in a quote from Cicero, who wrote:

Should not a wise man, in danger of perishing with hunger, take food of another man who is good for nothing? Certainly not. For my life

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36 Ibid, p. 68
is not more important to me than my resolution of mind not to hurt another for the sake of benefiting myself.\footnote{Ibid, p. 83}

Notice that it is a wise man, which could possibly be a metaphor for a philosopher, who understands that his life is of no greater importance by natural right. Cicero continues by saying, “If you are one, who by living will do great service to the republic, or perhaps to the society of mankind in general, and for that reason only take something from another, it is an action that is not to be found much fault with.”\footnote{Cicero, p. 124} A key qualifier here is, “for that reason only,” which appears to be used deliberately by Cicero for a touch of sarcasm. The underlying moral of this passage is not, as many would think, that this action is wrong. Instead, the point here is that this action cannot always be rationalized by this logic. The fact that the generally wrongful decision “would not be found much fault with” might also be a sardonic statement because many usually accept this falsely moral justification as truth. It is the desire for self-survival, and not an altruistic instinct, that ultimately drives selfish decisions during imminent crises. The desire for self-preservation is very strong that it leads to more avarice than any other human appetite. Nevertheless, the fact that humans tend to feel that they have to justify their greed in this case seems proof of an innate morality that all humans share.

In Book II, Grotius argues that the unborn have no rights. He writes, “...We must realize that a person not yet born has no rights, even as a thing that does not exist has no qualities.”\footnote{Grotius, Loomis ed., p. 100} In the last chapter, it was suggested that rights must be defendable if they are to be called rights. If a person is either dead or unborn, then there is no possible way for the person himself to claim rights because he is not alive to defend them. But, for Grotius, he seems to suggest that this reasoning stops at matters of survival; there is a tacit right of self-preservation, regardless of whether or not it is defendable. He does not seem to offer any suggestions as to when this tacit right begins. Is it at birth or at
conception? The only thing known for certain is that it ends at death, because at that point, it is too late to even matter. Also, at another point, he says that there is a tacit right of burial for the dead, but this is not a right for the deceased, but for the living survivors, who can defend their burial wishes for their dead friends or family members. Grotius later writes, “So, if anyone dies without any declaration of his will, and leaves no blood relative, all the rights which he had become extinct.”

Later in Book II, there is another place where Grotius alludes to the right of burial being beneficial to all of mankind. But within this discussion, he cites a passage from Optatus’s Schism of the Donatists, in which Optatus writes, “If there was strife between you living, let the death of your adversary appease your hatred. For he with whom you contended now lies silent.” And then he continues, “He with whom you were previously at odds is now silent: why do you insult his funeral...Why be at odds with the dead?” However, without any intended insult to Optatus, there seems something rather ridiculous about the logic of this precept. Careful readers would definitely be wise to think about this citation further. Even if the death of an enemy soothes a man’s hatred of him, does Grotius really want to universalize this solution to conflict? Could Grotius be poking fun at this logic? It seems to make less sense to assume that the dead have natural rights than to still carry disagreements with deceased adversaries. Death does not appease disputes; on the contrary, it more often than not cultivates even greater anger and resentment amongst the survivors. It is interesting that the Donatists were especially habituated to martyrdom. The quote without the context skews Optatus’s intent behind his book, which was to reunite the Catholic Church. In a much earlier, unreferenced passage, Optatus writes, “Late though it is, learn the true interpretation, brother Parmenianus, since now you have found a time to learn.” This might perhaps be appropriate advice in regards to this particular matter.

