BRILL

GROTIANA 46 (2025) 208–226

GROTIANA
brill.com/grot

Christianity, Natural Law, and Magistracy: *De Iure Belli* and the Sermon on the Mount

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Received 8 May 2025 | Accepted 31 July 2025 |
Published online 22 September 2025

Abstract

One of the central themes of *De iure belli ac pacis* (*IBP*) is the relationship between natural law and the law of Christ. Grotius's position here was shaped in important ways by his project of Biblical annotation, especially his work on Matthew 5 (the Sermon on the Mount) where Jesus discusses punishment and resistance. Though published only in 1641, Grotius's annotations circulated in the early 1620s as part of a wider debate on the legitimacy of magistracy, and – as Grotius was aware – they were used to defend very different positions. This article indicates the wider contours of that debate among the exiled Remonstrant community and argues that we should see *IBP* as, at least in part, a contribution to it. The legacy of that debate would shape later writing and the article ends with a 'post-Grotian' Remonstrant account of the relationship between natural law and Christianity.

Keywords

natural law – law of Christ – biblical annotations – punishment – magistracy

1 Introduction

In his *Theologia Christiana* of 1686, the Remonstrant Professor Philip van Limborch set out his advice for a truly Christian ruler, although he acknowledged that some preliminary remarks were necessary. Most importantly, he explained,

Published with license by Koninklijke Brill BV | DOI:10.1163/18760759-46010012
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'before we discuss the office of a magistrate we must first address the question so prominent in our homeland, namely whether it is permitted for a Christian to serve as a Magistrate'.[1] Van Limborch was at pains to assure his readers that it was indeed permitted, but his comments – and his anxiety – were shaped by a debate over the compatibility of Christian ethics and political office which had been running in the Netherlands since at least the sixteenth century. That debate had, however, come sharply into focus in the early 1620s and Grotius was one of the key participants, first through his manuscript 'Annotations' on the Gospel of Matthew and then through *De iure belli ac pacis* (*IBP*, 1625). In this article I will argue that by setting Grotius's most famous work in the context of this debate over Christianity and officeholding, we gain new insight into the structure and purpose of his arguments.

In the 'Preliminary Discourse' to *IBP*, Grotius set out the two main challenges which his work would address. One was the claim, associated with the ancient Greek sceptic Carneades, that 'either there is no Justice at all, or if there is any, it is extreme Folly' to follow it against our own advantage.[2] Modern scholars and philosophers have tended to see Grotius's work primarily as a response to this position, and therefore as a groundbreaking attempt to show that there were indeed universal laws of justice anchored in a minimalist conception of human sociability.[3] But Grotius also saw himself as dealing with another, and no less important challenge: the failure of his contemporaries to understand the implications of Christian faith for political life and for the conduct of warfare. Some, he noted, denied that Christianity made any difference, but others took the opposite view and argued that 'a Christian, whose Duty consists principally in loving all men without Exception, ought not at all to bear Arms'.[4] Grotius needed, therefore, not only to show that there were natural laws of justice but also, and perhaps most crucially, show how these might relate to the Gospel and to the laws revealed by God. Although this second challenge has received much less attention, I will show just how important it was to Grotius and his circle in the early 1620s and how far it shaped Grotius's distinctive account of natural law and obligation.

1 P. van Limborch, *Theologia christiana ad praxin pietatis ac promotionem pacis christianae unice directa* (Amsterdam: 1686), p. 619: 'Antequam Magistratus officia explicemus, ante omnia celebris illa in patria nostra questio expendenda est, utrum homini Christiano liceat gerere Magistratum'.

2 H. Grotius, *The Rights of War and Peace*, edited and with an introduction by Richard Tuck, from the edition by Jean Barbeyrac, 3 vols (Indianapolis: Liberty Fund, 2005), Prol. 5, p. 79.

3 A point made especially forcefully by Richard Tuck in *Philosophy and Government 1572–1651* (Cambridge: Cambridge University Press), chapter 5.

4 Grotius, *The Rights of War*, Prol 29, p.106.

2 Christian Magistracy?

IBP was a work conceived and written during a time of warfare which was exacerbated by confessional tensions – conditions that prompted intense reflection on the meaning of the scriptural text. Since the earliest days of Christianity there had been people who claimed that Jesus's teaching, especially his advocacy of non-resistance and eschewal of violence, meant that a Christian must refuse to engage in those structures of earthly power which rested on coercion, and that they should not serve as soldiers or magistrates. For them, Jesus's commands in Matthew 5:39 to 'turn the other cheek' and 'resist not evil' were not simply instructions to disciples in their capacity as private people but must shape all social and political relationships. Although most early modern Christians denied this reading, in the Netherlands there was an influential community of Mennonites who, at the very least, had significant qualms about the legitimacy of warfare and violence. Grotius was certainly well aware of their position, even if his early *De jure praedae* may not have been the anti-Mennonite tract it was once thought to be.[5] It was not only Mennonites who objected to warfare, though. In the 1610s, during the fragile Twelve Years Truce, some Remonstrant (or Arminian) ministers also expressed scepticism about whether a Christian could in good conscience hold civic offices where they would be required to pass capital judgements or engage in military service, arguing that Christ had forbidden his followers from shedding blood. Some even suggested that wielding any kind of coercive power was wrong among Christians: in 1614, Jan Geesteranus of Alkmaar had insisted 'that it was not lawful for Christians to use dominion, or exercise violence upon the bodies and lives of other men'.[6]

Among the Remonstrants these sentiments intensified from 1619, after they witnessed the execution of the Grand Pensionary Jan Oldenbarneveldt and the decisions of the Synod of Dordt which led to their expulsion. Furthermore, it was not only ministers but also laypeople who were beginning to question whether Christians could in good conscience hold offices which required authorising or even committing violence. By 1622, the leading Remonstrant minister in exile, Simon Episcopius, could write that 'the question of whether to serve as a magistrate has been troubling many in our homeland at this time and deserves a proper study' – and in a short tract of that year he sought to

5 See Martine van Ittersum, *Profit and Principle: Hugo Grotius, Natural Rights Theories and the Rise of Dutch Power in the East Indies, 1595–1615* (Leiden: Brill, 2006), chapter 3.

