

UNIVERSITY OF CAMBRIDGE
FACULTY OF HISTORY



POLITICAL THOUGHT AND INTELLECTUAL HISTORY
RESEARCH SEMINAR 2007-8
Series 1

Monday 29 October 2007 5:00 -6:45
Keynes Hall, King's College

Grotius, Stoicism and *Oikeiosis*

Christopher Brooke

Department of Politics and International Relations,
University of Oxford, and Balliol College, Oxford
<chris.brooke@balliol.ox.ac.uk>

© 2007, Christopher Brooke.

Work in progress: not to be cited or further circulated without permission.

Grotius, Stoicism and *Oikeiosis*

Dr Christopher Brooke

Department of Politics and International Relations,

University of Oxford, and Balliol College, Oxford

<chris.brooke@balliol.ox.ac.uk>

15 October 2007

Paper prepared for presentation to the University of Cambridge Faculty of History

Political Thought and Intellectual History Research Seminar, 29 October 2007

(Work in progress: not to be cited or further circulated without permission)

Introduction¹

There has been considerable disagreement over the interpretation of Grotius over the last thirty years, especially concerning the foundations of his system of natural law and revolving in particular around the arguments that have been put forward by Richard Tuck in a series of articles and books over the course of his career.² Tuck laid

¹ In what follows *DJBP* refers to Hugo Grotius, *De Jure Belli ac Pacis*; *LS* to A. A. Long and David Sedley's edition of *The Hellenistic Philosophers* (Cambridge, 1987, 2 vols.). My thanks are owed especially to Jon Miller and to Benjamin Straumann for kindly supplying me with copies of their recent work on Grotius.

² These include *Natural Rights Theories: Their Origin and Development* (Cambridge, 1979), "Grotius, Carneades and Hobbes" in *Grotiana* (1983), "The 'Modern' Theory of Natural Law" in Pagden, ed., *The Languages of Political Theory in Early Modern Europe* (Cambridge, 1987), "Grotius and Selden", in Burns, ed., *The Cambridge History of Political Thought, 1450-1700* (Cambridge, 1991), *Philosophy and Government 1572-1651* (Cambridge, 1993), *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant* (Oxford,

considerable emphasis on the role that self-interest played in anchoring Grotius's system, especially when understood specifically as the desire for self-preservation, and only conceded a minimal role to any kind of principle of sociability. Grotius argued like this, Tuck suggested, in order to meet the challenge of contemporary scepticism by providing an account of natural law whose foundations were sufficiently uncontroversial that even quite a thoroughgoing sceptic should have to acknowledge their validity. While this interpretation has been highly influential over the last quarter-century,³ both of its major components have also been heavily criticised. Perez Zagorin and Thomas Mautner, for example, have challenged the idea that Grotius's project has anything to do with scepticism at all;⁴ Robert Shaver has argued that Grotius "grounds natural law in sociableness rather than self-interest";⁵ and Brian Tierney has suggested that "his doctrine of natural law and natural rights was built around these two principles – self-love and sociability – not only or primarily on the first one."⁶

My interest in these debates revolves around the place that the appeal to Stoic argument plays in Grotius's theory, as part of my wider study of the uses and disadvantages of Stoicism in early modern political thought. In a passage in the *Prolegomena* to *DJBP* that stands at the heart of these controversies, Grotius makes his famous claim about *appetitus societatis*, and from the time of the 1631 edition of his book he identifies this *appetitus societatis* with the Stoics' *oikeiosis*, and it may very well

1999) and, most recently, the introduction to his new edition of Barbeyrac's edition of Grotius, *The Rights of War and Peace* (3 vols. Liberty Fund, 2005).

³ See, e.g., Knud Haakonssen, *Natural Law and Moral Philosophy* (Cambridge, 1998); Istvan Hont, *Jealousy of Trade: International Competition and the Nation-State in Historical Perspective* (Harvard, 2005); Ross Harrison, *Hobbes, Locke, and Confusion's Masterpiece: An Examination of Seventeenth-Century Political Philosophy* (Cambridge, 2003); J. B. Schneewind, *The Invention of Autonomy* (Cambridge, 1998).

⁴ Perez Zagorin, "Hobbes without Grotius", *History of Political Thought*, 21.1 (2000); Thomas Mautner, "Grotius and the Sceptics", *Journal of the History of Ideas*. 66.4 (2005).

⁵ Robert Shaver, "Grotius on scepticism and self-interest", *Archiv für Geschichte der Philosophie*, vol.78 (1996), p.28.

⁶ Brian Tierney, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625* (Scholars Press, 1997), p.323.

be the case that understanding Grotius's use of this Stoic concept is crucial to coming to a satisfactory overall characterization of his argument.

Now amongst the Things peculiar to Man is his Desire of Society, that is, a certain Inclination to live with those of his own Kind, not in any Manner whatever, but peaceably, and in a Community regulated according to the best of his Understanding; which Disposition the Stoicks termed Οικειοσιν. Therefore the Saying, that every Creature is led by Nature to seek its own private Advantage, expressed thus universally, must not be granted.⁷

It is not the case that Stoicism is absent from Tuck's account of Grotius. Far from it. *Philosophy and Government* sketches out an important story about the passage from the "new humanism" of Lipsius and Montaigne to the foundations of Grotius's system.⁸ But this is a story in which the contribution of Stoicism is understood to concern the importance of self-preservation and the achievement of a certain kind of psychic tranquillity, rather than anything to do with any kind of distinctively Stoic sociability. And when it comes to those arguments about sociability, whether they concern the ancient authors or the early moderns, Tuck's approach generally seems either to minimise or to draw attention away from the possible contribution of the Stoics, and often to play up by way of contrast the Epicurean strand in the arguments about the natural society of the human race. We can see this especially in *The Rights of War and Peace* (his book, not Grotius') in two places: first, in the footnote on *oikeiosis* itself in the chapter on humanism; and second, in the treatment of Grotius later on in the book.

Tuck's footnote reads as follows:

For an account of the Stoic concept, see S. G. Pembroke, 'Oikeiosis', in *Problems in Stoicism* ed. A. A. Long (University of London Press, 1971), 114-49. As Pembroke makes clear, the Stoic concept is highly complex: at one point it touches on Epicureanism (as Carneades the sceptic in fact alleged—p.129, while at another it touches on Aristotelianism (pp.132-6)). Renaissance accounts of the matter are equally confused, and little is to be gained by attributing to any writer a

⁷ Grotius, ed. Barbeyrac / Tuck, *The Rights of War and Peace* (Liberty Fund, 2005), vol.1, pp.79-81.

⁸ E.g. Tuck, *Philosophy and Government*, pp.45-64, ch.5.

‘Stoic’ notion of natural sociability, without a great deal of further exposition about what they might actually have believed.⁹

The last warning here is spot on, and one of the tasks of this paper is precisely to try to set out in some detail just what Grotius might have believed. But the earlier invocation of Epicureanism isn’t quite right. What Pembroke implies in the passage to which Tuck refers is that any link between *oikeiosis* and the Epicureans existed in the imaginations of their Sceptical critics rather than in any philosophical reality, and nor was it Carneades who was specifically associated with this criticism. What the remark about an affinity with Epicureanism helps to obscure, furthermore, is a far more important fact about the Stoics’ *oikeiosis*, repeated across the major sources, which is the role it played as a building block of the Stoics’ fundamental argument *against* the Epicureans.¹⁰

When it comes to Tuck’s discussion of Grotius in the same book, Epicureanism is again emphasized. First, the argument of *De Indis* (otherwise known as *De Jure Praedae*) is identified as broadly Epicurean:

So when Grotius talked about human sociability in the *De Indis*, he did not mean... that natural men were sociable in anything like the *Aristotelian* sense. Instead, we might say that they were sociable in the *Epicurean* sense, for... Epicureanism did permit a thin notion of human sociability.¹¹

The argument of the first, 1625 edition of *DJBP* is then identified as being “in fact an expansion of the arguments of the *De Indis*”,¹² but two things combined, according to Tuck, to make it harder for Grotius’s readers to understand the theory in its true, Epicurean colours. First, “Grotius did not make it anything like as clear as he had done in

⁹ Tuck, *Rights of War and Peace*, p.37n54.

