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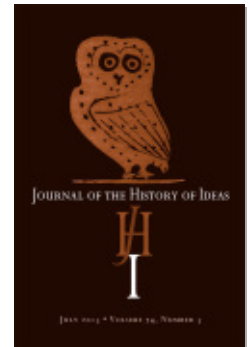
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## Philo Judaeus and Hugo Grotius's Modern Natural Law

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# *Philo Judaeus and Hugo Grotius's Modern Natural Law*

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## I. INTRODUCTION

In book 1, chapter 2 of his 1640 masterpiece *De jure naturali et gentium juxta disciplinam Hebraeorum*, John Selden gives his readers an overview of the richness of the Hebrew scholarship of his age, from the sixteenth century to his own time, creating a context for his exploration of Jewish sources as sources of political ideas. He lists notable Hebraists such as Joseph Scaliger, Isaac Casaubon, Wilhelm Schickard, Drusius (Johannes van den Driesche), L'Empreur (Robert de Keyser), Johannes Cocceius, Petrus Cunaeus, and others. Somewhat surprisingly, he adds that

Hugo Grotius must be held in the first ranks of these men, who in that outstanding book *De jure belli ac pacis* . . . touches upon the teaching of the Hebrews from the Talmud that we are about to set forth and other things from their doctrine.<sup>1</sup>

By the highest standards of his time, Hugo Grotius was no Hebraist. The Dutchman's knowledge of Hebrew was limited at best, and his familiarity

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<sup>1</sup> John Selden, *De jure naturali et gentium juxta disciplinam Hebraeorum libri septem* (1640), in *Opera omnia*, ed. John Wilkins (London, 1726), vol. 1, bk. 1, chap. 2, 97.

with Jewish sources was through translations, digests, and scholarly commentaries compiled largely by the prominent Hebraists that composed Selden's initial list.<sup>2</sup> But according to Selden, it was Grotius who turned natural law discourse towards the teachings of the Hebrews and Talmudic Noahide law, and provided the ultimate context for the Englishman's work.

In this article I explore the possibility that Selden's presentation of Grotius among notable Hebraists, taken seriously, may shed light on the yet unresolved debate regarding what, if anything, was innovative about modern natural law. Taking Selden's lead, I will suggest that the transition from Scholastic to modern natural law, pioneered by Grotius, was marked partly by a turn to Jewish sources and a Hebraic discursive context which provided alternative legal categories to those presented in the Scholastic scheme and fit better with the emphasis on the will shared by modern thinkers. While I place Hugo Grotius at the crux of this transition, despite his limited knowledge of Hebrew, I emphasize what Selden downplayed in the passage cited above: the primary source Grotius identified with as he introduced Jewish sources to his natural law theory was Philo Judaeus, not the Talmud.<sup>3</sup> Indeed, where Selden finds Philo to be an inferior source as compared to the Talmud for recovering the teachings of the Hebrews on natural law, his argument may be seen as part of a polemic against Grotius with regard to the proper use of Jewish sources.<sup>4</sup> For Grotius, Talmudic Noahide law was not natural law, as it was for Selden.<sup>5</sup> Maimonides, whom both seventeenth-century authors revered, was for the Dutchman not the interpreter of the Talmud that he was for Selden, but an interpreter of Philo<sup>6</sup> invested with talmudic authority.<sup>7</sup> How Grotius's appropriation of Philo and other Jewish sources affected his natural law theory and what it has to offer our understanding of modernity will be explored below.

At the outset I note that while this article, like the quote from Selden's *De jure* with which I opened, places Grotius's natural law theory in a

<sup>2</sup> Phyllis S. Lachs, "Hugo Grotius' Use of Jewish Sources in *On the Law of War and Peace*," *Renaissance Quarterly* 30, no. 2 (1977): 181–200.

<sup>3</sup> Grotius's use of Philo is discussed below.

<sup>4</sup> Selden, *De jure*, bk. 1, chap. 2, 93–94.

<sup>5</sup> Hugo Grotius, *De jure belli ac pacis libri tres* (Amsterdam, 1646 [1625]), bk. 1, chap. 1, 7–8 (45–47), henceforth *DJB*. Page numbers in parentheses, throughout these notes, refer to the English edition: Hugo Grotius, *De jure belli ac pacis libri tres*, vol. 2, *The Translation*, ed. Francis W. Kelsey (Oxford: Clarendon, 1925). In my interpretation I differ from Jean Barbeyrac and agree with Jason Rosenblatt that Barbeyrac read Grotius with Selden in hand. See Rosenblatt, *John Selden: Renaissance England's Chief Rabbi* (Oxford: Oxford University Press, 2006), 140–41.

<sup>6</sup> *DJB*, bk. 2, chap. 5, 152 (243). See note 28 below.

<sup>7</sup> Rosenblatt, *John Selden*, 148.

Hebraic discursive context, I do not mean to detract from the relevance or importance of other contexts for his work, such as the neo-Roman context so significant for early modern political thought. I only mean to consider that Grotius, like other seventeenth-century authors, is probably best understood as having written from within a mosaic of contexts, and that the Hebraic component of this mosaic, underemphasized in scholarship, may be important for understanding the Dutchman's influential natural law theory.

## II. A BREAK FROM SCHOLASTICISM IN MODERN NATURAL LAW THEORY?

In *Summa theologiae*, first part of the second part, questions 90–96, Thomas Aquinas presented a scheme of four categories that laid the foundations for Scholastic legal thought: eternal law, for Aquinas, is the divine reason by which God governs the world and includes divine providence and grace; divine law is the part of eternal law revealed to man through scripture, where scripture contains both ceremonial laws no longer valid, and moral law still valid; natural law is the part of eternal law revealed to man through reason; human law is legislated by men, and while it should not contradict principles of justice, it is binding on citizens independent of theistic considerations. Other than this scheme, two other aspects of Aquinas's replies should be emphasized as a basis for comparison with modern natural law theory: (1) according to Aquinas, while the end of law can be determined by the will, all law gains its status as law irrespective of the will, due to its accordance with some rule of reason;<sup>8</sup> and (2) divine law is discussed in the past tense. Whereas of the other types of law it is asked “is there a natural law?” or “is there an eternal law?” with divine law, the question is “*was* there a need for divine law?” Aquinas finds that there was, but emphasizes that the New Law surpassed the Old Law.<sup>9</sup>

If Grotius had an intellectual framework for rejecting Scholastic legal categories and erecting alternative categories in their place, including a modern notion of natural law, scholarship has not satisfactorily identified

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<sup>8</sup> Thomas Aquinas, *Summa theologiae*, II-I, q90 a1. On this see Etienne Gilson, *The Christian Philosophy of St. Thomas Aquinas*, trans. L. K. Shook (South Bend, Ind.: University of Notre Dame Press, 2010), 264–69. Note that in this translation “divine law” is sometimes used for what I have called “eternal law.” What is meant is clear from the context.