40 Ibid, p. 127
41 Ibid, p. 202
42 Optatus, p. 125
43 Ibid, p. 93
III. VIRTUES AND MAN’S MORALITY

i. Friendship, Kinship, and Alliance

While the sociality of man is just a hoax in Grotius’s esoteric view, he still believed that it is right for individuals to form bonds with one another. Virtue is not a response to what is expedient, but rather to an innate moral goodness. Certainly, there is a prudent cause for any moral act, but virtue cannot simply be about material costs and benefits. As friendship is a virtue amongst men, states as moral agents of the individual form friendships, or alliances, amongst one another. Grotius presents this imperative under the guise of expediency, but between the lines he is saying that alliances are examples of virtue in international relations. Policy-makers, he suggests, do not perceive the real value of an alliance.44

Grotius might also be saying that friends and allies should not be used like instruments. In Book I, he writes, “Those who have written on duty rightly say that nothing is more useful to a man than another man.”45 But Grotius seems to be saying this ironically. Perhaps his idea of an international brotherhood of mankind is not a mask to cover his realism, but instead meant as an attainable virtue. For a lasting peace to work, countries have to practice the virtues of friendship, courage, and family, and these each require devotion to something beyond the self. As a realist, Grotius might for this reason compare better to Benedict Spinoza than to Hobbes, because Spinoza believed that treaties and alliances potentially cultivate permanent friendships between nations that can contribute to some sort of lasting peace between them, but only between them.46 However, these friendships between nations can be broken just like any other relationship in human affairs.

44 Grotius, Loomis ed., p. 9
45 Ibid, p. 68
46 Forde, p. 77
ii. Virtue During Adversity

One of man’s inner appetites is a passion for daring. For Grotius, it is why people are so quick to plunge into war to resolve disputes that might ordinarily be settled peacefully. The great army commanders in world history were men of hard-nose virility; they were warriors who were impulsively ready for a good fight. Aristotle calls it, “animal ferocity,” but not all men are necessarily consumed by it. Courage is a virtue, but if one welcomes danger instinctively, it is not truly a virtue. For the Greek philosophers, Plato and Aristotle, some men desire peace at all costs, but peace by any means is not always the moral imperative.

It seems that for Grotius, virtue is easiest to instill in people during times of adversity. Virtue is more abundant when there are things for people to fear. “But when the people were relieved of this fear,” Sallust writes in a passage cited by Grotius, “the favorite vices of prosperity – license and pride – appeared as a natural consequence.” People seem to need fear and conflict in order to replace vice with virtue and to bring out the true courage innate within the souls of the masses. Sallust continues, “Thus the peace and quiet which they had longed for in time of adversity proved, when they obtained it, to be even more grievous and bitter than the adversity.” Perhaps, then, war is good for the morale and unity of the state.

iii. Family Virtues and Gender

Virtue begins in the private sphere. There is a place in Book I where Grotius seems to be debating with his esoteric audience whether or not various lifestyles or family decisions, such as polygamy, divorce, or concubinage accord with natural right. He makes it quite clear that these things are forbidden by divine natural law. He also seems to believe that the institution of marriage between a man and a woman far too often becomes a matter of a man’s dominance over his wife than

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47 Grotius, Loomis ed., p. 168
48 Sallust, p. 77
49 Grotius, Loomis ed., p. 30

101
as a love relationship with her. The former is a sin; the latter is a virtue. Both wryly and ironically, Grotius says, "Such an association we see even among some dumb animals." But this is only a problem in those cases when a marriage is seen merely as a man's guardianship over a woman. Seemingly with even greater sarcasm, he continues, "...In the case of man, since he is an animate being gifted with reason, an additional tie is created through the pledge by which the woman binds herself to the man."51

He also appears to suggest that natural right obligates parents to take care of their children. In Book II, he writes:

Hence, he who is the cause of another human being's existence should as far as in him lies and as far as needful, provide it with what is necessary for a human life, that is, for the natural, social life for which man is born.52

Supposedly, the instinct to nurture, or as Justinian calls it a "prompt impulse" of affection emerges naturally in parents, especially in mothers. But even in mothers, the instinct is often ineffective. Nevertheless, parenting one's offspring is a natural right. Grotius continues, "Here we are speaking of obligation in the broader sense..." perhaps meaning the philosophical, natural right sense, "...unless some human law adds to its force."53 Not only is this an expression of Grotius's firm belief in the virtue of parenting, but by suggesting this natural right transcends human judgments of it, he is also giving greater proof of his contention that there exists a divide between human law and natural right.