6 G. Brandt, *The History of the Reformation and Other Ecclesiastical Transactions in and about the Low-Countries*, 4 vols. (London: 1720), III, p. 184.

provide one.[7] When this tract was circulated it generated mixed responses and prompted others to pitch in to what became a lively manuscript debate. That debate included Grotius as an important participant from the start, several years before the publication of *IBP*, especially after Episcopius drew explicitly on Grotius's unpublished writing. It is to this debate that we must turn as important context for Grotius's writing and reflection.

Episcopius had been Professor of Theology at Leiden before the Synod of Dordt, and his account of the legitimacy of magistracy drew on the fruits of his earlier studies. In the late 1610s he had given lectures on the Gospel of Mathew, including the Sermon on the Mount (Matthew 5–7) where Jesus rejected violence, urged his followers not to go to court, and called for non-resistance. Episcopius's conclusions were not especially innovative: when Christ told his disciples to turn the other cheek and not to resist evil, Episcopius argued, he was not casting doubt upon the legitimacy of magistracy but rather telling his disciples not to take actions against others for injuries done to them on account of their faith and belief. But the route which the Remonstrant theologian took to arrive at these conclusions was unusual. In direct opposition to his Calvinist colleagues, Episcopius insisted, throughout his career, that Jesus was a lawgiver with authority from God to give laws and commands to human beings. These laws, Episcopius insisted, were fully obliging on all to whom they were revealed and in glossing Matthew 5:22 he explained that when Jesus says 'I tell you (*dico*), this word does not mean the same as "I counsel you"; but I command you, I order you, or I underline that those things which I am about to say are of such importance, that you must observe them if you want to be saved'.[8] It seems that Episcopius was well aware of recent Catholic writing, presumably including Francisco Suárez's *De Legibus* (1612), with its clear distinction between laws and counsels, and was anxious to prevent any suggestion that Christ's laws might be understood as less than fully obliging. At the same time he had no wish to suggest that Christ's laws contradicted preexisting laws, although he was reluctant in the 1610s to confront this issue head on.[9]

In 1622, however, Episcopius found it necessary to explore the question of magistracy in more detail and to consider more explicitly the impact of Christ's

7 S. Episcopius, 'Tractatus Brevis, in quo expenditur questione, an homini Christiano liceat gerere Magsitratum' printed in his *Opera Theologica* (Amsterdam, 1650), part 2, pp. 71–95. Quotation from p. 71: 'Questio de gerenda Magistratu, quae hodie nonnullos exercet in patria nostra, digna est propriore examine'.

8 S. Episcopius, *Opera Theologica* (Amsterdam: 1665), part 1, p. 27: 'Dico itaque hic non potest significare idem quod *consulo*; sed praecipio, jubeo, vel affirmo ea quae dicturus sum talia esse, ut observari necessario debeant, si salvi esse vultis.'

9 See for example his comments on 1 John 3:4 in ibid, p. 295.

teaching and the laws which he had revealed. Although Episcopius's original manuscript tract does not survive, a copy was printed after his death as part of the first volume of his *Opera Theologica* (1650). Here Episcopius began from the claim that the burden of proof lay on those who disapproved of magistracy, and he argued that they had to demonstrate either that it was intrinsically evil and so forbidden to everyone, or that it was forbidden specifically to Christians. He noted that no one was making the first argument and claiming that magistracy was inherently evil, not least because the Old Testament contains many passages in which God establishes rulers and shows approval of law courts. Episcopius therefore engaged much more fully with the second claim, in an effort to persuade his readers that Christ had nowhere expressly forbidden his followers from serving as magistrates. It was, he argued, perfectly possible to combine public service with the Christian faith, though Christians must always act with love and charity whatever their office or responsibilities.[10] Episcopius's method was first to consider natural and universal laws and the kind of hierarchy and rule which was compatible with these laws, before turning to examine the impact of Christ's teachings and the additional or different laws and obligations that they imposed upon Christian people. Christ's commands included very little explicit endorsement of magistracy, so Episcopius stressed that silence was very different from condemnation and that Christ's focus was instead on the ways in which his followers should interact with political and legal structures. As this approach suggests, Episcopius was keen to maintain the position that Christ was an authoritative teacher whose precepts must be obeyed, while making clear that these precepts did not preclude magistracy but instead laid out principles which Christian magistrates, like all disciples, must follow.