<sup>9</sup> Aquinas, *Summa theologiae*, II-I, Q. 91.

these foundations of his thought. Those who have found modern natural law to have broken from Scholasticism in its secularism have portrayed modern natural law as “a purely rational construction, though it does not refuse to pay homage to some remote notion of God.”<sup>10</sup> This is largely based on what is known as Grotius’s “impious statement” or “impious hypothesis,” that

what we have been saying would have a degree of validity even if we should concede that which cannot be conceded without the utmost wickedness, that there is no God, or that the affairs of men are of no concern to him.<sup>11</sup>

Yet counterfactual assertions of the existence of God existed in the writings of Scholastic authors who retained Aquinas’s categories, such as Vasquez and Suarez, such that Grotius’s assertion does not necessarily mark a break from Scholasticism.<sup>12</sup> Moreover, the “impious hypothesis” can be read as an epistemological claim, according to which we do not depend on revelation for knowledge (or validation) of the principles of natural law. That reading would make it reconcilable with the categories Aquinas bequeathed to his followers. Grotius, after all, wrote elsewhere that natural law should be attributed to God, who implanted in man those “essential traits” from which it proceeds.<sup>13</sup>

Another impetus for Grotius’s departure from Scholasticism was the partnering of Skepticism and Stoicism, which, as Richard Tuck has shown, was fundamental to the shift to modernity,<sup>14</sup> and in Grotius’s early *De jure praedae* discussed below, Stoic sources indeed stand out as central to his discussion of natural law. But the fact—which Tuck concedes—that modern proponents of Stoicism were reluctant to talk about justice,<sup>15</sup> may reveal

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<sup>10</sup> A. P. d’Entreves, *Natural Law: An Introduction to Legal Philosophy* (London: Hutchinson, 1970 [1951]), 55. See also C. P. Courtney, “Montesquieu and Natural Law,” in *Montesquieu’s Science of Politics*, ed. David W. Carrithers, Paul A. Rahe, and Michael A. Mosher (Lanham, Md.: Rowman & Littlefield, 2001), 42.

<sup>11</sup> *DJB*, prolegomena, ix (13).

<sup>12</sup> Francis Oakley, *Natural Law, Laws of Nature, Natural Rights: Continuity and Discontinuity in the History of Ideas* (London: Continuum, 2005), 65. Cf. T. H. Irwin, “Stoic Naturalism and its Critics,” in *The Cambridge Companion to the Stoics*, ed. Brad Inwood (Cambridge: Cambridge University Press, 2003), 356.

<sup>13</sup> *DJB*, prolegomena, ix (14).

<sup>14</sup> Richard Tuck, “The ‘Modern’ Theory of Natural Law,” in *The Languages of Political Theory in Early Modern Europe*, ed. Anthony Pagden (Cambridge: Cambridge University Press, 1987), 110.

<sup>15</sup> Richard Tuck, *Philosophy and Government, 1572–1651* (Cambridge: Cambridge University Press, 1993), 56.

something about the limits of discourse based on these foundations, and why in *De jure belli*—a work specifically concerned with justice<sup>16</sup>—Grotius leaned on sources other than the Stoics to ground aspects of his natural law theory.

The lack of agreement between scholars on the nature of the transition from Scholastic to modern natural law has strengthened the position which continues to be argued for, that there was no break from Scholasticism, particularly with regard to natural law, in early modernity.<sup>17</sup> This is silently supported by those who continue to view all natural law theory as leading to or deriving from Aquinas's thought.<sup>18</sup> Still, seventeenth-century thinkers perceived themselves as breaking from Scholasticism: Thomas Hobbes famously ridiculed the "Schoolmen"; Grotius commented on the corruption of Aristotle<sup>19</sup> and made efforts to ensure that his work would be read as radically different from Scholastic natural law;<sup>20</sup> and Jean Barbeyrac and Samuel von Pufendorf made statements to the effect that Grotius "broke the ice" and founded modern natural law.<sup>21</sup> Despite Selden's suggestion that Grotius pioneered the introduction of Hebraism to natural law discourse, and despite the fact that Jewish sources featured prominently in Grotius's *De jure belli*, the question of how and whether the transition from Scholastic to modern natural law might be related to early modern political Hebraism has hardly been addressed.<sup>22</sup>

Two approaches dominate the limited literature on Grotius's Hebraism and his natural law theory: Phyllis Lachs's 1977 article, entitled "Hugo Grotius' Use of Jewish Sources in *On the Law of War and Peace*," demonstrates that despite his many Hebraic references, Grotius was no Hebraist, and concludes that Grotius developed his ideas independently of his (Hebraic) sources.<sup>23</sup> She thus refutes the impression given by a 1939 article

<sup>16</sup> See Grotius's invocation of Carneades in *DJB*, prolegomena, viii (10).

<sup>17</sup> Oakley, *Natural Law*, 64–67. In this respect Oakley echoes d'Entreves, *Natural Law*, 53–54.

<sup>18</sup> Knud Haakonssen, *Natural Law and Moral Philosophy: From Grotius to the Scottish Enlightenment* (Cambridge: Cambridge University Press, 1996), 15.

<sup>19</sup> Grotius, *DJB*, prolegomena, xv (24).

<sup>20</sup> Haakonssen, *Natural Law*, 26; Thomas Mautner, "Grotius and the Sceptics," *Journal of the History of Ideas* 66, no. 4 (2005): 577–78.

<sup>21</sup> D'Entreves, *Natural Law*, 51–53; Samuel Pufendorf, *Specimen controversiarum circa jus naturale ipsi nuper motarum* (Uppsala, 1678); Tuck, *Philosophy and Government*, xv.

<sup>22</sup> On political Hebraism see Gordon Schochet, Fania Oz-Salzberger, and Meirav Jones, *Political Hebraism: Judaic Sources in Early Modern Political Thought* (Jerusalem: Shalem Press, 2008), and the articles in *Hebraic Political Studies*.

<sup>23</sup> Lachs, "Use of Jewish Sources."

by Vladimir Ze'ev Jabotinsky, which linked Grotius's division of the law to Hebrew etymology.<sup>24</sup> Leo Strauss, in *Persecution and the Art of Writing*, explored the question of Hebraic influence on Grotius's natural law theory but concluded that as Grotius's only Jewish source for natural law was Maimonides, and as Maimonides had no natural law theory, there was no such influence.<sup>25</sup> Both of these studies contribute to our understanding.

