

Warfare, Christianity and the law of nature

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Abstract: Early modern efforts to justify warfare entailed serious reflection on the relationship between Christianity and nature or natural law. Those working in a Thomist tradition could draw on a concept of natural law as an ethical system distinct from Christianity, but others rejected that concept and worked instead to show that warfare could form part of the duties of Christians. On all sides there was recognition of the tension between the words of Christ and the demands of human political life, especially when it came to defending military activity. That tension produced creative discussions of natural law, political thought and theology, in the universities and beyond.

In 1516, Erasmus's figure of Peace insisted not only that "Nature [has] provided all these arguments for peace and concord" but that Christ himself "whose teaching is so far superior to Nature's" promoted "peace and mutual good will" above all else.¹ These words capture something of the ambivalence of Christians about warfare and its relationship to natural law, especially at the start of the Reformation. Indeed, the effort to show the legitimacy of war for Christians led not merely to a series of refinements in just war theory but to a fundamental re-evaluation of the relationship between natural law and the will of God.² Natural law was central to the analysis of war, just as it was central to any discussion of politics or the human

1 R. J. Schoek et al, *Collected Works of Erasmus: Literary and educational writings* (Toronto: University of Toronto Press, 1974) 5:296.

2 See, for example, James Turner Johnson, *Just War Tradition and the Restraint of War : A Moral and Historical Inquiry*. (Princeton: Princeton UP, 1981) esp. ch 4; P. Haggemacher, *Grotius Et La Doctrine De La Guerre Juste*. (Paris: Presses Universitaires de France, 1983); R. Tuck, *The Rights of War and Peace : Political Thought and the International Order from Grotius to Kant*. (Oxford: Oxford UP, 1999). M. Idris, *War for Peace : Genealogies of a Violent Ideal in Western and Islamic Thought*. (New York, NY: Oxford UP, 2019).

commonwealth. Yet natural law, or the sphere of nature as distinct from supernature, was a fragile concept, hovering precariously somewhere below grace and true Christianity but above the fires of hell and divine punishment. The advent of the Reformation, renewed emphasis on ideals of Christian perfection, and indeed an invigorated Scotism – all these put enormous pressure on the concept of nature and natural law. In the discussion of war we see that pressure, and we see too the efforts of more practically minded scholars to imagine and articulate a sphere of nature which allowed for warfare without compromising Christian ideals. To a large extent, it was the discussion of war which shaped the boundaries between nature and supernature.

Arguments about the implications of Christianity for the justice and legitimacy of warfare were not new in the early-modern period; after all, many of Jesus's words in the gospels seem to advocate a pacifist approach. Some of the early Church Fathers, notably Tertullian, had therefore been critical of those Christians who served in the Roman army, but the Church had soon rejected pacifism and was careful to deny that warfare was inherently sinful.³ In the early-sixteenth century, however, a strong connection between warfare and the law of nature was made by the influential Cardinal Thomas Cajetan (1469-1534). As we shall see, Cajetan's position formed the starting point for much Catholic discussion, but it was also challenged – perhaps most vigorously by the highly controversial theologian Michel de Bay or Baius. What was at stake here was the concept of nature, a concept which Baius understood very differently from Cajetan. The article will then consider Protestant discussions of warfare, where the relationship between natural law and the teaching of scripture was the subject of intense enquiry. Finally, I will turn to the writing of Hugo Grotius, arguing that he drew heavily on Catholic ideas about natural law in developing his

3 P. Brock, *Pacifism in Europe to 1914* (Princeton, 1972) introduction; Louis Swift, *The Early Fathers on War and Military Service* (Wilmington, Del: M. Glazier, 1983). John von Heyking, "Taming Warriors in Classical and Early Medieval Political Theory" in Henrik Syse and Gregory M. Reichberg. *Ethics, Nationalism, and Just War: Medieval and Contemporary Perspectives* (Washington, D.C.: Catholic U of America), 2007.

understanding of the legitimacy of war, but that he also displayed an acute awareness of the potential tensions between natural law and New Testament teaching, particularly those verses which cast doubt on the permissibility of taking up arms.