By the time that Episcopius was writing this text, Grotius had escaped from prison and was able to join his Dutch friends in Paris. According to the account provided later by van Limborch, Episcopius and Grotius met often, albeit secretly, in Grotius's house in Paris exactly during the period when 'Episcopius wrote, for the sake of some Remonstrants, a tract in which he showed that it was permissible for Christians to serve as Magistrates'.[11] Some of the surviving correspondence between the two men bears out this statement. By June 1622 Grotius had shared with Episcopius the fruits of his study of the views of the Church Fathers which showed that magistracy 'was not condemned by the common judgment of Christians'. He offered to send Episcopius any parts of this

10 This argument is summarised on pp. 71–72.

11 P. van Limborch, *Historia vitae Simonis Episcopii* (Amsterdam, 1701) pp. 280–1: 'Episcopius aliquoties sed clam, in aedibus *Hug. Grotii* concionatus est. Hic in Gallia scripsit Episcopius in gratiam quorundam Remonstrantium librum, quo licitum esse Christiano homini Magistratum gerere demonstrabat.'

work that might prove useful and added that 'if there is any other way I can help in alleviating your labours, do not hesitate to ask'.[12] That summer Episcopius sent Grotius the entire tract, and on 1 September Grotius offered some comments in a letter to his friend on this 'most useful work on Magistracy'.[13]

From Grotius's correspondence it is clear that his reflections on the question of Christian magistracy were shaped by his study of the ancients but, even more, by his work on the Gospel of Matthew. In prison he had begun a project of annotating the New Testament, beginning with Matthew; in October 1620 he reported to Gerhard Vossius that he had reached the end of the Gospel according to Luke, and that he was rereading what he had written before moving on to John. Among those drafts was certainly an extensive commentary on the Sermon on the Mount, for he had already informed Vossius in March of that year that 'in the Annotations I have been writing, I explored chapters V, VI and VII of Matthew rather more fully than the others'.[14] Given that in these chapters Jesus offered his most extensive teaching concerning the use of law courts, punishment, and resistance, it is perhaps not surprising that Grotius found himself commenting at some length on these verses. Grotius's Annotations on Matthew were not published until 1641, and this may explain why they are rarely considered alongside *IBP*.[15] Readers of the 1642 edition of *IBP* found included with it Grotius's commentary on Paul's letter to Philemon; recent work has underlined the connection between this particular work of exegesis and Grotius's view of slavery and temporal power.[16]

12 This letter was first printed in *Praestantium ac eruditorum virorum Epistolae ecclesiasticae et theologicae* (Amsterdam: 1660), quotation from p. 633: 'In questione de gerendo Magistratu non dubito, quin diligenter sis excussurus, quae sacris literis eam ad rem pertinentia continentur. An uti cupias testimoniis veterum Christianorum, quibus appareat rem ipsam nec fuisse communi Christianorum judicio damnatum, nescio. Vidisti quae a me erant congesta. Si quid in illis est quod usui tibi esse possit, libenter describam. Quod si etiam aliud sit quippiam in quo sublevare labopres tuos possim, rogo ne mihi parcas.'

13 Printed in the second edition of *Praestantium ac eruditorum virorum Epistolae ecclesiasticae et theologicae* (Amsterdam: 1684) quotation from p. 683: 'utilissimum tuum de Magistratu libellum.'

14 Printed in BW letter number 598 – 'Cap v. vi et vii. Matthaei in Notis iam inchoatis paulo uberius quam caetera sum persecutus'.

15 On Grotius's project of Annotations see D. van Miert, *The Emancipation of Biblical Philology in the Dutch Republic, 1590–1670* (Oxford: Oxford University Press, 2018), chapter 5: 'Grotius's *Annotationes* on the Bible (1619–1645)'; on the importance of biblical commentaries for discussions of just war theory see S. Mortimer, 'Warfare, Christianity, and the Law of Nature' *Journal of the History of Ideas* 83/4 (2022), 613–27 esp. pp. 622–4.

16 M. Somos et al. *The Unseen History of International Law: A Census Bibliography of Hugo Grotius' De Iure Belli ac Pacis (1625–1650 Editions)* (Oxford: Oxford University Press, 2025), pp. 88–90.

Yet the intertwining of Grotius's projects of legal analysis and scriptural study, and especially the study of Jesus's views on punishment and resistance, had deep roots which remain underappreciated. It began in the years before the publication of *IBP* and, as we shall see, it helped to form Grotius's thinking on some of the central themes in his later work.

Though Grotius's Annotations remained in manuscript in the 1620s, he was willing to share at least some of them, including with Episcopius. The Remonstrant minister was certainly keen to make use of his friend's learning and reputation in his attempt to shore up the cause of Christian magistracy. In his tract, therefore, Episcopius decided to quote from the 'as yet unpublished' works of a man he described as 'the most renowned Grotius, worthy of praise and fame for his learning in all disciplines'.[17] What had caught the minister's eye were Grotius's comments on Matthew 5:40 where he found a qualified defence of the use of courts which he believed would support his own case. He quoted Grotius's claim that the disadvantages of protracted lawsuits were so clear that 'a good and prudent man, if he can, will more willingly go to arbitration [than to the courts] and seek to save himself from so many troubles by any acceptable agreement'.[18] This, Episcopius explained, showed that Jesus had not prohibited his followers from going to court, but had urged them to settle wherever that was possible.

In his comments on Matthew 5:40, Grotius had drawn on his research into the Church Fathers, and Episcopius included Grotius's summary of the opinion of Athenagoras, a second-century Greek Father. According to Grotius, Athenagoras had written of those 'ancient Christians, who were not accustomed to distinguishing so subtly between counsels and precepts as we do now, but in all things followed that which was best' and who had therefore been unwilling to use courts of law.[19] This quote probably appealed to Episcopius because, as we have seen, he had already in the 1610s spent considerable time and effort refuting Catholic claims that some of Jesus's teachings were 'counsels of perfection' and insisting instead that Christ's laws were fully obliging on all to whom they were revealed. To Episcopius, any further evidence that the distinction between counsels and laws was a late invention of a corrupt church must have been welcome. From these quotations, indeed, it seems clear that Episcopius was confident that he and Grotius were engaged in a similar effort

17 Episcopius, *Opera Theologica* (1650), part 2, p. 79: 'Clarissime viri & omnigenea eruditionis fama ac laude dignissimi D Grotii.'

