Running Head (RH): Grotius Contra Carneades: Natural Law and the Problem of Self-Interest

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Abstract: In the Prolegomena to *De Jure Belli ac Pacis*, Hugo Grotius expounds his theory of natural law by way of reply to a skeptical challenge from the Greek Academic Carneades. Though this dialectical context is undeniably important for understanding Grotian natural law, commentators disagree about the substance of Carneades's challenge. This paper aims to give a definitive reading of Carneades's skeptical argument, and, by reconstructing Grotius's reply, to settle some longstanding debates about Grotius's conception of natural law. I argue that Grotius held a Stoic view of natural law, endorsing both the doctrine of *eudaimonism* and the claim that moral obligations are natural, not grounded in divine command. Consequently, Grotius's view of natural law has more continuity with pre-modern, indeed ancient, morality than is usually supposed. However, I argue that we can still understand Grotius as a founder of modern moral philosophy.

Keywords: Hugo Grotius, Carneades, natural law, moral skepticism, practical rationality, self-interest, Stoicism, individual rights, history of ethics

Introduction

It is widely agreed that Hugo Grotius played a pivotal role in the birth of modern moral philosophy, principally because of his treatise on the laws of war, *De Jure Belli ac Pacis* (*DJBP*). While primarily a text concerning what is today known as international law, the work's impact on moral thought is due to Grotius's discussion of natural law, which, he tells us, is a fundamental source of law between states, along with divinely commanded law and conventional law.[1] According to Jean Barbeyrac, it was Grotius's discussion of natural law that "broke the Ice" covering moral philosophy in an age when philosophy was in a general state of "Imperfection."[2]

What, exactly, did Grotius do to break the proverbial ice? Most commentators argue that, in one way or another, Grotius developed a novel theory of natural law.[3] The assumption is that novelty in his natural law theory best explains Grotius's remarkable influence on the history of moral thought. This assumption, though, is dubious. It seems just as likely that Grotius's influence is due to how he formulated the *problem* of natural law morality rather than his own *solution* to this problem.[4] Grotius's impression on modern moral thought, that is, may best be explained by his having provided a particularly stimulating statement of the philosophical problem of justifying natural law requirements. My goal in this essay is to defend this alternative interpretation of Grotius's place in the history of moral thought. I argue that Grotius formulated a distinctive and powerful argument against natural law from the fact of human self-interestedness, and that he responded to this threat by relying on a fairly traditional Stoic account of natural law. Grotius's fundamental worry was that moral requirements could run contrary to an agent's self-interest and thus fail as a guide to practical conduct. It is this worry about self-interest that has pervaded moral philosophy ever since.

I advance this reading by reconstructing Grotius's debate with the Greek Academic Carneades. Carneades undoubtedly raises a skeptical argument based on human self-interestedness, but there is little consensus as to how this argument should be interpreted. Indeed, Grotius's stance *vis-à-vis* moral skepticism is one of the more contentious questions in the literature, due in large part to the writings of Richard Tuck.[5] Disputes about this question have cast an interpretive shadow over the nature and content of Grotian natural law.

Carneades, I argue, raises a twofold challenge to natural law as a form of other-regarding morality. Moral requirements to benefit another at one's own expense are motivationally distant from human nature and, in any case, irrational to comply with. It is by formulating this problem, I contend, that Grotius helped set the agenda for debates in modern ethics. It is particularly the second prong of the argument, regarding the *rationality* of moral requirements, that we find again and again in the writings of modern moral theorists. While concerns about the rationality of morality certainly did not originate with Grotius, his debate with Carneades represents a key development in philosophical discussions regarding the relationship between practical rationality and self-interest. In emphasizing the importance of this basic theoretical problem in *DJBP*, I agree with Henry Sidgwick, who wrote that Grotius prompted later philosophers to ask, "What is man's ultimate reason for obeying these [natural] laws" (*Outlines*, 163)?

I believe Grotius's own answer to Sidgwick's question, in line with Stoic natural law thinking, depends on an appeal to *eudaimonism*. By eudaimonism I mean the thesis that all an agent's (moral) reasons for action are (necessarily) reasons of self-interest. It is by recourse to this thesis that Grotius ensures moral requirements are always rational and thus appropriately guide practical conduct. I combine this eudaimonist reading with the view, defended by Johan Olsthoorn, that Grotius is a naturalist about moral obligations.[6] I thus offer a new reading of

Grotius's natural law ethics, given that commentators tend to read Grotius as either abandoning eudaimonism to accommodate naturalism about moral obligations, or abandoning naturalism about moral obligations to accommodate eudaimonism.[7] Both of these views are mistaken, I think, and by combining eudaimonism with naturalism about moral obligations we can substantiate Grotius's claim that "the very nature of man. . . is the mother of the law of nature" (*DJBP* Prol. 16).

I begin by reconstructing Carneades's challenge to natural justice. I consider and reject Richard Tuck's reading of this argument, which discounts Grotius's insistence on the essential sociability of human nature. I then assess two well-known accounts of Grotius's doctrine of sociability. First, I argue against Stephen Darwall's view that Grotian sociability grounds a non-eudaimonist ethics. Second, I argue against Terence Irwin's view that Grotian sociability requires divine command to ground moral obligations. As an alternative, I argue that Grotius deploys a Stoic conception of human nature and natural law to answer Carneades and join eudaimonism with naturalism about moral obligations. I conclude by commenting on Grotius's place in modern debates about the rationality of morality.

1. Carneades's Skeptical Argument

The project of systematically expounding the laws of war would be idle if law has no place in war. Accordingly, Grotius opens the Prolegomena by considering the skeptical position that states cannot be criticized for acting unjustly, in violation of international law, "That body of law. . . derived from nature, or established by divine ordinance, or having its origin in custom and tacit agreement" (*DJBP* Prol. 1). Grotius observes that "there is no lack of men who view this branch of law with contempt as having no reality outside of an empty name" (*DJBP* Prol. 3).

In this section, I explain what Grotius means when he says some view international law as an empty name, and how he refutes this view by refuting Carneades's argument against natural justice.

While Grotius sets out to defend international law generally, in the Prolegomena he focuses specifically on natural law, or natural justice, as a source of normative constraints on state action.[8] I take it that Grotius believes there are certain common-sense precepts of justice that the skeptical position is meant to undermine. For example, one might claim a right of ownership over a piece of land. Grotius evidently thinks such claims can be made (coherently) by one sovereign against another despite the absence of a common civil law jurisdiction. Grotius suggests that the skeptic can deny common-sense claims of justice in more than one way: "On the lips of men quite generally is the saying of Euphemus, which Thucydides quotes, that in the case of a king or imperial city nothing is unjust which is expedient. Of like implication is the statement that for those whom fortune favours might makes right, and that the administration of a state cannot be carried on without injustice" (*DJBP* Prol. 3).

There are three different skeptical views, here. Their differences are less important for our purposes than what Grotius calls their "like implication." I take this implication to be that common-sense claims of injustice, as applied to the sovereigns of states, are simply false: that the rulers of states (acting internationally) are not bound by the reasons of justice that would apply to individuals acting under civil law. Whether it is because might makes right, or because one must act unjustly in administering a state, or because the expedient is, in fact, the just, a sovereign is not restrained by what common sense would regard as decisive reasons for (or against) certain actions. There is thus no reason (of justice, at least) against pursuing one's self-interest outside of a civil law context. International law is an empty name.

The general outlook, therefore, that Grotius wants to refute is the view that we have no reasons (of justice) to act in ways that are contrary to our self-interest in inter-state conflict. It is taken for granted that self-interest gives us reason to act in certain ways and that claims of unlawfulness or injustice would serve as normative impediments to the pursuit of this self-interest. Grotius sharpens the skeptical view by considering the challenge to natural justice from Carneades. Refuting Carneades allows Grotius to accomplish the rhetorical task of defeating the most eloquent defender of moral skepticism in the classical tradition. And, at the same time, it enables Grotius to develop a debate going back to Cicero's (mostly) lost third book of *De re publica*, the argument of which Grotius would have found in Lactantius.[9]

Carneades puts forward a twofold argument:

> Men enacted laws for their own advantage [*utilitate*], [sc. the laws] varying according to the customs, and often changing amongst the very same men according to the time: natural law, however, does not exist [*jus autem naturale esse nullum*]: for all men, as well as animals, are led by nature to their own advantage [*ad utilitates suas natura ducente ferri*]: hence either there is no [sc: natural] justice [*justitiam*], or if it somehow [*aliqua*] does exist, it is the greatest foolishness [*summam esse stultitiam*], since one harms oneself in looking out for the benefit [*commodis*] of another (*DJBP* Prol. 5; my translation).