I

One of the key intellectual landmarks of the early-sixteenth century was Cardinal Cajetan's monumental commentary on the *Summa Theologica* of Thomas Aquinas. In one of the longer sections he added to Aquinas's text, Cajetan addressed the question of the legitimacy of war, explaining that war was permissible and that it was perfectly legitimate for a commonwealth not only to defend itself but even to punish those who oppressed or harmed it. The authority to engage in defensive war was easy to justify, he thought, for "every people has this, by the natural law".⁴ More difficult, however, was the question of punishment, or of avenging injuries done to the commonwealth. Here Cajetan explained that the commonwealth "can not only repel force with force in a proportionate way, but can avenge injuries to itself and its own people, not only with respect to its own subjects, but also against others." Cajetan's reasoning was that "if it could not legitimately avenge itself against other peoples and princes, then it would be very imperfect and deficient". Indeed, he added, "natural reason ... would be deficient if it did not provide the commonwealth with the power of revenge". Although Cajetan, like Aquinas, treated war under the heading of sins against charity, he was clear that nature itself legitimised warfare in at least some situations.⁵

4 Thomas de Vio Cajetan, *Sancti Thomi Aquinatis Opera omnia, iussu impensaue Leonis XIII* (Rome, 1895) 8: 313. "hoc enim a naturae iure quilibet populus habet". On Cajetan see Jared Wicks, "Thomism between Renaissance and Reformation: the Case of Cajetan", *Archiv für Reformationsgeschichte* 68 (1977), 9-32; J. H. Burns and T. M. Izbicki (eds.) *Conciliarism and Papalism*. (Cambridge: Cambridge UP, 1997), introduction; M. O'Connor, *Cajetan's Biblical Commentaries: Motive and Method*. (Leiden: Brill, 2017).

5 Cajetan, *Sancti Thomi Aquinatis Opera omnia* 8:313 "nisi posset licite de extraneis populis et principibus se vindicare, valde esset imperfecta et diceretur"; "naturalis ratio ... defecisset non providendo reipublicae de armis ultionis".

Grounding the legitimacy of warfare in natural law was important to Cajetan, because the central purpose of his discussion was to widen the category of those who could take up arms. Aquinas had restricted the right to wage war to those who did not have a superior through whom they could pursue their rights, but Cajetan was surrounded by cities and principalities which were nominally part of the Holy Roman Empire, but which Cajetan portrayed as perfect commonwealths in accordance with natural law. Such perfect commonwealths could not only wage war legitimately but, he argued, they could even eliminate a tyrant, at least in certain situations. He provided the example of a community ruled by someone who “though lord by his own right” has gained power through usurpation, whether through violence or some other means. In that case, Cajetan argued, “he could licitly be killed by any of the people, for the liberty of the people” and on the authority of the community itself.⁶ In this case as in other cases of execution by public authority, there is no need for a special dispensation from God to suspend his previous commandment, as the Scotists argued (at least in Cajetan’s view). The moral commands given by God were eternal, “but concerning the moral commandments, it is up to natural reason to examine and define how, why and when they are binding”.⁷

Cajetan’s discussion of war was, as this suggests, conducted largely in the terms of natural law and of the licit or permissible, rather than the necessary or divinely commanded. A community was allowed to defend itself, to punish those who injured it, it was even allowed to eliminate a tyrannical ruler if it was being oppressed, all these communal actions were in line with the law of nature. But he kept them conceptually distinct from actions of charity, or from the kinds of individual deeds which contribute to a person’s own salvation,

6 Ibid 9:70: “Quidam autem tyrannus est in ipso iure dominii: quia scilicet usurpavit sibi dominium vi armorum vel alias inique”; he “licite potest a quolibet de populo occidi pro libertate populi”.

7 Ibid 69: “De moralibus autem praeceptis, quomodo, quare et quando ligant, rationis est naturalis disserere et definire.”

and he tended not to bring in many examples from the Bible. The move to using the Aquinas's *Summa Theologica* allowed for this heightened interest in the concept of natural law. This academic approach, in which war was justified primarily with reference to natural law, was taken up by many of the later Thomist writers. For them, the authority of the commonwealth, including the right to wage war, was best grounded in the natural law, and thereby both legitimised in its own sphere and subordinated to the Church.⁸