18 Ibid.: 'vir bonus et prudens, si possit, libentius sit iturus ad arbitrum, aut etiam quavis tolerabili pactione tot molestias redemturus.'

19 Ibid.: 'Certe de veteribus Christianis, qui non tam subtiliter quam fieri nunc solet consilia a praeceptis distinguebant, sed in omnibus rebus id sectabantur quod erat optimum, dicit Athenagoras.'

to defend magistracy, even as they also believed that Christians must use the structures of legal and political power wisely and cautiously, in line with the laws given by Christ.

When Grotius returned Episcopius's tract in the autumn of 1622, his response was positive. The effect of the work would be such, Grotius suggested, that now 'many will cease to argue against your points, who in this matter have been deceived either by preconceived opinions or by a certain appearance of piety'. But Grotius was troubled by the inclusion of his own writing and he asked that 'no fragments from my Annotations be inserted into this work'. He was concerned that references to isolated passages would give the wrong impression of his argument – and he was alarmed that such misconceptions were already occurring, adding that 'I fear that I may have aroused the suspicion that I condemn all laws which have introduced capital punishments'.[20] We do not know whether Episcopius then prepared a version without the quotes from his friend, but we do know that his tract circulated with them – and that Grotius's Annotations on Matthew were also being read in Remonstrant circles and beyond. In the autumn of 1623 the minister Samuel Naeranus could report to the Socinian Martin Ruar that 'Grotius's annotations on Matthew deal with the death penalty, with the use of force, whether Christians can repel force with force and if so how far they can go, and with warfare, etc'. Grotius may have been relieved that his position was summarised here as allowing the use of force where necessary to prevent a greater evil, and therefore as a welcome response to the charges of pacifism being levelled at the Remonstrants.[21] But the exchange suggests the depth of interest in questions of war and magistracy – and the importance of Grotius's Biblical exegesis in answering them.

Grotius was certainly right to be concerned about the reception of his commentary, and at least one reader seized on Grotius's words to support the cause of Christian pacifism. This reader was the young scholar Daniel de Breen, once a pupil of Episcopius and now developing his own, somewhat idiosyncratic, views of Christianity.[22] Having read his former teacher's manuscript, de

20 *Praestantium ac eruditorum* (1684), p. 683: 'plane sperem cessuros tuis argumentis complures, quod in hoc argumento aut praejudicata opinion, aut species pietatis decepit. Ne ex Notis meis laciniae huic operi inserantur, deprecor … Accedit, quod vereor, ne suspicionem in me accersam, quasi leges omnes damnem, quae capitalia supplicia introduxerunt.'

21 *Mart. Ruari nec non H. Grotii, M. Mersenni, M. Gittichii et Naerani, aliorumque virorum doctorum ad ipsum Epistolarum selectarum centuria* (Amsterdam: 1677), p. 391: 'D. Grotii notae in Matthaeum agunt de judiciis publicis capitalibus, de vi, an ea vim repellere Christianis & quatenus liceat, de bello &c.'

22 On de Breen see J. Trapman, 'Erasmus seen by a Dutch Collegiant: Daniel de Breen (1594–1664) and his Posthumous "Compendium Theologiae Erasmicae" (1677)', *Nederlandsch Archief Voor Kerkgeschiedenis* 73/2 (1993), 156–77.

Breen penned a lengthy critique and in it he drew on Grotius's words about Athenagoras to drive a wedge between 'natural law' and what he called the 'standard of heavenly law'. For de Breen, Grotius's words demonstrated that the ancient Christians recognised the tension between what was right and what was merely permitted, and they insisted that true disciples opt only for the former. De Breen, it seems, had also read Grotius's commentary, or least these extracts, and had seen exactly the implications of the exiled jurist's argument – especially when read in the context of Episcopius's strident rejection of the concept of counsels. If the ancient Christians had praised those who refused to engage in legal proceedings, then surely their words proved that anyone who wished truly to follow Christ's teaching must do the same.[23] As de Breen's argument implied, if litigation were merely permissible, then it could hardly be acceptable to a person who aspired to obey Christ's new and more perfect law. Grotius's fears about the possible uses of his notes when detached from their wider argument seem here to have been realised.

De Breen's argument was particularly troubling because he claimed that actions which were good and just by nature were not necessarily obliging, or at least not for Christians. For him it was clear that there were natural principles tied to terrestrial goods which could be recognised and followed independently of the Christian revelation. Critically, though, he went on to deny the binding force of these principles, at least for Christians whose aim was to reach heaven. His response to Episcopius raised, in a particularly acute way, the question of what it might mean to be obliged to follow natural law, if it were not the same as the teaching of Christ and not backed with the sanctions of eternal life. Natural law arguments had long been central to Protestant political thought and to Protestant justifications of warfare and magistracy, making de Breen's disavowal of the value of natural law all the more alarming.[24] De Breen was suggesting that natural principles of justice had no binding force for Christians, and that Christ's teaching must be seen as separate from ethical precepts that served earthly purposes.

Episcopius could not allow de Breen's tract to go unanswered, and in 1623 he produced his own set of objections and annotations; both pieces – his and de Breen's – then circulated in manuscript before their publication in 1665. The detailed contours of this debate need not concern us here, but what is

23 De Breen's critique and Episcopius's response are printed in Episcopius, *Opera Theologica* (1665), part 2, pp. 468–507. De Breen's comments on Grotius are at p. 487.