Indeed, as mentioned above, Grotius had no specialized expertise in Hebrew studies. Of the rabbis whose works he knew from translations and digests, he most frequently cited Maimonides, but Strauss found that Maimonides had no natural law theory. Yet neither Strauss nor Lachs has considered the significance of Grotius's reading of Philo as a Jewish source,<sup>26</sup> his pairing of Maimonides and Philo,<sup>27</sup> or his understanding of Maimonides as an interpreter of Philo who "with great judgment explained all the(ir) writings" of the ancient Jews.<sup>28</sup> As such, they have not explored the avenue I take here. But they also have not denied that Grotius—from his reading of Jewish sources in languages other than Hebrew, in translation, and through digests—understood there to be a natural law theory in Jewish sources which could serve as an important corrective to other notions of natural law.

Grotius cited Philo Judaeus 114 times in *De jure belli*, placing him among the sources most often cited in this work, and Philo is the first author Grotius cites in the footnote to his definition of natural law as "right reason."<sup>29</sup> This was not warranted by chronology or substance—this definition had been standard among thinkers from Cicero through late Scholastics and many in-between—but perhaps by the Dutchman's desire to draw special attention to Philo as a source for natural law. Not only did Grotius explicitly consider Philo to be a Jewish source, but with his (mistaken) understanding of Maimonides as having read Philo, it seems that Philo

<sup>24</sup> Vladimir Zev Jabotinsky, "From the Journal," published in the Yiddish באַזאַנעט, Warsaw, March 12, 1939. The first part of the article was published in Hebrew as Vladimir Zev Jabotinsky, "Grotius, De-Haan, and . . . Appreciation for the Hebrew Language," in *Ha-Umma* 78/79 (1985): 15–17 [Hebrew].

<sup>25</sup> Leo Strauss, *Persecution and the Art of Writing* (Chicago: University of Chicago Press, 1952), 96, n. 4.

<sup>26</sup> "The Jews Philo and Josephus call this a law of nature," *DJB*, bk. 2, chap. 19, 304 (450). See also *DJB*, bk. 2, chap. 1, 107 (181) and *DJB*, bk. 3, chap. 1, 434 (618).

<sup>27</sup> In the preamble to his definition of natural law, which will be discussed below, *DJB*, bk. 1, chap. 1, 3–4 (38).

<sup>28</sup> *DJB*, bk. 2, chap. 5, 152 (243).

<sup>29</sup> *DJB*, bk. 1, chap. 1, 4 (38).

shaped Grotius's interpretation of the Jewish textual tradition as he reconstructed it.<sup>30</sup>

Before exploring the significance of Grotius's employment of Philo, it is worth noting that the mere employment of Hebrew and Jewish sources by political thinkers in early modernity—and especially references to Jewish law in the context of natural law discourse—marked a departure from Scholasticism. Reformers censured the Scholastic legal scheme because Mosaic law carried little if any weight within it,<sup>31</sup> and the reclaiming of this law was but part of a greater recovery of *Hebraica veritas* which had been corrupted by later Judaism and the Catholic Church. Hebrew learning—which served a variety of ends, eschatological, political, Christian, and humanist<sup>32</sup>—was widespread from the onset of the Reformation, and Hebrew was studied at major universities throughout Europe.<sup>33</sup> Philo and Josephus were both dramatically rediscovered in this period. Indeed, a search on Early English Books Online reveals that while from 1500 to 1520 only four searchable records cite Philo or Josephus, citations gradually increased such that from 1580 to 1600, 183 records cite one or both of these sources, and from 1640 to 1660, 394 records cite one or both famous Hellenistic Jewish sources. Citations seem to have increased into the eighteenth century. In the period at hand we find that Philo was appropriated both by Jews such as Azariah De Rossi and non-Jews such as Henry More,<sup>34</sup> by English clergymen as well as by scientists.<sup>35</sup>

In the realm of political theory, for a century beginning around 1570

<sup>30</sup> See notes 26 and 28 above.

<sup>31</sup> See note 8 above, as well as Luther's and Calvin's interpretations of *Summa theologica*, Q. 91, Art. 5: Martin Luther, "On Secular Authority," in *Luther and Calvin on Secular Authority*, ed. Harro Höpfl (Cambridge: Cambridge University Press, 1991), 8; John Calvin, "On Civil Government," in *ibid.*, 69.

<sup>32</sup> Matt Goldish, *Judaism and the Theology of Isaac Newton* (Dordrecht: Kluwer, 1994), 21–30; Leon Roth, "Hebraists and Non-Hebraists of the Seventeenth Century," *Journal of Semitic Studies* 6, no. 2 (1961): 204–21.

<sup>33</sup> Frank Manuel, *The Broken Staff: Judaism Through Christian Eyes* (Cambridge, Mass.: Harvard University Press, 1992), 11.

<sup>34</sup> For example, Henry More, *Democritus Platonissans* (London, 1646), 30. See Mordechai Feingold, "Science as Calling? The Early Modern Dilemma," *Science in Context* 15, no. 1 (2002): 89; Joanna Weinberg, "Translator's Introduction," in *The Light of the Eyes*, ed. Azariah De Rossi, trans. Weinberg (New Haven: Yale University Press, 2001), xxxvi–xxxvii.

<sup>35</sup> See for example James Ussher, *A body of divinitie, or, The summe and substance of Christian religion catechistically propounded, and explained, by way of question and answer: methodically and familiarly handled* (London, 1645), 11, 14–16; Sir Thomas Browne, *Religio Medici* (London, 1642), 45–46; John Greaves, *Pyramidographia, or, A description of the pyramids in Ægypt* (London, 1646), 1, 16, 18, 20.