This natural right, he seems to believe, is present more so in women than in men. Not only is it a virtue naturally developed stronger in the female sex than in male natural tendencies, but also women have a bigger responsibility than men in ensuring that children are brought up safely, taught
right from wrong, and knows truthfully who is their father. Grotius quotes Homer, who says in *The Odyssey*, "...My mother, indeed says that I am his, but I know not; for no one ever knew his own father." This is not to say that men do not have responsibilities towards their offspring, but it logically follows that if only women have the power to truly know for sure who is the father of her child, this power already gives women an added responsibility to their children. The entire seventh chapter of Book II seems to have been devoted to the distinction of gender and the duties that lie therein.

Since time is not an indicator of natural right, as historicists might say, neither virtue nor sin is transferable to children. While one’s descendants inherit many material merits or misfortunes, what one does to one’s soul has no bearing the second generation. This is what Grotius means in Book II where he says that the unborn have no rights. Perhaps his “unborn child” is symbolic of the uncertain future; maybe it is a clean, fresh new start for opportunities to replace sin with virtue.

**iv. The Virtue of Philosophy**

There are three different types of personalities of men, as described by Plato. There are warriors, who like war for the sake of its danger, and there are “statesmen” personalities who engage in politics because it is about protecting the safety of the public. But the third of the groups, philosophers, are interested in political matters for reasons that transcend the physical, here and now. They want to discover the good life for its own sake. Philosophy is the highest virtue; the life of the philosopher is considered in the Republic as the most moral, and perhaps even the most superior of the three. Grotius does not state this directly, but instead he argues that most valuable lessons come from the study of the ancient philosophers. The common man is not interested in philosophy, but instead finds himself moved by artists and poets and orators, i.e. “storytellers” who manipulate

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54 Homer, p. 8  
55 Grotius, Loömis ed., p. 100.
people's minds and hearts by appealing solely to their instincts, emotions, and natural desires. After he shows that ancient philosophy is to be his work's primary source of inspiration, he writes, "The sentiments of poets and orators do not carry so much weight. We cite them often, but less as a basis for faith than as a means of adding some beauty from their lines to what we are trying to say." But beauty only gets added to the exoteric teaching, because as was shown in the last chapter, it is a lie that becomes increasingly convincing with more and more decoration. The only bearing these citations have on the esoteric teaching is as a satirical description of what masks the true reality.

The masses find philosophy boring and unfathomable because it requires men to transcend their instincts and natural desires for more "Godly" pursuits. This highest virtue is not for all men, but rather a very select few. In the Prolegomena, he says, "The nobler the times and the people, the more right their examples carry; for that reason we have preferred the ancient examples, Greek and Roman, to any other." And for Grotius, ancient history becomes a metaphor for philosophy. Plato's Republic is the model of the perfectly governed society, and Aristotle's Nicomachean Ethics, while he poses criticisms of it for the benefit of exoteric readers, provides a good moral foundation for the kind of a social existence described by Plato in the Republic. Nevertheless, Grotius does not look toward the Greek philosophers so much as the Roman Stoa. Interestingly, Cicero and Seneca are the two most often cited philosophers in The Law of War and Peace, and both are stoics. This is a good indication of Grotius's positioning within the realm of philosophy. Like earlier philosophies, stoicism is about the promotion of morality and living a virtuous life; virtue can be attained through wisdom, questioning established knowledge, and through maintaining a free, unhindered spirit. Hence democracy plays an important role in stoicism. Further, they are essentialist, believing in the universal natural right of mankind. For stoics, there is a transcendental truth lying well beyond the

56 Ibid, p. 15
57 Ibid, pp. 14-15

104
reaches of man's manipulation of the earth and of one another, but it can be discovered through reason.