This argument is striking, though a bit odd. Striking because it appears to derive a powerful conclusion—that there is no natural justice—from the simple premise that all men by nature seek their own self-interest. And odd because it contains two distinct prongs, which do not, however, function as a dilemma. The first prong—that there simply is no natural justice—Carneades states as though it is alone sufficient as an argument. He adds after this, as a kind of

auxiliary argument, the second prong—that if *somehow* natural justice did exist it would be the greatest foolishness.

Two initial observations are in order. The first is that Carneades offers his argument against natural justice in terms of self-interest, or 'utilitas,' which I render as 'advantage.' Carneades's limiting of self-interest to advantage is a key feature of the argument against natural justice that Grotius will oppose. The second observation is the allusion to Thrasymachus's challenge to Socrates, in book I of the *Republic*, to the effect that justice is nothing but "noble naiveté" (*Republic* 348c).[10] It is this charge that it is naïve, or foolish, to act justly that raises the worry that it is *irrational* to comply with moral requirements.[11] Carneades's twofold argument, then, is that natural law cannot exist given its inevitable conflict with each agent's advantage—and that even if it did exist, it would be irrational to obey it.

This twofold challenge appears within Carneades's overarching skeptical argument:

(1) For there to be natural law duties to act against one's own self-interest, natural law must both exist and be valid.

(2) Natural law either does not exist or it is not valid.

(3) So, there are no natural law duties to act against one's own self-interest.

Grotius, I take it, accepts (1). So, we want to understand the argument for (2).

The first part of (2) is that natural law does not exist. Carneades's argument for this claim seems to me the following.

(4) For natural law to exist, men must be capable, generally, of being motivated to comply with natural law's demands.

(5) Natural law, in requiring men to act against self-interest, makes demands that men are not capable, generally, of being motivated to comply with.

(6) So, natural law does not exist.

Call this the *Difficulty of Compliance* argument. The argument is meant to capture the noteworthy fact that Carneades derives an *ontological* conclusion, the non-existence of natural law, from an *empirical* premise, the self-interested nature of humans. The thought seems to be this: the existence of natural law depends on humans being capable, in some sense, of acting contrary to their own advantage, since natural law requires such actions. In other words, because normative standards are essentially action guiding, the existence of a normative standard depends on the *satisfiability* of that standard.[12] I understand the satisfiability in question in terms of motivation, whether humans can generally be motivated to act against self-interest. Let me explain this reading.

Carneades offers as evidence of human self-interestedness the fact that laws, across time and place, are formulated to promote society's advantage.[13] Humans, it seems, are naturally disposed to seek their own advantage. But why should this fact call the existence of natural law into question? One possibility is that humans are *incapable* of pursuing anything but their own advantage, perhaps because humans are psychological egoists. If this were true, then humans would be strictly incapable of satisfying natural law requirements, and it would be easy to see that natural law does not exist. For natural law would patently fail to satisfy the principle 'ought implies can.'[14] (We might call *this* argument *Impossibility of Compliance*.) However, the observation that humans enact laws for the sake of advantage does not support this strong claim. At most it supports the claim that promoting one's advantage is an important practical goal—not the only (possible) practical goal.

Moreover, Carneades implicitly concedes, in the second prong of his argument against natural justice, that it *is* possible for humans to act contrary to their advantage. He simply thinks

it is foolish to do so. And this concession is reasonable. It is plain, even to the hardened skeptic, that humans act altruistically from time to time. Even a single altruistic act would disprove the claim that it is impossible for humans to act contrary to self-interest. So, there must be some other sense in which natural law ask too much of self-interested humans, for Carneades.

We can weaken our reading of Carneades's empirical claim about human self-interestedness to find a stronger argument against natural justice. Carneades's argument is more plausible if he simply asserts that humans by nature tend to prefer their own welfare above that of others, or of considerations of justice, such that most of us, most of the time are not willing to sacrifice our advantage for justice's sake. This is just to say that humans generally cannot be motivated to comply with natural law's requirements.[15] Acting justly to one's own detriment is motivationally limited to the (naïve) Stoic sage. If it is true that humans generally cannot be motivated to act justly, then natural law cannot serve as a general action-guiding standard, which is just to say that it does not exist as a moral standard. It would certainly be odd to assert the existence of a moral standard if most humans, most of the time could not be motivated to comply with it. In addition, if we read Carneades's argument this way, we can better understand Grotius's argumentative strategy of appealing to basic features of human nature that explain why *all* of us care about justice, rather than just the Sages among us. As I show below, Grotius deploys classical authorities precisely to show the common, human concern for justice.

So much for the first prong. What about the second? The second argument is that even if natural law did exist, it would not be valid. The language of (in)validity is my own, meant to capture the fact that Carneades allows that natural law might *exist* yet *fail to give us reason* to act justly. Obedience to an invalid law, like a procedurally sound law meant to enrich a tyrant, is, absent the threat of punishment, irrational. Such invalid laws exist as an empty name, to use

Grotius's terms, in that they do not, independently of the threat of sanction, supply reasons for action. Natural law, promising only to harm the interests of the one who complies with it, is invalid, and given that natural law is not backed up by the threat of punishment, compliance is, Carneades alleges, irrational. I understand this argument in the following way.

(7) Natural law, to be valid, must not involve duties to act against one's own best interest.

(8) Natural law involves duties to act against one's own best interest.

(9) So, natural law is not valid.

Call this argument *Irrational to Comply*. The argument is founded on the idea that the agent's best interest is the fundamental standard of practical rationality.[16] By 'best interest' I just mean whatever most promotes the agent's wellbeing, leaving open the question, at this point, as to whether this should be identified with the agent's advantage, as Carneades contends, or something broader. As I will argue below, Grotius takes the agent's wellbeing to cover more than the agent's advantage, including, in addition, moral goodness. For now, though, all we need to get the argument off the ground is the shared assumption, between Carneades and Grotius, that the agent's best interest, however defined, is the ultimate guide to practical rationality. The underlying intuition, I think, is that it is self-evidently irrational for an agent to act destructively toward her own interests. Put positively, reasons of self-interest seem particularly weighty from the agent's point of view, giving her distinctively strong reason to pursue one course of action as opposed to another.[17]

Grotius certainly accepts that self-interest, in terms of advantage, provides reasons for action. Civil laws, he says, are justified on this basis.[18] So, there must be some source of reasons to counterbalance the disadvantage of just acts to thereby render them rational. Whatever this source is, it must have reason-giving force for the strongly self-interested individual, such as the

Spartan Lysander, whom Grotius finds in Plutarch, who displays his sword and says, "He who is master of this is in the best position to discuss questions relating to boundaries between countries" (*DJBP* Prol. 3, n.1[19]). In other words, Grotius's project, to be successful in its domain, must give reasons acceptable to self-interested states. Anything else will appear as foolishness. Carneades's skepticism toward natural law, remember, is precisely styled to reflect the self-interested attitude of those who deny that states have reason to abide by international law. The strength of Grotius's rhetorical position thus depends on granting Carneades's premise of the basic rationality of promoting one's best interest.

Taken together, *Difficulty of Compliance* and *Irrational to Comply* constitute Carneades's challenge to natural justice, raising the problems of moral motivation and the rationality of moral conduct, respectively. I believe these problems constitute, for Grotius, the core challenge to a natural law theory of morality that is not based on the agent's advantage. To see that Grotius had hit upon fundamental problems for natural law morality, we need only compare a comment from Leibniz, found in a letter to Hermann Conring from January of 1670: "I posit together with Carneades (and Hobbes agrees) that justice without one's own utility (either present or future) is the greatest folly, for the proud boastings about the cultivation of virtue for its own sake given by the Stoics and Sadducees are far distant from human nature" (*Sämtliche Schriften*, 2.1:30; quoted in Hoekstra, "Hobbes and the Foole," 642, n.7. Cf. Brown, "Leibniz," 274).

Notice a certain ambiguity in Leibniz's comment, which points to the two distinct prongs of Carneades's argument. Leibniz speaks of both utility and virtue. It is unclear whether he thinks justice without utility—that is, without the agent's advantage—is folly because the average human, unlike the Stoic sage, is not sufficiently motivated by virtue. Or, instead,

whether Leibniz simply thinks "virtue for its own sake" is an empty idea, and only utility gives us reasons for action.