24 On natural law and Protestant political thought see recent works such as S. Mortimer, *Reformation, Resistance and Reason of State 1517–1625* (Oxford: Oxford University Press, 2021) chapters 4, 8; I. Campbell and F. Verhaart, *Protestant Politics beyond Calvin: Reformed Theologians on War in the Sixteenth and Seventeenth Centuries* (London: Routledge, 2022), introduction.

clear is that by the end of 1623 the Remonstrant community was engaged in an intense debate over the legitimacy of magistracy – and by extension, of warfare and capital punishment. Moreover, the central question was rapidly becoming that of the relationship between universal principles or natural laws accessible without revelation, and the teaching of Christ. While de Breen was adamant that natural law was irrelevant to those who sought the reward of eternal life promised to Christ's followers, Episcopius was much more willing to see continuity between the laws of nature and of Christ, even as he accepted that there was a distinction. Both men were keen to stress the distance between their positions, with Episcopius adamant that Christians should hold office and serve their communities in positions of civic authority while de Breen was vehemently opposed. But it is worth bearing in mind just how much theological ground they shared, for both of them believed that Christ had come to give new laws to human beings which obliged all those to whom they were revealed. Both men could find support for their positions in Grotius's writing, for his Annotations on Matthew 5 included comments which distinguished a Christian ethics of perfection from a set of universal principles, even as the status and obligation of Christian teaching was left somewhat unclear.

The stakes in this debate were high, for there were many magistrates and officials who were sympathetic to Remonstrant views on free will, moral responsibility, and limiting the power of the clergy. And some of these were beginning to question the implications of Christian teaching for political life and for existing legal structures. To take just one example, Rombout Hogerbeets, a former Pensionary in Leiden who had been imprisoned with Grotius, read Episcopius's tract while still in jail. In October 1623 he wrote to an unnamed correspondent, reflecting that he had found the tract very helpful but noting that there were a few points where he was unconvinced. He agreed that magistracy was important for the protection of society and particularly of the weak, but he was concerned about the legitimacy of capital punishment, given that Christians should be more clement and gentle with offenders than the Jews or the Gentiles had been.[25] If the Remonstrant movement were to survive the catastrophe of the Synod of Dordt, it was important to reassure lay allies that the Remonstrant faith was not antithetical to public service.

25 The letter was printed in *Praestantium ac eruditorum* (1660) pp. 635–7 under the initials of the correspondents; the 1684 edition gives Hogerbeets' name (p. 696).

3 Natural Law and Christianity in *De Iure Belli*

These debates over the impact of Christ's teaching for magistracy and public service form an important part of the backdrop to *IBP*. In particular, Grotius was careful to anchor political authority, office-holding, and the authority to wage war in the (divinely given) law of nature so as to demonstrate its legitimacy, even as he was also concerned to distinguish the laws of Christ from the natural law. The result was a detailed and sustained account in *IBP* of the laws governing war and peace and their relationship to Christian teaching. As Grotius recognised, any move to distinguish between the revealed or positive laws given to humans by Christ and the laws of nature immediately raised the question of how and why natural law might in fact be obliging, especially for Christians concerned primarily about the fate of their immortal souls. Modern commentators are right to single out Grotius's efforts to offer an account of obligation which is naturalistic and independent of the Christian faith.[26] But this was only part of his project. What was at least as innovative and important at the time was Grotius's effort to show that natural obligation was compatible with as well as different from Christianity, and thus that magistracy and warfare were not necessarily prohibited to Christians. Few contemporaries believed that Grotius fully succeeded, but the approach he took was to prove highly influential.

In Book I of *IBP* Grotius laid out the foundations of his case. Here, he began by establishing that at least some kinds of warfare were legitimate according to natural law, and he then went on to consider how Christ's laws and teaching might affect this natural law situation. For him the laws given by Christ were positive rather than natural, given by an authoritative lawgiver rather than known by reason. His classification of laws in this way allowed him to maintain that in the New Testament new precepts were given to human beings – and he was very explicit that, 'contrary to what most do', he had not used the gospels to establish natural law, 'being fully assured, that in that most holy Law [of the gospel] a greater Sanctity is enjoined us, than the meer Law of Nature in itself requires'.[27] Christian teaching on warfare could then be treated separately from universal natural law, and the question became one of the impact of Christ's teaching upon that broader natural law. Certainly Grotius believed that Christ's words did have an impact of some kind, stating that 'I see no reason to allow, that the Laws of Christ do not oblige us to any Thing

26 Most recently by S. Darwall: *Modern Moral Philosophy: From Grotius to Kant* (Cambridge: Cambridge University Press, 2023).

27 Grotius, *Rights of War and Peace*, p. 126.

but what the Law of Nature already required of itself'.[28] This question was the one we have already seen debated between Episcopius and de Breen, about just how Christ's teaching might have altered humans' natural moral rights and obligations. Grotius then offered at some length his own exegesis of a number of biblical passages (including Matthew 5) in order to defend this view. He claimed that nowhere was there an absolute ban on warfare and litigation, but rather a warning against the use of coercion or violence where an alternative course of action was possible and an exhortation to yield in minor matters for the sake of peace and concord.[29]

Grotius had not forgotten the research he had done into the ideas of the ancient Christians, many of whom who did believe that it was right to abstain from warfare and judicial proceedings. One of these sources was, as we have seen, the Greek Father Athenagoras whom he had used in his 'Annotations' on Matthew. Athenagoras was quoted in *IBP* as saying that 'Christians … do not sue at Law those that rob them', but Grotius's gloss on such ancient teaching was now rather different from what he had suggested in manuscript. In *IBP* he was much more sceptical about the soundness of Athenagoras's teaching, placing him among those early Christians who 'aspired with so much Ardor to the highest degree of Perfection, that they often took the divine Counsels for Precepts of an indispensable Obligation'.[30] Rather than dismiss the distinction between counsels and precepts, in the manner of Episcopius, Grotius now pressed it into service to insist that much of the teaching offered by early Christian writers should be seen as guidance and counsel, going beyond the strict obligations laid on human beings by Christ. Given that Athenagoras and those like him were at best doubtful of the legitimacy of legal proceedings or military service, Grotius decided that the best strategy was to claim that these Fathers were following a particularly holy course of action, one not necessarily obliging upon all Jesus's disciples.