¹⁰ A few sentences into his exposition of *oikeiosis*, Diogenes Laertius observes that the Stoics “hold it false to say, as some people do, that pleasure is the object of animals’ first impulse”;¹⁰ and Cicero does the same, when he has “Cato” remark at *De finibus* III.16 that “the Stoics point out that babies seek what is good for them and avoid the opposite before they ever feel pleasure or pain.” Julia Annas ed., *On Moral Ends* (Cambridge, 2001), p.70.

¹¹ Tuck, *Rights of War and Peace*, p.89.

¹² *Ibid.*, p.95.

his earlier work what the theoretical foundations of his argument were”;¹³ and, second, that the changes Grotius made to the text of the *Prolegomena* of the 1631 edition (when he was “trying extremely hard to move back to the United Provinces” and therefore sought to make his “views appear more acceptable to the Aristotelian, Calvinist culture of his opponents”¹⁴) further obscured the real character of his argument, with one of the major changes of course being the explicit invocation of Stoic *oikeiosis* (or, as it was misspelled in that edition, *aikēiosin*). Tuck’s argument about the extent and significance of the various changes to the text have been contested in the recent literature.¹⁵ But my concern is a slightly different one, for much depends on the plausibility here of the “Epicurean” reading of the argument of *DJBP*, and we might say that to the extent that Grotius’s argument of 1625 can be plausibly understood as a kind of Stoic argument, then to that same extent the introduction of explicit language of Stoic sociability in 1631 functions better as an accurate description of the argument of the first edition rather than as any attempt to obscure anything about it.

J. B. Schneewind, who writes on Grotius somewhat under the influence of Tuck’s interpretation, warns against the attempt to find too much Stoicism in *DJBP*:

Cicero had sketched a Stoic theory of natural law in two works whose influence was not lessened by the fact that they were preserved only in fragmentary form. Since Grotius of course knew these fragments, it is tempting to think that he was developing a Stoic doctrine of natural law for modern times. Yet I think this would be a serious mistake. We do not see him appealing to any of the metaphysics behind Stoic ethics. He refuses to say anything, in the development of his theory of natural law, about the relation of our reason and the divine mind. He sets aside, as I have noted, questions of the highest good and of the best form of the state, both of which Cicero discusses at length. He does not assure us that all apparent evils are truly goods or at least matters of indifference to us; he offers no therapy; and he says nothing about individual perfection...¹⁶

¹³ Ibid., p.96.

¹⁴ Ibid., p.99.

¹⁵ Thomas Mautner, “Not a Likely Story”, *British Journal for the History of Philosophy*, 11.2 (2003); also Mautner, “Grotius and the Skeptics”.

¹⁶ Schneewind, *The Invention of Autonomy*, p.175.

Indeed, all of this is quite right. It would be foolish to claim that Grotius is any kind of pure Stoic, given these the various omissions Schneewind mentions (and I'm sure there are others, too). It is also clear that other philosophical frameworks can be very helpful for elucidating aspects of Grotius's project. Annabel Brett's discussion of Grotius as a civic philosopher, tracing out the details of his exploitation of Connanus's theory of justice, is illuminating.¹⁷ But while I agree that Grotius doesn't supply from Stoic sources the various items in Schneewind's list, I don't think it's too strong to suggest that he *is* "developing a Stoic doctrine of natural law for modern times", or, perhaps better, to say that the doctrine of natural law he is developing is shot through with distinctively Stoic content, and we'd do well to map the contours of that Stoic element in more detail than we've managed to do hitherto.

A small number of scholars have been exploring the Stoic aspects of Grotius's theory. Max Pohlenz's pioneering work on reconstructing Stoic ethics made him interested in Grotius's appropriation of *oikeiosis*;¹⁸ and Matija Berljak devoted a major part of her short study of Grotius to a consideration of "lo stoicismo come ispirazione di Ugo Grozio", with particular attention to the references she found in Grotius's argument to the later Roman Stoicism of, especially, the Emperor Marcus Aurelius.¹⁹ It is only recently, however, that the matter has attracted the most detailed attention. It is perhaps curious that the book called *Grotius and the Stoa* does not in fact offer a significant examination of Grotius and *oikeiosis*. Jon Miller touches on the subject in his chapter on innate ideas,²⁰ and although he suggests that it is "other chapters in this book" that "will explore... Grotius's version of that Stoic doctrine",²¹ in fact they do not, and Reinhard

¹⁷ Annabel Brett, "Natural Right and Civil Community: The Civil Philosophy of Hugo Grotius", *The Historical Journal*. 45.1 (2002).

¹⁸ Max Pohlenz, *Die Stoa, Geschichte einer geistigen Bewegung* (Göttingen, 1978), vol.1, p.471, vol.2, p.229. See Laurens Winkel, "Les origines antiques de l'*appetitus societatis* de Grotius", *Tijdschrift voor Rechtsgeschiedenis*, vol.68 (2000), pp.394-5.

¹⁹ Matija Berljak, *Il diritto naturale e il suo rapporto con la divinità in Ugo Grozio* (Rome, 1978).

²⁰ Jon Miller, "Innate Ideas in Stoicism and Grotius", in Blom and Winkel, eds. *Grotius and the Stoa* (Assen, 2004), p.162.

²¹ *Ibid.*, p.164.

Brandt's contribution on "the tradition of *oikeiosis* in the modern age" overwhelmingly concentrates on Locke rather than Grotius.²² On the other hand, three recent contributions from Laurens Winkel, Jon Miller and Benjamin Straumann have offered detailed discussion of the Stoic thematic in Grotius (and all of these pieces have informed the discussion that follows). Winkel's essay concentrates on a narrow philological assignment, the ancient origins of the phrase *appetitus societatis*, and he presents the various threads of argument that link it back to the Stoic tradition, ultimately tracing the phrase itself back to texts by Cicero and Seneca.²³ The other two essays are properly philosophical. Jon Miller's paper on moral deliberation in Grotius and Spinoza and Benjamin Straumann's article on *appetitus societatis* / *oikeiosis* as central to Grotius's argument on behalf of just war.²⁴ Both of these latter papers, incidentally, engage directly with the controversies over self-interest and sociability touched upon above. Miller, on the one hand, is "not convinced that it is necessary to decide whether, for Grotius, self-interest or 'sociableness' was the more basic instinct" owing to his belief that "Grotius took self-interest and the desire for society to be aspects of one fundamental human impulse."²⁵ And Straumann concludes his paper by asserting that for Grotius "self-preservation is in accordance with natural law only to the extent that such self-preservation is just", so that "Tuck's view that self-preservation is the foundation of Grotius's natural law must thus be contested."²⁶

This paper – to conclude this overlong introduction – aims to be a contribution to this last body of literature. I'll proceed as follows. First, I'll present an outline of a Stoic

²² Reinhard Brandt, "Self-Consciousness and Self-Care: on the Tradition of *Oikeiosis* in the Modern Age", in *Grotius and the Stoa*.