In either case, Leibniz's sympathy with Hobbes shows his preferred solution: uniting motivational egoism with rational self-interest in a mutual-advantage theory of justice. Such theories explain the rationality and motivational satisfiability of the dictates of justice by showing that these dictates redound to the agent's advantage, not just to the advantage of the person to whom the agent owes something. By taking the demands of justice to be necessarily in accord with the agent's advantage, the mutual-advantage theorist solves both the problems of motivation and rationality in one stroke. Despite Grotius's apparent disavowal of this approach, Richard Tuck has argued that Grotius accepts something like it.[20] I turn next to Tuck's argument, arguing that he misunderstands Grotius's conception of human sociability and its relationship to justice.

2. Grotius and Self-Interest

Tuck is not the first to argue that Grotius, appearances notwithstanding, is a proto-Hobbesian about justice. Tuck approvingly quotes Rousseau's estimation of the relationship between Grotius and Hobbes: "The truth is that their principles are exactly the same: they only differ in their expression. They also differ in their method. Hobbes relies on sophisms, and Grotius on the poets; all the rest is the same" (*Political Writings* 2:147; quoted in Tuck, "Introduction," xvi). My goal in this section is to refute this claim, thereby bringing Grotius's conception of self-interest into focus.

Tuck's reading of Grotius begins from the textually well-founded observation that Grotius must say *something* about how natural law requirements do not run (completely)

contrary to self-interest, on pain of not providing an answer to Carneades's challenge. The key mistake in Tuck's reading, I will argue, is to assume that the agent's advantage is the only metric Grotius can rely on in measuring self-interest. In criticizing this assumption, I identify a broader conception of wellbeing at work in Grotius's reply to Carneades—to wit, a conception of wellbeing that fits with Grotius's eudaimonist ethical outlook. First, though, we need to attend to the historical and textual arguments that Tuck has offered in defense of his reading of Grotius. Tuck construes Grotius as a proto-Hobbesian in part because of alterations Grotius made to *DJBP* between the editions of 1625 and 1631. Hence Tuck: "It is clear that the alterations to the text of *De Iure Belli ac Pacis* were part of a campaign to make Grotius's views appear more acceptable to the Aristotelian, Calvinist culture of his opponents within the United Provinces."[21]

The reason Grotius needed to obscure his view of natural law, Tuck claims, is that Grotius watered down natural law to a thin body of moral requirements based on a conception of self-interest that was substantially narrower than that found in the dominant, Aristotelian tradition of the time. Aristotelian eudaimonism reflects a conception of human flourishing that is culturally parochial, and thus an insufficient basis for a universal moral code, according to Tuck's reading. So, Grotius had to find an alternative, universal principle of human behavior: the promotion of narrow, animalistic self-interest.

This line of argument, however, has been widely criticized, and for good reason. For starters, as Thomas Mautner has shown, the textual emendations introduced between the earlier and later versions of *DJBP* do not reflect substantive changes in Grotius's views.[22] Indeed, I will discuss one such emendation that represents an important *clarification* of Grotius's understanding of human sociability. A second line of criticism targets Tuck's historical argument that Grotius was responding to skepticism about a universal standard of human wellbeing,

requiring the introduction of a lowest-common-denominator approach to human self-interestedness. Several authors have convincingly argued that Grotius was not responding to contemporary advocates of cultural relativism, like Montaigne and Charron.[23] This should not come as a surprise. As Robert Shaver has demonstrated, Grotius overwhelmingly displays a concern with *refuting* skepticism based on lowest-common-denominator self-interest, rather than *accommodating* it.[24] I shall argue that it is certainly correct to reject Tuck's Hobbesian reading of Grotius—but this leaves open the question of how Grotius responds to what Shaver calls the "self-interested sort of sceptic."[25]

Let us turn to one of the textual emendations Grotius introduced between the two editions of *DJBP*. Tuck offers the following change as a key piece of evidence for his claim that Grotius was attempting to hide his own view. In response to Carneades's claim that nature drives all animals, including men, to seek their own self-interest, Grotius says, in the 1625 edition:

> When it is said that nature drives each animal to seek its own interest, we can say that this is true of the other animals, *and of man before he comes to the use of that which is special to men*. . .[26]

This passage we find replaced in the 1631 edition by the following statement:

> Among the things which are unique to man is the desire for society, that is for community with those who belong to his species—though not a community of any kind, but one at peace, and with a rational order: a desire which the Stoics called *oikeiosis*. Therefore, when it is said that nature drives each animal to seek its own interests, this ought not to be allowed as a universal truth.[27]

This passage is important for our purposes because the later edition contains an explicit reference to the Stoic idea of *oikeiosis*, sometimes translated as 'familiarization' or

'appropriation.'[28] It refers, roughly, to each individual human's cognitive development, coming to understand oneself (or, becoming familiar with oneself) as a being using reason for the purpose of self-preservation, which process of self-preservation involves making use of (or, appropriating) objects in the world.[29] Becoming aware of one's own use of reason leads invariably to a belief in the value, or rightness, of acting rationally. Crucially, contrary to Tuck's thesis, this idea, though not the term 'oikeiosis' itself, is *already present in the 1625 edition* when Grotius refers to man coming "to the use of that which is special to men." Here Grotius is evidently referring to a passage from Cicero's *De Finibus Bonorum et Malorum*, where Cicero attributes a particular conception of moral development to the Stoics:

> Man's first attraction is towards the things in accordance with nature; but as soon as he has understanding, or rather becomes capable of 'conception'—in Stoic phraseology *ennoia*—and has discerned the order and so to speak the harmony that governs conduct, he thereupon esteems this harmony far more highly than all the things for which he originally felt an affection, and by the exercise of intelligence and reason infers the conclusion that herein resides the Chief Good of man, the thing that is praiseworthy and desirable for its own sake (*On Ends* III.vi.21).[30]

What we see here is a chronological development from pursuing one's own narrow self-interest to, at the age of maturity, pursuing virtuous conduct, in which man's Chief Good, or *summum bonum*, consists, delimiting what I will call *broad* self-interest. So, while narrow self-interest is *chronologically* prior to the pursuit of virtue, the pursuit of virtue is *normatively* prior, at least for the mature human.

Tuck overlooks this crucial aspect of Grotius's position in part because Tuck is so impressed by Grotius's emphasis on expletive, as opposed to distributive, justice in *DJBP*.

Grotius takes this distinction from Aristotle—for whom distributive justice is the central standard of justice within the *polis*—and focuses almost exclusively on the claims of expletive justice, since there is no common authority to carry out distributive justice between conflicting states.[31] Expletive justice—corresponding with *perfect* rights, in contrast to the *imperfect* rights of distributive justice—excludes claims based on "generosity, gratitude, pity, or charity" (*DJBP* II.22.16; cf. Tuck, *War and Peace*, 99). Tuck contends that Grotius thus intended to make strict justice quite minimal, ruling out things like positive aid to others.[32] This would, in turn, allow Grotius to say that strict justice does not deeply conflict with (narrow) self-interest, and thus to plausibly reply to Carneades that natural law is neither too demanding nor irrational to comply with.[33]

Yet even if we allow that Grotius has a rather minimal conception of expletive justice, it still does not establish that Grotius is a mutual-advantage theorist. For a minimal conception of justice, involving, say, the non-violation of property rights, must still explain why an agent ought not to violate another's property right when the violation will probably not be punished. At a quick glance, it may look like Grotius's account of this problem is the Hobbesian one, appealing to long-term self-interest, since he says in the Prolegomena, "just as the national, who violates the law of his country in order to obtain an immediate advantage, breaks down that by which the advantages of himself and his posterity are for all future time assured, so the state which transgresses the laws of nature and of nations cuts away also the bulwarks which safeguard its own future peace" (*DJBP* Prol. 18).

But Grotius, evidently realizing this cannot be the whole story, immediately adds: "Even if no advantage were to be contemplated from the keeping of the law, it would be a mark of wisdom, not of folly, to allow ourselves to be drawn towards that to which we feel that our

nature leads" (*DJBP* Prol. 18). If Grotius were a theorist of mutual advantage, this rider would simply be unintelligible. And, moreover, we can say that Grotius had good reason to add this claim. For, as no small number of philosophers have been keen to observe with respect to Hobbes's reply to the Foole, it is always possible to imagine a scenario in which the violation of a property right will not lead, even in the long run, to the agent's disbenefit.[34] So, however minimal expletive justice might be, it is not justified on the basis of narrow self-interest. To answer Carneades's challenge, then, we need to appeal to something besides narrow self-interest. The Stoic concept of oikeiosis points us in the right direction.

