

# The War in Ukraine and the Return of the Principles of Hugo Grotius



# The War in Ukraine and the Return of the Principles of Hugo Grotius

By

Insur Farkhutdinov

Cambridge  
Scholars  
Publishing



The War in Ukraine and the Return of the Principles of Hugo Grotius

By Insur Farkhutdinov

This book first published 2024

Cambridge Scholars Publishing

Lady Stephenson Library, Newcastle upon Tyne, NE6 2PA, UK

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

Copyright © 2024 by Insur Farkhutdinov

All rights for this book reserved. No part of this book may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the copyright owner.

ISBN (10): 1-5275-6540-8

ISBN (13): 978-1-5275-6540-1

Dedicated to **Alexei Navalny**, Vladimir Kara-Murza,  
Lilia Chanyшева and all other Russian opposition politicians  
languishing in Putin's dungeons.



# TABLE OF CONTENTS

Introduction .....	xv
Chapter 1 .....	1
From Hugo Grotius to Igor Lukashuk: From the Law of War to the Law of Peace	
1.1. Hugo Grotius and his time	
1.2. Escape from a Dutch prison in a chest	
1.3. Grotius' "On the Law of War and Peace": the decisive contribution in the emergence of international law	
1.4. The teachings of Hugo Grotius on the state and law	
1.5. Igor Lukashuk – a prominent representative of Russian international lawyers who advocate peace	
1.6. Igor Lukashuk – the pride of the science of international law in Russia and Ukraine	
1.7. Igor Lukashuk: International law is the law of peace and not the law to war	
1.8. The influence of Hugo Grotius on the development of Russian International law	
Chapter 2 .....	53
The Role of Hugo Grotius in the Formation of the Legal Doctrine of a Just War	
2.1. The beginnings of the doctrine of just war in the ancient world and the Middle Ages	
2.2. Blessed Augustine and Thomas Aquinas on war and peace	
2.3. The theory of just war in Modern times: Treatises on eternal peace	
2.4. Hugo Grotius on just and unjust Wars	
2.5. Humanistic Criticism of War in the Age of Enlightenment	
2.6. The concept of "just war" in modern international law	

Chapter 3 .....	94
From the Law of Armed Conflict to International Humanitarian Law	
3.1. Hugo Grotius the founder of International humanitarian law	
3.2. Formation of the law of armed conflicts in the system of international law	
3.3. The role of the First Hague Conference of 1899 and the Second Hague Conference of 1907 in the formation of the law of armed conflict	
3.4. From Hague Law to Geneva Law – completion of the formation of international humanitarian law	
3.5. Basic provisions of modern international humanitarian law	
Chapter 4 .....	117
The Annexation of Crimea as a Prelude to a Long Bloody War	
4.1. Invasion of the Crimean Peninsula by Russian troops in 2014. Continuation of the Crimean War in Eastern Ukraine	
4.2. Legality of the referendum in Crimea	
4.3. Legality of the Declaration of Independence of Crimea	
4.4. International legal doctrine of self-determination and secession	
4.5. A.V. Zadorozhny: “Russian doctrine of international law after the annexation of Crimea”	
4.6. “Russian world” is waging murderous war against fraternal Ukraine	
Chapter 5 .....	138
Which of its International Legal Obligations to Respect the Territorial Integrity of Ukraine has the Russian Federation Violated?	
5.1. Russia’s violation of its contractual obligations under the UN Charter	
5.2. Violation by Russia of its international obligations under the Helsinki Final Act of 1975, the Charter for a New Europe of 1990, the Budapest Memorandum of 1994.	
5.3. Violation by Russia of its obligations under bilateral agreements with Ukraine	



5.4. February 24 2022 – an unprecedented act of aggression  
in the modern era

5.5. Putin: Pacta Non Sunt Servanda

Chapter 6 ..... 152

- 6.1. Theoretical basis of the Law of International Responsibility  
elaborated by Igor Lukashuk
- 6.2. The role of the basic principles of international law in  
ensuring peace and security
- 6.3. The principle of peaceful settlement of disputes
- 6.4. The principle of sovereign equality of States
- 6.5. The principle of non-interference in the internal affairs of States
- 6.6. The principle of territorial integrity and the principle of  
inviolability of borders
- 6.7. The principle of conscientious fulfillment of obligations  
under international law
- 6.8. The principle of equal rights and self-determination of peoples

Chapter 7 ..... 174

Russia's Aggression against Ukraine as the Gravest International  
Crime of the State

- 7.1. Aggression is the gravest international crime of the state
- 7.2. Definition of the crime of aggression in the Rome Statute  
of the International Criminal Court
- 7.3. International law on reparations, restitution for damage  
after the liberation of the occupied territories
- 7.4. Putin's arguments in favor of the invasion of Ukraine