Not all Catholics accepted Cajetan's approach, however. Elsewhere in this cluster the Scotist alternative will be discussed, and there were other Catholic academics hostile to the growing vogue for Aquinas and to the distinction his theology allowed between the realms of nature and of grace. One such academic was Michael Baius (1513-1589), from 1575 chancellor of the prestigious Catholic University of Louvain, and the most vocal critic of what he saw as heretical new ideas about a kind of natural goodness or virtue which was possible without grace. Though views which sounded very much like those of Baius received papal condemnation in 1567, Baius himself was not deterred and continued to teach and publish. In the seventeenth century, many of his ideas would be taken up and developed by the Dutch theologian and bishop Cornelius Jansenius.⁹

What is most striking about Baius's theology is his refusal to accept – or even to imagine – any understanding of natural law or human nature as independent of grace, seeing this as a symptom of his contemporaries' neglect of scripture and the Fathers. They had taken up new-fangled scholastic methods, he argued, and were using a concept of "natural beatitude" which came not from scripture but was an invention of human beings which

⁸ E.g. Francisco de Vitoria, *Political Writings* ed. A. Pagden, 297 on war and natural law; see more broadly J. A. Fernández-Santamaría, *The State, War and Peace : Spanish Political Thought in the Renaissance, 1516-1559* (Cambridge: Cambridge UP, 1977); Harro Höpfl, *Jesuit political thought: the Society of Jesus and the state, c. 1540-1630* (Cambridge: Cambridge UP, 2004) esp. ch 9.

⁹ On Baius see Henri de Lubac, *Augustinianism and Modern Theology* trans. Lancelot Sheppard (New York: Herder & Herder, 2000) 1-30; Michael Moriarty *Disguised Vices: Theories of Virtue in Early Modern French Thought* (Oxford: Oxford UP, 2011) 98-101.

stemmed from their heretical (and Pelagian) use of philosophy.¹⁰ If they turned instead to the scriptures, he argued, they would see that obeying God was in fact integral to human nature and that disobedience was a clear sign of the fallen and corrupted state of human beings in this present age. For, Baius argued, “nothing is so natural to mankind than inwardly to keep the law of God” and “nothing so contrary to nature than to draw back from God” either in spirit or through the influence of the body.¹¹ Indeed, he suggested that had Adam remained in his original condition, he and his descendants would have continued to worship God and cultivate their fields, and it was absurd to see one as more or less “supernatural” than the other.¹²

The implications of Baius’s thought for the Catholic doctrine of grace have attracted attention, but there were also important consequences for Church teaching on warfare. Fundamentally, Baius’s theology simply did not allow the kind of separation between spiritual and civil power articulated by Cajetan and Francisco de Vitoria (1483-1546) and he was, therefore, critical of any kind of warfare undertaken primarily for the defence of the commonwealth or to preserve any earthly goods. He believed that Christians were commanded to obey the powers that be, even if they were tyrannical, and he was highly critical of those Catholics in Antwerp who were willing to abjure Philip II in order to continue practising their faith.¹³ He was not denying that war could in certain circumstances be legitimate, but he was criticizing the tendency among Catholics in particular to think in terms of a natural law which allowed self-defence but which was distanced even partly from

10 Michael Baius, *De prima hominis Justitia* (Louvain, 1565), 36v: “tandem naturalem quaedam beatitudinem acciperet, cuius neque locus neque ratio in scripturis sacris invenitur: sed a vanis & otiosis hominibus (iuxta Pelagii sensum) ex Philosophia confingitur.”

11 Ibid., 35r: “nihil tam est homini natural, quam mente, legi Dei servire”; “nihil tam naturae contrarium, quam vel mente a Deo recedere ...”

12 Ibid., 36r-37v.

13 Michael Baius, *De juramento Antverpiae in domo civica concepto & comprobato* (1582)

Christian charity. Indeed, Baius had come to this position, or so he claimed, having become deeply disillusioned by the tendency of Thomist Catholic thinking at Louvain, and having turned instead to St Augustine as his guide.

II

If we turn now to Protestant thinking on war, we will find that their understanding of the relationship between natural law and Christian duties also shaped their view of war in highly significant ways. The impetus for their discussion of warfare came in part from the growing threat from the Ottoman Turks; Martin Luther initially dismissed this threat but soon came to regret such ill-considered insouciance.¹⁴ More pressing, however, was the challenge from the growing Anabaptist movement who condemned warfare as incompatible with true Christian life. In an important statement of the radicals' views drawn up at Schleithem in 1527, the magistrate's sword was described as "ordained of God outside the perfection of Christ", for true Christians used only the peaceful weapon of the "ban", a version of excommunication or shunning of those deemed unworthy.¹⁵ This was to argue not only that the church was different from the state, but that Christ's teaching called for a way of life which was cut off from the rules of political engagement and normal sociability in this fallen world.