3. Natural Law and Moral Obligations

I have identified two important aspects of Grotius's understanding of natural law requirements. First, it can be wise, or rational, to comply with them even when they conflict with the agent's advantage. And second, we come to see the wisdom of so acting through a process of moral maturation modeled on the Stoic account of oikeiosis—because we develop the human-species-distinguishing faculty of rationality.[35] Enjoying this capacity for rational thought, humans can maintain a unique kind of society: "peaceful, and organized according to the measure of [human] intelligence" (*DJBP* Prol. 6). This means regulating social relations based on moral norms. In this section, I consider Stephen Darwall's interpretation of Grotius's account of natural law as such a system of moral norms, and I argue that Darwall's reading does not provide a satisfying solution to *Difficulty of Compliance* or *Irrational to Comply.*

Regulating society peacefully relies on adjudicating disputes through appeals to reason rather than force. Hence Darwall interprets Grotius's conception of human sociability as containing the idea of human "*standing to make reasoned claims and demands of one another*[,]"

which "underlies the more specific rights and obligations that are contained in the law and right of nature."[36] It is the notion of authoritative *standing* to make claims and demands that is the cornerstone of Darwall's reading of Grotius. Without such standing, the argument maintains, we could not lay others under binding obligations.

Thus, a key motivation of Darwall's reading is to explain how Grotius can avail himself of the (jural) language of moral *obligations* in expounding his conception of moral claims.[37] Grotius explicitly states that one of the three uses of the term 'ius' denotes an obliging standard. He claims that *ius*, in this sense, "has the same force as statute whenever the word is taken in the broadest sense as a rule of moral actions imposing obligation to what is right" (*DJBP* I.1.9.1). This is opposed to "counsels and instructions of every sort, which enjoin what is honourable indeed but do not impose an obligation" (*DJBP* I.1.9.1). Crucially, Darwall believes that Grotius can only help himself to this distinction if he eschews a eudaimonist ethical framework, since, Darwall claims, eudaimonism only supports reasons of counsel when it comes to practical deliberation: "However good it might be for us to comply with a standard or norm because of our rational and sociable nature, this would not yet show that we lie under any *obligation* to comply with the standard or that there is something that can legitimately be *demanded* of us. The most the Aristotelian naturalist [i.e. the eudaimonist] response can support is 'reasonable counsel.' "[38]

Here, Darwall claims that it is a conceptual truth about obligations that they entail someone's having the standing to *demand* compliance with the obligation. As a result, the argument goes, a eudaimonist agent cannot be the bearer of obligations, because eudaimonists only have (practical) reasons of self-interest, compliance with which no one has standing to *demand*. Insofar as Grotius's natural law involves obligations, therefore, he cannot be read as a eudaimonist.

We must be very careful about this argument. Darwall's use of the language of demands is derived from John Morrice's translation of *De Jure Belli ac Pacis*, *The Rights of War and Peace* (*RWP*). In this translation, a perfect right is defined as the "*Faculty of demanding what is due*" corresponding to "*the Obligation of rendering what is owing"* (*RWP* 139). This translation is not supported by Grotius's Latin, which says that perfect rights cover "creditum, cui ex adverso respondet debitum" (*DJBP* I.1.5). Moreover, the translation found in *RWP* generates confusion inasmuch as it fails to specify that the demands in question are *legal*, rather than *moral*. What distinguishes perfect rights from imperfect rights, for Grotius, is that we can insist on the satisfaction of perfect rights in a court of law—and, failing that, on the battlefield.[39] Hence, what Morrice renders in terms of *demands* is, in fact, just a legal quality of perfect rights. But Darwall takes this legal idea and converts it into a moral one—defining obligations as such in terms of whether someone can (morally) demand that the obligations be satisfied. Yet this, in turn, obscures the difference between perfect and imperfect rights.

To avoid this confusion, we should instead say that obligations give rise to, or ground, *claims* by a patient on the obligation-bearing agent. We can then more clearly say that what distinguishes a perfect right from an imperfect right is whether the right in question involves a claim that is (in principle) appropriate to settle in a court of law. This change of language, to be clear, does not settle any substantive issues. I must still argue, in section 5, that a patient can have a claim on an agent, where the claim requires that the agent act in her own self-interest.

For now, let us focus on how Darwall thinks Grotius's rejection of eudaimonism is tied to his response to Carneades. Darwall glosses Carneades's challenge as saying, "there is only one source of reasons for acting, the agent's own interest; therefore, there can be no reason to follow any law that might conflict with that."[40] This gloss is presumably meant to reflect the fact that

Carneades says men institute laws for the sake of *utilitas*, or advantage. If laws are justified only when they promote advantage, then laws failing to do that would have no justification.

A reply to Carneades, therefore, depends on finding a *second source of reasons for action*. Hence Darwall's claim that we should "interpret Grotius as holding that the law and right of nature are grounded in the capacity of rational persons to recognize their common competence and authority to make reasoned claims and demands against one another and to live with one another on terms that respect this common standing."[41] Here, there are two necessary (and presumably jointly sufficient) conditions to the grounding of obligations between persons. First, there is the primitive authority to make claims. And second, there is the rational capacity to recognize claims. With both of these things in place, Darwall finds in Grotius an easy answer to Carneades's claim that, "The only source of normative reasons is the agent's own interest."[42] For the claims of other people, in virtue of humans' basic normative standing, constitute a second source of reasons for action. Grotius, on this reading, refutes Carneades by departing from a eudaimonist framework.

However attractive this view might be in contemporary ethics, it is suspicious as a reading of Grotius because it does not engage with the basic premise of Carneades's argument: the *empirical* claim that humans by nature seek their self-interest. Darwall's focus on the normative concept of human standing downplays Carneades's concern about what humans, as an empirical matter, tend to care about. There does not seem to be an answer to *Difficulty of Compliance* in the offing. Though it is true that Grotius wants to show that we have reasons for action beyond those of narrow self-interest, this argument is downstream of his observations about human nature. Indeed, it would not be possible for humans to have other sources of reasons for action than self-interest *if they were not naturally (and generally) capable of*

complying with these reasons. This aspect of Carneades's argument is not reflected in Darwall's reconstruction.

Even if we set this problem aside, there remains the issue of whether this reading answers *Irrational to Comply*. Recall that Carneades's argument alleges that it is the height of foolishness to benefit another at one's own expense. Unlike Tuck, who contorted Grotius's view in a Hobbesian way to answer this charge, Darwall has no response at all. While the reasons for action supplied by the claims of other persons are presumably meant to make the actions of the altruistic agent rational, this will surely not make them rational *by Carneades's lights*. For Carneades, rationality is assessed in terms of self-interest; and so Darwall does not take Grotius to respond to Carneades on Carneades's terms, but rather to abandon the framing of rationality in terms of self-interest altogether. But reading Grotius in this way would leave it utterly mysterious as to why Grotius chose to construct Carneades's argument in the way he did in the first place. And it would leave Grotius vulnerable to the skepticism of Leibniz and Hobbes to boot.

It might be wondered how Darwall could arrive at this lackluster account of Grotian natural law. I believe this is a result of Darwall's largely unargued suggestion that obligations cannot be accommodated by a eudaimonist moral framework. On this point, Darwall follows Sidgwick's famous contrast between ancient and modern moral thought, whereby ancient (i.e. eudaimonist) ethics involves only reasons of self-interest while modern moral philosophy acknowledges two standards of practical reason, self-interest and conscience. It is only with conscience, Sidgwick claims, that we can speak of being "morally bound" (*Methods* 382; quoted in Darwall, "Creation," 161). Darwall endorses this idea by saying reasons of self-interest cannot serve as grounds for others' demands, or claims.

Whether we speak of demands or claims, there are supposed to be two distinctive ways that an obligation normatively ties an agent with a patient. First, when *Y* is obligated (to a patient *X*) to *φ*, *Y lacks the discretion* to decide whether to *φ*. Second, if *Y* fails to *φ*, *Y* will have thereby *wronged X*. This moral wrong justifies resentment or blame on *X*'s part. Darwall assumes that reasons of self-interest (i.e. the eudaimonist's reasons) cannot account for these two aspects of obligations, since, he believes, we always have the discretion to dismiss reasons of self-interest and failure to act in one's own self-interest does not justify attitudes of resentment or accountability practices like blaming.

These assumptions underpin Darwall's argument that, on pain of attributing to Grotius an incoherent theory of obligation, we must read him as rejecting eudaimonism. However, there are at least two available replies to Darwall's reading, both of which preserve Grotius's eudaimonism. The first, offered by Terence Irwin, is that Grotius simply did not believe obligations could bind humans without divine command. The second is that a Stoic conception of natural law can explain the characteristic features of obligation. I consider Irwin's view next in order to show that while it is wrong, its faults point to the advantages of the second, Stoic alternative.

