

DE JURE BELLI AC PACIS LIBRI TRES

BY
HUGO GROTIUS

VOLUME TWO
THE TRANSLATION
BOOK I

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[*Consolation*,
608 D.]

This aspect of their behaviour has its origin, we believe, in some extrinsic intelligent principle, because with regard to other actions, which involve no more difficulty than those referred to, a like degree of intelligence is not manifest in them. The same thing must be said of children. In children, even before their training has begun, some disposition to do good to others appears, as Plutarch sagely observed; thus sympathy for others comes out spontaneously at that age. The mature man in fact has knowledge which prompts him to similar actions under similar conditions,¹ together with an impelling desire for society, for the gratification of which he alone among animals possesses a special instrument, speech. He has also been endowed with the faculty of knowing and of acting in accordance with general principles. Whatever accords with that faculty is not common to all animals, but peculiar to the nature of man.

8. This maintenance of the social order,² which we have roughly sketched, and which is consonant with human intelligence, is the source of law properly so called. To this sphere of law belong the abstaining from that which is another's,³ the restoration to another of anything of his which we may have, together with any gain which

shame when they hear this—they that neglect those whom alone, or above all others, they ought to help, especially when by so doing they are not really called upon to give, but merely to return what they owe? Children have as their own nothing to which their parents do not possess a prior claim; their parents have either given them what they have, or have furnished to them the means of acquisition.'

In regard to the extraordinary care of doves for their young, see Porphyry, *On Abstaining from Animal Food*, Book III; concerning the regard of the parrot-fish and lizard-fish for their kind, see Cassiodorus, [*Variae*,] XI. xl.

¹ Marcus Aurelius, Book IX [IX. xli]: 'Man was born to benefit others'; also [IX. ix]: 'It would be easier to find a thing of earth out of relation with the earth than a human being wholly cut off from human kind'. The same author in Book X [X. ii]: 'That which has the use of reason necessarily also craves civic life.'

Nicetas of Chonae [*On Isaac Angelus*, III. ix]: 'Nature has ingrained in us, and implanted in our souls, a feeling for our kin.' Add what Augustine says, *On Christian Doctrine*, III. xiv.

² Seneca, *On Benefits*, Book IV, chap. xviii: 'That the warm feeling of a kindly heart is in itself desirable you may know from this, that ingratitude is something which in itself men ought to flee from, since nothing so dismembers and destroys the harmonious union of the human race as does this fault. Upon what other resource, pray tell, can we rely for safety, than mutual aid through reciprocal services? This alone it is, this interchange of kindnesses, which makes our life well equipped, and well fortified against sudden attacks.'

³ Imagine ourselves as isolated individuals, what are we? The prey, the victims of brute beasts—blood most cheap, and easiest to ravage; for to all other animals strength sufficient for their own protection has been given. The beasts that are born to wander and to pass segregate lives are provided with weapons; man is girt round about with weakness. Him no strength of claws or teeth makes formidable to others. To man [deity] gave two resources, reason and society; exposed as he was to danger from all other creatures, these resources rendered him the most powerful of all. Thus he who in isolation could not be the equal of any creature, is become the master of the world.

⁴ It was society which gave to man dominion over all other living creatures; man, born for the land, society transferred to a sovereignty of a different nature, bidding him exercise dominion over the sea also. Society has checked the violence of disease, has provided succour for old age, has given comfort against sorrows. It makes us brave because it can be invoked against Fortune. Take this away and you will destroy the sense of oneness in the human race, by which life is sustained. It is, in fact, taken away, if you shall cause that an ungrateful heart is not to be avoided on its own account.'

⁵ Porphyry, *On Abstaining from Animal Food*, Book III [III. xxvi]: 'Justice consists in the abstaining from what belongs to others, and in doing no harm to those who do no harm.'

we may have received from it; the obligation to fulfil promises, the making good of a loss incurred through our fault, and the inflicting of penalties upon men according to their deserts.

9. From this signification of the word law there has flowed another and more extended meaning. Since over other animals man has the advantage of possessing not only a strong bent towards social life, of which we have spoken, but also a power of discrimination which enables him to [ix] decide what things are agreeable or harmful (as to both things present and things to come), and what can lead to either alternative: in such things it is meet for the nature of man, within the limitations of human intelligence, to follow the direction of a well-tempered judgement, being neither led astray by fear or the allurements of immediate pleasure, nor carried away by rash impulse. Whatever is clearly at variance with such judgement is understood to be contrary also to the law of nature, that is, to the nature of man.