In response to this call for Christian pacifism – and withdrawal from politics – some of the earliest Reformers began to explain the legitimacy of warfare. The Anabaptists had appealed to scripture, appropriating to themselves that central Reformation principle of *sola scriptura*, and Luther and his colleagues were forced to engage with their literal reading of New Testament texts. At the same time, however, they were themselves trying to work out

¹⁴ On Luther and the Turks see e.g. A. Francisco. *Martin Luther and Islam: A Study in Sixteenth-Century Polemics and Apologetics* (Leiden: Brill, 2007); Gregory Miller, "The Turks" in *Martin Luther in Context* ed. David Whitford, (Cambridge: Cambridge UP, 2018).

¹⁵ G. W. Williams, *The Radical Reformation* (3rd edition, Kirksville, MO 2000) 288-94, quotation from 293.

the implications of justification by faith on ethics and sociability, and the consequences of their new theology for the kind of natural law thinking that contemporary Catholics, like Cardinal Cajetan, were increasingly interested in developing. In particular, Luther's sense of the Fall and the deep sinfulness of mankind, combined with vision of God's totalising, all embracing and perfect law seriously complicated any attempt to articulate a sphere of nature acceptable to God but distinct from Christianity. Though Luther did not often discuss natural law, when he did he tended to connect it to the Christian duty of love for God and for neighbour, at one point claiming that Christ himself had equated natural law with the law of (Christian) love.¹⁶ Similarly, in *On Temporal Power*, Luther insisted that Christian love and natural law yield the same commands, that "nature teaches – as does love – that I should do as I would be done by". There could be no separate natural law ethics distinct from true Christian love.¹⁷

If war were to be permissible for Christians, it had therefore to be aligned strongly with God's commands for his people; war was never merely licit, but always either obligatory or prohibited. In this way, the impact of Luther's thought was to narrow any gap between holy war and war on the grounds of nature or politics alone, for to take up arms in a just war was to fulfil the command of God. This attitude found expression in *Whether soldiers too can be saved* (1526), where Luther exhorted princes to fight only if they were compelled to, to defend their people and their neighbours, but to recognise that in these cases it was necessary and obligatory to take up arms. Princes (and indeed all people) must "stay out of war unless you have to defend and protect yourselves and your office compels you to

16 *Luther's Works*, ed. Jaroslav Pelikan and H. T. Lehmann, (St. Louis, MO and Philadelphia, PA: Concordia Publishing House and Fortress Press, 1955–86), 27:352.

17 Ibid. 45:128. See also Antti Raunio, "Divine and Natural Law in Luther and Melanchthon" in *Lutheran Reformation and the Law*, ed. Virpi Mäkinen, (Leiden: Brill, 2006) 21–61.

fight”.¹⁸ Where Cajetan had seen used the language of permission, of what was licit, Luther preferred the language of compulsion and necessity.

Later, Luther and his colleagues, especially Philip Melanchthon (1497-1560), began to develop this approach to warfare further, arguing more explicitly that violence could be justified in cases of defence by appeal to the natural law. Here the well-known maxim *vim vi repellere licet* (force may be repelled by force) was helpful to them, for not only was it found in the Roman Law Digest but it was also seen as part of the law of nature. But it was never enough for the Lutherans simply to assert that war was *permissible* or licit – they had to show that it was a duty imposed by God upon human beings, or at least upon those human beings responsible for the community’s welfare. Thus in a work of 1559, Melanchthon explained that of course “the gospel does not abolish natural law (*ius naturae*) or the bonds of political societies, which are laws consonant with right reason”. Moreover, Melanchthon was keen to intensify the maxim *vim vi*, so that defence was not merely permitted or licit, but actually obligatory for those with responsibility over others. Therefore, he continued, when a father defended a household or a prince defended his subjects, “he does his duty of love and faith shines in his soul”.¹⁹

The problem of warfare also encouraged one of Melanchthon’s younger colleagues, Martin Chemnitz (1522-1586), to spell out more clearly the relationship between natural and divine law. Chemnitz, often dubbed the “second Martin” of the Lutheran tradition, played a formative role in the development of Lutheranism in the late-sixteenth century, not least

¹⁸ *Luther’s Works*, 46:121.