4. Natural Law and Divine Command

Contrary to the widespread view that Grotius was an innovator in ethics, Terence Irwin has argued that Grotius's view represents, in essentials, a continuation of the Scholastic moral tradition, as exemplified by Suárez, whereby God superadds obligations to natural morality. Irwin takes Grotius's apparent eudaimonism at face-value—wherein human sociability "is part of the human nature that has to be fulfilled in human happiness"—and adds the additional thesis

that "insofar as [Grotius] takes natural right (ius) to be law (lex), he takes it to require divine command."[43] He thus reads Grotius as a naturalist about morality (natural *ius*) but a divine voluntarist about obligation (binding *lex*). In this section, I criticize Irwin's interpretation on textual grounds, and argue that Grotius was, in fact, a naturalist about moral obligation.

An immediate misgiving one might have about Irwin's reading is that Grotius, in the famous *etiamsi daremus* clause, suggests that natural law does not depend on God's command.[44] Irwin, however, argues that this impression is misleading. The possibility for disagreement, here, arises from the fact that the *etiamsi daremus* clause contains a certain referential ambiguity. The clause reads: "And that which we have now said [*Et haec quidem quae jam diximus*], would still hold, even if we allowed [*etiamsi daremus*], what cannot be allowed without the greatest wickedness, that there is no God, or that he has no care for human affairs" (*DJBP* Prol. 11; my translation).

What has Grotius said before this that he thinks "would still hold" independently of God's activity? Grotius wrote just three paragraphs prior that "maintenance of the social order. . . is the source of *law properly so called*" (*DJBP* Prol. 8; my italics). But Irwin will presumably object, because here the English word 'law' is used to translate the Latin 'ius'—which could just as well be translated as 'right,' denoting natural, non-obligatory morality. However, Grotius immediately states that *ius* "properly so called" includes, among other things, "the obligation to fulfil promises" (*DJBP* Prol. 8). So, the *etiamsi daremus* clause refers to at least one indisputable obligation that would hold even if, *per impossibile*, God were not to exist.

Yet one might want stronger textual evidence to support reading Grotius as a naturalist about moral obligations. The strongest such evidence comes from a well-known passage in book

I, chapter 1 of *DJBP*. Here, Grotius defines the relationship between natural law and the rational and social nature of human beings:

> 1. Natural law is a dictate [*dictatum*] of right reason, indicating of an action, that it conforms or does not conform [*convenienta aut disconvenientia*] with the nature of a rational and sociable [sc: being], on account of which it is morally base or morally necessary [*inesse moralem turpitudinem, aut necessitatem moralem*], and consequently [*consequenter*] that the author of nature, God, either forbids or commands the act.
>
> 2. Acts about which such dictates exist, are obligatory or unlawful in themselves [*debiti sunt aut illicit per se*] and therefore are understood as necessarily required or forbidden [*necessario praecepti aut vetiti*] by God himself: in this respect [sc: natural] law differs not just from human law, but also divine voluntary law, which does not require or forbid that which is in itself, or in its own nature, obligatory or unlawful [*non ea praecipit aut vetat quae per se ac suapte natura aut debita sunt, aut illicita*] but, being forbidden or commanded, is made so (*DJBP* I.1.10.1–2; my translation).

In the second paragraph, I render 'debiti' and 'illicit' as 'obligatory' and 'unlawful,' respectively. So rendered, Grotius apparently claims that certain actions are obligatory or unlawful *in themselves*, or *per se*. This would seem to settle, decisively, whether Grotius is a naturalist about obligations. However, this translation raises the question of what purpose Grotius finds for God's consequent commanding and forbidding. Irwin's argument, I take it, is that the only way to make sense of these divine acts is to take them as providing the requisite obligatory force—and thus that 'debiti' and 'illicit' should be translated as something other than 'obligatory' and 'unlawful.' Perhaps simply 'morally right' and 'morally wrong' would do, in the sense of being naturally to-be-done and not-to-be-done.

Irwin's line of argument, though, is unpersuasive. For there is an alternative reading of God's commands available. God's commands should be understood as acts of promulgation that establish what punishments are required by violations of natural law, and who is fit to mete out punishment. Grotius is clear that, "Nature, in fact, does not fix penalties, nor take away ownership, on account of an offence in and of itself, although those who do wrong naturally deserve punishment" (*DJBP* II.8.20). Accordingly, God's commands, with respect to natural law, fill in a gap that is left by nature. While human nature entails that certain actions are intrinsically obligatory or unlawful, our nature does not determine what violations of these requirements deserve in terms of punishment. Hence the need for God's ordinances.

Support from this alternative reading comes from the fact that the very distinction between natural and positive law, for Grotius, is based on whether an action is intrinsically obligatory (or unlawful) or made so by divine command. Johan Olsthoorn has shown that this feature of Grotius's view clearly separates Grotius, *pace* Irwin, from Scholastic writers like Suárez.[45] Suárez, unlike Grotius, cannot distinguish between natural and positive law by reference to the source of their obliging force, since in both cases God is the source. Hence, Olsthoorn observes, "Suárez cashed out the difference in terms of moral value. Positive law renders evil what it forbids, while natural law assumes the depravity of what it proscribes[.]"[46] As Olsthoorn demonstrates, Grotius's departure from Suárez on this score allowed Grotius to define the scope of natural morality as wider than that of natural law, since not every morally good act is obligatory.[47] This distinction is in the background when Grotius claims that some normally non-obligatory, morally good acts can, because of circumstances, become obligatory.[48] Grotius's understanding of natural law, in contrast to both positive law and natural morality, thus unambiguously depends on naturalism about moral obligations.

It was precisely Grotius's naturalism about moral obligations that drew barbs from Barbeyrac, who chastised Grotius for "suppos[ing] we should be under an Obligation of doing or not doing certain Things, even tho' we were not answerable to any one for our Conduct" (*RWP* 151, n.3). Grotius, he says, was one of a number who "strenuously maintain, that the Rules of the Law of Nature and Morality do in themselves impose an indispensable Necessity of conforming to them, independently of the Will of GOD" (*RWP* 151, n.3). Barbeyrac contends to the contrary that any such necessity "can only come from a *superior*, that is, from some intelligent Being existing without us, who has a Power of restraining our Liberty, and prescribing Rules for our Conduct" (*RWP* 151, n.3).

Notice the similarities between Barbeyrac's requirements for a theory of obligation and Darwall's. Both insist that obligations must carry the force of *necessity* grounded in the authority of some person "existing without us." This person can *hold us accountable*, either as divine lawmaker (Barbeyrac's God) or moral peer (Darwall's demanding subject). Let us call these our two desiderata of a theory of obligation: necessity and accountability. Clearly the explanation of the necessity and the accountability differs between these two accounts, but they give us general criteria for a plausible understanding of obligation. To read Grotius as both a eudaimonist and a naturalist about moral obligations, we must find some explanation as to how the agent's own nature can impose necessary requirements on practical deliberation, which justify the relevant accountability practices.

5. Natural Law and Eudaimonism

It is now clear that there are two key interpretive hurdles to be surmounted for an account of Grotian natural law to succeed. First, a reading must make sense of the two-pronged challenge

from Carneades. Second, a reading must satisfy the two desiderata of a theory of moral obligations, necessity and accountability, without departing from a naturalistic framework. I argue that both these tasks can be handled, with ample textual support, by reading Grotius as invoking a Stoic conception of natural law.

Let us begin by recalling Carneades's two-headed challenge: self-interestedness casts doubt on human *motivational* capacities and the *rationality* of other-regarding action. Grotius cuts at the root of these two problems by challenging the empirical claim that humans care only about self-interest:

> Stated as a universal truth. . . the assertion that every animal is impelled by nature to seek only its own good cannot be conceded. . . The mature man in fact [*homini vero perfectae aetatis*] has knowledge which prompts him to similar actions under similar conditions, 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 (*DJBP* Prol. 6–7).

Grotius, in short, complicates Carneades's overly simple conception of human nature. By attributing to humans "an impelling desire for society," Grotius widens the scope of possible human motivation. And by recognizing that humans have the species-specific faculty of rationality, he provides for a particular class of actions that "accord" with the "peculiar" nature of man. Since, as we shall see, acting in accord with our nature promotes our wellbeing, the rational faculty undergirds a *broader conception of wellbeing* than is applicable to other animals. The two moves in this paragraph—the attribution of a desire for society and the recognition of

human rationality—provide the basis for the replies to Carneades's two arguments, *Difficulty of Compliance* and *Irrational to Comply*.