10. To this exercise of judgement belongs moreover the rational allotment¹ to each man, or to each social group, of those things which are properly theirs, in such a way as to give the preference now to him who is more wise over the less wise, now to a kinsman rather than to a stranger, now to a poor man rather than to a man of means, as the conduct of each or the nature of the thing suggests. Long ago the view came to be held by many, that this discriminating allotment is a part of law, properly and strictly so called; nevertheless law, properly defined, has a far different nature, because its essence lies in leaving to another that which belongs to him, or in fulfilling our obligations to him.

11. 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. The very opposite of this view has been implanted in us partly by reason, partly by unbroken tradition, and confirmed by many proofs as well as by miracles attested by all ages. Hence it follows that we must without exception render obedience to God as our Creator, to Whom we owe all that we are and have; especially since, in manifold ways, He has shown Himself supremely good and supremely powerful, so that to those who obey Him He is able to give supremely great rewards, even rewards that are eternal, since He Himself is eternal. We ought, moreover, to believe that He has willed to give rewards, and all the more should we cherish such a belief if He has so promised in plain words; that He has done this, we Christians believe, convinced by the indubitable assurance of testimonies.

Ambrose treats this subject in his first book *On Duties* [I. xxx].

12. Herein, then, is another source of law besides the source in nature, that is, the free will of God,¹ to which beyond all cavil our reason tells us we must render obedience. But the law of nature of which we have spoken, comprising alike that which relates to the social life of man and that which is so called in a larger sense, proceeding as it does from the essential traits implanted in man, can nevertheless rightly be attributed to God,² because of His having willed that such traits exist in us. In this sense, too, Chrysippus and the Stoics used to say that the origin of law should be sought in no other source than Jupiter himself; and from the name Jupiter³ the Latin word for law (*ius*) was probably derived.

13. There is an additional consideration in that, by means of the laws which He has given, God has made those fundamental traits more manifest, even to those who possess feebler reasoning powers; and He has forbidden us to yield to impulses drawing us in opposite directions—affecting now our own interest, now the interest of others—in an effort to control more effectively our more violent impulses and to restrain them within proper limits.

14. But sacred history, besides enjoining rules of conduct, in no slight degree reinforces man's inclination towards sociableness by teaching that all men are sprung from the same first parents. In this sense we can rightly affirm also that which Florentinus asserted from another point of view, that a blood-relationship has been established among us by nature; consequently it is wrong for a man to set a snare for a fellow-man. Among mankind generally one's parents are as it were divinities,⁴ and to them is owed an obedience which, if not unlimited, is nevertheless of an altogether special kind.

15. Again, since it is a rule of the law of nature to abide by pacts (for it was necessary that among men there be some method of obligating themselves one to another, and no other natural method can be imagined), out of this source the bodies of municipal law have arisen. For those who had associated themselves with some

¹ [xxi] Hence, in the judgement of Marcus Aurelius, Book IX [IX. 1]: 'He who commits injustice is guilty of impiety.'

² Chrysostom, *On First Corinthians*, xi. 3 [Homily XXVI, iii]: 'When I say nature I mean God, for He is the creator of nature.' Chrysippus in his third book *On the Gods* [Plutarch, *On the Contradictions of the Stoics*, ix = *Morals*, 1035 C]: 'No other beginning or origin of justice can be found than in Jupiter and common nature; from that source must the beginning be traced when men undertake to treat of good and evil.'

³ Unless perhaps it would be more true to say that the Latin word for 'right', *ius*, is derived, by process of cutting down, from the word for 'command', *iussum*, forming *ius*, genitive *iuris*, just as the word for 'bone', *os*, was shortened from *ossum*; *iuris* afterwards becoming *turis*, as *Papirii* was formed from *Papirii*, in regard to which see Cicero, *Letters*, Book IX. xxi [*Ad Fam.* IX. xxi. 2].

⁴ Hierocles, in his commentary on the *Golden Verse* [rather *How parents should be treated*, quoted by Stobaeus, *Anthology*, tit. lxxix. 53], calls parents 'gods upon earth'; Philo, *On the Ten Commandments* [chap. xxiii], 'Visible gods, who imitate the Unbegotten God in giving life'. Next after the relationship between God and man comes the relationship between parent and child; Jerome, *Letters*, xcii [cxvii. 2]. Parents are the likenesses of gods; Plato, *Laws*, Book XI [XI. 11]. Honour is due to parents as to gods; Aristotle, *Nicomachean Ethics*, Book IX, chap. ii.