Chapter 8 ..... 189

War Crimes in the Field of International Criminal Law

- 8.1. International criminal law
- 8.2. Specifics of criminal responsibility for war crimes: the relationship  
between international law and domestic law
- 8.3. The concept of international criminal responsibility of the State
- 8.4. Types of crimes in international law

8.5. On the inapplicability of the statute of limitations to persons who have committed crimes against humanity and war crimes	
8.6. Territorial principle of operation international criminal law	
Chapter 9 .....	208
International Legal Responsibility of Individuals for War Crimes	
9.1. The doctrine of international law on the criminal prosecution of individuals	
9.2. Is international criminal personality of the people possible?	
9.3. Who are “war criminals”?	
9.4. Responsibility for the execution of a criminal order	
9.5. Extradition of war criminals	
9.6. The principle of inevitability of punishment for war crimes	
Chapter 10 .....	231
International Law and Russian Legislation Prohibit Propaganda of War and Hatred	
10.1. Propaganda and public calls for the unleashing of an aggressive war	
10.2. International legal responsibility for propaganda of war and hatred	
10.3. Russian legislation banning propaganda inciting hatred and enmity	
10.4. Responsibility of propagandists for international crimes	
10.5. Will Russian propagandists be held accountable for the genocide?	
Chapter 11 .....	259
Reasons why Russia’s Attack on Ukraine is Not Preventive in Nature	
11.1. Did Russia have the right to launch a preemptive strike on Ukraine?	
11.2. Self-defense of the State in international law	
11.3. Modern theory and practice of international law on preventive self-defense	
Chapter 12 .....	277
Legal Status of Participants in Armed Conflicts	
12.1. General scope of application of the Geneva Law on the situation of participants in hostilities	
12.2. Legal consequences of the outbreak of war	
12.3. Combatants and non-combatants	

- 12.4. Civilians and the civilian population
- 12.5. Certain categories of participants in armed conflicts
- 12.6. Regime of military captivity
- 12.7. Legal regime of military occupation
- 12.8. International legal regulation of the end of hostilities  
and the state of war

Chapter 13 ..... 298

International Theory and Judicial Practice of Punishing War Criminals.

How to Apply the Nuremberg Model for Russian War Crimes in Hague

- 13.1. Historical and legal aspects of international criminal justice
- 13.2. The International Court of Justice as a means of maintaining  
international peace: the concept of L.A. Kamarovsky
- 13.3. The origin of the international legal concept of “war crime”
- 13.4. Why did the international trial of Kaiser Wilhelm II not take  
place after the First World War?
- 13.5. The Nuremberg Tribunal is the first successful experience  
of punishing war criminals under international law
- 13.6. From Nuremberg to The Hague – who will answer before  
the International Criminal Court for war crimes in Ukraine?
- 13.7. The Hague is the centre for prosecuting crimes of aggression

Chapter 14 ..... 325

Criminal Liability for War International Crimes under Russian Law

- 14.1. Correlation of norms of national and international law
- 14.2. Criminal liability under Article 356 of the Criminal Code  
of Russia
- 14.3. Criminal liability for genocide – Article 357 of the  
Criminal Code of Russia
- 14.4. Criminal liability for mercenary activity under Russian law

Chapter 15 ..... 335

The Role of the International Criminal Court in Bringing

to Legal Responsibility for Military Aggression

- 15.1. On the history of the creation of the International Criminal Court
- 15.2. Rome Statute of the ICC

15.3. Interaction between the ICC and the UN	
15.4. ICC War Crimes Statute	
15.5. Features of the criminal proceedings of the ICC	
15.6. What is the position of the United States regarding the activities of the ICC?	
15.7. The practice of the International Criminal Court	
15.8. The concept of complementary jurisdiction of the International Criminal Court and other jurisdictional bases	
Chapter 16 .....	361
Establishment, Formation and Activity of International Criminal Courts in Modern Conditions	
16.1. Ad hoc International Tribunals for the Former Yugoslavia and for Rwanda	
16.2. Mixed (hybrid, internationalized) courts to prosecute war criminals	
16.2.1. Special Court for Sierra Leone	
16.2.2. Special Tribunal for Lebanon	
16.2.3. Extraordinary Chambers in the Courts of Cambodia	
16.2.4. Extraordinary African Chambers	
16.2.5. Kosovo Specialized Chambers	
Chapter 17 .....	379
Russian Aggression against Ukraine: Alternative Judicial Ways of Bringing to Justice for War Crimes	
17.1. Mixed type of criminal jurisdiction: hybrid tribunals and internationalized courts	
17.2. Hybrid tribunal within the framework of the Ukrainian judicial system: what are the prospects?	
17.3. A special tribunal for the Russian crime of aggression in Ukraine	
17.4. The tribunal should be created through an agreement between Ukraine and the United Nations, on the recommendation of the General Assembly	
17.5. Why do we need a Special Tribunal against Russian war criminals if there is a UN ICC?	