²³ Cicero, *De finibus*, 4.18; Seneca, *Epistula ad Lucilium*, 9.17. Winkel, "Les origines antiques de l'*appetitus societatis* de Grotius", p.400. Cf. Straumann, who suggests Vázquez may have been Grotius's much more immediate source. Benjamin Straumann, "*Oikeiosis* and *appetitus societatis*: Hugo Grotius' Ciceronian argument for natural law and just war". *Grotiana*, 24/25 (2003/2004), p.45n12).

²⁴ Jon Miller, "Stoics, Grotius and Spinoza on Moral Deliberation", in Miller and Inwood, eds., *Hellenistic and Early Modern Philosophy* (Cambridge, 2003); Straumann,

²⁵ Miller, "Stoics, Grotius and Spinoza", p.137fn28.

²⁶ Straumann, "*Oikeiosis* and *appetitus societatis*", p.66.

theory of natural law. This will mostly be fairly familiar stuff, following Cicero (mostly) from among the ancients and Julia Annas (mostly) from among the more recent commentators, but I'll also draw particular attention (here following A. A. Long, also among the moderns) to the connection between the argument about *oikeiosis* and the argument about private property ownership, as it seems to me that this important aspect of Stoic political theory is not often given enough emphasis. Then I'll present some of the evidence to suggest that Grotius's argument in *DJBP* fits this model closely. In my concluding remarks, I'll return to the most general subject of Grotian sociability and the problem of imperialist violence.

An outline of a Stoic natural law argument

Two methodological preambles.

In what follows I'll often be referring to Cicero, or to the idea of "Ciceronian Stoicism", and this is problematic for one very obvious reason. Cicero was not a Stoic, and claimed instead an allegiance to the New Academy. This doesn't mean, however, that the term is vacuous, and for two reasons in particular. First, Cicero's works are among the most important sources for our knowledge of (especially) the ethics of the Hellenistic Stoics, in large part through texts like *De finibus*, in which Cicero presents a lengthy discussion of those ethics through the mouth of a spokesman (in this case Cato the Younger).²⁷ Second, it is clear that Cicero's major political writings draw heavily from Stoic sources. This is most obviously the case with regard to *De officiis*, which is heavily indebted to Panaetius' lost Stoic treatise *Peri tou kathekontos*; but other works such as *De republica* or *De legibus* have a strong Stoic influence, especially when it comes to the arguments both texts present on behalf of natural law. "Ciceronian Stoicism" is a term that certainly may be used, even if it must always be used with care.

²⁷ The three most important single texts for our knowledge of the ethics of the early Stoa are *De finibus* III, Diogenes Laertius VII.84-131 and Arius Didymus' epitome of Stoic ethics, as preserved in Stobaeus II.7.

The second, longer methodological preamble is that in what follows I'll be drawing to some extent on what Julia Annas has to say about *oikeiosis* in her book *The Morality of Happiness*,²⁸ and in a world in which the shelves (or, at any rate, my shelves) heave with various scholars' rival and competing expositions of Stoic ethics, it's worth saying one or two things about this choice. The first thing is not unusual, and shared among a number of other commentators, which is that her discussion of *oikeiosis* gives pride of place to the long passage from *De finibus* III.16-21, which is also the Stoic text that is doing the most work in *DJBP*.²⁹ The second reason for putting Annas' account in the spotlight owes to her determination to write about Hellenistic ethics substantially detached from questions of sectarian metaphysics. This has been a controversial decision, as the extremely interesting exchange with John Cooper demonstrates,³⁰ but it is very helpful in the present context, which is one in which (i) the key ancient text is *De finibus*, a work which presupposes that one can have meaningful discussions of ethics in the absence, for example, of considerations of cosmology; (ii) we're considering the reception of Stoic argument in an early modern world whose grasp of ancient philosophical doctrine is often uncertain and quite eclectic, lacking a firm grip on the various sectarian cosmologies and metaphysics in particular; and (iii) the particular problem to hand concerns a thinker who appears to be attracted to Cicero's (or, rather, "Cato's") argument precisely in order that he might be able to stress the origins of natural law in human nature, and who inserts his notorious *etsiamsi daremus* clause in order to signal (among other things?) that the argument is intended to stand independently of wider claims about the nature of the universe and of God's place in that universe. The third reason for finding Annas a particularly helpful guide is her insistence on the separation of "personal" from "social" *oikeiosis*.³¹ This is, as she acknowledges, a controversial move, which many commentators reject, and nothing in what I say is

²⁸ Julia Annas, *The Morality of Happiness* (Oxford, 1993).

²⁹ The passage that fills most of her p.264 is precisely the same passage that Grotius both directly quotes from and otherwise paraphrases in *DJBP* I.2.1.1-2. See below.

³⁰ John Cooper, "Eudaimonism and the Appeal to Nature in the Morality of Happiness: Comments on Julia Annas, *The Morality of Happiness*", *Philosophy and Phenomenological Research*, 55.3 (1995); Annas, "Reply to Cooper" in *Ibid.*.

³¹ E.g., Annas, *Morality of Happiness*, p.275.

intended to endorse her interpretation of the Stoics' *oikeiosis* on this point against her rivals. It is, however, a helpful distinction to bear in mind when considering the passage from Cicero to Grotius. In the first place, what Annas calls "personal" and what she calls "social" *oikeiosis* are neatly separated by space in Cicero's ("Cato's") account in *De finibus* III, with the former being discussed at III.16-21 and the latter at III.62-71. Secondly, when we turn to consider Grotius's argument, the terminology of "personal" and "social" *oikeiosis* remains, I think, quite helpful in analysing just what he has to say about the foundations of natural law.

Oikeiosis, et cetera

It is often reckoned that the idea of *oikeiosis* stands near the centre of Stoic ethics.³² As Annas notes, "this can seem more mysterious than it really is, because there is no good single English equivalent." She prefers "familiarization"; others (Long and Sedley, for example) prefer "appropriation", or "orientation".³³ Curiously, the problem of translation just doesn't apply to its antonym, which is *allotriosis*, which can be unproblematically rendered as "alienation", a term which resonates powerfully through the history of first legal thought and, later social theory. I'll just leave *oikeiosis* in transliterated Greek, as it's a familiar (no pun intended) enough term, at least among those of us who attend seminars on Grotius.

Oikeiosis, then, is a process in which nature is the active agent, and through which a person becomes familiarized with him or herself on the one hand, and with other human beings on the other.³⁴ "The primary impulse an animal has", writes Diogenes Laertius, reporting the Stoic view, "is to preserving itself...", and, as mentioned earlier, they insist that the instinct to preserve one's own existence comes prior to any experience of

³² This is not a universally shared view: cf Arius Didymus, whose presentation of Stoic ethics ignores it altogether.

³³ Annas, *Morality of Happiness*, p.262; *LS*, vol.1, p.351.