Take first, then, the impelling desire for society. Grotius is clear that our desire for society is not based on a desire to further our own advantage, though living in community does have that benefit.[49] Society is not, that is, a mere instrument to acquiring advantages, but something we desire for its own sake. Our desire for society is primitive; it is not based on satisfying some further desire.

Our primitive desire for society entails a desire for whatever social living requires. We cannot, that is, truly be said to desire to live socially if we do not desire to act in ways that are appropriate to society. For Grotius, living socially means not violating others' claims to "life, limbs, and property" (*DJBP* I.2.1.5). "Right reason. . . and the nature of society," Grotius says, "do not prohibit all use of force, but only that use of force which is in conflict with society, that is which attempts to take away the rights of another" (*DJBP* I.2.1.5). The *concept* of society—the concept of using a "community of resource and effort" so that "each individual be safeguarded in the possession of what belongs to him"—thus determines the *content* of our desire for social living (*DJBP* I.2.1.5).

This shows how society can benefit us by providing protection for our life and property, without this protection being the basis of our desire to live socially. Our primitive desire for peaceful association with others simply comes with this added advantage. Crucially, this means that one's motivation to comply with moral norms *does not depend (exclusively) on whether it conflicts with this added advantage*. The answer to *Difficulty of Compliance* is that acting against one's own advantage is generally motivationally possible because one's own advantage is not the

only motive at work in our deliberation. Humans generally, as a part of their nature, have a desire for society, independent of considerations of advantage.

Grotius adverts to classical authorities to illustrate the connection between our sentiments, which underpin moral motivation, and the observance of natural law norms:

> Polybius, having recounted the beginnings of organized society, when men had first come together, adds that if any one should have done harm to his parents or benefactors, it could not possibly have happened that the rest would not be incensed at his conduct, and adds the reason: "For since the race of men differs from the other animals in this, that it is endowed with intelligence and reason, it is quite unbelievable that an act so contrary to their nature would have been passed over by men, as by other animals, without notice; such a deed must have attracted attention and have given offence" (*DJBP* I.1.11.1).

It is noteworthy that in this passage, whether a person reacts angrily to a violation of a moral norm does not depend on whether it is that person herself who has been wronged or harmed. This is just to say that we care about more than our own advantage: our moral sentiments reveal our affective attachment to society, with its distinctive norms.

Such reactive attitudes also tell us something about the rationality, and necessity, of compliance with natural law. As I noted, Grotius recognizes that the faculty of rationality is "peculiar" to the nature of man, thus determining a unique class of actions that are in "accord" with our nature (*DJBP* Prol. 6). The passage from Polybius contains the converse thought: we cannot remain indifferent to acts "contrary" to our sociable nature. It therefore seems that Grotius takes actions in accord with our nature to be actions we ought to do, and actions contrary to our nature to be actions we ought not to do. This implies, minimally, that actions in accord with our nature are rational, insofar as we do not say an agent ought to φ if φ-ing would be

irrational. Indeed, the reactive attitudes illustrated by Polybius reinforce this idea, since we do not get angry at an agent for failing to φ if we think φ-ing would be irrational.[50] This suggests that Grotius's answer to *Irrational to Comply* is based on the claim that it is rational for us to act in accord with our nature, to respect interpersonal moral norms as constitutive elements of living socially.

However, the reactive attitudes in question are not triggered merely by an agent failing to take a rational course of action. Agents act irrationally all the time without occasioning attitudes of anger or resentment. What makes these attitudes appropriate is the further idea that the agent has *wronged* someone. As Polybius says, we become incensed when someone does "harm to his parents or benefactor." As I will argue, the possibility of wronging someone is a crucial feature of explaining the way natural law norms support a structure of accountability, which is partly constitutive of moral obligations. I return to this account of obligations after more fully developing Grotius's response to *Irrational to Comply*.

I have argued that rational action, for Grotius, means acting in one's own best interest. At the outset of this section, I noted that Grotius recognizes the rational faculty as a defining aspect of human nature. This allows him to say that acting rationally is natural for us, and good for us insofar as our good is understood as acting in accord with our own nature.[51] Rational action in accord with our own nature is what defines *broad* self-interest, by comparison to the *narrow* self-interest of seeking one's own advantage. This contrast is at work in Grotius's discussion of Cicero:

> Marcus Tullius Cicero, both in the third book of his treatise *On Ends* and in other places, following Stoic writings learnedly argues that there are certain first principles of nature—'first according to nature ', as the Greeks phrased it—and certain other principles which

> are later manifest but which are to have the preference over those first principles. He calls first principles of nature those in accordance with which every animal from the moment of its birth has regard for itself and is impelled to preserve itself, to have zealous consideration for its own condition and for those things which tend to preserve it, and also shrinks from destruction and things which appear likely to cause destruction. . . But after these things have received due consideration [Cicero continues], there follows a notion of the conformity of things with reason, which is superior to the body. Now this conformity, in which moral goodness becomes the paramount object, ought to be accounted of higher import than the things to which alone instinct first directed itself, because the first principles of nature commend us to right reason, and right reason ought to be more dear to us than those things through whose instrumentality we have been brought to it (*DJBP* I.2.1.1–2).

The key idea in this suggestive passage is the contrast between acting out of regard for oneself versus acting out of regard for reason. From birth we preserve our bodies, but with the development of the rational faculty we can consciously act in conformity with reason. As Grotius notes, conformity with reason is what constitutes moral goodness, which is a kind of goodness for the agent that is "superior to the body." It is because of this superiority that the reasons of virtue override considerations of our advantage, or narrow self-interest. Leibniz's skeptical dismissal of virtue notwithstanding, it is plausible to claim that living a good life requires acting virtuously, even though virtue may require sacrifice. Certainly, my life is better for exemplifying bravery, even if I thereby risk grave harm to myself, even death.

We can further substantiate this line of thought by observing that the distinction between narrow and broad self-interest is implicit in Cicero's *De Officiis*. Cicero claims that "loftiness

and greatness of spirit, and courtesy, justice, and generosity are much more in harmony with Nature than are selfish pleasure, riches, and life itself" (*On Duties* III.v.24).[52] In line with Cicero's claim to be expounding Stoic doctrine, this contrast invokes the three classical categories of the pleasant, the expedient, and the morally honest.[53] Grotius follows this general approach, opposing the goods of the pleasant and the expedient (narrow self-interest) to the good of the morally honest (broad self-interest). We act in accord with (our) nature, and thereby enjoy a morally good life, when we forgo some benefit to our person or property-holdings for the sake of justice.

Grotius thus answers *Irrational to Comply* by accepting that moral norms often require a sacrifice of narrow self-interest and justifies this sacrifice by appeal to one's broad self-interest. Sacrificing a lesser good (pleasure, wealth) for a greater good (moral goodness) is certainly rational. Like the answer to *Difficulty of Compliance*, Grotius's solution to the problem of the rationality of morality is the product of his conception of human nature. Human nature, with an impelling desire for society and the rational faculty, underpins both moral motivation and a species-specific standard of wellbeing.

It is worth clarifying, at this point, that though I acknowledge Grotius's reliance on Cicero as an expositor of Stoic doctrines, I do not think Grotius should be read as following Cicero himself, who did not endorse wholesale the Stoic view of natural law.[54] I thus disagree with Benjamin Straumann, who has argued that Grotius should be read as a Ciceronian, for whom natural law requirements are justified independently of considerations of the agent's eudaimonia. Straumann contends that for Grotius, reason has an "essentially normative nature[,]" such that reason can, without reference to the agent's self-interest, justify moral norms.[55] This

leads Straumann to claim that, for Grotius, natural law requirements "oblige by virtue of their being just and not by appeal to the agent's *eudaimonia*."[56]

Straumann's reading relies on the claim (which I reject) that eudaimonism cannot accommodate (natural) moral obligations. As Straumann puts it, "the norms of natural law for Grotius. . . *oblige* us by their *moral necessity* rather than simply motivating us through references to the final end that is *eudaimonia*."[57] Before addressing Straumann's argument that eudaimonism cannot explain obligations, we should note that his reading of Grotius cannot support a satisfying response to *Irrational to Comply*. Straumann's interpretation fails in the same way as Darwall's reading: it cannot tell us why, *by Carneades's lights*, it is rational to comply with natural law requirements. Carneades's claim is that it is patently irrational to sacrifice one's own advantage with no compensatory benefit. On Straumann's reading of Grotius, there simply is no compensatory benefit, there is just the (alleged) justificatory force of right reason. But claiming that right reason is inherently normative will not ameliorate Carneades's worry. As the skeptic might say, right reason, without the agent's benefit, is an empty name.