Chapter 18 .....	404
From Genocidal Mindset to Putin’s Practice of Genocide in Ukraine	
18.1. Putin’s denial of the existence of Ukraine as a state is the ideological basis of the genocide policy	
18.2. Genocide as a special international crime	
18.3. Ethnocide as a special international crime	
18.4. Ecocide as a special international crime	
Chapter 19 .....	417
International Investigationsof War Crimes in Ukraine	
19.1. Independent International Commission of Inquiry in Ukraine	
19.2. Moscow Mechanism experts report to OSCE Permanent Council on Ukraine	
19.3. Center for prosecuting Crimes of Aggression in Ukraine in The Hague	
19.4. International Criminal Court investigation in Ukraine: Nurenberg trial for the 21 <sup>st</sup> century	
19.5. The Purpose of Putin’s genocide is the destruction of the Ukrainian state	
Chapter 20 .....	444
Total Lies as the Fundamental Principle of Justifying Putin’s War against Ukraine	
20.1. Total lies as the Kremlin’s “national idea”: The empire of lies for the “eternal president”	
20.2. The “salvation” of Russia requires a terrible image of an external enemy	
20.3. The image of Ukraine as an enemy of Russia in the minds of citizens	
20.4. Propaganda of war “a la J. Goebbels”	
20.5. Military propaganda – what it is and how it works	
20.6. What is the power of the myth of war and why did they write it into Putin’s Constitution in 2020?	
20.7. Militarism as a way of control. The militarization of the consciousness of Russians allows Putin to stay in power. For how long?	
20.8. Putin’s policy – from international law to the primitive age	

Conclusion..... 478

Bibliography..... 487

# INTRODUCTION

The war came suddenly in the early morning. No, it was not 4 a.m. on June 22, 1941, when bombs from the Messerschmitts began to fall on peacefully sleeping Kiev and other Ukrainian cities. On February 24, 2022, Ukraine was attacked not by Hitler's Germany, but by Putin's Russia. An unprecedented full-scale invasion of the Russian army into a neighboring sovereign state caused shock among civilized people; it seemed to pass like a bloody whirlwind around the world. Since the end of World War II, for the first time in the center of Europe, a fire of war has flared up that could develop into a new global war.

But in Russian propaganda even today this long war is bashfully called a "special military operation".

This book is the result of many months of reflection and active work of the author on the problems of peace and war. The first article in the series "The Law of Peace and War" was published five years ago. A couple of years later, the articles in this series formed the basis of a new manuscript, which was never published in Russian and can not be, because "peace", "peace to the world" are the words that ended up on Putin's list of banned words even in academia.<sup>1</sup>

Law is not just a means by which the abomination of war is moderated, it is the main mechanism, rooted in the depths of history, undoubtedly worthy of all respect for the regulation of military operations. The principles and rules of the "law of armed conflict", first developed by the great thinker Hugo Grotius in his treatise "Three books on the law of war and peace" (1625), have been transformed into modern humanitarian law.

---

<sup>1</sup> Farkhutdinov I.Z. From the law of war to the international law. A book in two volumes. 700 p. Manuscript. 2022.

Putin's aggressive policy, which sows fear throughout the planet, should be called a departure from international law to the primitive age.

This book is written with the unprepared reader in mind and may be of interest to a wide readership. It deals with general humanistic issues that go beyond the international legal assessment of the war in Ukraine. We hope that this book will be useful to a wide range of readers who are interested in the problems of international law, international politics, war and peace.

Any military action kills and maims many people. Neither Ukraine nor Russia reveals the exact number of dead and injured. This is especially true of the military. The death toll – untold thousands – is increasing daily. Many hundreds of fallen, but not interred, rot in the battlefields.

Millions of displaced people do not see the possibility of returning home to Ukraine. In every corner of their homeland, civilians have been exhausted by the wave of the incessant Russian attacks.

But the Russians did not manage to sit out in peace and quiet. The war has also come to the territory of their country. It is almost daily subjected to attacks from the air.

The ruthless front leaves bloody footprints all over the country. In Russian small towns and villages, soldiers who fell in a senseless war are buried every day. Officials are trying to convince the mourners that their sons, brothers and husbands are patriots, real heroes. But their false pathos no longer works.

False Kremlin propaganda, day and night, asserts that soldiers, like real patriots, die bravely for their fatherland. Putinism shamelessly flutters the banner of patriotism over Russia. When everyone else leaves the cemetery, mothers and young wives stand for a long time at the freshly buried grave. They hold each other tightly in fear. They cry. And the fallen warrior seems to be looking at them from a sea of artificial flowers and wreaths. His portrait is engraved on a smoothly polished black stone; forever young, serious, in uniform. Relatives can hardly believe in this early death.