³⁴ Annas, *Morality of Happiness*, pp.262-3. Cf. Marx's theory of alienation, in which we're familiar with the idea that alienation has several aspects: alienation from the product of labour, from the activity of labouring, from other people and from species-being.

pleasure or pain, in order to deny the plausibility of the Epicurean argument that we are fundamentally pain-avoiding creatures.³⁵ *Oikeiosis* does incorporate a kind of self-love, but what the Stoics insist upon is that *oikeiosis* includes both the tendency to look after ourselves *and* the tendency to develop concern for the interests and the well-being of others. (This is why Miller's Stoic interpretation of Grotius can lead him to judge that self-interest and sociability might be "aspects of one fundamental human impulse."³⁶)

The story about self-love is a developmental story that begins with a description of the way in which infants are born with an instinctive desire for self-preservation, shown by the ease with which they learn to feed from their mother, pursue warmth, and so on. Through their natural development they come to possess a sense of their own identity, especially as being temporally extended creatures, and their search for natural goods that keep them going is also the setting for their first experience of the value of practical reason in obtaining those goods, as they learn (gradually) when to assent and when to refuse to assent to the appearances with which they are confronted. We come to acquire habits of reasoning, and we learn to reason consistently and to make comparisons across relevantly similar cases, and so on. Initially, we value the utility of practical reason solely as a means to obtaining natural goods. But "it often happens", Cicero's "Cato" tells us, "that when one is introduced to someone, one comes to value that person more highly than one does the person who made the introduction".³⁷ According to the Stoic story, then, the natural maturation of reason leads to someone first discovering that they don't *just* value practical reasoning as a means (so that they prefer to achieve their ends through the use of reason, as opposed to by any other means); and later to an understanding that the exercise of practical reason is not only to be valued for its own sake, but that we prefer its exercise to the possession of the goods it helps to secure, or, as Annas puts it, that the reasons why we act on a matter are more important than the consequences of acting on those reasons.³⁸ The culmination of the process of "personal" *oikeiosis* is the

³⁵ Diogenes Laertius, VII.85-6, Loeb translation; *De finibus*, III.16-7.

³⁶ See fn26, above.

³⁷ *De finibus*, III.23. Annas, *On Moral Ends*, p.72.

³⁸ Annas, *Morality of Happiness*, p.263.

fully rational human being's knowledge that, properly understood, the exercise of practical reason is the *only* good, and that it coincides perfectly with both virtue and the life according to nature – all of which are different ways of describing the same thing. It's important to recognise, though, that when one is acting rationally, one is still acting in order to obtain the kinds of things we might have been seeking to obtain before – self-preservation, health, security, wealth, and so on. It's just that we now think of these ends as being “preferred indifferents”, to use the Stoics' distinctive technical term, rather than as being strictly “goods”, a term that is now restricted to virtue, in other words, to rational activity itself.

The story about how we come to have concern for other human beings by a parallel process of natural rational development is the story of what Annas calls “social” *oikeiosis*. If the primal instinct that gets things going in the earlier narrative is the infant's concern for its own self-preservation, “social” *oikeiosis* is similarly grounded (psychologically, at least) in the concern which a parent has for its own offspring. Plutarch thought this was ludicrous, and ridiculed Chrysippus for the suggestion that we have concern for our offspring as soon as we ourselves are born.³⁹ As Annas remarks, “there is no problem if we take the point to be that at birth we have primitive forms of the instincts for both self-concern and for other-concern”, even if the latter is one that “will not come into play until we have offspring.” If and when it does, “it is a form of primitive instinct, not something learned.”⁴⁰ The Stoics' thought is that care for our own offspring is instinctual, but that the same instinct can lead us to care for the well-being of others who are close to us, too. As with the story about “personal” *oikeiosis*, concerns for self-interest (in the form of mutual advantage) can play a role in the initial fostering of such a concern, but the relationship that comes into being, if it develops properly (naturally, rationally), isn't then one that is wholly reducible to that mutual advantage, but that the other-concern carries independent ethical weight. The Stoics' contention is that once this process begins, there is no rational place for it to stop, so that the human being with the most fully-developed rationality – i.e., the Stoics' sage – will be someone who is able to

³⁹ Plutarch, *De Stoicorum repugnantibus*, 1038b.

⁴⁰ Annas, *Morality of Happiness*, p.265.

treat everyone's concerns as having equal weight in his or her deliberations just because of their human identity. Borrowing Annas' words again, "this attitude, of impartial concern for the interests of others, is the basis of justice and of communal life",⁴¹ and the attitude of the Stoic sage is the fullest expression of the Stoics' celebrated cosmopolitanism. If *De finibus* III offers an exemplary presentation of "personal" *oikeiosis*, the richest description of the operation of "social" *oikeiosis* is perhaps found in the "concentric circles" passage from Hierocles,⁴² though this passage is philosophically problematic,⁴³ and, as I shall discuss below, it is quite interesting that Grotius does not exploit this passage in his work.

Whether or not we ought to understand "personal" and "social" *oikeiosis* as being basically separable processes or not, it's worth, I think, seeing how elements in the two different stories can interact in order to reinforce one another. "Personal" *oikeiosis* includes the development from valuing practical reason instrumentally in the pursuit of what we take to be goods, to the valuing of practical reason for its own sake, as we happen to continue in the pursuit of "preferred indifferents". "Social" *oikeiosis* on the other hand then tells us that while we might be acting to secure the appropriate "preferred indifferents" for a human being, it doesn't matter from the point of view of living rationally whether we are securing those "preferred indifferents" for ourselves or for others. The curious result of all this is that (to employ anachronistic modern categories) Stoicism becomes a bit like a strange amalgam of utilitarianism and Kantian ethics. On the one hand, because the life according to nature is one in which we ought to act in ways likely to secure more rather than fewer "preferred indifferents", and because the cosmopolitan sage is relatively unconcerned about prioritising the securing of "preferred indifferents" for him or herself, rather than for other people, it's not implausible to see the sage as engaging in the kinds of calculations utilitarians make about the likely real-world welfare consequences of the actions they are considering performing. And, just as there's a debate within utilitarian ethics as to whether utilitarianism is best understood in

⁴¹ Ibid.

⁴² This passage is preserved in Stobaeus, IV.671-3 and reproduced at LS 57G.

⁴³ Annas, *Morality of Happiness*, pp.267ff.

terms of “acts” or “rules”, there’s a debate within the Stoicism literature about whether the Stoics thought that “natural laws” were general, universal and exceptionless (as Julia Annas, Philip Mitsis and Gisela Striker contend), or whether they were better understood as heuristics, which the Stoic sage will set aside when it is appropriate so to do (which is the view of A. A. Long and Brad Inwood).⁴⁴ On the other hand, the Stoics agree with Kantian moralists that two otherwise identical actions can have entirely different moral values, since morality is relevant to the intentions or dispositions with which a person acts, and has nothing to do with the actual consequences of one’s actions. Or, to use the Stoics’ characteristic terminology, the securing of good consequences in the form of “preferred indifferents” might be the *objective* of moral action (*propositum*), but it is not the *aim* (*telos* or *finis*); and they insist that the morally worthy actions of the sage (*katorthomata*) are phenomenologically identical to the duties (*kathekonta*, *officia*) which the rest of humanity can only aspire to perform, though the former have moral worth and the latter don’t.

The process of *oikeiosis*, as we have seen, generates a rational concern for oneself and for others. How, then, does this play out in the kinds of practical deliberation that the Stoics recommend? In an illuminating discussion of how the Stoics recommend to non-sages (i.e., all of us) appropriate ways of living our lives, Tad Brennan draws attention to a saying of Chrysippus about running in a race:⁴⁵

Runners in a race ought to compete and strive to win as hard as they can, but by no means should they trip their competitors or give them a shove. So too in life; it is not wrong for each person to seek after the things useful for life; but to do so by depriving someone else is not just.⁴⁶

Brennan calls this the “no shoving” rule and suggests that the Stoics are best understood as advocating a “three-round deliberation, in which my pursuit of my interest is curbed by my commitment to avoiding harm to others, especially the diminution of their lawful

⁴⁴ See Miller, “Stoics, Grotius and Spinoza”, pp.117-20.