¹⁹ Philip Melanchthon, *Loci praecipue theologici in Corpus reformatorum*, xxi (Halle and Brunswick, 1834–), quotation from col. 723: “Nam Evangelium non abolet ius naturae et vincula politicae societatis, hoc est, Leges rectae rationi consentaneas” and paterfamilias and dux “facit officium dilectionis, et luceat in animo eius fides”. See James Estes, *James Martin. Peace, Order and the Glory of God : Secular Authority and the Church in the Thought of Luther and Melanchthon, 1518-1559* (Leiden: Brill, 2005) 63. On Melanchthon and natural law see also the recent study by M. Jensen, *A Humanist in Reformation Politics: Philipp Melanchthon on Political Philosophy and Natural Law*. (Leiden: Brill), 2020.

through his role in drawing up the Book of Concord (1580).²⁰ In 1554 he joined the Wittenberg University faculty, and there he lectured on Melanchthon's *Loci Communes*; the *Loci Theologici* compiled from these lectures was published posthumously in 1591. Here Chemnitz began with the thought that everyone agreed it was right by nature to repel force with force, this being at the very least a central principle of Roman law, encoded in the Digest and the Aquilian law. "But", he went on to say, "the question is whether this is allowed by the law of heaven, as it were, and in the forum of conscience", a question raised most sharply by Christ's apparent prohibition of violence and revenge. Indeed, Chemnitz went on, "some people entirely reject the argument from natural law, that force can be repelled by force, as impious and contrary to the gospel, because if we live according to the law of nature, then we are certainly damned."²¹ This dispute mattered greatly to the question of warfare, because it was from the natural law that the laws of war were derived.²² Here, in a nutshell, was the problem for the Protestants: by setting up scripture as the standard for Christian life they were in danger of not only of delegitimising warfare but of undermining the structure of natural law which had, for centuries, helped to make Christianity liveable in this fallen world.

Chemnitz's response indicates the course of Lutheran thinking in the couple of generations that had passed since Luther's initial writings. He denied that Jesus's words about turning the other cheek should be seen as counsels rather than commands, as he claims the Papists do, for this would be to accept that it is not possible to order political society

20 On Chemnitz see J. Preus, *The Second Martin: The Life and Theology of Martin Chemnitz* (St Louis, MO, 1994).

21 M. Chemnitz, *Locorum Theologicorum Pars Secunda* (Frankfurt, 1591) 355: "Sed quaestio est an iure poli, sicut loquuntur, & in foro conscientiae hoc valeat ... Quidam argumentum ex iure naturae, quod vim vi repellere liceat, omnino reiiciunt, tamquam impium & Evangelio contrarium, quia si iuxta Legem naturae viveremus, indubie damnaremur".

22 Ibid 310.

according to the gospel.²³ In common with most of his contemporaries, he explained that Jesus's words were directed to the disciples as private people rather than public officials. But he went on to consider further the relationship between natural and divine law. For him, the principle *vim vi* was based in our natural sentiments and instincts as human beings but that did not mean it was to be rejected and condemned. Instead of contrasting the natural law and human instinct with the law of heaven, we should reform our natural sentiments through the teaching of the word of God.²⁴ The law of nature and the Word of God were – and should be – woven together, for Christ had not altered or repealed the law of nature but had rather atoned for the sins of humans in breaking that law. And so warfare is, he insists, permissible for Christians, because Christianity did not alter the true law of nature, understood correctly, but rather strengthened and reinforced it. Chemnitz did add though that a just war required not only public authority but also jurisdiction on the part of the authority taking up arms; war by an inferior on a superior was “not war but sedition”.²⁵

On the Reformed side, the case for warfare was made a little differently. It was often made as part of an attack on Anabaptists, and – roughly speaking – in the context of Biblical commentaries (rather than discussion of the natural law). We see this in the writing of the Strasbourg theologian Martin Bucer (1491-1551), whose commentary on the four gospels was particularly influential. Here, in a long discussion on Matthew V he insisted that there was no incompatibility between fighting and being Christian, given the wickedness of the world. Christ, he added, “neither wished to nor could condemn those things which God had commanded in order to preserve the commonwealth”.²⁶ Bucer's fellow Reformer Peter Martyr Vermigli (1499-1562) made a more explicit connection between war, the law of

²³ Ibid. 314. See further S. Mortimer, “Counsels of Perfection and Reformation Political Thought”, *Historical Journal* 62 (2019): 311-30.

