

Hugo Grotius-Huig de Groot
(1583-1645)

I. Dutch jurist, diplomat, and philosopher

II. Grotius' Analysis

- A. Europe was torn by wars motivated by religious, dynastic, political and social conflicts
- B. New sovereign states were rapidly expanding, acquisitive and not bound by any rules of feudal states with their patterns of oath based relations, a unified church and secular power supported by the universal church.
- C. New rules for international relations were needed so that countries could:
 - 1. expect certain behaviors from other countries in war and peace
 - 2. formalize relatively trustworthy diplomatic relationships
 - 3. develop mutual respect for sovereignty

III Grotius' book **De Jure Belli ac Pacis** is the basis for current international law

IV. Grotius' philosophical bases

- A. Proponent of Natural Law and Social Contract
- B. Aristotelian belief in the power of reason and the rationality of man
- C. Practical Diplomat with an awareness of actual practices of states in war and peace
- D. Humanist in the tradition of Erasmus-abhorred violence and lawlessness of war

V. Natural Law

- A. Grotius diverged from the tradition of St. Thomas that natural law stemmed from eternal law
- B. In keeping with the Stoics and new science, Grotius believed that natural law was inherent in a nature that worked rationally and could be understood by reason.
 - 1. He claimed "natural law is so immutable that it cannot be changed by God himself."
- C. Possible flaw in his reasoning and every natural law theory: making postulates observed in current practice into immutable principles of order for all time

VI Social Contract

- A Unlike Locke and perhaps Hobbes, Grotius believed that at some point in a nation's history a real contract agreeing on the best form of government was made by rulers and ruled.
- B. Once the power to rule was transferred from the people to the ruler, they gave up all right to control or punish their ruler no matter how bad the government.
 - 1. Grotius emphasized the need for order and preferred the rule of the absolute monarchs who were emerging at this time

VII. International Law

- A. Natural Law could only provide general guiding principles
- B. Grotius based most of his ideas for international relations on the best practices of his day.
- C. Like Machiavelli Grotius was a practical man of affairs. Unlike Machiavelli, he not only described the general practices of his time but codified the best based on natural law and contract theory and his belief in progress from anarchy to

order

D. Just War

1. Much of his work was spent in defining what a just war was by refining ideas first used by Thomas Aquinas.
 - a. If a just war could be defined, unjust wars could be condemned and ended
2. Three types of just war
 - a. Defense against and actual or immediate threatening injury
 - b. Recovery of what is legally due
 - c. Infliction of punishment for a wrong done
3. Obviously, these are broad categories in a world lacking impartial international judicial authority
4. However, emphasis on justifying war and limiting what are justifying causes created a trend that continues today and has actually reduced war among great nations.