The long-suffering people are paying huge blood for the war in Ukraine. The bloody battles in the aggressive war waged by Vladimir Putin are inflicting huge losses on the Russian side. The economy of the state is slowly but surely approaching the abyss.

So what is the motivation of the warring Russians and why do they go into battle again and again? It is clear that Ukrainians are fighting for their native land, defending their homeland, seeking to liberate their land from Putin's hated occupiers.

Leo Tolstoy, in his essay "Patriotism and Government" in 1900, wrote: "Patriotism is slavery." The great Russian writer calls patriotism the instrument of the government to keep the people in slavery.

Tolstoy hits the point, stating: "Patriotism in its simplest, clearest and undoubted meaning is nothing else for the rulers, as a tool for achieving power-hungry and selfish goals."

It is clear that the majority of fallen Russian soldiers are from the poorest regions of Russia. It becomes obvious that most Russians go to war out of fear or money, most likely both. The poverty of the majority of Russians is well known. The poorer people are, the more submissive they are – this is a well-known truth. The ignorance and poverty of the people are very convenient for Putin's government to drive hundreds of thousands to the slaughter, to certain death. As Tolstoy believed, people that are controlled, people that are renounced from human dignity, reason, conscience and slavery. People voluntarily submitted themselves to those in power.

Modern thinker Robert Sapolsky echoes the great Russian writer: "The Russian authorities are lying to you. Don't you see, they lied to you that not laws rule in this state, but in fact everything is controlled by billionaire oligarchs? They have always lied to you. That's why you live badly. None of these people in Ukraine have ever done anything wrong to you. They, the authorities, are responsible for everything."

Punishment is inevitable.



# CHAPTER 1

## FROM HUGO GROTIUS TO IGOR LUKASHUK: FROM THE OF LAW WAR TO THE OF LAW OF PEACE

War is not an adventure. It is a disease. It is like typhus.  
Antoine de Saint-Exupery.

### 1.1. Hugo Grotius and his time

The seventeenth-century jurist and statesman Hugo Grotius had a profound influence on the development of International Law, so much so that he is often called “the father of international law”. This chapter reminds why he bears this name and highlights the role played by his great work “The Law of War and Peace” in transforming the international legal system and explains why it is appropriate to characterize fundamental changes to the international system and the rapid formation of customary international law that result therefrom in modern times as “Grotian Moments.”<sup>1</sup>

Grotius was the founder of the rationalist concept of natural law. In his person, two epochs were united – the Middle Ages and Modern Times. Brought up in the spirit of humanism, Christianity and free-thinking, he sought to resolve various conflicts using legal categories based on moral principles. Therefore, his legal concept covers a wide range of legal issues that have not been previously investigated in the legal literature at all.

---

<sup>1</sup> Michael P. Scharf. Hugo Grotius and the Concept of Grotian Moments in International Law//Case Western Reserve Journal of International Law Vol. 54 (2022).

The time of his life and activity coincided with the era of the beginning of the decomposition of feudalism and the final disintegration of the political and religious unity of medieval Western Europe. This unity, however, has never been complete.<sup>2</sup> It was the era of early modern times, which is usually placed the end of the 15<sup>th</sup>-mid 17<sup>th</sup> centuries. At this time, along with the formation of regional markets and national states, with the collapse of the Holy Roman Empire, the religious unity of Western Europe was also destroyed as a result of the Reformation. As a result, the work of Grotius coincided with the era of the Thirty Years' War (1618-1648).

The great geographical discoveries that began with the discovery of America by Columbus in 1492 marked a historical watershed between the Middle Ages and Modern Times. These global discoveries have brought new vectors in the process of forming the world order. Firstly, the arena has really expanded to a global one. Secondly, the formation of a special type of colonialism as a source of industrial accumulation of the metropolis began, which characterized world politics for the next four and a half centuries. The political landscape of the emerging international system has undergone multiple changes, mergers and disintegrations. By this time, some ideas and principles of the international law had already been formed, as well as trends and patterns that later played an important role in shaping the world political order.<sup>3</sup>

After some time, the capitalist way of life was increasingly developing in Western Europe. The growing bourgeoisie there did not put up with the feudal system, it demanded ensuring the freedom and security of the individual and private property, creating the necessary political and legal guarantees for this. In the 17<sup>th</sup> century the first successful bourgeois revolutions took place in Holland and England. The peculiarity of these revolutions is that they took place in countries where there are many Calvinists. Legal worldview, which was the “classical worldview of the bourgeoisie”, gradually replaced the theological worldview of the Middle

---

<sup>2</sup> Sacchetti A.L., Zheludkov A.A. Hugo Grotius and his treatise “On the Law of War and Peace”

<sup>3</sup> *Grinin L. E.* World order in the past, present and future//History and modernity. Issue No. 1(23). 2016.