Summarising his argument, Grotius argued that the testimonies used to cast doubt on war either 'seem to give an Advice of extraordinary perfection rather than to establish an express Command' or, perhaps, were merely the opinions of private people.[31] In this way he could maintain the lawfulness of military force even as he still found space within his moral vision for the expression of Christian virtue, even Christian perfection. But he was also setting himself against the theological and ethical ideas of his Remonstrant friends for whom,

28 Ibid., p. 195.
29 Ibid., pp. 209–11.
30 Ibid., p. 225.
31 Ibid., p. 247.

as we have seen, the concept of counsels of perfection was a dangerous Catholic invention. They had argued, and would continue to maintain, that to see Christ's teaching as counsels would lead to pride and pernicious hierarchy within the Christian community, as some people strove for (and believed they could achieve) more perfection than their fellow human beings.[32]

Grotius's acceptance of the concept of counsels certainly introduced a serious tension into his thinking, for he was suggesting that the actions associated with civic life, such as the use of law courts and military service, were in some sense imperfect and suboptimal. This was to introduce a tension between political life or citizenship and Christian perfection which Episcopius at least had sought hard to avoid through his insistence that Christ's laws obliged everyone once they were known and promulgated. Grotius did not want to make this move, for he wanted to show the ongoing importance of natural law alongside the revealed laws of Christ. But he did begin to consider how natural law might be flexible enough to include some of the demands of charity and, indeed, come close to the ethics of Christianity. This allowed him to soften the contrast between natural and revealed law, although it still left unclear the status of natural obligation – puzzling readers ever since.[33]

Fundamentally, Grotius wanted to show that natural law was always obliging but also that its demands should not be seen as the highest form of virtue. Natural law commanded human beings to perform actions which were honest and upright and to refrain from harm, in Grotius's view, but that there were many good and praiseworthy actions which it left optional. As Johan Olsthoorn has shown, Grotius's concept of natural law was quite flexible and at particular times actions which were normally good could become obligatory even by the natural law – a move which again helped him to hold together natural law and Christian charity.[34] One inspiration for this argument may have been Suárez's separation between morality and obligation, which allowed Grotius space for divine positive law which obliged those to whom it was revealed, but which was different from the principles of morality known by natural reason. For Grotius, God's positive laws not only mandated new ceremonies, like the Eucharist, but also commanded moral duties of charity which were previously non-binding. These new duties did not, in Grotius's view, contravene the law of nature but rather supplemented it – a point which

32 A view also shared by Jean Barbeyrac – see G. Conti, 'Jean Barbeyrac, Supererogation, and the Search for a Safe Religion', *Modern Intellectual History* 13 (2016), 1–31.

33 See J. Parkin, *Science, Religion and Politics in Restoration England: Richard Cumberland's* De Legibus Naturae (Woodbridge: The Boydell Press, 1999), esp. pp. 59–60.

34 J. Olsthoorn, 'Grotius on Natural Law and Supererogation', *Journal of the History of Philosophy* 57 (2019), 443–69.

Grotius made in the course of a discussion about what it might mean when Jesus commanded his followers 'rather to receive a Blow than to hurt their Adversary', or in other words, to turn the other cheek. Grotius was not seeking here to deny the possibility of self-defence or resistance, but he did want to claim that Christians were forbidden from killing those who merely sought to injure them. Although by nature homicide in such a situation was not always prohibited, Grotius argued that Christ's laws forbade it. His reasoning was that just as God had the right to prescribe laws in matters indifferent, demanding particular kinds of worship and ceremonies, so God could also 'command us to do that which is naturally honest, tho' not obligatory'.[35] As this remark makes clear, Christians, for Grotius, were held to a higher standard than those who lived only according to the law of nature.

Grotius did not want to suggest that all Christian teaching could be found in natural law, but he did want to argue that the moral and ethical principles it expressed were ones whose value and goodness could be recognised by human beings without the aid of revelation. When discussing the duties of charity, Grotius therefore set Christian teaching alongside classical texts to show their similarities; for example when discussing whether it was legitimate to seize the goods of innocent subjects when waging war against a state he insisted that although this may not contravene strict justice, it was 'far distant from the Rule of Humanity' as well as against Christian charity.[36] Yet in earlier reflections on the taxonomy of law, including in *De Imperio* (MS c.1617), Grotius had described the gospel as part of divine positive law, and the rationale for positive law was not its intrinsic goodness but rather the will of the lawgiver. When writing *De Imperio*, Grotius had used this twofold distinction between natural and positive law to place Christian ceremonies, namely baptism and the Eucharist, within the category of positive law which was obliging simply because it was commanded.[37] But Grotius was clearly reluctant to suggest that Christian *ethical* teaching was arbitrary and its rationale to be found only in the divine will. On the contrary, the suggestion in many places of *IBP* is that all human beings can recognise the value and praiseworthiness of those actions of charity which exceed what is usually required by the law of nature.