²⁴ Chemnitz, *Locorum Theologicorum Pars Secunda*, 309 see also 355.

²⁵ Ibid, 324 “si inferior indicat bellum suo superiori Magistratui: non erit bellum, sed seditio”.

nature and the scripture. “But those things which be written of warre,” he argued in his *Loci Communes*, “belong unto the lawe of nature, which ought to be eternall. For it is an everlasting lawe, that good men should be holpen, and evill men repressed.” But Vermigli’s emphasis was not so much on natural law as it was on the scriptural text itself. Furthermore, Vermigli was explicit that making war was not optional or merely allowed, but that “a Magistrate must manie times for duetie sake make warres, least he should seeme to forsake the people.” Thus he argued against those who point to Christ’s words about forgiving enemies and turning the other cheek, explaining that “although we ought not to be hard in forgetting of injuries, yet must only those be forgiven which bee in our owne power. In so much as wee must neither forgive perverse and Idolatrous worshippings, neither yet other mens injuries.”²⁷ Punishing wrongdoing, if necessary through war and violence, was integral to magistracy itself, and justified by natural and divine law.

In Protestant circles, the broad effect of this discussion was to connect warfare to the magistrate’s role in defending piety and justice while repressing evil, a duty described using both the scripture, especially the Old Testament, early Christian history and the law of nature - understood here as identical with the moral law of God. That duty was potentially universal, however; the Protestants wanted to show that godly rulers could intervene outside the borders of their own territory. Melancthon’s favourite example of a godly ruler who put defence of his fellow Christians above respect for political borders was the Emperor Constantine, who had (he argued) waged war on his co-emperor Licinius in order to protect the Christians being persecuted in his lands.²⁸ In this way, the Protestants were offering a

26 Martin Bucer, *In sacra quatuor evangelia enarrationes* (1553) p. 54r “idem noster Deus est, qui Iudaeorum fuit, idem est foedus et testamentum ...”; Christ “nequaquam voluisse aut potuisse damnare quae ad conservandum statum Reipublicae Deus praeceperat”. On Bucer see also D. Wright, *Martin Bucer: Reforming Church and Community* (Cambridge: Cambridge UP, 1994).

27 *The common places of the most famous and renowned divine Doctor Peter Martyr* (London, 1583), 283-5.

28 For discussion of Licinius see Melancthon, *Philosophiae Moralis Epitome* (Wittenberg, 1538), 93-5.

potentially expansive notion of war and punishment, undertaken for the defence of the injuries of other peoples as well as the ruler's own commonwealth. Indeed, much of the resistance theory of the Protestant movement was directed towards encouraging foreign rulers to take up arms on behalf of their beleaguered co-religionists; the fourth question of the *Vindiciae, Contra Tyrannos* (1579) is only the most prominent example of this genre.²⁹ On the other hand, however, the Protestant approach did preclude alliances with infidels or people who were not co-religionists, for to fight with them was necessarily to compromise one's faith in the eyes of God. From the 1620s some Dutch writers begin to suggest that such alliances were permissible, but other Protestant nations were slow to follow their lead.³⁰

It is important to note the scriptural basis of this Protestant argument and the use being made of a particular genre of academic writing. Writing biblical commentaries had invited Protestant scholars to consider how those words could be aligned and combined with other texts of scripture and with what seemed to be necessary for human life here on earth. The *Loci Communes* fulfil a similar function, using topics of importance for the Christian life and developing them using the Biblical text. This style, this focus on scriptural commentary, combined with a recognition of the force of the Anabaptist critique, seems to have encouraged Reformed theologians to insist on the value of Christian ethics and to eschew any sense of detachment between those ethics and natural law. This led to a sharp contrast with the Thomist tradition, for the theology and indeed the structure of Thomist commentaries tended to encourage the separation of natural and Christian ethics so important to the Thomists in justifying warfare. The Protestant agenda of unifying natural law and Christian ethics also helped shape other commentaries, including those which played an important part

29 George. Garnett ed. *Vindiciae contra tyrannos, or, Concerning the legitimate power of a prince over the people, and of the people over a prince* (Cambridge: Cambridge UP, 1994).