In addition, he admits that philosophers are more apt to withstand the tendency to succumb to human passions when it is wrong to do so. One striking remark to this effect is in Book II, where he writes, "Celibacy is suited only to persons of superior mentality."\(^{58}\) For Grotius, wise men are above the gratification of the senses; philosophers are able to sacrifice their natural instincts for the sake of more noble pursuits that transcend the self. The first of these is philosophy. The fact that Grotius chose poverty over religious conversion while he was in exile in France might suggest that he had the purity of a philosopher; as a philosopher, he did was able to transgress his material appetites and live without luxury, and almost penniless.

Despite his preference for democratic rule, which will be explored shortly, Grotius does on occasion seem to profess his predilection toward Aristotle's "philosopher-king." For example, in Book I, he writes, "...The laws are and should be drawn up by men with an understanding of human weakness."\(^{59}\) Could it be that "are" is just an appeasement for the rulers? Perhaps he is instead saying here that rulers ought to, in the Xenophonian sense, be instructed both in virtue and in justice, but also with knowledge of man's vices. Since this is among the enterprise of philosophy, it follows that philosophers make better rulers. Grotius appears to contend that moral virtue should be a prerequisite for power.\(^{60}\)

**IV. THE CONFLICT BETWEEN SOVEREIGNTY AND ADHERENCE**

In Book II, he says that all individuals within a community must accept a fraction of responsibility for its crimes. He cites Augustine, who says, "Where there is a community, there too are individuals. For it is individuals assembled or considered as a whole that make up

\(^{58}\) Ibid, p. 88. Also see Plato, "Phaedo," p. 471.  
\(^{59}\) Ibid, p. 62  
\(^{60}\) Ibid, p. 246
Grotius appears to be asking his readers if the state is to promote the individual or if the individual is to promote the state.

Grotius spends several pages in Book I addressing the need for countries to unseat their bad rulers, but this appears to pose a philosophical debate about the problem of allowing many citizens to die for the achievement of political justice. Citing historical examples from Thucydides, Tacitus, Plutarch, Livy, and Lucan, he seems to be sending mixed signals to all of his readers about what exactly constitutes a just cause for rebellion. He quotes Cicero, who warns that it is a cryptic, unanswered political question whether it is better to keep a bad ruler seated or to put the country into grave danger by removing him with force. Through Plutarch's *Life of Brutus*, he warns that civil war is often less desirable than an unlawful government.

In a passage from Lucan’s *Pharsalia*, which Grotius cites as an example of a great mistake, Caesar addresses his troops, “Lift high those victorious standards, men! We must make use of the strength we have built up; for the proverb runs: ‘Deny a strong man his due, and he will take all he can get.’ And you may count on divine favor since my object is neither plunder nor power but only to rid Rome of the tyrant who dominates her.” And his troops respond loyally to Caesar's pep talk, as Laelius exclaims, “...I swear by these standards victorious in ten campaigns, and by your future triumphs...” But there seems to be something sardonic about Lucan’s telling of the story. Laelius then shouts, “Tell me to plunge a sword into my brother’s breast, my father’s throat, or the belly of my wife, now great with child, and I will not fail you.” Is this kind of loyalty really a virtuous gesture? Grotius does not appear to resolve this philosophical question, but he does seem to want to present it as a crucial problem. But given that survival is the most important natural right, the virtue of adherence does not extend to places where rulers have hostile intentions towards people. When self-preservation is at stake, subordination is not in anyone’s interest. However, the theory of

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61 Ibid, p. 239
62 Ibid, pp. 65-67
63 Lucan, p. 36
Xenophon shows that societies, in which the population, including both the governor and the
governed, are learned and cultivated in their innate moral fiber\textsuperscript{64}, will not expect this kind of tyranny.
Countries are held together by all virtues; the public good requires that none be neglected.