(curiously simultaneous with the rise of neo-Taciteanism pointed to by Richard Tuck), a genre identified as “Hebrew Republic literature” developed in mainstream Europe.<sup>36</sup> This genre reclaimed Mosaic law by building lasting political ideas on the foundations of Jewish sources and presenting Jewish legal and political structures as worthy of emulation.<sup>37</sup> Not only did Selden, labeled “the Glory of England” by Grotius,<sup>38</sup> write his major work of legal theory predominantly on the basis of the Jewish textual tradition,<sup>39</sup> but numerous political theorists including Cornelius Bertram, Carlo Sigonio, Petrus Cunaeus, and Grotius himself presented Jewish legal and political models for modern states, both in works entitled some variation of *De Republica Hebraeorum* or—in Grotius’s case—*De Republica emendanda*, and incorporated into general works of political theory such as James Harrington’s *Commonwealth of Oceana*. Notably, the most popular non-biblical Jewish sources employed in the early years of this genre were Philo and Josephus.<sup>40</sup> This mode of political theory and its importance have been acknowledged to some extent by Richard Tuck, who acclaims Petrus Cunaeus’s *De Republica Hebraeorum* as “the most powerful public statement of republican theory in the early years of the Dutch republic,” and notes the reliance of thinkers such as Sarpi on the Israelite model.<sup>41</sup>

The appropriation of Mosaic law as a source of political and legal ideas in early modernity countered the Thomist scheme in two obvious ways. First, it made relevant the entire Old Testament, including its ceremonial laws. This did not mean that Jewish law was considered obligatory for Christians, though this was certainly a position some took.<sup>42</sup> Rather, the Old Testament was taken as a single whole presenting a legal and institutional model worthy of emulation. This law in its entirety had proved

<sup>36</sup> Kalman Neuman, “Political Hebraism and the Early Modern ‘Respublica Hebraeorum’: On Defining the Field,” *Hebraic Political Studies* 1, no. 1 (2005): 57–70.

<sup>37</sup> Eric Nelson, *The Hebrew Republic: Jewish Sources and the Transformation of European Political Thought* (Cambridge, Mass.: Harvard University Press, 2010). Fania Oz-Salzberger, “The Jewish Roots of Western Freedom,” *Azure* 13 (summer 2002): 88–132; Lea Campos Boralevi, “Classical Foundational Myths of European Republicanism: The Jewish Commonwealth,” in *Republicanism: A Shared European Heritage*, 2 vols., ed. Martin van Gelderen and Quentin Skinner (Cambridge: Cambridge University Press, 2002), 1:247–62; and Schochet et al., *Political Hebraism*.

<sup>38</sup> *DJB*, bk. 2, chap. 2, 114 (189).

<sup>39</sup> On Selden’s Talmudic scholarship and works see Rosenblatt, *John Selden*.

<sup>40</sup> Lea Campos Boralevi, “Introduzione,” in Petrus Cunaeus, *De Republica Hebraeorum* [The Republic of the Hebrews] (1617; English, 1653; Florence: Centro Editoriale Toscano, 1996). See also Manuel, *Broken Staff*, 66.

<sup>41</sup> Tuck, *Philosophy and Government*, 169, 98.

<sup>42</sup> Grotius comments on this in *DJB*, bk. 1, chap. 1, 7–10 (45–49), and elsewhere. On the Sabbatarian controversy see David S. Katz, “Christian and Jew in Early Modern English Perspective,” *Jewish History* 8, no. 1/2 (1994): 55–72.

lasting at a time when political theorists sought stability, and the Jewish thought surrounding it was an expression of wisdom older than the Church—and even older than Greece or Rome—at a time when ancient sources were revered.

This brings us to the second manner in which the reclamation of Mosaic law rebelled against the Thomist scheme: it led some to identify Mosaic law with natural law. Opinions on the character of this identity ranged from those who considered the Bible to contain nothing that is not in accordance with nature, through those who considered natural law to be contained in the Bible and best understood by its Jewish exegetes, to those who acknowledged the Bible as the most natural law known to man. Two examples of this are Jean Bodin's use of the phrase "divine and natural laws" and the interchangeability of "divine law" and "natural law" in *Six Books on the Republic*,<sup>43</sup> and Selden's identification of Noahide law as natural law and all of Jewish law as limited natural law.<sup>44</sup> Even Grotius, who rejected the identity of Mosaic law and natural law and left no question that Mosaic law did not bind Christians,<sup>45</sup> found that scripture made it possible to determine which laws were particular to the Jews, and which were naturally binding on all humankind.<sup>46</sup> None of scripture is expendable, as parts that are not natural law can shed light on parts that are. Besides, none of Mosaic law contradicts the law of nature,<sup>47</sup> and the former can guide us in checking the natural justice of our own laws and assist us in advancing proper order. Grotius's extensive references to Jewish sources in *De jure belli* can thus be understood as part of an approach which was necessarily non-Scholastic.

It is worth noting that none of Grotius's published or unpublished works written before *De jure belli* contain anywhere near the volume of Hebraic sources found in this work. Indeed, Grotius's affinity for Jewish sources may have been enhanced by his encounter with Philo: Grotius's letter to Vossius dated July 28, 1618, opens with "When I got to Rotterdam I looked at Philo,"<sup>48</sup> but prior to this date there is no evidence that Grotius

<sup>43</sup> Jean Bodin, *Six Books on the Republic* (London, 1606), e.g. bk. 1, chap. 8, 89ff.

<sup>44</sup> Ofir Haivry, "Selden and the Jewish Tradition" (paper presented at Political Hebraism: Jewish Sources in the History of Political Thought, Shalem Center Jerusalem, December 26–29, 2006).

<sup>45</sup> *DJB*, prolegomena, xvi (27).

<sup>46</sup> *DJB*, bk. 1, chap. 1, 7–9 (45–48).

<sup>47</sup> *DJB*, prolegomena, xvi (27), bk. 1, chap. 1, 9 (49); bk. 1, chap. 2, 17 (55); and elsewhere.

<sup>48</sup> Grotius, *Briefwisseling*, 579, <http://grotius.huygens.knaw.nl/letters/0579> (last accessed March 15, 2013).

was even familiar with Philo, which explains the absence of Philo from earlier works in which referring to him would have been quite natural. When he wrote *De Republica emendanda*, presenting the Hebrew Republic as a model for the Dutch, for example, incorporating Philo would have brought this work into the fold of the more sophisticated Hebrew Republic literature, such as Carlo Sigonio's *De Republica Hebraeorum* (Bologna, 1582), which contains 42 references to Philo's work.<sup>49</sup> Grotius's great harmonizing work, *Meletius*,<sup>50</sup> could have benefited from references to Philo, as did Bodin's harmonizing *Colloquium heptaplomeres*, where Philo is the main source for Salamon, the representative of the Jewish faith.<sup>51</sup> After all, Philo advocated toleration of other religions and posted a common denominator between all men that could serve as a foundation for greater harmony.<sup>52</sup> Grotius's unfamiliarity with Philo early in his career also explains his absence from the discussion of natural law in *De jure praedae*.