Ages. The dogma of divine law was replaced by the dogma of human right, the place of the church was taken by the secular state.

With a powerful merchant fleet, Holland successfully competed at sea with the growing power of England. Thanks to the Great Geographical Discoveries and the rapid development of capitalist relations in Europe, significant changes were taking place in the socio-economic sphere.<sup>4</sup>

The epoch of Great Geographical Discoveries led to one of the most important civilizational modernizations of the 16<sup>th</sup>-18<sup>th</sup> centuries, as a result of which the World Ocean was transformed into a single interconnected civilizational system.<sup>5</sup> Oikumena, or the part of the world mastered by mankind, has acquired unprecedented scales so far, it has grown several dozen times within two or three centuries.

Here we are talking about non-contractual arrangements for the formation of international relations. The rapid development of transnational maritime trade led to the emergence of special rules governing global shipping, which formed the basis of international maritime law, and we should note the principle of the “free sea” (“mare liberum”) was first formulated at the beginning of the 17th century by Grotius.<sup>6</sup>

Karl Schmitt (1888-1987), a German jurist, the founder of geopolitics as a science, wrote that the appearance of the New World caused revolutionary changes in the self-perception of European peoples. Europe automatically became the “Old World”. Although it still considered itself the center of civilization, the universally applicable concepts developed in the Ecumene have changed significantly.<sup>7</sup> The Atlantic actually turned into the “inner sea” of the European powers. With the economic development of the Western Hemisphere, trade volumes grew all the time; from the periphery, Europe

---

<sup>4</sup> *Knight W. M.* The life and works of Hugo Grotius. London, 1925. P. 36-37.

<sup>5</sup> *Kopelev D.N.* The colonial expansion of European powers and the phenomenon of maritime robbery in the XVI – first third of the XVIII century. 2014.

<sup>6</sup> *Gretchen Murphy*, Hemispheric Imaginings: The Monroe Doctrine and Narratives of U.S. Empire. (Durham: Duke University Press. 2005), 2.

<sup>7</sup> Schmitt Karl. Land and Sea. Simona Draghici, trans. Plutarch Press, 1997. Original publication: 1942.

turned into one of the centers of the economic system, which now had a global character. This greatly contributed to the process of the “ascent of the West”, characteristic of the Modern era.

At the same time growing bourgeoisie could not put up with the feudal system. It demanded ensuring the freedom and security of the individual and private property, creating the necessary political and legal guarantees for this. In the 17<sup>th</sup> century in Western Europe, the revolutionary overthrow of the class-feudal system began. The anti-feudal orientation of the legal worldview came to the fore. Equality before the law has become the main battle cry of the bourgeoisie. The classical embodiment of the legal worldview was the theory of natural law. Its ideological origins go back to the works of early bourgeois thinkers, especially to their attempts to build a political and legal theory on the study of nature and human passions. The theory of natural law is based on the recognition of all people as equal (by nature) and endowed (by nature) with natural passions, aspirations, and reason. The laws of nature determine the prescriptions of natural law, which must correspond to a positive (positive, will-established) law. The anti-feudal nature of the theory of natural law consists in the fact that all people were recognized as equal and this (natural equality of people) was elevated into a mandatory principle of positive, i.e., effective law.

The ideological banner of the anti-feudal movements in Holland, England and other countries was Protestantism. On the basis of Calvinism, a special type of personality was formed – the bearer of a new Protestant ethic prescribing personal asceticism, diligence and business honesty. Concentrated in cities, Calvinist workers, united by religion, community of interests and business ties, sought to free themselves from the oppression and encroachments on their lives and freedom of the Catholic Church and noble-monarchical states. The work of Hugo Grotius refers to the period when, firstly, the Dutch Revolution won and the Netherlands became a Republic.

The first country to successfully carry out the revolution was a homeland of Hugo Grotius, Holland, that withstood a long-term (1565-1609) liberation war against feudal Spain, which tried to eradicate Dutch Calvinism. The second bourgeois revolution took place in England (the “Great Rebellion” of 1642-1649 and the “Glorious Revolution” of 1688-1689). The

ideological banner of these revolutions was also Calvinism, but their conceptual expression and outcome were the theories of natural law and social contract based on rationalism.

Rationalism, i.e. the assessment of social relations from the standpoint of “common sense”, the application of the rules of logic to them (such as: if all people are equal by nature, what is the meaning and justification of class privileges?) they were a powerful tool for criticizing feudal relations, the injustice of which became obvious when the measure of natural equality of people was applied to them. The social basis of the revolutions of the 17<sup>th</sup> century were the townspeople (the growing bourgeoisie) and the peasantry oppressed by the feudal lords.