In the aforementioned passage Grotius cited from \textit{Cryopaedia}, Xenophon seems to
sardonically suggest that while rulers manipulate their people’s minds and hearts in a way that serves
their own interests, this ineluctably results also in the public good. Cyrus says, “...My
grandfather...is so wise, that he can teach men to have rather less than more. Do you not see, how he
hath taught all the Medes to have less than himself?”\textsuperscript{65} By citing this tunic story from Xenophon,
Grotius might be suggesting that is best for men to just acknowledge their own subordination and
achieve whatever they can within the present system. While it might make better logical sense for
the small boy to wear the small coat and the large boy to wear the large coat, an attempt at creating
equality and fairness, beyond the current laws of ownership and sovereignty, would lead to social
havoc, or war. It is best to submit oneself to the status quo. It seems that for Grotius, it does accord
with natural right for individuals to stay subjugated to higher authorities for the sake of keeping
order. Philosophers understand this virtue more than anyone. But Xenophon’s biography of Cyrus’s
upbringing shows that rulers can be guided toward justice and benevolence through the education of
virtue and sacrifice.

While he strongly believes that it is virtuous to adhere to higher powers, it is also important
for Grotius that people keep as much of their own before they are locked into submission. Once the
government has a right over its people, it is extremely difficult even in a democracy for that right to
be given back to the people. In Book I, he warns, “For the end of society is by a common and united
effort to preserve to everyone his own.”\textsuperscript{66} He believes that the ideal state is individualistic and
heterogeneous; people should be left to their own devices. A few pages later, he refers to \textit{Politics}, in

\begin{footnotesize}
\begin{enumerate}
\item Grotius, Loomis ed., p. 221
\item Xenophon, p. 20
\item Grotiūš, Lōomiš ed., p. 26
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which Aristotle writes, “A real unity, such as a polis, must be made up of elements which differ in kind.” But Grotius does not enter this quote into his own text, but instead footnotes the chapter and page number for the passage. This is likely because an outward expression of such a vision might have been considered socially threatening in early modern Europe.

In this same passage, Aristotle also says, “Not only is a polis composed of a number of men: it is also composed of different kinds of men.”67 He distinguishes a polis from an alliance, which is a unity of individuals who are similar en masse. Human beings align themselves with those whom they share something in common, whether a political objective, a value, or an interest of another kind. But the only criterion for citizenship in a state is allegiance sworn to an authority. This has an effect on international politics because there is no international polis. There is no worldwide government, only alliances. Even God might just be a hoax used to guide men towards justice and lives of virtue, therefore natural law cannot be relied upon to govern mankind at the international level.

Convention, as Strauss shows in *Natural Right and History*, must by its nature exclude certain segments of the population. It must, metaphorically speaking, draw a circle around a given area of people and allow citizenship to everyone inside the circle while excluding everyone outside of it. Grotius is posing the same problem when he asks in Book I, “Has there ever been any state so democratic as not to exclude some of its inhabitants, either the very poor or the foreigners, as well as the women and minors, from its public councils?”68 This is not so much a problem for Machiavellians or traditional Grotians; however, it challenges the Kantian focus on the individual. This too appears to be a problem for Grotius. In the previous paragraph, he discusses rational reasons for surrendering one’s individual sovereignty to a higher authority; in doing so, he cites a passage from Tacitus who describes an arrangement of slavery in Germany, in which the slave is not beaten

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67 Aristotle, *Politics*, p. 41
68 Grotius, Lōomiš ed., p. 45
or whipped into submission, but is instead granted mastery inside his own personal residence in exchange for a ration of grain, cattle, or cloth that is accumulated throughout their day’s work. But Tacitus does not seem to intend this story to downplay the plight of slavery at this particular time in Germany, as Grotius seems to on the surface of his argument. On the contrary, Tacitus appears to be making a stronger point about the plight of freedmen. In this same passage, Tacitus goes on to say ironically:

The status of freedmen is only a little above that of slaves, rarely with any influence in the home and never any in the state, with the exception only of those tribes that are under the rule of kings. For there they rise even above freeborn men and above those of noble birth: among others, the inferiority of freedmen is a proof of liberty.  