30 See Richard Tuck, "Alliances with infidels in the European imperial expansion" in *Empire and Modern Political Thought* ed. Sankar Muthu (Cambridge: Cambridge UP, 2012) 67-71.

in the education of students at university. Thus, when Melanchthon penned his foundational commentary on Aristotle's ethics, for example, he explained at length that the ethical demands of the natural law and of Christianity were the same. He explained that the duties known to us from "philosophy" and sometimes called the natural law were not merely about the preservation of peace and concord, but covered all good and upright actions, like cultivating good will and expressing gratitude.³¹ His purpose was to show that pagan writers, like Aristotle, could provide helpful guidance as to what our duties entail, even if they could not set those duties within the correct theological framework. As this suggests, academic style and genre were important here, encouraging and enabling the Protestants to grapple with the biblical text and show how it could be lived out in a world marked by violence and injustice.

III

From the start of the seventeenth century, however, some Protestants began to reintroduce the idea of a sphere of nature law which was distinct from Christian ethics. This move was necessary, or so they felt, if they were to analyse the justice of war effectively and, in particular, argue for limited alliances and interventions which were not based on confessional principles. The alignment of natural law and true religion of the earlier period had been helpful in justifying alliances and interventions across national boundaries – especially where there were no existing covenants or treaties. But the realities of multi-confessional Europe seemed to demand a new approach to war which justified it less on confessional or religious grounds and more by principles which were distinct from the Word of God and divine commandments.

31 P. Melanchthon *In ethica Aristotelis commentarius* (Wittenberg, 1529), A5r; see also Jensen, *Humanist in Reformation Politics*, 55-61.

The Dutch jurist and historian Hugo Grotius (1583-1645) is the best example of this trend. In the prolegomena to his famous *De Jure Belli ac Pacis* (1625) Grotius explicitly distinguished between the principles of natural law, principles required for human social life, and the ethics of the New Testament, particularly the ethics of Jesus and the gospels. His case for the legitimacy of warfare was made on the basis of natural law, but he acknowledged that there were ethical and theological principles which lay beyond the scope of the natural law and therefore of the civil magistrate. These principles were based in history, in particular in the teaching of Christ in the gospels, rather than in nature.³² In a sense, Grotius was now re-introducing that Thomist Catholic separation between the realms of nature and of grace, but without the Church to control and police the sphere of grace.

As is clear from the notes to *De Jure Belli*, Grotius found the writing of the Catholic scholastics extremely helpful in making his case, even if his use of them was not exactly in line with the authors' original intentions. Indeed, whereas for the Catholics it was the papacy which could arbitrate between nations and legitimise intervention by one in the affairs of another, Grotius appealed to his concept of natural law to show how and why such intervention might be justified. Because natural law as he saw it was connected to the sociability which all shared in virtue of being human, every ruler had a stake in upholding the natural law and every people which violated it deserved to be punished. The natural law could therefore provide a standard by which to judge the necessity and legitimacy of intervention in the affairs of another people, and this standard was conceptually distinct from Christianity in its various confessional guises.³³

32 See Sarah Mortimer, "Law, Justice and Charity in a Divided Christendom, 1500–1625," in *International Law and Religion: Historical and Contemporary Perspectives* eds. Paolo Amorosa, Mónica Rovira-García Salmones and Martti Koskenniemi, (Oxford: Oxford UP, 2017), 35-9; also R. Tuck, *Philosophy and Government 1572-1651* (Cambridge: Cambridge UP, 1993) 194-5.

33 See Hugo Grotius, *Of the Rights of War and Peace* ed. R. Tuck (Indianapolis: Liberty Fund, 2005) 2:1027-51 (II.xx.44-50).