⁴⁵ Tad Brennan, *The Stoic Life: Emotions, Duties, and Fate* (Oxford, 2005), p.206.

⁴⁶ *De officiis*, III.42.

property, while both of these considerations can and should be overridden by the utility of the whole society.”⁴⁷ Brennan himself is very hostile to the idea of understanding practical Stoic ethics through the language of “laws”⁴⁸ – let alone of “natural laws” – and I’m sympathetic to his technical objections. But the origins of what becomes the natural law tradition do appear to stem from something like this argument, with the norms that govern the second and third elements of Brennan’s deliberation becoming understood as natural laws prohibiting certain kinds of actions in order to prevent us infringing against the fundamental interests of others on the one hand or the common good on the other. To reach into the contemporary lexicon once again, we might think that this Stoic argument understood as natural law theory comes pretty close to a Nozickian argument about rights as side constraints.

The Stoics on justice and private property

As in Nozick’s theory, and as the remark about “lawful property” might begin to suggest, concerns about property play a crucial role in this Stoic natural law tradition. Cicero’s interest in the defence of private property – to the extent that he considered that the tribune Philippus ought to have been stripped of his citizenship merely for proposing an agrarian law⁴⁹ – no doubt owes much to a generally conservative disposition in politics, but it also finds considerable support in the Stoic philosophical tradition. Earlier, I sketched an outline of the doctrine of *oikeiosis* without specific reference to property, but, looked at from another point of view, concern with property stands at the heart of the argument, something that perhaps is easier to appreciate when we think in terms of “appropriation” rather than “familiarization”; as Long and Sedley observe, the Greek root *oik-* “connotes ownership, what belongs to something.”⁵⁰ And in this re-telling of the *oikeiosis* story, what we have is a gradual progression from the fundamental fact and experience of *self-ownership* – which A. A. Long calls “the Stoics’ most far-reaching

⁴⁷ Brennan, *Stoic Life*, p.211.

⁴⁸ Ibid., pp.192-4.

⁴⁹ *De officiis*, II.73.

⁵⁰ *LS* 57, vol.1, p.351, again.

contribution to their reflections on society, justice, and personal freedom”⁵¹ – through to the development of property relationships in external objects. (Cf. Duncan Kelly’s work-in-progress on John Locke.)

Every human being had the power to give or withhold assent to impressions, the faculty they called *synkatathesis*, or *assensio* in Cicero’s Latin. This thought stands at the centre of the Stoics’ teaching about individual autonomy – it is most prominent in Epictetus – and together with the language of *oikeiosis* which suggests a taking possession of oneself, or a familiarization of oneself to oneself, an argument about the fundamental nature and importance of self-ownership is elaborated, an argument which in turn was key to the Stoics’ denial of any doctrine of natural slavery. *Oikeiosis*, the Stoics thought, explains how we come to have a conception of our personal identity which persists through time.⁵² And the activity of pursuing one’s self-preservation and of establishing one’s identity – we might say, of finding a home for oneself in the world – on this account naturally involve the appropriation and use of pieces of the material world around us. As A. A. Long puts it,

I interpret the Stoic position, then, to amount to this: just as we need to love ourselves and to forge affectionate ties with other human beings, in order to become well-functioning personalities, so too the appropriation of private property is a natural human tendency and one that helps to establish the individual's identity as such.⁵³

It’s because property plays an important role in relation to this foundational Stoic concern with *oikeiosis* that the protection of property plays such an important role in Stoic thinking about justice. A. A. Long, again:

⁵¹ A. A. Long, “Stoic philosophers on persons, property-ownership, and community”, in his *From Epicurus to Epictetus: Studies in Hellenistic and Roman Philosophy* (Oxford, 2006).

⁵² Diogenes Laertius tells us that *oikeiosis* produces not only an animal’s affinity for its own constitution but also a consciousness of that constitution (A. A. Long, *Ibid.*, p.352); Seneca provides the most detailed Stoic reflections on what later becomes called the problem of personal identity in his *Letter* 121.

⁵³ A. A. Long, *Ibid.*, p.357.

Individuals and society have a common interest in the preservation of justice—that is to say in this context, the right of individuals to retain their own property without interference from others: “Nature (i.e. reason) prescribes that a human being should want to consider the interest of another human being, whoever he is, simply because he is a human being.” I take it that three assumptions underlie this premise. First, the community of reason: if something is rational for me, it will also be rational for you; second, the rationality of self-interest: if it is rational for me to want to promote my own interests, reason constrains me to attribute the same line of thought to you; and third, the universality of interest in ownership: if I am interested in preserving my property (however property is construed), reason requires me to attribute the same interest to you. All human beings, then, have individual interests including interests in their own property. Cicero concludes that justice—scrupulous respect for another's interests—is an interest common to all, and therefore, since it is grounded in the community of rational human nature or natural law, it is binding on all.⁵⁴

What Ciceronian Stoicism requires, on this view, is that humans acknowledge one another's property rights, and live with economic arrangements that both preserve, protect and defend existing property holdings and enable individuals and groups to promote the common good. Obviously, a great deal of detail needs to be filled in before we have a fully-fleshed out theory of property or political justice, about the extent of those property rights, the regulations governing accumulation or appropriation, or the question of what social or legal property regimes are acceptable in the sight of this natural law. But the basic shape of the overarching theory is reasonably clear.

Indeed, the basic shape of this kind of natural law theory is familiar, excessively familiar, perhaps: natural laws prohibit behaviour that seems to threaten the fundamental interests of others, and these prohibitions incorporate very strong protection of private property holdings. But I don't think the ways in which specifically Stoic theory can help to generate such a natural jurisprudential edifice is so well appreciated or understood; and among the Hellenistic schools, the concern with property is distinctively Stoic: the Epicurean tradition, for example, is one that says little about property (just as it says very little about politics). It's easy to dismiss natural law political theory as some kind of bastard offspring of the innovations of the Middle Stoa, especially as it passes through

⁵⁴ Ibid., p.348.

Cicero's philosophically eclectic filter. But it seems to me the general approach sketched here can be grounded in arguments that are plausibly traced back to the philosophers of the early Stoa, including Chrysippus

Grotius as Stoic natural law theorist

Finally, we're ready to turn to Grotius and *DJBP*. In discussing Grotius's argument, we need to be careful about the state of the text of *DJBP* in its various editions, partly because the passages that are most relevant to the analysis of Grotius's use of the Stoics were among those most heavily altered, and partly because the significance of the changes that were made has been contested in the scholarly literature. Very roughly speaking, the 1631 edition revised the text of the *Prolegomena* to a considerable extent, including for the first time the identification of *appetitus societatis* with Stoic *oikeiosis*, as well as introducing some other minor changes elsewhere in the main text; the 1642 edition introduced a series of footnote references to a variety of ancient and ecclesiastical authorities which purported to offer further support for Grotius's argument. In particular, any attempt to demonstrate that Grotius's argument has a substantially Stoic component, or any suggestion that the argument about sociability is distinctively Stoic, needs above all to be grounded in a plausible reading of the text of the original 1625 edition. I'll proceed as follows. First, to consider Grotius's use of *De finibus* in the second chapter of the first book of *DJBP*; then to discuss the text of the 1625 *Prolegomena*; then to turn to the reworked 1631 text; and then to present a brief concluding discussion to tie some of the various thoughts together.

