

Module 404: Hugo Grotius

The Rights of War and Peace By Hugo Grotius; translated by Archibald Colin Campbell. Washington and London: M. Walter Dunne, 1901.
Edited for the web and introduced by Dan Graves.

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Grotius Introduction

The most notable event in Grotius' life was his escape from prison. An Arminian and advocate of state's rights in the Netherlands, he was arrested by the Calvinist/centralists and imprisoned under fairly lax conditions. With the connivance of his wife and a maid, he hid in a book chest and was carried out of the prison, making his escape to France in disguise.

The most notable, or at least the most influential, of Grotius writings was his *Law of War and Peace*. In it he provided many reasons and examples from scripture and from history to show that the conduct of war could and should be more humane. The Thirty Year's War raged during his life, full of atrocities done in the name of God, but Grotius' book did little to allay them.

He died thinking himself a failure, little knowing that the Peace of Westphalia would be based in part on his theories, and that his work would, in a couple of centuries, become the basis for international law.

Excerpt from Book II, Chapter XX, *On Punishments*

FORCED CONVERSION NOT ACCEPTABLE

From the kind of evidence on which Christianity rests, it is plain that no force should be used with nations to promote its acceptance. It is not merely by natural arguments it can

gain assent; for it has made an addition of many things to natural religion. Its evidence rests upon the history of Christ's resurrection, and upon the miracles performed by himself and his apostles. So that it is a matter of fact proved by the most undeniable evidence, and of great antiquity. Therefore a doctrine of this kind cannot be thoroughly received upon the first hearing of it, without the secret assistance of God: an assistance not given as a reward for the merit of works; so that wherever it is withheld or less copiously bestowed; it is done for reasons, which though just, are generally unknown to us, and therefore not punishable by human judgments. For it is the custom in the sacred writings to assign the divine pleasure as the cause of things unknown to us.

There is another reason of no less weight, which is that Christ being the author of a new law, will have no one brought to embrace his doctrine by the fear of human punishments. Nor is the reason at all weakened by the objection drawn from the parable of the marriage-supper, where it is said the messengers are commanded to compel the guests to come in. For the term, *compel*, here signifies nothing more than an earnest entreaty, a sense, in which it is used in other parts of the New Testament, implying an earnest request made to any one.

GOVERNMENTS SHOULD NOT IMPEDE CHRISTIAN TEACHERS

But to obstruct the teachers of Christianity by pains and penalties is undoubtedly contrary to natural law and reason: for the doctrine of Christ, apart from all the corruptions added by the inventions of men, contains nothing hurtful, but every thing beneficial to society. The thing speaks for itself, and even those who were strangers to the doctrine itself were obliged to acknowledge the truth of this. Pliny says that the Christians bound themselves by an oath to commit neither theft, nor robbery, nor to violate their word.

It was a common saying "Caius Seius is a good man, but he is a Christian." Nor indeed can any danger be apprehended from the spreading of doctrines, calculated to inspire greater sanctity of manners, and the purest principles of obedience to lawful sovereigns. Philo has recorded a beautiful saying of Augustus, who observed that the assemblies of the Jews were not Bacchanalian revels, or meetings to disturb the public peace, but schools of virtue.

It seems unjust to persecute with punishments those who receive the law of Christ as true, but entertain doubts or errors on some external points, taking them in an ambiguous meaning or different from the ancient Christians in their explanation of them. A point which is proved by what has been said above, and by the ancient example of the Jews. For, possessing a law, which allowed them to inflict temporal punishments, they never exercised that authority upon the Sadducees, who denied the doctrine of a resurrection: a doctrine of the greatest truth, though but faintly delivered in that law, and under a typical application of words and circumstances. But if there should be any weighty error, that discerning judges could easily refute by an appeal to sacred authority, or to the opinions of antiquity; here too it would be necessary to make allowance for ingrafted opinions, that have grown up to form an inseparable part of the human mind, and for the zealous attachment of every one to his own tenets; an evil which Galen says is more difficult to be eradicated than any constitutional disease.

Excerpts from Book II, Chapter XXIV. *Precautions Against Rashly Engaging in War, Even upon Just Grounds.*

I. Although it seems not to fall within the immediate province of a treatise, entitled *the Rights of War* to enter into an investigation of other moral duties, which the relations of war and peace prescribe, yet it may not be improper slightly to touch upon certain errors, which it is

necessary to obviate, in order to prevent any one from supposing, that, after establishing the right of war, he is authorized, INSTANTLY or at ALL TIMES, to carry his principles into action, and to reduce his theory to practice. So far from this, it frequently happens that it is an act of greater piety and rectitude to yield a right than to enforce it. It was before shown, in its proper place how honorable it is to disregard our own lives, where we can preserve the lives, and promote the lasting welfare of others. A duty that should operate with greater force upon Christians, who have before their eyes continually the example of him, who died to save us, while we were enemies and ungodly. An example which calls upon us, in the most affecting manner, not to insist upon the rigorous prosecution of our justest rights, where it cannot be done but by the calamities, which war occasions. If arguments and motives like these wanted authorities, abundance of authorities might be adduced for their support.

II. Many reasons might be brought to dissuade us from urging the full infliction of a punishment. There is an obvious instance in the conduct of fathers, who connive at many faults in their children. But whoever, is authorized to punish another, assumes the character of a sovereign ruler, that is, of a father; in allusion to which St. Augustin, addressing Count Marcellinus, says, ` O Christian Judge, fulfil the office of a pious father."

Sometimes indeed men are so circumstanced, that to relinquish a right becomes not only a laudable act, but a debt of respect to that law, which commands us to love our enemies: a law to be respected and obeyed not only for its intrinsic value, but as being a precept of the gospel. By the same law, and for the same reasons, we are commanded to pray for and to promote the welfare and safety of Christian Princes and Kings, because their welfare and safety are so essential to the order, peace, and happiness of society.