Of course, something must still be said about Straumann's doubt, shared by Darwall and Barbeyrac, concerning the ability of eudaimonism to accommodate moral obligations. Straumann claims that "Grotius' natural law is a practical ethics couched in legal terminology that is. . . not of a teleological, but of a deontological nature."[58] Teleological reasons are reasons to promote certain goals, whereas deontological reasons are reasons that constrain our pursuit of goals. The thought seems to be that on a eudaimonist view, all an agent's reasons for action are teleological since they all ultimately derive from the agent's goal of promoting her own eudaimonia. Yet the reasons of natural law morality are deontic in nature, constraining an agent's discretion to pursue

goals. So, Straumann concludes, Grotius cannot be a eudaimonist, as this would not give him the resources to account for the deontic constraints of natural law.

This argument, however, reflects a misunderstanding of the structure of eudaimonist practical reasoning. Eudaimonism can, in fact, accommodate deontic reasons. While it is true that all a eudaimonist agent's practical reasons ultimately derive from her eudaimonia, it is also true that having a particular practical goal can entail having deontic reasons. For instance, having the goal of achieving an honest victory in Euchre means having deontic reasons not to cheat, say, when shuffling the deck. The goal grounds constraints on my deliberation. Jack Visnjic has argued that this is precisely how practical reasoning is structured in traditional Stoic ethics, operating at two stages. "In the first [stage], the deliberator considers whether a contemplated action is right or wrong and rules out options that conflict with virtue. In the second stage, the deliberator calculates and selects things of value, i.e. what is expedient."[59]

By ruling out certain options, the requirements of the agent's eudaimonia—of virtue—place clear deontic constraints on the agent's choices. The only way these deontic constraints could be called into question is by arguing that the agent's own eudaimonia is an optional goal, thus rendering the deontic reasons of virtue conditional upon the prior acceptance of this goal. Responding to this concern will allow us to address the first of our two desiderata of an account of obligations, namely their *necessity*. For the worry is that the reasons of virtue are not truly necessary to comply with insofar as an agent need comply with them *only if* the agent accepts her eudaimonia as her ultimate practical goal.

There is, however, no evidence that, in the Stoic tradition, the agent is at liberty to reject her eudaimonia as her ultimate practical goal. Since an agent's eudaimonia is a necessary feature of being a human (having *this* specific nature), claiming that an agent is at liberty to reject her

eudaimonia is tantamount to saying she is at liberty to reject her own nature. This idea is plainly denied in Grotius's favorite sources. Lactantius declares that "the person who does not obey [the law] will be in exile from himself; insofar as he scorns his nature as a human being, by this very fact he will pay the greatest penalty, even if he escapes all the other generally recognized punishments" (*Institutes* 6.8.6–9; quoted in Zetzel, "Poetic Justice," 307). Similarly, Cicero says that violating the laws of nature "takes away from man all that makes him man" (*On Duties* III.v.26). Violating natural law—transgressing what is unique about one's own nature—is categorically prohibited for Lactantius and Cicero.

This makes sense as a view to attribute to Grotius, given that, for him, self-interest is the fundamental standard of rational action. One's wellbeing is the source of all of one's reasons for action, which means one could never have reason to reject one's own wellbeing as one's ultimate practical goal. This is just to say that one's wellbeing is necessarily one's ultimate practical end. As an agent's necessary, ultimate practical end, one's wellbeing, or eudaimonia, can ground deontic reasons.

Grotius therefore has an answer to the concern that eudaimonism cannot explain the necessary force of obligations, illuminating his claim that "the very nature of man. . . is the mother of the law of nature" (*DJBP* Prol. 16). Humans, in virtue of their rational and social nature, have a distinctive standard of wellbeing. The promotion of this wellbeing requires respect for certain deontic constraints on action—the observance of obligations. For example, an agent's wellbeing depends on participation in peaceful community, which in turn requires respect for another person's bodily rights. In this way, we can see that a patient's moral claim—say, to bodily integrity—is grounded in an agent's obligation, which is itself grounded in the agent's own wellbeing. This fits with Grotius's understanding of natural law rights as correlating with

obligations, as exemplified by "contractual rights, to which on the opposite side contractual obligations correspond" (*DJBP* I.1.5).

To say that natural law rights as such have this correlative structure is to say that both perfect and imperfect rights correlate with obligations. Grotius clearly believes that it is not just perfect rights of expletive justice that correlate with obligations, but imperfect rights of distributive justice as well. He states that, "the law of nature, in so far as it has the force of law, holds in view not only the dictates of expletive justice. . . but also actions exemplifying other virtues, such as self-mastery, bravery, and prudence, as under certain circumstances not merely honourable, but even obligatory" (*DJBP* II.1.9.1). Hence, distributive justice covers cases in which virtues like bravery are obligatory, which is to say that some patient is *worthy* of enjoying the benefits of the agent acting bravely.[60] So, while bravery is not always obligatory, when circumstances make it so, natural law can properly be said to require that an agent act bravely on pain of denying someone else what they are worthy of receiving. For example, by circumstance, I may be able to help a vulnerable stranger from an attacker, in which case it may be obligatory for me to bravely provide aid, with failure to render aid constituting a moral wrong to the stranger.

Accordingly, distributive justice, like expletive justice, covers rights-claims that correlate with obligations. It is a failure to deliver on a claim of right that constitutes a *wrong* to someone, rather than a mere instance of an agent acting wrongly, as when one acts imprudently. It is because a failure to comply with an obligation *wrongs* someone that accountability practices are appropriate. For, a wrong to a particular individual is received as a personal affront, threatening to upset social peace. Not only does the wronged person have grounds for resentment, but third parties have reason to remonstrate with the person who has violated an obligation. Everyone has

an interest in ensuring that social norms are observed, given our interest in the maintenance of peaceful social relations. Grotius, then, has an explanation of the second desideratum of an account of obligations, insofar as natural law rights entitle someone to treatment that, if not observed, justifies accountability practices.

Given that both perfect and imperfect rights involve claims on an agent to act on an obligation, it must be explained what distinguishes these two different kinds of rights. Grotius says a perfect right is a "legal right (*facultas*)" which "is called by the jurists the right to one's own (*suum*)" (*DJBP* I.1.5).[61] Perfect rights claims are thus distinct from imperfect rights claims insofar as claims of perfect right are claims to what is one's *suum*, something that is in principle adjudicable in a court of law. Grotius illustrates this distinction with his contrast between perfect and imperfect promises. A perfect promise, specifying, say, the time and amount one person will pay another, "has an effect similar to alienation of ownership" inasmuch as it generates a right that a court can enforce (*DJBP* II.11.4).[62] By contrast, an imperfect promise, leaving vague when and what amount one person will pay another, "gives no right, properly speaking, to the second party. In many cases it happens that a moral obligation rests upon us, but no legal right is acquired by another, just as becomes apparent in the duty of having mercy and showing gratitude. . . So in the face of such a promise the property of one promising can be retained, and the promisor cannot be compelled by the law of nature to keep faith" (*DJBP* II.11.3).

This passage makes clear that the set of things we are morally obliged to do is larger than the set of things we may be compelled to carry out in court. Only in cases where a person has a right properly speaking—a perfect right—can that person compel another, through recourse to the law, to satisfy the corresponding obligation. In cases of imperfect rights—when, say, it is obligatory to show mercy or gratitude—there is no such legal power to compel compliance. This

reading of imperfect rights is plausible given that it is natural to think a person can be *owed* gratitude, say, and therefore be *wronged* if they do not receive a display of gratitude, yet also think that it would be inappropriate to compel a show of gratitude through the law.

Perfect and imperfect rights, then, both represent claims correlating with obligations, distinguished by the question of whether they are apt for legal enforcement. That these rights correlate with obligations makes sense given that both expletive and distributive justice are kinds of *justice*, where someone is *due* something. In such cases, *ius* has the force of *lex*, and we can see that Grotius's understanding of natural law obligations is appropriately juridical.[63] The deontic constraints of obligations, for Grotius, are requirements of the agent's own nature, and it is by grounding moral requirements in the agent's nature that Grotius is able to ensure that these requirements are rational, as well as motivationally satisfiable.