I do not claim here that Grotius's encounter with Philo led him to depart from Scholastic categories, but rather that Philo suited Grotius partly because of departures he had already made from Scholasticism, even with regard to natural law. Grotius's work now known as *De jure praedae*, written in 1604–5 and of which his famous *Mare liberum* is a chapter, is particularly interesting in this regard. Aside from a notable preference for referring to the Old Testament over the New<sup>53</sup> and a couple of passing references to Josephus, there is no large-scale citation of Jewish sources in this early work. Yet the natural law Grotius presents in *De jure praedae* is not Scholastic: natural law is willed by God into the world. This is a departure from Scholastic categories similar to what the appropriation of Jewish sources in *De jure belli* would represent: as we will see, both the Grotius of *De jure belli* and the Grotius of *De jure praedae* abandoned the notion that law, and even natural law, gains its status by its accordance with a rule of reason, and both give unprecedented strength to the will. Grotius's definition of natural law in book 1, chapter 3 of *De jure praedae* reads as follows:

<sup>49</sup> Carlo Sigonio, *The Hebrew Republic* (Jerusalem: Shalem Press, 2010), index.

<sup>50</sup> Grotius, *Meletius* manuscript (1611), published as Hugo Grotius, *Meletius*, ed. G. H. M. Posthumus Meyjes (Leiden: Brill, 1988).

<sup>51</sup> Jean Bodin, *Colloquium heptaplomeres de rerum sublimium arcanis abditis* (manuscript, ca. 1588); Jean Bodin, *The Colloquium of the Seven About Secrets of the Sublime*, ed. and trans. Marion Leathers Kuntz (Princeton: Princeton University Press, 1975).

<sup>52</sup> Carlos Levy, "Philo's Ethics," in *The Cambridge Companion to Philo*, ed. Adam Kamesar (Cambridge: Cambridge University Press, 2009), 168.

<sup>53</sup> *De jure praedae* contains 43 references to NT and 89 to OT. The edition (and index) cited here is Hugo Grotius, *De jure praedae commentarius: Commentary on the Law of Prize and Booty*, trans. G. L. Williams (Oxford: Clarendon, 1950), henceforth *DJP*. Page numbers are from the Latin manuscript, followed by English page numbers in parentheses.

For the law of nature—that is to say, the law instilled by God into the heart of created things, from the first moment of their creation, for their own conservation—is law for all times and all places, inasmuch as the Divine Will is immutable and eternal.<sup>54</sup>

This followed from book 1, chapter 2, where the following rule took precedence:

What God has shown to be His Will, that is law

and

The Will of God is revealed . . . in the very design of the Creator; for it is from this last source that the law of nature is derived.<sup>55</sup>

In *De jure praedae*, then, Grotius already had a non-Scholastic notion of natural law, but it was not systematically formulated, and the relationship between the law willed into the world by God and “right reason,” which is the classical definition of natural law, was not expounded upon. But around 1618 Grotius encountered Philo, and in *De jure belli*, which was first published in 1625, we find a more systematic approach to this non-Scholastic natural law for which Philo was Grotius’s first source. What Philo had to offer by way of a natural law theory, and how this helped Grotius ground his own theory, will be explored in the next sections.

### III. PHILO’S NATURAL LAW THEORY

Whereas Strauss and others have denied that Maimonides had an idea of natural law, the same has not been said of Philo. In a 1968 article, Helmut Koester went so far as to claim that Philo was the first thinker to conceive of natural law as an objective normative standard or good, embedded in nature, by which human behavior and the laws of societies can and should be judged.<sup>56</sup> Koester found that while natural law is considered to have originated in ancient Greece, in the Greek world of Plato and Aristotle,

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<sup>54</sup> *DJP*, chap. 3, 15 (33).

<sup>55</sup> *DJP*, prolegomena, 5–5<sup>7</sup> (8).

<sup>56</sup> Helmut Koester, “*Nomos Phuseos*: The Concept of Natural Law in Greek Thought,” in *Religions in Antiquity: Essays in Memory of Erwin Ramsdell Goodenough*, ed. Jacob Neusner (Leiden: Brill, 1968), 521ff.

*nomos* and *phusis* were for the most part considered opposites, and their use together was unusual and even oxymoronic.<sup>57</sup> After presenting a controversial account of Stoicism and its natural law, Koester claimed that it was Philo, not the Stoics, in whose writing the term “law of nature” is liberally employed for the first time, making Philo the first Greek—and as such the first—natural law thinker.<sup>58</sup> Whether or not Philo was the first natural law thinker is less important for present purposes than to establish that Philo had an idea of natural law, and that this constituted a unique alternative to other conceptions in his own and later times.

Philo’s idea of natural law can be presented, in simplified form, as follows.<sup>59</sup> For Philo, law (Torah) is intertwined with nature to such an extent that it is inseparable from it. Torah is called *ho nomos* and distinguished from the prophetic and hagiographic parts of scripture; yet not all of Torah is law.<sup>60</sup> Most important for Philo is that law begins with nature and nature begins with the law. This identity emerges from the starting point of Philo’s philosophy: the creation narrative. Philo admires Moses, who

introduced his laws with an admirable and most impressive exordium. . . . It consists of an account of the creation of the world, implying that the world is in harmony with the Law, and the Law with the world, and that the man who observes the law is constituted thereby a loyal citizen of the world, regulating his doings by the purpose and will of Nature, in accordance with which the entire world itself is also administered.<sup>61</sup>

Philo’s creation narrative follows the narrative of the Hebrew Bible, expressed with Platonic undertones. For Philo, when God created the natural world, like any good architect he began by creating a blueprint of the

<sup>57</sup> See also Brad Inwood, “Natural Law in Seneca,” in *Studia Philonica Annual* 15 (2003): 77–95.

<sup>58</sup> Koester, “*Nomos Phuseos*,” 522.

<sup>59</sup> While Koester read Philo in Greek, early modern thinkers cite him in Latin, and I read Philo in English. Citations and page numbers throughout are from the Loeb Classical Library: Philo Judaeus, *Philo*, 11 vols., trans. F. H. Colson and G. H. Whitaker (London: Heinemann, 1929–62), henceforth *Philo*. Numbers refer to section number and paragraph number in the Greek, and page number in the Loeb edition. I also worked with C. D. Yonge, *The Works of Philo* (Peabody, Mass.: Hendrickson, 1993), and occasionally cite this translation for its aesthetic, as indicated in my notes.

<sup>60</sup> Philo, *De vita Mosis II* [On the Life of Moses II], in *Philo*, vol. 6 (henceforth *Mos. II*), VIII: 46–48, 471.

<sup>61</sup> Philo, *De opificio mundi* [On the Creation of the World], in *Philo*, vol. 1 (henceforth *Opif.*), I: 3, 7.

world in his logos,<sup>62</sup> “the world which existed in ideas,” or “the city discernible by the intellect alone.”<sup>63</sup>

God then created the world according to the blueprint, for the second creation was to be an imitation of the earlier creation, and comprise as many kinds of perceptible objects as there were conceptual kinds in the other.<sup>64</sup>

The order in the blueprint, imprinted into the world, was natural law: the law by which the natural world is ordered according to God’s will and intention. The entire world can thus be understood to have been created “in the image of God.”