After Holland had liberated itself from the domination of the Spanish feudal lords, it has become, according to Karl Marx, “an exemplary capitalist country.” Its main economic base was the vast colonial and foreign trade, provided with an exceptionally powerful fleet, which altogether made the main Dutch city Amsterdam the largest trading center in Europe.<sup>8</sup>

Many historians call this era the century of the “Awakening of Minds”, since first of all changes took place in culture, science and worldview. Blind faith and centuries-old adherence to unchanging traditions were becoming a thing of the past, a man of the New Time was leaving his native places and goes in search of the unknown.

The New Era brought with it changes in the culture, religion, scientific thought and everyday life of Europeans. The great geographical discoveries, the reformation of the church, the formation of unified centralized states – all this contributed to the scientific revolution of the 17<sup>th</sup> century, as a result of which science overcame its dependence on religion.

The life of Hugo Grotius came “under the curtain” of the early modern period, when medieval norms and values finally left the stage and the political phenomena that replaced them persistently demanded legal registration and ideological justification. He was an eyewitness or

---

<sup>8</sup> *Marx K. Capital*, vol. I, p. 755.

personally participated, although not in the first roles, in many processes that determined the specifics of this era. But the main thing is that he proposed ways to solve the most pressing problems of his time and many of his conclusions have not lost their significance to this day.

Grotius sought to create legal mechanisms to overcome the consequences of the most important sociallyytic cataclysms of the era: Netherlands and English bourgeois revolutions, religious violent clashes in France and Germany, as well as pan-European mass armed conflicts such as the Liang Wars (1494–1559), the Thirty Years' War (1618–1648) and the Eighty Years' War, that began as a revolt of the Seventeen Dutch Provinces against Philip II of Spain, the sovereign of the Habsburg Netherlands.<sup>9</sup>

It was in the midst of these wars that Grotius was born. He saw his own country rising from a baptism of blood and all Europe rent and torn by the awful struggle of the Thirty Years' War, in the midst of which his great work was written and to whose conclusion it served as a guide and inspiration. The Empire, dismembered, had been reduced to almost complete impotence, the Church had been disrupted, and no international authority was anywhere visible. Amid the general wreck of institutions Grotius sought for light and guidance in great principles. Looking about him at the general havoc which war had made, the nations hostile, the faith of ages shattered, the passions of men destroying the commonwealths which nourished them, he saw that Europe possessed but one common bond, one vestige of its former unity, the human mind. To this he made appeal and upon its deepest convictions he sought to plant the Law of Nations.<sup>10</sup>

One of the intriguing things about Grotius is the extent to which he stands so delicately poised between the Middle Ages and modernity. On the side of modernity, his literary education was in the humanist mode, which entailed the application of critical historical methods to the study of classical and biblical texts. The era he lived in, however, is now most commonly seen

---

<sup>9</sup> *Marx K. Capital*, vol. I, p. 755.

<sup>10</sup> See: Eighty Years' War, NEW WORLD ENCYCLOPEDIA, [https://www.newworldencyclopedia.org/entry/Eighty\\_Years%27\\_War](https://www.newworldencyclopedia.org/entry/Eighty_Years%27_War) [<https://perma.cc/HZA7-LWMN>]



as one in which much of the inheritance of the past was being ostentatiously cast off and new intellectual worlds boldly explored.

In this connexion, it may be noted that Grotius was a contemporary of three of the foremost pioneers of this new modern world: Francis Bacon (1561–1626), Rene Descartes (1596–1650), the founder of modern philosophy and noted mathematician, and Galileo (1564–1642), the seminal figure in modern physics and astronomy. To some extent, Grotius was a participant in this intellectual ferment. It was noted above that he had some contact with the early stages of what came to be called the Scientific Revolution, in the form of his work with Simon Stevin. We know, in addition, that he was acquainted with Descartes's *Discourse on Method*, published in 1637. He had some awareness of Galileo's legal problems, if not of the substance of his scientific ideas. In the mid-1630s, shortly after arriving in Paris for his diplomatic duties, Grotius sought to provide some assistance to the beleaguered Galileo, by urging friends in the Netherlands to offer him employment in Amsterdam to remove him from the clutches of the Church – a mission of mercy that did not bear fruit. Grotius also had some familiarity with the early writing of Thomas Hobbes.<sup>11</sup>

## **1.2. Escape from a Dutch prison in a chest**

Hugo Grotius (Latinized from the Dutch Huigh de Groot) was born in the Dutch city of Delft on April 10, 1583. The family history was described in detail by de Burigny in his “*Life of Grotius*”, published in French in Amsterdam in 1754 and by Forsterman van Oyen in his “*Hugo de Groot en Zijn Geslacht*”, a complete genealogy in Dutch, published in Amsterdam in 1883.