Grotius appears to be an ardent statist. He seems to oppose international law that erodes state sovereignty. He says that sovereign power can be divided into segments, “either geographically or with regard to subject matter.” This, for Grotius, seems to be a more efficient way of maintaining one’s individual persona. People are different from place and place; they require unique forms of government depending upon their individual needs. It appears as if Grotius is a believer in divided sovereignty, but both esoteric and exoteric readers alike share this interpretation. Nevertheless, esoteric readers may interpret Grotius as saying that state individualism is more desirable. He might be less concerned with the notion of international society as he is with a consolidation of state sovereignty. He seems to demonstrate this using a domestic analogy from the Roman Empire; for example, he writes:

...Although the Roman imperial power was a unit, it often happened that one man took the East and another the West, or even that three men ruled the world in three sections. So also a people, when choosing a king, may reserve to it certain activities and assign others to the king with full rights. 

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69 Tacitus, *Germany*, p. 53
70 Grotiš, Jóomiš éd., p. 53
V. THE BENEFITS AND WEAKNESSES OF DEMOCRACY

Whenever possible, rulers, for Grotius, should meet with the approval of the people, even if they are only somehow manipulating their people’s sentiments. The third chapter of Book I, in a nutshell, seems to be an argument for democratic government, as a virtue of whole states that wish to concede to individuals as much sovereignty for themselves as possible. This becomes a constant theme throughout many portions of the text. It seems that Grotius finds democracy the most flexible system of governance. This for him may or may not be a positive attribute, however. Throughout the text, he offers several advantages and disadvantages of the democratic system. Through the historian Livy, he shows that democratic liberty is beneficial for allowing citizens the sense that by their vote they help create the laws.71 Livy writes, “…We should have made it by order of the people… I maintain that no pledge can be made that will bind the people without the people’s consent.”72 But through a reference to the historian Sallust, Grotius warns that democracy can turn to ochlocracy.73

There is a place in Book II where Grotius speaks disfavorably of mutable governments that lack rigid, undisputed principles to drive public policy. He writes, “It is to the interest of human society that governments should be firmly established, beyond the hazard of controversy.”74 Does this imply that disagreement is dangerous, and moreover, does this also suggest that democracy is somehow more prone to dissention than other forms of government? If so, this seems to indicate Grotius’s dislike for democratic rule. It appears to be a plausible exoteric interpretation, but if one reads the paragraph carefully, he shortly makes an interesting reference again to Thucydides, who at the cited passage, defends keeping democracy in Sparta through the character of Alcibiades who is

71 Ibid, p. 168
72 Livy, p. 170
73 Sallust, pp. 75-77
74 Grotius, Loomis ed., p. 99
feared a dictator by the Spartan people. But Thucydides also uses this speech as an opportunity to highlight some of the weaknesses of democracy. Alcibiades says:

My family has always been opposed to dictators; democracy is the name given to any force that opposes absolute power; and so we have continued to act as leaders of the common people. Besides, since democracy was the form of government in Athens, it was necessary in most respects to conform to the conditions that prevailed. However, in the face of the prevailing political indiscipline, we tried to be more reasonable. There have been people in the past, just as there are now, who used to try to lead the masses into evil ways. As for democracy, those of us with any sense at all knew what that meant...Indeed, I am well equipped to make an attack on it; but nothing new can be said of a system that is generally recognized as absurd.  

As much as the “first citizen” may have special advantages even in a democracy, it seems for Grotius to at least carry a perceived image of legitimacy and fairness. The first citizen in a democracy is under greater pressure to act justly and virtuously. Democracy makes “might makes right” appear to be a considerably fairer principle of truth than it is in authoritarian regimes. Moreover, more than any other system of governance, democracy allows for public criticism, which is especially important for the virtue of philosophy. Strauss makes note of a democratic trend in late medieval political philosophy; he writes:

After about the middle of the seventeenth century an ever increasing number of heterodox philosophers who had suffered from persecution published their books not only to communicate their thoughts but also because they desired to contribute to the abolition of persecution as such.  