When the Bible specifies that man was created in God’s image, this cannot just mean that he was created in the image of God’s blueprint, as this is true of all of creation and so the specification would have been redundant. Philo explained that man was different from other created beings in that he was created with a copy of God’s logos—that part of God that contains the law of nature within it:

It is in respect of the Mind, the sovereign element of the soul, that the word “image” is used; for after the pattern of a single Mind, even the Mind of the Universe as an archetype, the mind in each of those who successively came into being was moulded.<sup>65</sup>

Because man has a copy of God’s logos, he, like God, can create in his image, such that his labor is parallel to God’s labor and his rest parallel to God’s rest.<sup>66</sup> Man’s copy of the divine logos also allows him to understand this logos and act in accordance with God’s plan for nature, taking it into account in all his actions and legislative acts. Significantly, having a copy of

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<sup>62</sup> *Opif.*, IV: 15.

<sup>63</sup> *Opif.*, VI: 25, 21. The first quote is from the translation in Yonge, *Works*, 5. On Platonic ideas in Philo’s creation narrative, see Alexander Altmann, “Judaism and World Philosophy,” in *The Jews: Their History, Culture, and Religion*, vol. 1, ed. Louis Finkelstein (Philadelphia: Jewish Publication Society of America, 1949), 630–31.

<sup>64</sup> *Opif.*, IV: 16, 15. The translation here is taken from Erwin Ramsdell Goodenough, *By Light, Light: The Mystic Gospel of Hellenistic Judaism* (New Haven: Yale University Press, 1935).

<sup>65</sup> *Opif.*, XXIII: 69, 55.

<sup>66</sup> Note the parallel between the creation of the Tabernacle in *Mos. II*, XV: 74, 487ff., and the creation of the world in *Opif.* This is reflected in the rabbinic interpretation of the Sabbath prohibition on labor, where the labors prohibited on the Sabbath are those employed in the creation of the Tabernacle.

God's logos also means, for Philo, that man has free will and it is not pure intellect which rules, but choice.<sup>67</sup> As natural law is equivalent to divine justice,<sup>68</sup> however, exploiting free will and not acting according to natural law have dire consequences for human life.

Aside from copying his logos into the world and into man's mind, God made another copy of his logos, which is the Torah, or "law." This is the sense in which not only does the law begin with nature (referring to the creation narrative in Genesis), but nature begins with the law: the Torah, like creation, is a copy of the blueprint of God's logos, which yields the natural world. Of course, that the Torah contains a copy of God's logos is quite problematic: a written version of the law seems expedient when man's logos inherently contains the same law. Moreover, how can a written law contain an unlimited law such as God's plan for the world?

With regard to man's intellect containing the same law and the expediency of Torah, Philo explained that while the first man and some select men in the Bible—Moses<sup>69</sup> and Abraham,<sup>70</sup> among others—were given exact copies of God's logos and thus had direct access to the law of nature, subsequent generations did not share this benefit. Rather than copies of God's logos, they had copies of copies, with later generations having copies of copies of copies, and so forth.<sup>71</sup> The deterioration of man's logos over time created a demand for a written law and guide to God's plan that would not deteriorate over time, "stamped, as it were, with the seals of nature herself."<sup>72</sup>

As to the question of how a limited written law—Torah—can contain the unlimited law of nature (especially considering that unwritten law gradually came to be identified with the law of nature),<sup>73</sup> Philo agreed that the forms in the logos of God "surpass all the power of language."<sup>74</sup> Mosaic law, however, is not limited to that which is written in it, but includes the lives of exemplary men who not only lived according to the law of nature

<sup>67</sup> Harry Austryn Wolfson, *Philo: Foundations of Religious Philosophy in Judaism, Christianity, and Islam*, 2 vols. (Cambridge, Mass: Harvard University Press, 1962), 1:430–31, 457–58.

<sup>68</sup> Goodenough, *By Light, Light*, 59.

<sup>69</sup> Philo, *De vita Mosis I* [On the Life of Moses I], in *Philo*, vol. 6 (henceforth *Mos. I*), IX: 48, 301–3.

<sup>70</sup> Philo, *De Abrahamo* [On Abraham], in *Philo*, vol. 6 (henceforth *Abr.*), VIII: 60–61 (35); Goodenough, *By Light, Light*, 68.

<sup>71</sup> *Opif.*, XLIX: 141–42, 111–13; *Abr.*, 1:5 (7).

<sup>72</sup> *Mos II.*, III: 14, 457.

<sup>73</sup> Hindy Najman, "A Written Copy of the Law of Nature: An Unthinkable Paradox?" *Studia Philonica Annual* 15 (2003): 56.

<sup>74</sup> *Opif.*, I: 4, 9. The translation here is from Yonge, *Works*, 3.

but were “living embodiments of that law.”<sup>75</sup> Living according to God’s intention, then, is not only to be achieved by obeying the written law, but by comprehending and imitating the exemplary figures, endowed with exact copies of God’s logos, whose lives are expounded there.

Philo, then, presented a higher normative standard embedded in creation—a natural law which is God’s will and his reason for creation—attainable by perfect (or “right”) human reason. While this is essentially accessible by human reason, for most men it will be most easily accessed by consulting the Torah, which runs beyond the written word. Natural law, for Philo, is hence equivalent to the law of God by which he created the world; the law inherent in original human reason; the law of Moses properly understood; and the lives of the Patriarchs. It is divine reason and divine will. If in Aquinas’s system reason clearly took precedence over the will for determining law, for Philo will is prior to and inseparable from reason in God and in his legislating of the law of nature, in the first man who effortlessly walks with God, and in later men, who seek—in nature, in the Torah, and in the lives of the Patriarchs—reason that accords with divine will and reason.

Before encountering Philo, Grotius had formulated a notion of natural law derived from divine will, and his political standing had been deeply affected by his attitude towards human and divine will. What Philo’s approach to natural law contributed to Grotius post-1618 is explored in the next section.

#### IV. PHILO AND NATURAL LAW IN GROTIUS’S *LAWS OF WAR AND PEACE*

In book 1, chapter 1 of *De jure belli*, Grotius opens his discussion of natural law with a scheme absent from his early work:

The best division of the law thus conceived is found in Aristotle, that is, into natural law and volitional law, to which he applies the term statutory, with a rather strict use of the word statute; sometimes he calls it established law.