Book One Chapter Two

Given that Grotius's book announces its concern with the *ius* of war, the second chapter is clearly a crucial part of the overall argument, as it addresses the question of "whether it is ever lawful to make war". As is characteristic in Grotius's writing, most of the chapter is taken up with the presentation of evidence in support of his argument from classical and scriptural sources; but the opening sections of the chapter present the core

philosophical argument, and this is where Grotius draws centrally on the passage of Cicero that was being considered above, *De finibus* III.16-23 or so. Here's the relevant passage:

Having viewed the Sources of Right, let us proceed to the first and most general Question, which is, Whether any War be Just, or, Whether 'tis ever Lawful to make War?

1.1. But this Question, as well as those which follow, is to be first examined by the Law of Nature. *Cicero* learnedly proves, both in the third Book of *His Bounds of Good and Evil*, and in other Places, from the Writings of the Stoicks, that there are two Sorts of *natural Principles*; some that go before, [and are called by the *Greeks Τα πρωτα κατα φυσιν*]⁵⁵. *The first Impressions of Nature*; and others that come after, but ought to be the Rule of our Actions, preferably to the former. What he calls *The first Impressions of Nature*, is that Instinct whereby every Animal seeks its own Preservation, and loves its Condition, and whatever tends to maintain it; but on the other Hand, avoids its Destruction, and every Thing that seems to threaten it. Hence comes it, says he, that there's no Man left to his Choice, who had not rather have all the Members of his Body perfect and well shaped, than maimed and deformed. And that 'tis the first Duty of every one to preserve himself in his natural State, to seek after those Things which are agreeable to Nature, and to avert those which are repugnant.

1.2. After that follows, (*according to the same Author*) the Knowledge of the Conformity of Things with Reason, which is a Faculty more excellent than the Body; and this Conformity, in which *Decorum* consists [*in qua honestum sit propositum*], ought (*says he*) to be preferred to those Things, which mere natural Desire at first prompts us to; because, tho' the first Impressions of Nature recommend us to Right Reason; yet Right Reason should still be dearer to us than that natural Instinct. Since these Things are undoubtedly true, and easily allowed by Men of solid Judgment, without any farther Demonstration, we must then, in examining the Law of Nature, first consider whether the Point in Question be conformable to the first Impressions of Nature, and afterwards, whether it agrees with the other natural Principle, which, tho' posterior, is more excellent, and ought not only to be embraced when it presents itself, but also by all Means to be sought after.⁵⁶

⁵⁵ This bracketed section was added to the 1631 edition; Grotius credits Aulus Gellius XII.5 as the source of the Greek original of Cicero's *prima naturae*.

⁵⁶ Grotius, *Rights of War and Peace* (Tuck / Barbeyrac ed.), vol.1, pp.180-1.

To get a sense of the extent to which Grotius is following Cicero, here's the first paragraph (1.1) again, in the Latin of the 1625 edition, and with the direct quotations, or virtually identical wordings, italicised, and with precise references to *De finibus* inserted in square brackets:

M. Tullius Cicero tum tertio de Finibus, tum alijs locis, ex Stoicorum libris erudite disserit esse quaedam prima naturae, quaedam consequentia, sed quae illis primis praferenda sint. Prima naturae vocat, quod *simulatque natum est animal, ipsum sibi conciliatur & commendatur ad se conservandum, atque ad suum statum & ad ea quae conservantia sunt eius status diligenda: alienatur autem ab interitu iisque rebus quae interitum videantur afferre* [III.16]. Hinc etiam ait fieri ut *nemo sit, quin cum utrumvis liceat, aptas malit & integras omnes partes corporis, quam easdem usu imminutas aut detortas habere* [III.17]: *primumque esse officium ut se quis conservet in naturae statu, deinceps ut ea teneat quae secundum naturam sint, pellatque contraria* [III.20].⁵⁷

The second paragraph, 1.2, follows both Cicero's Latin and his argument slightly less closely, but it still has a quite distinctively Ciceronian content and flavour. The reference in particular to how "the first Impressions of Nature recommend us to Right Reason; yet Right Reason should still be dearer to us than that natural Instinct" comes straight out of "Cato's" argument; Grotius's "sed ipsa recta ratio carior nobis esse debeat quam illa sint a quibus ad hanc venerimus" straightforwardly modelled on Cicero's "post autem ipsam sapientiam nobis cariorem fieri quam illa sint a quibus hanc venerimus" (III.23).

That's a bare descriptive summary of what Grotius is taking most directly from Cicero's presentation. What, then, is he eliding, or passing over in silence? In between the first quotation in 1.1 (introduced by *vocat, quod*) and the second (introduced by *ait*), Grotius skips over about one hundred words in III.16-17 which allude to the connection between *oikeiosis* and self-consciousness, report the claim that self-love provides the primary motivation to action, and present "Cato's" endorsement of the anti-Epicurean insistence that pleasure is not one of the primary objects of desire. More striking is the matter of what gets elided between the second and the third passages which Grotius quotes directly, a gap which covers most of III.17-20 and which is not flagged at all in

⁵⁷ Grotius, *De Iure Belli ac Pacis Libri Tres* (Paris, 1625), pp.16-7.

Grotius's text, as the two quotations are only separated by a colon between *habere* and *primumque*. Here Grotius passes quickly past the outline of a couple of points of Stoic doctrine: the account of *katalepsis* in Stoic epistemology, and, in particular, at III.20 the beginning to the presentation of the Stoic theory of value (*axia*). It's significant that Grotius avoids picking up on the more technical parts of "Cato's" discussion; little specifically Stoic jargon apart from the *prima naturae* finds its way into this part of *DJBP*; and we should, I think, be fully aware of the extent to which Grotius is cherry-picking from that discussion and avoiding the parts of it which engage the most distinctively Stoic parts of the argument in the greatest detail.

The absence of any serious consideration of the Stoic theory of value in Grotius is important in its own right. It means that whatever else Grotius is doing with this passage, he isn't attempting to do anything like what Cicero / "Cato" was doing, as the major purpose of "Cato's" exposition is to build up to a defence of the Stoic claim that what is *honestus* is the appropriate objective (*telos, finis*) of human action, the discussion of the "ends of good and bad" being the main subject matter of *De finibus* itself. And in Grotius's recycling of some of Cicero's words, there is certainly no claim that acting in accordance with practical reason is something to be done for its own sake, let alone (as Schneewind noted, above) a claim that this is the highest good, or the only good. In the absence of a distinctive Stoic theory of value doing any work here, we might think that this is one place where Grotius's argument really does foreshadow Hobbes's later theory, in which human beings are always expected to be pursuing the goods that pertain to self-preservation, while denying that there is any *summum bonum*, or that its absence derails any project of setting suitable rules to govern practical reasoning.