The Grotius family was not indigenous, but arrived here in the 14<sup>th</sup> century from northern France. It belonged to the university intelligentsia: his father was a curator, and his uncle, Cornelis, was the rector of Leiden University.

---

<sup>11</sup> Hugo Grotius on the Law of War and Peace. Edited by Stephen C. Neff. Cambridge University Press.

Young Hugo very soon proved himself a child prodigy matched by few in the historical record. (In the 1920s, he even received the posthumous honour of tying for second place in a retrospective assessment of the IQs of three hundred noted geniuses in world history.) By the age of eight, he was composing Latin verse. A legend grew up that he gave an early demonstration of advocacy skills by converting his mother from the Catholic faith to Protestantism.<sup>12</sup>

At the age of only 14, Grotius amazed scientists and rulers with his knowledge. His extraordinary abilities manifested themselves already in childhood: at the age of eight he wrote poetry in Latin; at 11 he became a student at Leiden University; at 14 he publicly defended theses on philosophy. At the age of 15, he happened to become a member of the embassy to France. After a short conversation between Grotius and the French king Henry IV, the latter pronounced his famous “Here is the miracle of Holland!” and presented him with a medallion with his portrait.<sup>13</sup>

At the age of 16, during his stay in France, the brilliant young man received a doctorate in law. Grotius was awarded the degree of Doctor of Law at the University of Orleans, but without the usual protection. The basis for awarding the degree was “exemplary behavior, in-depth study of literature, a well-known name and a wide circle of acquaintances among scientists”.<sup>14</sup> A year later he was already working as a lawyer in The Hague and writing his first scientific papers and at the age of twenty-three he became the Advocate General of the Netherlands. Now he has been called the “oracle of Delft” and the “phoenix of learning”.

In 1599 Grotius was offered the position of a lawyer, first in the Court of Holland and then in the High Court of Holland and Friesland. In 1603 he became historiographer of Holland and West Friesland. In 1607 he was appointed to the position of Advocate General and the first state inspector in the Court of Holland, Zeeland and West Friesland. This is the highest

---

<sup>12</sup> Hugo Grotius on the Law of War and Peace. Edited by Stephen C. Neff. Cambridge University Press.

<sup>13</sup> *Knight W.M.* The life and works of Hugo Grotius. London, 1925. P. 36-37.

<sup>14</sup>

position that a lawyer could hold. A few months after his appointment, Grotius married the daughter of the foreman of one of the cities of Zealand, Maria van Reigersberg (1590-1653), an educated and brave woman who always remained a support for her husband in the most difficult moments of his life.

While publishing the works of Greek and Latin authors under the guidance of the outstanding French humanists Scaliger and Casaubon, he also served as a lawyer in The Hague. The principle of freedom of navigation was introduced by the Dutch into the basis not only of their colonial policy, but also of international policy in general.<sup>15</sup>

In 1613, he added a poet, lawyer and historian to his laurels, and having taken up politics, Grotius was appointed to the post of rotspensionary of Rotterdam, in fact a representative of the city, expressing and representing his interests in the States, which was a significant step forward in his political career. Grotius then receives a seat in the States-General of the country.

It was during a visit to England on a diplomatic mission in the same year that he met with the great scientist Isaac Casaubon, who wrote in a letter to Daniel Heinsius: “truly great, like Grotius. Wonderful man! I knew him as such even before I saw him, but the rare perfection of this divine genius cannot be sufficiently felt by someone who does not see his face and does not hear how he speaks, his features”.<sup>16</sup>

In the same year, he took part in the Anglo-Dutch conference held at the English court and devoted to illegal fishing in British waters, as well as competition between the East India Companies of both countries. Upon returning home, Grotius was involved in the political and religious struggle of two opposing factions, which cost him his career and freedom.

---

<sup>15</sup> Tarle E. V. Essays on the history of the colonial policy of Western European states (late XV — early XIX century). M.; L., 1965. p. 147.

<sup>16</sup> Hugo Grotius. The Rights of War and Peace. Translator: A. C. Campbell. 2014. Produced by Charlie Howard and the Online Distributed. Internet Archive/American Libraries.

“Where there is not enough right, war begins,” Grotius argued in one of his works and turned out to be absolutely right. The edict in which he expounded his views on the church and the state did not have the expected effect. Armed clashes broke out in the Dutch Republic.

He lived in an era of irreconcilable hostility of religious parties fighting with weapons in their hands, who called on the strength and power of emerging nation-states to their side. It can be said that the Thirty Years’ War, in a certain sense, put an end to the Holy Roman Empire, which broke up into 355 independent states, was sanctioned by the Westphalian Peace Treaty. In the era of domestic and international troubles, Grotius proclaimed the value of domestic and international peace. But since the situation in the world conditioned the view of war as a universal means of resolving internal and international disputes, Grotius was forced to collect numerous historical evidence, as well as to attract the strength and power of the human mind to his side in order to prove, that wars should be waged in accordance with the principles of law and humanity.

