

## Chapter 3

### Hugo Grotius, Life and Work, His Books in the Peace Palace Library

On the occasion of the opening of the Peace Palace in 1913 the The Hague based publisher Martinus Nijhoff issued a catalogue of works on international law, written by Dutch authors or published by Dutch nationals from 1596 to 1913. Subsequently, in 1914, Martinus Nijhoff presented 55 editions and translations of Hugo Grotius' *De Iure Belli ac Pacis* to the Peace Palace Library. Ever since



Hugo Grotius (1583-1645)



Hugo Grotius' *De Iure Belli ac Pacis* in translation

this gift was made, Grotius has been the cornerstone of the International Law Collection of the Peace Palace Library.

Hugo Grotius, born in 1583, received the epithet "Le miracle de Hollande" from the French King Henri IV during a Dutch diplomatic mission to France, headed by Johan van Oldebarnevelt. While briefly staying in Orléans, Grotius took his doctorate there on 5 May 1598. Van Oldebarnevelt and Grotius were, notwithstanding their difference in age, friends and fellows in politics, in religious matters and in distress.



Grotius aged 15

In 1599 Grotius became a member of the bar at the “Hooge Raad van Holland en Zeeland” and at the “Hof van Zeeland”. He received an official assignment to write the history of the Dutch Revolt against Spain; the Roman history *Annales* by Tacitus served as a model for his *Annales et Historiae de Rebus Belgicis*, which was

published posthumously in 1657.

During the years 1607-1613 Grotius was “Advocaat-Fiscaal” in the “Staten van Holland, Zeeland en West-Friesland”. The office made him responsible for persecution in criminal cases and he was charged with attending interrogations during torture.

In 1608 Grotius anonymously published *Mare Liberum*. The book was written at the request of the Zeeland Chamber of the Dutch East-India Company. The chamber was in need of a legal justification that the Dutch were free to cross the high seas in the Indonesian Archipelago and trade with oriental kings, princes and merchants. *Mare Liberum* was in fact nothing more than a slightly amended version of Chapter XII of Grotius’ *De Iure Praedae* (1605, or 1606; manuscript not discovered until 1864), an advice for the Dutch government on international prize law, in particular on the legitimate seizure of the Portuguese carrack *Catharina* on 25 February 1603 by the Dutch East-India Company Admiral

Jacob van Heemskerck. The document was known by Grotius’ friend Jan Boreel, son of one of the Governors in the Zeeland Chamber, and he turned the Governors’ attention into the direction of Grotius. *Mare Liberum* primarily differs from *De Iure Praedae* in its appeal to the “Vorsten en Vrije Volken der Christenheid” (Kings and Free Peoples of Christendom). In 1608 Hugo Grotius also participated in an international conference in The Hague on a truce and peace with Spain.

*Mare Liberum*, written to weaken the Portuguese claims in Asia, opposed in actual fact Spain’s conduct in international politics – for Portugal was governed by Spain – but eventually impeded England’s overseas expansion. In 1613 in London and in 1615 in The Hague Anglo-Dutch conferences took place on free trade access on Asian markets. The English considered any hampering an infringement on the freedom of the seas and requested similar rights as the Dutch had asked for from Spain and as were defended in *Mare Liberum*. The Dutch delegation, in which Grotius participated, argued that things were different, because the Dutch offered military protection to the Asian



Grotius’ Mare Liberum



*Grotius on the quayside at either Amsterdam or Veere, among Dutch rulers, scientists and authors; by Christiaan de Moor (1899-1981)*

sovereigns and their efforts were rewarded through a trade monopoly.

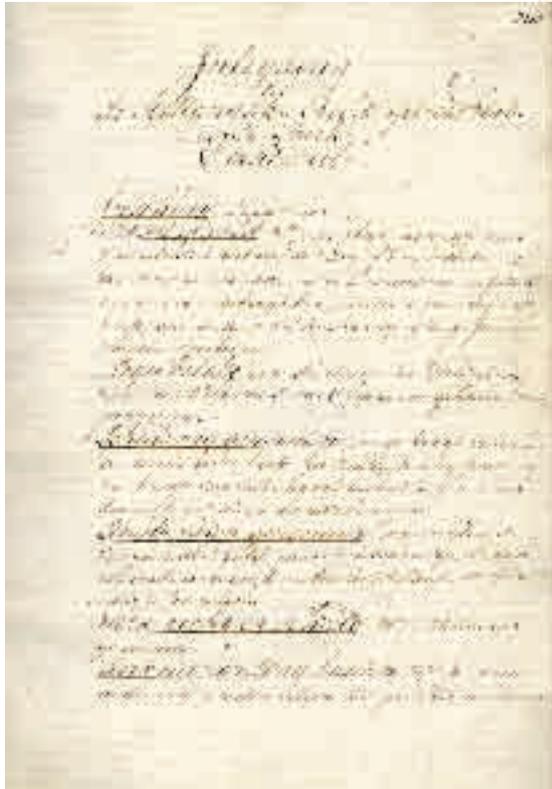
During the years of religious turmoil between Remonstrants (or Arminians) and Contra-Remonstrants (or Gomarists), Grotius was *Raadspensionaris* (chief legal counsel) in Rotterdam (1613-1618). The disputes covered such theological issues as predestination and political controversies over the growth of the central government under Prince Maurits which was detrimental to the power of the States of Holland.

Although Hugo Grotius is primarily associated with the law of war and peace and with law of the sea, his draft of regulations for the Jews of 1615 addresses religious freedom and tolerance. Grotius could be considered to have been an advocate of the rights of minorities in the humanist perspective.