It would be wrong, however, to conclude from all this Grotius is gutting this Ciceronian argument of any interesting or distinctive Stoic content. The most distinctively Stoic moment in his exposition is his retention of the link between the two motivations for action. Although *recta ratio* is to be preferred to acting on the "first Impressions of Nature", it is the latter that "recommend us to Right Reason" in the first place. In the Stoic account presented by "Cato", the infant and the mature rational adult

are still acting in pursuit of the same kinds of things – security, health, self-preservation, and so on; where what is different above all is the adult’s consistency in reasoning and understanding that the real good is to be obtained in the exercise of practical reason for its own sake rather than through the realisation of those particular kinds of things. In Grotius’s account, likewise, the “first Impressions of Nature” refer to, for example, “the Preservation of Life or Limbs”,⁵⁸ and the later, second stage of reasoning specifically includes considerations of sociability – ruling out, as Grotius goes on to explain, only that “Manner of Violence... which is repugnant to Society.”⁵⁹

What I think is noteworthy here is that it looks as if Grotius has passed from the realm of what Annas calls “personal” *oikeiosis* to that of “social” *oikeiosis*. The material he’s taken from Cicero speaks entirely to her discussion of the former, as “Cato” explains how an infant’s instinctive action comes to be replaced by consistent, rationally-deliberated action in the adult human being, with, as noted above, a discussion of the explicitly “social” aspects of *oikeiosis* postponed until III.62. And yet here we have explicit claims being made about the demands of human sociability. It’s just about conceivable, I suppose, that sociability here is being understood in terms of a rather poorly worked-out account of mutual advantage, and so ultimately reducible to a story about the development of “personal” *oikeiosis* (in this regard, perhaps, something akin to what de Tocqueville would later call “self-interest rightly understood”). But given that (i) the same text that Grotius is exploiting in this chapter rejects the idea that justice might be adopted for the sake of utility,⁶⁰ (ii) that Grotius quotes approvingly from Cicero’s *De officiis* III.5 towards the end of the chapter section to emphasise the centrality of the defence of property to sociability, (iii) that Grotius himself makes a similar denial in the *Prolegomena* to *DJBP*, and (iv) that in this discussion he does not consider any of the somewhat obvious difficulties that arise if we go down a simple justice-as-mutual-advantage avenue, this seems to me to be unlikely. Instead, we would seem to have either a Grotius who sides with Annas’ critics against her separation of “personal” from

⁵⁸ *DJBP*, I.2.1.3 (Tuck / Barbeyrac ed., vol.1, p.183).

⁵⁹ *Ibid*, vol.1, p.184 of the Tuck ed.)

⁶⁰ *De finibus*, III.70.

“social” *oikeiosis*, and who considers that the process of *oikeiosis* that engineers the transition from the *prima naturae* of 1.2.1.1 to the *recta ratio* of 1.2.1.2 also generates a distinctive concern for society as a whole (which seems to me to be more likely), or a Grotius who observes the distinction, but is silently presupposing the kind of material that Cicero sets out at III.62-71 (which seems to me to be less likely). In either case, the identification of *appetitus societatis* (from the *Prolegomena*) with *oikeiosis* as set out by Cicero’s “Cato” seems secure.

In both of these last cases, the puzzle remains that Grotius seems to be fairly cavalier about the origins of justice, at least insofar as it manages to obtain any kind of grip on human psychology. For the Stoics, as we have seen, these origins lay in the parental instinct, and while Grotius does briefly discuss such an instinct in both versions of his *Prolegomena*, he never gives it any kind of foundational role in his exposition. (Perhaps he agreed with Plutarch and found the argument about an innate parental instinct absurd?) Indeed, Grotius more generally doesn’t appear to be interested in the particular psychological mechanisms that generate and sustain what Annas calls “social” *oikeiosis*. One reason for this might be that he failed to find Cicero’s discussion at III.62-71 stimulating, and preferred to short-circuit the entire discussion of how we are to relate to other people with an appeal to straightforwardly impersonal law in the context of the most general concerns about “social” *oikeiosis*. That seems to me to be plausible. An alternative explanation would presumably have to argue that the distinction set out in 1.2.1.1-2 had nothing to do with the concern for the “Design of Society” presented in 1.2.1.3,⁶¹ but in that case Grotius’s approach in the chapter would be odd; it would not be at all clear, for example, why *De finibus* was being exploited at all, if there were an independent argument for the bindingness of certain social norms (e.g., the protection of property holdings).

Reflecting on these issues brings up a further point of interest, which is the fact that Grotius nowhere employs the passage from Hierocles about “concentric circles”,

⁶¹ Tuck / Barbeyrac ed., vol.1, p.184.

which looms large in contemporary discussions of “social *oikeiosis*” and which has been made fairly well known today through Martha Nussbaum’s enthusiasm.⁶² This passage presents the most detailed account of how one might work on extending the range of one’s “social” *oikeiosis*. It is not that Grotius didn’t have access to this passage. Although parts of Hierocles were unknown to his age, owing to their being preserved on then-undiscovered bits of papyrus,⁶³ the “concentric circles” passage itself (*LS* 57G) is preserved in Stobaeus; and Grotius knew Stobaeus’ text intimately, publishing his own edition of the *Dicta poetarum* preserved in Stobaeus’ anthology and quoting from texts preserved by Stobaeus frequently in his major books.⁶⁴ Jon Miller has demonstrated one important conclusion here, that Grotius nowhere draws on the epitome of Stoic ethics by Arius Didymus and preserved in Stobaeus II.7 anywhere in his writings (which is not to say that he didn’t know the text; just that he never used it); here it’s worth adding two reasons why he might not have used Hierocles, even though the “concentric circles” passage speaks directly to relevant concerns of *DJBP*: first, that although Hierocles’ discussion is universally taken today to be of relevance to understanding the Stoics’ *oikeiosis*, the word itself nowhere appears in the decisive passages, and so it is easy to think that it would not have been recognised as a relevant text to understanding Stoic argument; second, and perhaps relatedly, Hierocles was not himself taken to be a Stoic philosopher in Grotius’s time, and so there’s no particular reason to think that Grotius would have had any reason to attempt to exploit this text in this context. (As Gloria Vivenza observes, it was Max Pohlenz whose work was most important in transforming our understanding of Hierocles.⁶⁵)

The 1625 Prolegomena

⁶² E.g., Martha Nussbaum in Joshua Cohen, ed., *For Love of Country: Debating the Limits of Patriotism* (Boston, 1996), pp.6-9.

⁶³ E.g., the extracts reproduced at *LS* 57C-D.

⁶⁴ See Jon Miller, “Grotius and Stobaeus”, *Grotiana*, forthcoming.

⁶⁵ Gloria Vivenza, *Adam Smith and the Classics* (Oxford, 2001), pp.204-5.

Does the original 1625 text of the *Prolegomena* provide further evidence of there being a distinctively Stoic argument at work in Grotius's book? Yes, it does. The most important passage begins with the best-known portion, here reproduced in Richard Tuck's translation, appended to his edition of *DJBP* in the Liberty Fund edition:

For though man is an animal, he is one of a special kind, further removed from the rest than each of the other species is from one another—for which there is testimony from many actions unique to the human species. Among the things which are unique to man is the desire for society [*appetitus societatis*], 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 [*pro sui intellectus modo ordinate*].⁶⁶

Obviously this passage *can* be read as a piece of Stoicism, especially in light of the final phrase. But it's the argumentation that follows that is most interesting for our purposes, both for where it follows and for where it departs from Stoic patterns of argument. First of all, the saying that “nature drives each animal to seek its own interests” is qualified: it applies uncomplicatedly to other animals and to children (“man before he came to the use of that which is special to man”, i.e., fully-developed reason). This clearly tracks the concerns in the Stoic texts on *oikeiosis* of setting out how adult humans are different from, on the one hand, non-human animal life and, on the other hand, infant human beings.⁶⁷

The analysis of those differences, however, departs from that of the Stoics. Grotius observes that insofar as non-human animals seem to show “a regard partly for their own offspring, and partly for the other members of their species” this owes not to any natural

⁶⁶ Tuck / Barbeyrac ed., vol.3, p.1747.