The same distinction is to be found among the Jews, who, when they expressed themselves with exactness, called the law of

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<sup>75</sup> Altmann, “Judaism and World Philosophy,” 628. See for example *Mos. I*, IX: 47–48, 301; *Abr.*, I: 5, 7.



nature “commandments,” and established law “statutes.” These terms the Greek-speaking Jews are accustomed to translate as “duties” and “commands.”<sup>76</sup>

Grotius’s footnotes to these passages reveal that Philo represented the “Greek-speaking Jews,” whereas Maimonides represented the Jews who “expressed themselves with exactness.”<sup>77</sup> These categories—of natural and volitional law—are followed by Grotius’s definition of natural law:

The law of nature is a dictate of right reason, which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral baseness or moral necessity; and that, in consequence, such an act is either forbidden or enjoined by the author of nature, God.<sup>78</sup>

The first source Grotius cited in the footnote to his definition of natural law as right reason was Philo.

At first glance the categories of natural and volitional law which Grotius presented as exhaustive of all law seem to contradict the definition of natural law in *De jure praedae* as willed by God. Grotius’s definition of natural law as right reason only strengthens this impression. But the fact that Grotius credited Maimonides and Philo for his distinction between natural and volitional law, and that Philo was Grotius’s first source for his definition of natural law as “right reason,” opens up the possibility of another interpretation very much in line with Grotius’s discussion in *De jure*: that right reason, in Grotius as in Philo, accords with the will of God and even gains its status as natural law from this.

Already in the prolegomena we read,

But the law of nature of which we have spoken . . . proceeding as it does from the essential traits implanted in man, can nevertheless rightly be attributed to God, because of His having willed that such traits exist in us.<sup>79</sup>

Hence Grotius repeated right at the beginning of *De jure belli* a version of the idea from *De jure praedae* that natural law is willed into the world by

<sup>76</sup> *DJB*, bk. 1, chap. 1, 3–4 (38).

<sup>77</sup> See note 26 above.

<sup>78</sup> *DJB*, bk. 1, chap. 1, 4 (38).

<sup>79</sup> *DJB*, prolegomena, x (15).

God, only that the sense in which natural law is willed is that the traits in man from which natural law proceeds are willed by God. The distinction, then, that Grotius made between natural law (which was originally divine volitional law) and volitional law (properly so named), which can be divine or human, is not entirely clear-cut. After all, there is a sense in which natural law is willed by God and hence volitional, even if for Grotius (unlike for Philo) it differs from other volitional law in that God cannot change it. Thus while natural law and volitional law appear in Grotius's account first as distinct realms, a closer look reveals that they are not, in fact, mutually exclusive.<sup>80</sup>

The intricate relationship between natural law and volitional law continues in the text, where Grotius tells us that natural law is known to exist by the necessary agreement of things with a rational and social nature, and by the agreement of all peoples advanced in civilization. He points to matters in which there is agreement among peoples, philosophically and historically, in particular among Greeks, Hebrews, Romans, and Christians. In his quest for agreement among peoples as a guide to natural law, the laws that serve as the raw material for consensus are the *volitional* laws of peoples. The way in which volitional law evolved throughout history is often chosen over deductive reasoning for the recovery of natural law. Reason, even of the most learned men, is not infallible, and Grotius did not hesitate to declare authoritative sources—from Greeks to rabbis—to be sometimes the worst interpreters of the law.<sup>81</sup>

Other than in the agreement of peoples, there is another significant expression of volitional law as a guide to natural law, and this is in the way Grotius employed Mosaic law—including the parts that are properly volitional law of the Jews—to inform himself about natural law:

There are some who urge that the Old Testament sets forth the law of nature. Without doubt they are in error, for many of its rules come from the free will of God. And yet this is never in conflict with the true law of nature; and up to this point the Old Testament can be used as a source of the law of nature, provided we carefully distinguish between the law of God, which God sometimes executes through men, and the law of men in their relations with each other.<sup>82</sup>

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<sup>80</sup> This observation was made in Leonard F. M. Besselink, "Cynicism, Scepticism and Stoicism," *Grotiana* 22/23 (2001–2): 177–96.

<sup>81</sup> *DJB*, bk. 2, chap. 8, 245 (369).

<sup>82</sup> *DJB*, prolegomena, xvi (27).

A key example of Grotius's view is his proof that war is allowed according to the law of nature: as God could not have legislated against natural law, and the Hebrews engaged in lawful wars, there must be wars that do not violate natural law.<sup>83</sup> It is notable that war being in accordance with the law of nature appears in *De jure praedae*, and Josephus is cited on this.<sup>84</sup>

Grotius's use of the Hebraic legal tradition—much of which he considered divine volitional law granted to the Jews—as a source of information about natural law, goes further than to find that the laws of Moses cannot contradict natural law. Grotius found Mosaic law to contain morally superior guidelines. While Mosaic law does not bind Christians, nothing contrary to Mosaic law can be contrary to the law of nature, and Hebraic law remains “pure,” “right,” “holy,” “just,” and “good,” even after the Gospel.<sup>85</sup> True, Christians may substitute the laws of Moses with other laws having the same purport as the laws of Moses, but the ends that Mosaic law set out to attain should not be forgotten. The Gospel demands more than Hebraic law, not less:

Thus the ancient law of the Sabbath and that of Tithes show that Christians are bound to set apart not less than a seventh of their time for divine worship and not less than a tenth of their income for the support of those who minister in the sacred offices, or to similar pious uses.<sup>86</sup>

That much of Mosaic law is divine volitional and not natural law, Grotius found within scripture itself and through its Jewish interpreters. While the parts that are divine volitional law were binding on the Jews and do not bind all peoples, other peoples can and should seek to understand divine volitional law, and shape other laws that serve the same ends. The order at which Mosaic law is aimed, then, can be understood to be a natural order, in line with God's initial intentions for the world, which various volitional laws can be instrumental in obtaining.

Considering Grotius's understanding of reason and will as enabled partly by Philo's natural law allows us to be sympathetic to somewhat less impious interpretations of Grotius's famous “impious statement” cited above. According to Philo's natural law, the human mind is essentially capable of attaining knowledge of natural law without further revelation.

<sup>83</sup> *DJB*, bk. 1, chap. 2, 17–18 (55).

<sup>84</sup> *DJP*, chap. 3, 15 (33).

<sup>85</sup> *DJB*, bk. 1, chap. 1, 9 (48–49).

<sup>86</sup> *DJB*, bk. 1, chap. 1, 9 (50); bk. 3, chap. 14, 545 (764).