To see how Grotius built his argument, it is worth returning once more to his Annotations on Matthew 5. We know that he was studying the Church Fathers' views as he analysed the Biblical text, and it seems that the writing

35 Grotius, *Rights of War and Peace*, II.1.10.1, p. 407.

36 See for example Ibid, III.13.4.1–3, p. 1478–9.

37 H. Grotius, *De Imperio Summarum Potestatum Circa Sacra Critical Edition with Introduction, English Translation and Commentary* edited by H.-J. van Dam, 2 vols. (Leiden: Brill, 2001), I, p. 209.

of Tertullian in particular caught his attention – at any rate, in the printed Annotations he included a long quotation of over four hundred words from this Church Father. Tertullian was famous for arguing, in the late second and early third centuries CE, that military service was incompatible with Christianity, but Grotius saw that Tertullian did not wish to cast Christian ethics as entirely incompatible with the laws and norms of nature and creation. In the printed *Annotationes*, Grotius fastened upon a passage where the ancient theologian had argued that Christ taught 'a new kind of patience' but one that was 'in keeping with the teaching of the Creator' and that Christ's new provisions 'were not in opposition to the law but rather in furtherance of it'.[38] This alignment of Christ's new laws with the natural laws given at creation clearly appealed to Grotius, and it was a passage he also included in *IBP* in yet another of his discussions of the implications of the Sermon on the Mount.[39] As his use of Tertullian suggests, Grotius recognised that early Christians had seen their religion as demanding a new and higher ethical standard, and he did not wish to deny this fact. He did, however, want to make sure that such a reading of Christianity did not lead to an insistence on pacifism or a rejection of the obligations of the law of nature, but rather that the ethics of Christianity could be recognised by all humans as good and praiseworthy.

4 Natural Law and Christian Ethics after *De Iure Belli*

How far Grotius succeeded in presenting a coherent or persuasive argument across these works is beyond the scope of my paper. It is clear, however, that many of Grotius's early readers, including those sympathetic to him, believed that not only were his views on counsels troubling, but also that he had not established correctly the relationship between Christ's teaching and the law of nature. In this final section I want to return to Philip van Limborch, Professor at the Remonstrant seminary from 1666, for his writing and scholarly activity helped to shape the debate about natural law and Christian ethics in the late-seventeenth century in ways that demand further study. It was he who made sure that the writings of Episcopius in defence of magistracy were made available to a European public, and he who masterminded the publication in the 1680s of many of the letters and documents in which the

38 H. Grotius, *Annotationes in libros evangeliorum* (Amsterdam: 1641), pp. 116–7: 'novam plane patientiam docet Christus … Ita si quid Christus intulit, non adversario sed adjutore praecepti, non destruxit disciplinas creatoris.'

39 Grotius, *Rights of War and Peace*, II.20.10.3, p. 978.

legitimacy of magistracy had been discussed back in the 1620s. Van Limborch admired Grotius's religious writing, particularly *De Veritate* (On the Truth of the Christian Religion, 1627), though in his *Theologia Christiana* he was critical of Grotius's efforts in the 1640s to deny that the Papacy was the Anti-Christ.[40] Van Limborch was less explicit about his views on *IBP*, and in his own writing he offered a somewhat different account of how natural law and Christianity might relate. Yet his position tracked much of Grotius's argument, and is best understood as a post-Grotian Remonstrant account of the relationship between natural law and Christianity.

Certainly van Limborch was willing, like Grotius, to see natural morality as distinct from obligation. In his *Theologia Christiana*, he followed Grotius in suggesting that there were morally good actions to which human beings were not naturally obliged; natural law allowed for a range of actions some of which were better than others, but humans were under no necessity to carry out the more noble and praiseworthy actions. Only through the law revealed by Christ did these laudable actions become obligatory. As he explained:

> The law of nature judges it to be correct to repel force by force, or to hate an enemy: however, it does not condemn someone if they suffer such force patiently or love the enemy, rather, it approves of such acts as the manifestation of noble virtue, but does not count them as necessary. Therefore, a clearer determination is required by the revealed law, which prescribes such acts as necessary, and promises to reward them with a glorious reward.[41]

Like Grotius, he was suggesting that the law of nature might in fact be quite a flexible standard, and that the purpose of divine law was both to limit the scope of permissible action and to make obligatory acts which were merely recommended by nature. This approach had the advantage of aligning revealed law with human moral intuitions, so that the acts which were commanded by God's positive law were recognisably moral and praiseworthy to human beings, even if they were not previously required. This approach also informed his discussion of magistracy, which he defended as legitimate on scriptural grounds and because he refused to believe that Jesus would have prohibited

40 Van Limborch, *Theologia Christiana,* pp. 841–5 (book VII ch 12).

41 Ibid., p. 392: 'Sic vim vi repellere, inimicum odisse, lex naturae rectum judicat; non tamen damnat, si quis vim patienter ferat, aut inimicum diligat, quin potius ut generosae virtutis actum approbat, non autem ut necessarium dictat: Requiritur ergo clario determinatio per legem revelatam, quae actum illum ut necessarium praescribit, & Glorioso praemio remunerandum promittit.'

an institution so useful to human beings.[42] Indeed, one theme of the *Theologia Christiana* was the alignment as well as the distinction between natural law and Christ's teachings.