However, public criticism, he acknowledges can have undesirable effects for everyone. The aforementioned expression, “beyond the hazard of controversy,” raises interesting questions about this issue. Clearly, Grotius sees many problems with democracy, particularly in crisis situations,

75 Thucydides, pp. 466-467
76 Sträuss, Persecution and the Art of Writing, p. 33
which call for swift decision-making. Internal divisiveness can threaten the livelihood of the state. He points readers to Plato, who illustrates this point well through the analogy of sailors at sea fighting amongst themselves for control of the helm while risking that the ship might sink before someone takes command. Interestingly, this is one situation of conflict where might may not make right, because even if after long fighting one individual prevails, the ship might sink before he has the opportunity to enjoy his power. Thucydides seems to make an even stronger case for this than Grotius by implying that rulers try to not “rock the boat,” so to speak, when it seems unsafe to, such as during wartime. In addition, Grotius seems to point esoteric readers to The Attic Nights of Gellius, who warns leaders against cum populo agere, or “treating with the people,” because it is best not to divide the country into competing interests.

In the third chapter, he talks about the merits of divided sovereignty, promise keeping, equality between the governor and the governed, and republicanism. But it appears as if Grotius just uses these as covers to suggest esoterically that government should rest ultimately with the people. In many of his historical examples, such as Thucydides’ “Policy of Pericles,” the masses are quite discontented with their irresponsible, despotic rulers. Grotius might be clandestinely arguing that people tend to want to stay out of war that is not waged on the people’s behalf. According to the story told by Thucydides, the Athenians in great numbers wanted to make peace with Sparta, but their Pericles managed to convince the people to keep fighting. These references to historical examples appear to be Grotius’s way of asking if this constitutes the good life. True, adherence is a virtue, but not greed and trickery. The two alternatives are either Xenophon’s proposal, which is to educate rulers in the notion of virtue, or democratic government. And, if this is indeed Grotius’s underlying position, it might even be consistent with the Twentieth Century proposition that democracies tend not to engage in war between one another. It proposes that it is both in every

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77 Grotius, Loomis ed., pp. 98-99
78 Thucydides, p. 467
79 Gellius, p. 455
individual's self-interest and even in the aggregate interest for countries to find alternatives to war. Not only is democracy the best objective indication of the aggregate's interest, but also by this theory, the virtue of democratic government lessens instances of armed conflict between nations.
Regardless of whether one is a Straussian or an ardent Strauss critic, virtually everyone would agree that the relationship between philosophy and politics has always been strained. This thesis has shown that there have been reasons for philosophers to conceal important truths underneath shields of exotericism, and it has shown that Grotius can be added into the mix of philosophers who presented esoteric truth secretly with this special art of writing. At the same time, it has demonstrated the Straussian technique of reading the great books of political philosophy line-by-line, using Grotius's *Law of War and Peace* as an example, as well as a discussion of what kinds of trends are found by Straussians throughout the three ages of political philosophy. Using the political ideas of Strauss, this thesis has presented what he and his followers might find to be Grotius's "Forbidden Fruit." In short, this thesis has presented what might be termed, "Strauss's Grotius."

This possible Straussian interpretation clearly turns the tables on the traditional understanding of Grotianism, and if true, might give political scholars ample cause to significantly rethink the way his theories are implemented in international relations theory, international jurisprudence, and even in discussions of domestic natural law. Strauss might say that Grotius was an "optimistic realist," who on a Thucydidean and Hobbesian hand feared mankind's evil natural tendencies, but on an Aristotelian, Augustinian and stoic hand, sees virtue as an achievable goal through religion and perhaps secular forms of education. Grotius, being engaged in a debate with all of his predecessors, spans a small plethora of political philosophies, namely stoicism, Antiquity, and St. Augustine. All of his references are clearly important, but the ones that carry the most significance in his esoteric teaching might be Xenophon, Aristotle, Cicero, Augustine, and Thucydides.
Perhaps the words of two prominent Straussians on the "philosophic tradition" might best conclude this project and inspire future re-readings of Grotius and other similar figures in political philosophy. Tarcov and Pangle wrote, "We have to read even a great text in its context, but we have to understand what its author understood that context to be, not insert it into some context constructed by our scholarship."1

1 Tarcov and Pangle, p. 914
BIBLIOGRAPHY