At the age of 30, Grotius took part in religious and political disputes that had been waged with great bitterness in his homeland for many years. Grotius strove, if possible, to eliminate religious discord and restore church peace. To this end he wrote a number of works devoted to the clarification of theological issues in a conciliatory spirit. But Grotius’ conciliatory direction in religious matters did not save him from persecution.

When, in 1617, the Orthodox Calvinists seized the cities whose population belonged to the Republican party, Grotius and his friend and patron Barneveld were arrested. Barneveld was sentenced to death by a court that could rather be called a caricature of the court. Grotius was promised a pardon if he solemnly renounced his convictions. But the scientist did not agree to this deal and preferred a life sentence to treason to his beliefs. For dissent, he was sentenced to life imprisonment in the castle.

In conclusion, Hugo Grotius reads a lot. Fortunately, Professor Erpenius of Leiden regularly and almost unhindered sends him the necessary books. A year and a half later, faithful wife Maria van Reigersbergen organizes Hugo’s escape with the help of a clever plan. According to legend, the future

genius of jurisprudence climbed into a wooden chest with books. At first, the chest was carefully examined, but over time the guards relaxed their vigilance and stopped shaking its contents. This is how Grotius' motto came to life: *Fugit hora* (Lat. "Time is running out").

According to another version of the legend, the chest contained the scholar's personal library, which he was allowed to use in prison and which became his saving hiding place. The caring wife had made air holes in the chest ahead of time and during visits to the prison rehearsed her escape, locking Hugo and sitting on the lid – in order to develop a habit of an uncomfortable position. When he got used to the fetal position, stoically sitting in a drawer for two hours in a row, Maria complained to her superiors that she could not see her husband's scientific studies, which took away his last strength and asked permission to take all the books. In the 18th century this adventure was visualized in many engravings by Dutch masters.

On that momentous day, March 22, 1621, an annual fair was raging in the city and the head of the fortress was not in place. This played into the fugitive's hands. Noticing the considerable weight of the chest being carried out, the guard joked, hinting at the religious sedition of Grotius: they say that an Arminian had settled inside. "Yes, yes, he can barely withstand the load of Arminian books!" – Maria calmly supported the joke. Next, Elselina will safely sail off on a ship and with the help of the same devoted friends will ferry her "book cargo" to Antwerp, where Hugo will soon be reunited with his wife and children.

To the hardships of imprisonment was now added the bitterness of exile, for Grotius was not only expelled from the Netherlands, but also lived in extreme poverty. His letters reveal his mental suffering during this period, but the generous Frenchman Henri de Mem put his country house at Balanyi at his disposal. There, supported by a small pension, that Louis XIII kindly

provided him, albeit irregularly and belatedly paid, Grotius began his great work “*De Jure Belli ac Pacis*” in the summer of 1623.<sup>17</sup>

Almost penniless and suffering from prolonged work, Grotius seemed doomed to oblivion, however, from exile he wrote to his brother: “There is no need to ask for anything for me... If my country can do without me, I can do without her. The world is big enough...”<sup>18</sup>

His book “*On the Law of War and Peace*” came out in March 1625 in the midst of the Thirty Years’ War. Louis XIII, to whom this work was dedicated, accepted the author’s tribute and a beautifully bound copy, but did not show the courtesy usual for monarchs, expressing satisfaction. In Rome, the treatise was banned in the index in 1627 and was in the latter until 1900. But the prohibition could not prevent either the fame or the spread of the book.

Gustavus Adolphus, King of Sweden (1611-1632) had placed the work of Grotius along side his Bible under his soldier’s pillow, as he prosecuted his campaigns in the Thirty Years’ War. The first edition of that work, written in Latin, the cosmopolitan language of learned Europe, had been quickly exhausted and widely scattered. Another had soon been called for at Paris, but the death of Buon, the publisher, created obstacles to its appearance. A second edition had appeared at Frankfort in 1626, another at Amsterdam in 1631, and still another with notes by the author in 1632. The book had aroused the thought of kings as well as of scholars, and in the circles of high influence everywhere in Europe the name of Grotius had become well known. His book had excited the most opposite sentiments and awakened the most contradictory judgments, but among lawyers and statesmen its reception was from the first generally marked by admiration. In spite of exile, poverty, and misfortune, Grotius had become a European celebrity and was about to enter into the reward of his labors. He had created a code

---

<sup>17</sup> *Hugo Grotius. The Rights of War and Peace.* Translator: A. C. Campbell. 2014. Produced by Charlie Howard and the Online Distributed. Internet Archive/American Libraries.