Conclusion

We can now reflect on Grotius's place in the history of moral philosophy. Sidgwick famously distinguished classical Greek ethical theories from modern theories on the grounds that the former, eudaimonist theories rely on one, rather than two, standards of practical reason. As he put it, "in Greek moral philosophy generally, but one regulative and governing faculty is recognized under the name of Reason" (*Outlines*, 198). Modern ethical theories, by contrast, recognize two governing faculties: "Universal Reason and Egoistic Reason, or Conscience and Self-Love" (*Outlines,* 198). It is not uncommon for the earlier, Greek ethical theories to be accused of egoism insofar as their one regulative standard is grounded in the agent's own wellbeing, or eudaimonia.[64]

As Julia Annas has shown, such charges of egoism are in one straightforward sense mistaken. A eudaimonist "pursuing her final good" is not reducible to merely "pursuing a self-regarding good[.]"[65] Plainly, acting bravely in battle, and thereby promoting one's eudaimonia, is not reducible to merely promoting one's own advantage. We rightly reject conceptions of morality (if they can be called that) that make morality solely an issue of pursuing one's advantage, or narrow self-interest. Grotius's view cannot be accused of this error.

However, the charge of egoism persists in subtler form. While the *contents* of a eudaimonist's duties are not egoistic (often aimed at promoting another's advantage), the *form* of eudaimonist practical reasoning is egoistic. The rationality of moral conduct is always ultimately explained by appeal to the agent's own wellbeing. So, though the patient's interests might help specify the content of a duty, the agent's reason for complying with that duty is that it redounds to her own broad self-interest. I have argued, though, that Grotius accepts eudaimonism because of, rather than despite, this fact, for it guarantees the rationality of moral requirements from the agent's point of view.

It is this project of demonstrating the rationality of other-regarding morality that, unlike Grotius's account of natural law, persisted well into the modern period.[66] John Stuart Mill would report, in *Utilitarianism*, that it "is commonly acknowledged" that "in the long run" justice is not "disjoined from" the expedient (*Basic Writings,* 277). Surely the most noteworthy representative of this view is Kant, for whom "God, freedom, and immortality" must be postulated to ensure the possibility of an agent enjoying happiness in proportion to moral worthiness (*Practical Philosophy,* 254).[67] This striking claim reflects the powerful idea that the rationality of moral action would be called into question were it possible, in principle, for moral requirements to run completely contrary to the agent's self-interest. Grotius's accomplishment was to recognize this

worry and to place it at the heart of his discussion of natural law. It is not surprising that he did so. Natural law theories cannot but address the natural human tendency to self-regarding action, which is especially conspicuous in international conflict.[68]

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[1] See *DJBP* Prolegomena section 1. Unless otherwise noted, citations to *DJBP* are to the Francis Kelley translation published by Oxford Clarendon Press, in the form of Prolegomena section number or book, chapter, section, and, when relevant, paragraph number.

[2] Barbeyrac, *Historical and Critical Account, 79.*

[3] See Tuck, “Grotius, Carneades and Hobbes”; Darwall, “Creation”; and Olsthoorn, “Supererogation.” Irwin is an exception, see *Development, Vol. II*, chapter 33.

[4] Schneewind also suggests that Grotius stated an influential new problem, but Schneewind takes this to be a *political* problem, the solution of which required a novel conception of natural law. See *Invention of Autonomy*, 70–73.

[5] See Brooke, *Philosophic Pride*, 37.

[6] See Olsthoorn, "Supererogation," 457–58 and "Grotius and Pufendorf," 58–60.

[7] Darwall ("Creation") and Straumann (*Roman Law,* 87, 124) take Grotius to abandon eudaimonism, while Irwin (*Development, Vol. II*, chapter 33) and Tobias Schaffner ("Eudaemonist Ethics") think Grotius accepts eudaimonism.

[8] On Grotius declining to discuss divine law, see Sidgwick, *Outlines*, 160; cf. Schneewind, *Invention of Autonomy*, 70–71.

[9] See Lactantius, *Institutes* 5.14.1–7. Citations to this work are to book, section, and line. See also Straumann, *Roman Law,* 57–59.

[10] Citation is to the Stephanus page number.

[11] Cf. Straumann, "Sociability," 159.

[12] Thanks to Kinch Hoekstra and an anonymous reviewer for the *Journal of the History of Philosophy* for pressing me to clarify this argument.

[13] Cf. Shaver, "Scepticism," 37–38.

[14] Cf. Brown, "Leibniz," 274–75.

[15] Straumann also thinks motivation is at issue, but he conflates the *motivational* question with the question of *rational justification*. See "Sociability," 165, 168–69.

[16] Cf. Sidgwick, *Methods,* 498; cited by Straumann, "Sociability," 175–76, n.36.

[17] Cf. Shaver, "Scepticism," 47.

[18] See *DJBP* Prol. 16.

[19] On p.10 of the Kelsey translation.

[20] See "Grotius, Carneades and Hobbes."

[21] Tuck, *War and Peace*, 99.

[22] See Mautner, "Not a Likely Story."

[23] See generally Mautner, "Grotius and the Skeptics" and Korkman, "Barbeyrac"; see also Straumann, *Roman Law,* 56–57 and Zagorin, "Hobbes Without Grotius," 24.

[24] See Shaver, "Scepticism."

[25] Shaver, "Scepticism," 38.

[26] See Tuck, *War and Peace,* 97; Tuck's translation and italics.

[27] Tuck's translation of *DJBP* Prol. 6 in Tuck, *War and Peace*, 99.

[28] See Brennan, *Stoic Life*, 154.

[29] For discussion, see Brooke, *Philosophic Pride,* 40–48 and Engberg-Pedersen, "Discovering the good," 149–67.

[30] Reference is to book, section, and paragraph.

[31] See *Nicomachean Ethics* 5.1130b30; citation is to the Bekker number. For discussion, see Straumann, *Roman Law,* 119–20.

[32] See Tuck, *Philosophy and Government*, chapter 5 and *War and Peace*, chapter 3.

[33] See Tuck, *War and Peace*, 97–99; cf. Tierney, *The Idea of Natural Rights*, 323.

[34] See Hobbes, *Leviathan*, 90 and Hoekstra, "Hobbes and the Foole."

[35] See Straumann, "Oikeiosis," 51–53.

[36] Darwall, "Creation," 168.

[37] On the jural nature of obligations, see Anscombe, "Modern Moral Philosophy."

[38] Darwall, "Creation," 176.

[39] See *DJBP* II.22.16

[40] Darwall, "Creation," 172.

[41] Darwall, "Creation," 188–89.

[42] Darwall, "Creation," 173.

[43] Irwin, *Development, Vol. II*, 95, 91, respectively.

[44] See *DJBP* Prol. 11.

[45] See Olsthoorn, "Supererogation," 457.

[46] Olsthoorn, "Supererogation," 457.

[47] See Olsthoorn, "Supererogation," 458–64, discussing *DJBP* I.1.10.3.

[48] See section 5.

[49] See *DJBP* Prol. 16.

[50] The fact of the act's irrationality would serve to "modify or mollify" our anger, in Strawson's well-known words. Strawson, "Freedom and Resentment," 50; cf. Darwall, "Creation," 178.

[51] On this idea in Stoicism, see Klein, "Stoic Eudaimonism."

[52] References to *On Duties* are to book, section, and paragraph.

[53] On this tripartite distinction, see Olsthoorn, "Absence," 241–43.

[54] On Cicero's view, see Straumann, "Sociability," 170 and Brooke, *Philosphic Pride,* 41.

[55] Straumann, "Sociability," 160.

[56] Straumann, *Roman Law,* 107.

[57] Straumann, *Roman Law,* 85.

[58] Straumann, *Roman Law,* 85.

[59] Visnjic, *Invention of Duty,* 78.

[60] See *DJBP* I.1.7.

[61] Daniel Lee notes, in his unpublished manuscript "The Science of Right," that Grotius is probably referencing Ulpian's definition of justice: "constans et perpetua voluntas ius suum cuique tribuendi" (*The Digest of Justinian*, book 1, chapter 1, section 10).

[62] Thanks to Daniel Lee for this reference.

[63] See *DJBP* I.1.9.

[64] See Irwin, "Kant's Criticisms of Eudaimonism," 63.

[65] Annas, "Prudence and Morality," 243.

[66] See generally Frankena, "Ethical Dualism"; cf. Darwall, "Creation," 172.

[67] This comes from Kant's *Critique of Practical Reason*, at 5:142 of the German Academy edition. For discussion, see Sidgwick, *Outlines,* 275–77 and Frankena, "Ethical Dualism," 192.

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