On 29 August 1618 the political and religious dissidents Hugo Grotius, Van Oldebarnevelt and Hogerbeets were arrested. Van Oldebarnevelt was convicted to death on 13 May 1619 for high treason and for taking a bribe from Spain for the purpose of

obliterating the foundation of the Dutch West-India Company. For lese-majesty Hugo Grotius was sentenced to life imprisonment and his property was confiscated. Grotius refused to ask forgiveness, for he denied all guilt.

The medieval castle Loevestein was Hugo Grotius' jail. Despite the intellectually miserable surroundings Grotius wrote the *Inleiding in de Hollandse Rechtsgeleerdheid* (Introduction to the Jurisprudence of Holland), mainly as a primer for

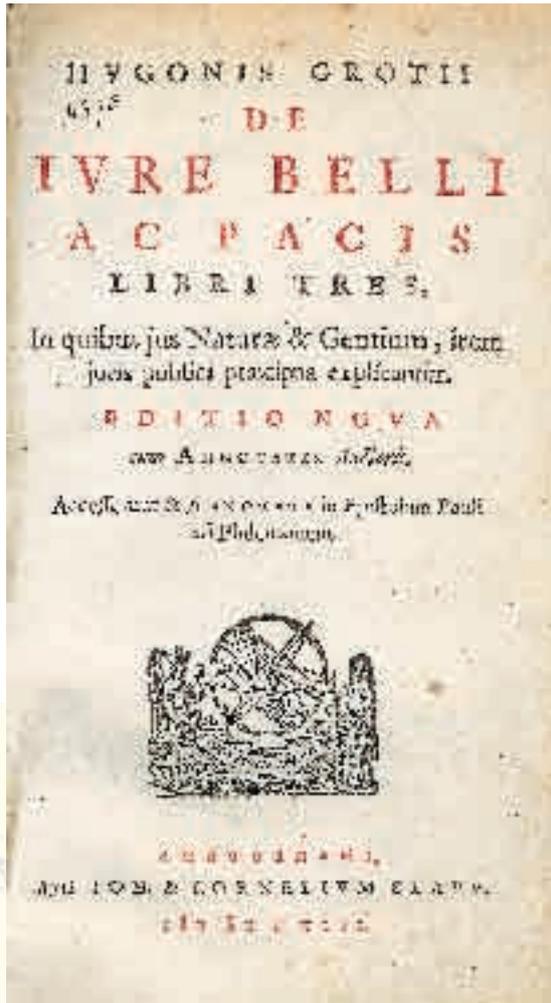


Inleiding in de Hollandse Rechtsgeleerdheid

his sons and even the manuscript quickly became an advocates' handbook, although the first edition was published not earlier than in 1631. On 22 March 1621 Hugo Grotius escaped from Loevestein in a book case. His wife Maria van Reigersbergen, their maid Elsje van Houweningen and her future fiancé Willem van de Velde courageously assisted in crossing the river, passing through the nearby village of Gorkum and reaching Antwerp, and, subsequently, France. Grotius wanted to travel safely to France before the Truce between Spain and the Netherlands expired on 9 April 1621. France and the French Court offered Grotius hospitality, intellectual associates and friends. Detracting circumstances were Grotius' relative poverty and the pressure exerted upon Grotius to convert to Catholicism.

Being in exile many foreign governments, for instance Denmark, hoped to secure his interest, but Grotius' perennial ardent desire was to return to the Netherlands. He even corresponded about his ambition from his temporary Antwerp residence to Prince Maurits, Prince Frederik Hendrik and to the States General. In vain, Grotius tried to return to his native country.

Between 1623 and 1625, in the rural setting of Balagny sur Thérain, Grotius wrote his *De Iure Belli ac Pacis Libri Tres in Quibus Ius Naturae et Gentium, Item Iuris Publici Praecipua Explicuantur. De Iure Belli ac Pacis* is dedicated to King Louis XIII. This book on international law in the *magna humani generis societas* designates *bellum iustum* (just war) as an instrument for the enforcement of international law (in *Liber II*; *Liber I* is on war in general, *Liber III* is on the laws of war). In other words, whenever a war does not aim at the enforcement of international law, it is illegitimate and considered to be a



Iure Belli ac Pacis Libri Tres

violation of international law. However, a maxim from the same book, *nulla est controversia unde non bellum oriri possit* (there is no controversy out of

which no war can originate), could equally justify all wars.

Despite his being outlawed Grotius briefly passed through the Netherlands in 1631 and 1632, but the authorities refused to grant him amnesty. Subsequently, Grotius left for Hamburg and resumed his international role in the capacity of Ambassador of Sweden at the French Court, in the pure belief that he could contribute to a more peaceful world. Grotius did not aspire to become a professor, he wished, rather, to perform in the practice of international relations. He therefore fully acted as a Swedish



Mare Clausum by John Selden (1635)



diplomat, dissociating from the Netherlands' interests and justifying the Swedish involvement in the Thirty Years' War. He also refrained from a polemic with John Selden, the English author of *Mare Clausum*, an attack on the views exposed by Grotius in

*Mare Liberum*, since Grotius was not sure about the conflict in or correspondence with his own and the official Swedish approaches. Friends in the Netherlands regretted his silence.

On 26 August 1645, Grotius suffered shipwreck at Rostock, Germany. He was rescued, but died from exhaustion two days later. His guiding principles were *hora ruit* and *in necessariis unitas, in non-necessariis libertas, in omnibus caritas*. Hugo Grotius was a realistic and loyal person, who harboured no rancour. His final written words, echoing despair, read, "by undertaking many things I have accomplished little".



Engraving in a recently purchased edition of *De Iure Belli ac Pacis*