Political authority was not subordinate to religion, in Grotius's account, but Grotius did accept that people's loyalties to their state may be diluted by their religious commitments. Similarly, Grotius believed that religious people could engage in war with a clear conscience, as long as that war was just, although they (like the most virtuous of the ancients) would be willing at times to forgo the pursuit of all their rights, all that they might possibly demand or take from an enemy.³⁴

Grotius was keen to draw a clear line between nature and "supernature", but this also introduced a potential vulnerability into his argument. For there was always the possibility that political allegiance would be weakened and diluted for Christians, that people might simply reject the earthly natural law in the name of true Christianity – as in the case of the Anabaptists. Furthermore, in the early-seventeenth century there does seem to have been an upswing in pacifist, world-renouncing Christianity, one particularly apparent in the Netherlands. Some of the most promising young theologians in Holland were suggesting that Christians must not fight nor serve as magistrates. One, Daniel De Breen (1594-1664), made this point forcefully in a long exchange with the Remonstrant leader Simon Episcopius; for him, "if we are to love our enemies, we cannot make war against them".³⁵

Grotius himself seems to have become increasingly queasy about the legitimacy of warfare for Christians, especially in his works of the 1640s. Although he had suggested at some points in *De Jure Belli* that it might be virtuous not to press one's rights too far, in the 1640s he connected this attitude of renunciation much more explicitly to Christianity and to pacifism.³⁶ Thus in 1641 he argued, "it is fitting that a Prince of a Christian people avoid all

³⁴ Discussed in more detail in Mortimer, "Law, justice and charity".

³⁵ De Breen's words are quoted in Simon Episcopius, *Opera Theologica* (Rotterdam, 1665) 2:281 "si hostes diligendi, neque bello petendi sunt". On De Breen see Andrew C. Fix, *Prophecy and Reason: The Dutch Collegiants in the Early Enlightenment* (Princeton: Princeton UP, 1991), 67-8.

³⁶ See for example Grotius, *Of the Rights of War and Peace* 2: 1112-13; 3: 1581-83 (II.xxii.16; III.xx.46).

warfare, and this can be easily achieved among Christians by mutual concessions, or arbitration ... Anyone who yields up something of his own for the sake of Christ and the Church will not lose any honour by it.”³⁷ Elsewhere (under the heading “works of supererogation”) he showed how this principle of renunciation might apply to those who were not rulers. There are, he explained, “some things which are not demanded specifically but which are nevertheless praiseworthy”, and the examples he gave were “abstaining from all war, to prefer to die rather than to defend oneself, to avoid public duties, as far as the laws allow”.³⁸ Christianity now seemed once more to be hard to reconcile with the duties and obligations of a flourishing, well defended commonwealth, especially given Grotius’s insistence, since at least the 1620s, that what was new and unique about Christianity was the promise of eternal life revealed in the gospel.³⁹ In his writing, the sphere of nature seemed once more to be under threat from the superior claims of supernature, or true Christianity.

As this brief discussion suggests, justifications of warfare entailed serious reflection on the relationship between Christianity and nature or natural law. Understanding that relationship was a crucial part of early modern political and religious thinking, particularly among scholars and theologians, and their explorations of warfare shed important light upon these intellectual developments.⁴⁰ In particular, the sharp criticisms of warfare and violence to be found in the gospels prompted academics and pastors to examine just what the ethics of Christianity might mean for their communities and their rulers, a task that often led to new evaluations of the intellectual and theoretical frameworks available to them. While those

37 Grotius, *Opera Omnia Theologica* (Amsterdam, 1679) 3:622, “Christianorum esse Principum vitare bella omnia, quod inter Christianos fieri facile potest mutua concessione aut veniendos ad arbitros ... Qui autem Christi & Ecclesiae causa aliquod de suo cedet, is nihil vere honoris ex eo perdet.”

38 Ibid 628: under “quaedam quae specialiter non exiguntur & laudabilia tamen sunt” he includes “abstinere se ab omni bello, mori potius quam se tueri, vitare, quantum leges sinunt, munera publica”.

39 See Sarah Mortimer, “De Veritate: Christianity and Human Nature”, *Grotiana*, 35 (2014), 75-94.

40 For the broader debate about natural law and its implications for the history of political thought see Sarah Mortimer, *Reformation, Resistance, and Reason of State (1517-1625)* (Oxford: Oxford UP, 2021).

working in a Thomist tradition could draw on a concept of natural law as an ethical system distinct from Christianity, others rejected that concept and insisted that warfare must be governed by the duties of Christianity. On all sides there was recognition of the tension between the words of Christ and the demands of human political life, especially when it came to defending military activity which might seem to run counter to the spirit of the New Testament. Yet that tension also produced some of the most creative discussions of natural law, political thought and theology, in the universities and beyond.