

Grotius on International Law

By Sanderson Beck

“For God has given conscience a judicial power
to be the sovereign guide of human actions,
by despising whose admonitions the mind is stupefied into brutal hardness.”

Hugo Grotius

Huig de Groot, known by the Latin form Hugo Grotius, was born in Delft, Holland on April 10, 1583. His father was a burgomaster and Curator of the University of Leyden. By the age of eight Hugo was writing Latin poetry, and at twelve he entered the University and studied under the great scholar Joseph Scaliger. At fifteen he left the University, and serving the statesman Barneveld he traveled on a diplomatic mission to France where Henry IV called him “The Miracle of Holland.” In 1600 he was admitted to the bar and settled at The Hague to practice law with Barneveld and the Dutch East India merchants. He married in 1609, and became official historian of the United Provinces and advocate-general of Holland and Zeeland. In his book *Mare Liberum* he challenged the claims of England, Spain, and Portugal to rule over portions of the ocean. He argued that the liberty of the sea is essential to the right of nations to communicate with each other and that no nation can monopolize ocean highways because of the immensity of the sea and its lack of stability and fixed limits. In 1613 he was appointed to the high legal office Pensionary of Rotterdam and went to England on a diplomatic mission concerning the freedom of the sea. Speaking for a group in his country Grotius urged King James to convene an international council to work on reuniting the divided Christian Churches.

In Holland again Grotius became involved in the Arminian controversy under the leadership of Barneveld in a political struggle against the Calvinists. He took the side of free will against the theory of predestination. Grotius wrote a passionate appeal in support of the Edict of Pacification which recommended tolerance. However, Maurice, the political leader, allied himself with the church and fanatical peasants against the Edict of Pacification. Representing the States of Holland Grotius publicly addressed the authorities of Amsterdam in favor of tolerating the two theological opinions; considering the political danger to the country and the religious danger to Protestantism, he pleaded for toleration and peace. But these were intolerant times, and his address was treated with contempt and suppressed by force. Though his family and friends advised him to give up the struggle, he devised a new formula for peace to be signed by both parties which did not contradict Calvinism and proposed a council to settle the question peacefully. This also was rejected by the fanatics and Maurice.

In 1619 Barneveld and Grotius were arrested as conspirators against the state; Barneveld was executed, and Grotius was sentenced to life imprisonment. His wife was allowed to join him, and he was provided with writing materials and books. However, in 1621 his wife concealed him in a chest for books, and he escaped to Paris where his wife later joined him. He then wrote a letter to the Netherlands authorities declaring that no one had been bribed to aid his escape, that he did not consider himself guilty of any crime against his country, and that nothing had happened to cause

him to love his country any less. Barely surviving on a small and irregular pension from Louis XIII, Grotius began in 1623 his great work, *De Jure Belli ac Pacis* (The Rights of War and Peace), which was published in 1625. The Catholic Church proscribed the work in the index in 1627. The influence of the work spread though, as the Thirty Years' War was in midstream. The monarch of Sweden, Gustavus Adolphus, kept a copy of it next to his Bible under his soldier's pillow during the campaigns of the war. He commended Grotius before his death on the battlefield in 1633, and Grotius was selected as an ambassador of Sweden to negotiate a new alliance with France. Preoccupied with writing religious dramas and poetry Grotius was put off by Cardinal Richelieu's arrogance, and they quarreled over precedence and court etiquette. One of his books, *Truth of Christianity*, was enormously popular among Catholics and various Protestant sects, because it focused on the essential teachings of Christianity rather than the sectarian questions which divided Christians. This Latin book was translated into French five times, into German three times, and into English, Swedish, Danish, Flemish, Greek, Chinese, Malay, Persian, and Arabic. In 1645 he returned to Sweden where Queen Christina, who liked to patronize scholars and philosophers, tried to retain him. However, he decided to go home; his ship was caught in a storm, and he fell ill and finally died at Rostock on August 28, 1645.

Although he believed that there could be a "just war" (unlike Erasmus and other pacifists), Grotius made a tremendous contribution toward international law and a more just and moral conduct during wars. Living during an age of cruel and lawless religious and national warfare, *The Rights of War and Peace* delineated codes of justice for protecting innocent non-combatants, discerning rights of persons and property, and arranging methods for truces, treaties, and humane treatment of hostages and prisoners. In the *Prolegomena* Grotius asserts the need for these principles. "I saw in the whole Christian world a license of fighting at which even barbarous nations might blush. Wars were begun on trifling pretexts or none at all, and carried on without any reverence for law, Divine or human. A declaration of war seemed to let loose every crime." Although he often quoted scripture, Grotius derived his principles using human reason from the Law of Nature and the Law of Nations which are universally accepted. A civil right derives from the laws of a sovereign state, "But the law of nations is a more extensive right, deriving its authority from the consent of all, or at least of many nations." Wars over religion cannot be justified, because religion is a question of conscience and inner conviction which cannot be forced on anyone. Therefore wars against infidel nations or heretics are unjust, and no law can make a belief or disbelief a crime. Especially in doubtful cases we must listen to our conscience which can guide human actions in accordance with justice and reason. He quotes Cicero: "There are two ways of ending a dispute, discussion and force; the latter manner is simply that of brute beasts, the former is proper to human beings gifted with reason: men are obliged then to recur to violence only when reason fails." Grotius discusses three methods that can be used to settle disputes peacefully. The first is conference and negotiation between the two adversaries. The second he calls compromise, which is when a third party arbitrates the conflict and arranges a solution. The third method is to decide by lot or single combat. Grotius advises that it is often better to relinquish a right than to try to enforce it. In arbitration he emphasizes that it is important to choose a just judge who has integrity.