Review Essay

On Roman Ethics, Rhetoric and Law in Grotius: Hugo Grotius und die Antike. Römisches Recht und römische Ethik im frühneuzeitlichen Naturrecht, Benjamin Straumann*

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The expanding interest in the history of international law during the last decade has somewhat lessened the one-sided focus on a few key events, and outstanding thinkers, chief among whom Hugo Grotius (1583-1645) has long since ranked. This has not, however, quelled the stream of publications on the Dutch humanist’s contribution to natural law and the law of nations. To the contrary, Grotian studies have benefited from the enhanced interest in the history of international law and the emergence of a somewhat more truly historical discourse. Over the last few years, several important books which highlight the historical setting of Grotius’s life and work have reached the shelves.

In 2006, Martine Julia van Ittersum came out with an impressively detailed account of the younger Grotius’s political and diplomatic involvements and


A third significant contribution to the historical debate on Grotius, if from an entirely different angle, is Benjamin Straumann’s study on the impact of ancient Roman sources and thought on Grotius. The book is based on the author’s thesis written for his Ph.D., which he obtained at Zürich. Readers who prefer to sample Straumann’s ideas in English can refer to some of the papers he extracted from the book and which are to be found in the working papers series of the Institute for International Law and Justice at New York University (<www.iilj.org>), where Straumann has worked as a researcher for three years now.

The many references to Roman philosophical, rhetorical and juridical sources as well as to historical exempla which abound in Grotius’s main works on the laws of war and peace have not been the object of many serious scholarly analyses, with few exceptions. Often, they have been judged substantially irrelevant as the inevitable intellectual ornaments of the humanist. Straumann argues that, much to the contrary, they constitute the backbones of Grotius’s discourse and that they account for the originality of his theory of natural law and international relations.

Straumann’s book falls into two main parts. The first covers Grotius’s earlier work, in particular De iure praedae commentarius (1604–1605), the chapter extracted from it and published in 1609 as Mare liberum, Theses sive Quaestiones LVI de iure hominis in actiones et res suas (possibly between 1602–1606) and Defensio capitis quinti Maris Liberi opugnati a Guilielmo Welwodo (c. 1615); the second covers Grotius’s opus magnum on the laws of war and peace, De iure belii ac pacis libri tres (1625). As the basic intellectual outlay and the main moves which Grotius made in De iure belii ac pacis came from his earlier work, and particularly De iure praedae, it is in this oldest work that the intellectual roots of Grotius’s construction must be sought.

As is well known, Grotius wrote his De iure praedae to justify the capture of the Portuguese ship Santa Catarina by a Dutch captain in the East Indies