Grotius, who spoke of God implanting those essential traits in us, would agree. For Philo, due to the deterioration of the human mind over time, one should avail oneself of further aids beyond one's own reason to obtain this knowledge. Such aids are provided in this world—in nature and in scripture—and further revelation on God's part is not required. Grotius's method, whereby he not only consulted his own reason, but often extrapolated from scripture and always appealed to the wisdom of philosophers, was certainly in line with this. As such, what Grotius was saying in his "impious statement" may have been, in effect, that there is no leap of faith required for natural law. If everything has been revealed in this world, we can learn it through reason and nature. We no longer require God, or his interest in human affairs, for its discovery. Natural law should be able to meet this strict standard even if we also know, through the reason implanted in us, that there is a God, author of nature.<sup>87</sup>

This interpretation of the "impious statement" shows the development of Grotius's thinking about natural law from *De jure praedae* to *De jure belli*. If in the earlier work natural law was a foundational truth or premise, God's will from which other laws could be derived, in the later work natural law was clearly a derivable truth. The same God who willed natural law into the world provided men with the tools to recover it in his absence. Here the contexts in which Grotius wrote may be seen to meet: if Grotius has been understood as responding to skepticism, then this interpretation of his impious statement can be seen as a response to skepticism derived not from Stoic but from Hebraic sources. The skeptic would ask "what if there is no God?" and the Grotius of *De jure belli* would have an answer, rooted in an epistemology consistent with that in Philo's natural law, for how natural law might be recovered from existing sources. The "pious" passage from the prolegomena, in which Grotius writes that the law of nature should be attributed to God because of his willing these essential traits in man, can now be read as in line with Grotius's thought, and even with his "impious statement." Even if natural law were willed by God, it should be able to stand in the face of counterfactual claims about the existence of God. While God is the efficient cause of the law, and the one who willed natural law into existence at least in some sense, natural law may now be known from sources independent of belief in God.

The sources that can be examined independent of further revelation,

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<sup>87</sup> On the impious statement not being an ontological statement, see William George, "Theology and International Law: Overcoming Textbook Bias," *Journal of Law and Religion* 14, no. 2 (1999–2000): 618.

and through which God's will and reason can be recovered, scripture and nature, were themselves willed by God. This understanding was in line with the "doctrine of the two books" so popular in early modernity, which is usually attributed to Tertullian but can be found in Philo. Philo's understanding that sources of wisdom are in harmony with each other would have appealed to Grotius, who from his earliest works sought harmony between and within religious and political positions. Interestingly, Grotius's association of Judaism with harmony went beyond his reading of Philo, though perhaps it was inspired by it. As mentioned above, Grotius read Maimonides as an interpreter of Philo, constructing a single Jewish tradition. This is as opposed to Milton, who recognized core disagreements among the rabbis and multiple interpretative traditions that were hardly harmonious.<sup>88</sup> Grotius's association of Judaism with harmony even entailed his claiming that Pythagoras had "borrowed" some of his ideas from the Jews.<sup>89</sup> Grotius may have known that Ambrose considered Pythagoras *discipulus Iudaei*,<sup>90</sup> and yet his focus turned to the possible Jewish ancestry of Pythagoras's ideas.

Philo, who sought to harmonize particular Jewish law with universal Greek philosophy, did not claim that Hebraic law binds non-Jews, but found Jewish (volitional) law to be necessarily rational, as will is intertwined with reason in God. Right reason in man, being a copy of right reason in God, is also intertwined with will and with God's will. The significance of the will for Grotius's natural law defined as right reason—or the relationship between reason and will in natural law—is the most prominent aspect of Grotius's natural law that profited from his encounter with Philo. Grotius criticized the Scholastics for speaking of volitional law that does not contradict natural law as a form of natural law, where it is not properly so, such that the distinction between volitional and natural law is one of the things that Grotius himself claimed distinguished him from the Scholastics. It was Philo who provided Grotius with the apparatus for clarifying the relationship between natural and volitional law. If rationality had taken precedence over the will from Augustine to Suarez,<sup>91</sup> for Grotius leaning on Philo, and indeed on the Jewish tradition as he understood it, the will is for some purposes equal to and for some purposes even above reason.

<sup>88</sup> John Milton, *Pro populo anglicano defensio* (London, 1651), 35.

<sup>89</sup> *DJB*, bk. 2, chap. 13, 251 (379). Cf. Selden, *De jure*, bk. 1, chap. 2, 81–90.

<sup>90</sup> Christopher Butler finds echoes of this in Renaissance thought. Butler, *Number Symbolism* (London: Routledge, 1970), 72.

<sup>91</sup> Oakley, *Natural Law*, 49–50. Oakley connects Philo to Augustine in this respect, but I differ based on my reading of Philo.

## V. CONCLUSION

That Grotius was the first modern natural law thinker has been commonly accepted from the seventeenth century to the present day, and yet what Grotius's innovation was, or what was "modern" about Grotius's natural law, continues to elude scholars. Grotius's definition of natural law as a dictate of right reason was not new. What changed with Grotius were the sources cited for this definition and for his discussion of natural law more generally. While many have focused on the secular or neo-Stoic influences on Grotius, this article has explored the significance of the multiple references to Philo in *De jure belli* and the fact that Philo is Grotius's first source for his definition of natural law. Grotius's natural law no longer appeared in a Scholastic division of the law with a presupposition of eternal law. Rather, for Grotius, leaning on Philo, natural law and divine volitional law are closely related, as indeed are reason and will, and there is no inaccessible eternal law.

Grotius's association of reason and will in *De jure belli* marked an important shift in natural law discourse. Prior to Grotius, it is not clear that John Selden could have justified exploring natural law *juxta disciplinam Hebraeorum*. When natural law was to be learned only by reason, as in the Scholastic understanding, there was no room to view it through particular traditions or through laws given at a point in historical time. Hobbes's identification of the second table of the Ten Commandments as natural law was also only possible once Grotius had opened up the possibility for natural law to be discerned through volitional law.<sup>92</sup> Hobbes and Selden did not, of course, agree with Grotius or with each other. But they accepted the same non-Scholastic premises: that scripture and Jewish sources contain what is properly natural law.

Beyond natural law, Grotius's association of will with reason pioneered a modern approach to these concepts. John Milton said of Adam that "when God gave him reason, he gave him freedom to choose, for reason is but choosing."<sup>93</sup> For Hobbes, too, will is the outcome of reasoning, such that will and reason are inseparable.<sup>94</sup> Philo may have been an important source for this transition, which was significant for early modern thought.

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<sup>92</sup> Thomas Hobbes, *Leviathan* (London, 1651), chap. 42, 241–42.

<sup>93</sup> John Milton, *Areopagitica* (Indianapolis: Liberty Fund, 1999 [1644]), 23.

<sup>94</sup> Hobbes, *Leviathan*, chap. 6, 28.