Van Limborch continued to explore these questions through the 1680s, discussing them with friends and correspondents including the English philosopher John Locke. For a fuller discussion of his position on natural law and Christianity we can turn to his own *De Veritate* (1687), a work whose very title reflects van Limborch's appreciation of Grotius's writing; van Limborch was proactive in circulating this work through his network, and Locke received the first copy in thanks for his assistance with its composition.[43] Although the work is cast as an apologetic text designed to persuade the Jewish scholar Isaac Orobio de Castro of the merits of Christianity, it included a rich and sophisticated account of the relationship between different kinds of law. Van Limborch was keen to engage with Orobio because the Jewish scholar had argued that it was crucial to distinguish between divine positive law and natural law, employing this distinction to insist that divine positive law must take precedence over natural law. As Orobio put it, 'surely it is more perfect and more reasonable to do what God commands, rather than that which natural reason tells us is good?' Though the Jewish Orobio saw the law of Moses as the most perfect divine law, his argument is structurally similar to the case which the Christian Daniel de Breen had made, namely that natural law was irrelevant once God had revealed divine positive law. Van Limborch responded that the distinction between the two laws need not undermine the status of natural law for, he asked, 'is not the moral law, which is also recommended by natural reason, a law from God?'[44] Whereas Orobio had claimed that the very arbitrariness of positive law made obedience to it an act of virtue, Van Limborch wanted to shift the emphasis towards the moral and ethical content of any law. But he did not want to return to the standard Protestant position that Christ's teaching merely reaffirmed the natural law, for he was committed to the Remonstrant view of Christ as a lawgiver whose teaching was perfect, authoritative, and unprecedented.

Van Limborch hoped, therefore, to show the necessity of revelation without denying the moral force of the law of nature or the value of human reason.

42 Ibid., p. 622.

43 *The Correspondence of John Locke,* edited by E. S. de Beer, 8 vols. (Oxford: Oxford University Press, 1976–89), III, pp. 258–9.

44 P. van Limborch, *De Veritate Religionis Christianae Amica Collatio cum erudito Judaeo* (Amsterdam: 1687), p. 34: 'Objicit Vir Doct[issimus]: *Nonne perfectius & rationabilius est facere quae Deus praecepit, quam qua nobis ratio naturalis bona esse suadet?* Certe, Sed an non & Lex moralis, quam & ratio naturalis commendat, a Deo est praecepta?'

For him, it was precisely because Christ commanded virtues which were naturally known but not naturally obliging that humans could appreciate the perfection of his laws. But he also wanted to insist, against Grotius and elements of the Catholic tradition, that such stringent laws were not counsels of perfection but instead genuinely obliged all Christians, even as he argued that it was still possible for Christians to recognise a law of nature which was universally binding and which provided useful guidance in the present age. As he explained:

> That I may speak more clearly … the Evangelical Law does not prescribe anything different from the natural law (those two rituals [of Baptism and the Eucharist] excepted, which are a small part of it) but rather takes away some defects, in that there are things which the law of nature does not approve, but does not exactly condemn, and also it [the Evangelical Law] teaches that the greater perfection in virtue is necessary for salvation (which the law of nature does not exactly demand and prescribe, but rather approves, praises, and admires as an act of generous virtue).[45]

Here we see van Limborch's distinctive and clearly post-Grotian characterisation of the law of nature. It is not, for him, a universal and perfect moral law containing all the ethical duties for human beings – a definition which commanded broad assent in Protestant circles until challenged in the seventeenth century, above all in *IBP*. Instead, the law of nature contains both commands and recommendations – recommendations that would only become obligatory when they were included in the laws given to humans through Christ. As van Limborch's comments here suggest, it was the promise of eternal life or salvation for those who obeyed Christ's teaching which added this obliging force, providing sanctions that gave people a strong incentive to comply. In many ways his argument shows clear continuity with Grotius's, but van Limborch was using Grotian resources specifically to defend Christian teaching and to show the limitations as much as the value of the law of nature.

Grotius's *IBP* is often seen in isolation or, following the potted history given by Samuel Pufendorf, as part of a thin chain of texts which deal with natural

45 Ibid., p. 325: 'Ut clarius dicam, Lex Evangelica nihil praecipit (duos tantum ritus, qui minima ipsius pars sunt, excipio) a lege naturae diversum, sed defectus quosdam, quod naturae lex non quidem approbat, sed nec praecise damnat, tollit, ac majorem quandam in virtute perfectionem (quam lex naturae non praecise quidem exigit & praescribit, sed tamen approbat, laudat, ac tanquam generosae virtutis actus veneratur) ut salus obtineatur necessarium docet.'

law in a 'modern' or more secular way.[46] Yet if we consider more carefully the context and conversations in which Grotius was writing, we can see how he was responding to a particular set of challenges, particularly the question of how to understand the teaching of Christ as distinct from natural law. For Grotius and his Remonstrant friends, separating the two was essential if Christianity were to be understood as a religion which demanded ethical actions, and which ought to make a difference to the way people lived in the world. This separation also enabled natural law to be seen as a universal standard, obliging all human beings independently of revelation. Yet, as we have seen, such claims generated serious friction, encouraging further reflection on the relationship between the laws, the status of natural obligation, and the possibility of counsels of perfection. And these were not simply intellectual or theological questions, they shaped the early modern understanding of the legitimacy of magistracy and the possibility of combining Christian faith with the exigencies of political and civic life. Indeed, Grotius's writing, not only *IBP*, but also his theological works and especially the Annotations on Matthew, raised as many questions as it answered – tracing this debate through the seventeenth century and beyond is a task which still awaits.

Acknowledgments

I would like to thank the Leverhulme Trust for supporting this research as part of the grant 'Ethics and Equality: the Remonstrant vision of community in Church and State'.

46 Samuel Pufendorf, *Specimen controversiarum circa jus naturale ipsi nuper motarum* (Uppsala: 1678), p. 1; R. Tuck, 'The "Modern" Theory of Natural Law', in *The Languages of Political Theory in Early-Modern Europe*, ed. by A. Pagden (Cambridge: Cambridge University Press, 1987), pp. 99–120.