III. With respect to the pardon of offences committed against ourselves, little need be said, as it is known to be a leading clause in the code of a Christian's duty, to which he readily and freely submits, knowing that God for Christ's sake has forgiven him. Thus revealed law adds a sanction to what was known by heathens to be an amiable precept Cicero has drawn a fine character of Caesar, in which he commends the excellence of his memory that could recollect every thing but injuries. We find many noble examples of this excellent virtue in the writings of Moses and in various other parts of scripture. These, and these motives ALONE, when they can safely be complied with are sufficient to keep the sword within its scabbard. For the debt of love and forbearance to our enemies is an obligation, which it is honorable to discharge.

IV. It is often a duty, which we owe to our country and ourselves, to forbear having recourse to arms. After the college of heralds had pronounced a war to be just we are informed by Plutarch in the life of Numa, that the Senate further deliberated, whether it was expedient to undertake it. According to our Savior's beautiful and instructive parable, a king, when he is obliged to go to war with another king, should first sit down, an expression implying an act of deliberation, and consider within himself, whether, with ten thousand men he is able to encounter one who is coming against him with twenty times that number: and if he finds himself unequal to the contest, before the enemy has entered his territories he will send an embassy to him offering terms of peace.

V. In all cases of deliberation, not only the ultimate but the intermediate objects leading to the principal ends are to be considered. The final object is always some good, or at least the evasion of some evil, which amounts to the same. The means are never to be considered by THEMSELVES, but only as they have a tendency to the proposed end. Wherefore in all cases of deliberation, the proportion, which the means

and the end bear to each other, is to be duly weighed, by comparing them together: a mode of comparison, in which there are three rules necessary to be observed.

The first thing, in a moral point of view, to be considered is, what tendency the desired object has to produce good or evil; and, if the former has the preponderancy, we are then at liberty to choose it. — In the second place, if it appears difficult to decide, whether the good or the evil predominates, we may choose the object, if, in the choice and use of our means, we can give a turn to affairs, that may throw the preponderance into the scale of advantage — or lastly if the good and the evil bear no proportion to each other, nor the means, AT THE FIRST VIEW, appear adequate to the end, if, in pursuing an object, the tendency to good, compared with the tendency to evil be greater than the evil itself when compared with the good; or if the good, in comparison of the evil, be greater than the tendency to evil, in comparison of the tendency to good, we may decide in favor of it.

Excerpts from Book III, Chapter XI: *The Right of Killing Enemies in Just War to Be Tempered with Moderation and Humanity.*

VICTORY TO BE TEMPERED WITH MERCY

XV. and **XVI.** Against these principles of natural law and equity an objection is sometimes derived from the necessity of retaliation, or striking terror, in cases of obstinate resistance. But such an objection is by no means just. For after a place has surrendered, and there is no danger to be apprehended from the prisoners, there is nothing to justify the further effusion of blood.

Such rigor was sometimes practised, where there were any enormous acts of injustice, or any violation of faith; it was practised also upon deserters, if taken. Sometimes, where very important advantages may attend striking a terror, by

preventing the same crimes in future from being committed, it may be proper to exercise the right of rigor in its full extent. But an obstinate resistance, which can be considered as nothing but the faithful discharge of a trust, can never come within the description of such delinquencies, as justify extreme rigor.

XVII. Where delinquencies indeed are such as deserve death, but the number of offenders is very great, it is usual, from motives of mercy, to depart in some degree from the right of enforcing the whole power of the law: the authority for so doing is founded on the example of God himself, who commanded such offers of peace to be made to the Canaanites, and their neighbors, the most wicked of any people upon the face of the earth, as might spare their lives upon the condition of their becoming tributaries.

XVIII. From the opinions advanced and maintained above, it will not be difficult to gather the principles of the law of nature respecting hostages. At the time, when it was a general opinion that every one had the same right over his life, as over his property, and that right, either by express or implied consent was transferred from individuals to the state, it is not surprising that we should read of hostages, though harmless and innocent as individuals, being punished for the offences of the state: and, in this case, the consent of the state to such a regulation implies that of individuals, who have originally resigned their own will to that of the public ; in whom, after such resignation, it indubitably vested.

But when the Day-spring rose upon the world, men, obtaining clearer views of the extent of their power, found that God, in giving man dominion over the whole earth, reserved to himself the supreme disposal of his life, so that man cannot resign to anyone the right over his own life or that of another.

XIX. By way of conclusion to this subject it may be observed, that all actions no way conducive to obtain a contested right, or to bring the war to a termination, but calculated merely to display the strength of either side are totally repugnant to the duties of a Christian and to the principles of humanity. So that it behoves Christian princes to prohibit all unnecessary effusion of blood, as they must render an account of their sovereign commission to him, by whose authority, and in whose stead, they bear the sword.

Discussion Starters

What two reasons does Grotius give as to why Christianity must not be forced?

According to Grotius, why should rulers not persecute those who spread the gospel?

Why does Grotius think it unjust to persecute those who cannot or will not accept certain Christian doctrines? Do you agree with him?

In Grotius' view, does a just cause by itself entitle a nation to go to war? Why or why not?

Do you find Grotius' comparison of a sovereign to a father useful?

According to Grotius, what should be the ultimate or "final" object of any war?

Why does Grotius consider that an obstinate resistance should never be used to justify extreme punishment of a conquered people?

Why should hostages neither be given nor demanded in Grotius' view? Who does he refer to by the name Day-spring?

From whom comes the authority to wage war and what obligation does this impose on those who carry on a war?

After reading these short excerpts do you think Grotius' book deserves the influence it gained? Why or why not?