⁶⁷ See, e.g., Diogenes Laertius, where a discussion of *oikeiosis* as it pertains to all animal (and also plant) life is at VII.85-86, before Zeno's treatise *Peri anthropou* is mentioned at the start of VII.87, and the discussion of the *oikeiosis* specific to human beings follows; or *De finibus*, again, where the examination of *oikeiosis* begins with remarks about animal life in general (III.16), proceeds to a consideration of infants in general (it's not clear that the infants discussed at III.16 are specifically human), has examples drawn from human children (at the end of III.17), human adult males (the discussion of beards and male nipples at III.18) and animal life (the dove's plumage, also at III.18), before becoming a discussion solely and specifically concerning human beings at the start of III.21.

sociability but to “some extrinsic principle of intelligence” (which Barbeyrac, commenting on the same passage in the 1631 text, plausibly glosses as God⁶⁸), Grotius’s reasoning being here that “a similar intelligence does not appear in other actions of theirs which are equally difficult.” It’s not at all obvious why altruistic behaviour or care for offspring should be viewed as especially *difficult*; perhaps the thought is more directed towards the *complexity* of, e.g., a parent’s care for its young. The Stoics of course explained such behaviour through animal *oikeiosis* itself. But the key point for our purposes here is that Grotius seems to be asserting that “social” *oikeiosis* is unique to human beings; for “[i]n the case of men, however, when they perform such actions [i.e., care for offspring or otherwise altruistic], it is reasonable to suppose that they stem from some internal principle, which is associated with qualities belonging not to all animals but to human nature alone.” And when Grotius considers what follows from this parenting or otherwise altruistic instinct, now described as a “care for society”, he certainly doesn’t describe anything that sounds much like anything we would associate with, especially, child-rearing activity, but claims that:

This care for society in accordance with the human intellect, which we have roughly sketched, is the source of *ius*, properly so called, to which belong abstaining from another’s possessions, restoring anything which belongs to another (or the profit from it), being obliged to keep promises, giving compensation for culpable damage, and incurring human punishment.⁶⁹

As earlier, the reluctance to say much about the role of parenting in this argument for natural justice is quite striking; Grotius slides very fast indeed from the authentic Stoic concern with the parental instinct to their wider conclusions about the nature of justice and its embodiment in strict respect for general rules. On this occasion, however, the concern with parenting is present in this presentation of “social” *oikeiosis*, in a way that it was absent before, and here again it cashes out in just the way we would expect from our earlier examination of the Ciceronian Stoic natural law argument, with “social” *oikeiosis* being understood in thoroughly Stoic fashion as the origin of *ius*. Grotius might himself

⁶⁸ Tuck / Barbeyrac ed., vol.1, p.83n3.

⁶⁹ Ibid., vol.3, pp.1747-8.

qualify this final judgment a little later on in the *Prolegomena*, but his qualification itself has impeccably Stoic credentials, for he notes that if the origin of *ius* is in our nature, we can also attribute it to God, “since he willed that there should be such principles in us”, and that “it was in this sense that Chrysippus and the Stoics said that one should simply seek the origin of *ius* in Jove himself.”⁷⁰

The 1631 Prolegomena

The 1631 *Prolegomena* introduces, of course, the explicit language of *oikeiosis* to the discussion of *appetitus societatis*. And, shortly after using the word itself, the argument we were examining earlier begins to diverge from that of the 1625 edition with the insertion of a new discussion of human infants.

The same [as is said of non-human animals] may be said of Infants, in whom is to be seen a Propensity to do Good to others, before they are capable of Instruction, as Plutarch well observes; and Compassion likewise discovers itself upon every Occasion in that tender Age.

Barbeyrac had trouble finding a relevant citation from Plutarch, and judged that the reference was to his *Consolatio ad uxorem*, remarking that in that work he was writing of his daughter, and emphatically not of “the common Inclination of all Children”. But in any case this insertion isn’t of special importance: the earlier edition clearly indicated that human children were to be considered as relevantly similar to non-human animals, and here Grotius explicitly spells out the inference which was left implicit in that first edition, that any apparently altruistic behaviour is to be explained non-Stoically, with reference to the “extrinsic intelligent Principle”.⁷¹

⁷⁰ Ibid., vol.3, p.1749.

⁷¹ Istvan Hont writes that the first edition of the *Prolegomena* “suggests that man is born self-interested in order to become social; the second that man is by nature social and thus can correct his self-interested behavior”. Hont, *Jealousy of Trade*, p.19n33. Similarly, Jon Miller writes that “As evidence that humans are naturally social, Grotius asserts in §7 that ‘In children, even before their training has begun, some disposition to do good to others appears.’” Miller, “Innate ideas”, p.164. Both claims seem to me to be troublesome: Grotius is arguing that children’s apparently altruistic behaviour is to be explained the same way as it would be in animals, i.e. motivated by an “extrinsic principle” rather than being internally generated from the creature’s own

The argument continues to depart from the earlier text:

But it must be owned that a Man grown up, being capable of acting in the same Manner with respect to Things that are alike [*cum circa similia similiter agere norit*], has, besides an exquisite Desire of Society [*cum societatis appetitu eccellente*], for the Satisfaction of which he alone of all Animals has received from Nature a peculiar Instrument, viz., the Use of Speech; I say that he has, besides that, a Faculty of knowing and acting, according to some general Principles [*secundum generalia praecepta*]; so that what relates to this Faculty is not common to all Animals, but properly and peculiarly agrees to Mankind.⁷²

The references to speech and reasoning suggest an Aristotelian influence. But the most interesting indication that Grotius is again at least in part following the Stoics here is the way in which the different aspects of *oikeiosis* – “personal” and “social” – are juxtaposed along the way in the same set of claims. The adult human is “capable of acting in the same Manner with respect to Things that are alike”, writes Grotius, closely paraphrasing Cicero on a key aspect of “personal” *oikeiosis*, which is the achievement of consistency in the selections one makes.⁷³ Grotius slides immediately over to “social” *oikeiosis*, invoking *appetitus societatis* again. And then, having gone from the “personal” to the social”, Grotius repeats his reference to “personal” *oikeiosis*, reminding his reader that only human beings can act according to *generalia praecepta*.

Concluding Discussion

As noted earlier, there has been a small amount of scholarship recently which has also been keen to emphasise the substantially Stoic character of Grotius’s argument. For Benjamin Straumann, “the reason why Cicero’s arguments in favor of a natural law lent themselves to Grotius was that both Cicero’s and Grotius’s doctrines originally stem from an attempt to legally defend imperial expansion”, with Cicero’s argument in *De republica*

constitution.

⁷² Tuck / Barbeyrac ed., vol.1, pp.84-5.

⁷³ *De finibus*, III.20.

being set out specifically as a response to the arguments of Carneades.⁷⁴ Jon Miller has explored Grotius's natural law theory in light of a disagreement in the recent literature on Stoicism mentioned above, between those whom he calls "generalists", who see natural laws as providing a universal and deductive framework for moral deliberation and those whom he calls "particularists" who consider Stoic natural laws to be better understood as heuristics, because they are at most conditionals, "the antecedent of which contains an indefinitely long condition that, because it is indefinite, can never be proven true",⁷⁵ and his interest in Grotius's "generalist" argument owes in part to his plausible belief that Grotius's own interpretation of Stoicism on this issue then substantially shaped the way in which later philosophers in the seventeenth century themselves read the Stoics. Stephen Buckle's *Natural Law and the Theory of Property* has also stressed the Ciceronian character of much of Grotius's argument, the Stoic sources of his natural law doctrine, the centrality of the argument about property rights to the overall natural law theory, emphasising the "important role" in Grotius "played by the notion of 'what is another's', or, more generally, what can be said to be 'one's own'".⁷⁶ For Buckle, as for this paper, Grotian "sociableness does not imply the absorption of separate individuals into an amorphous social whole," (though we might wonder whether anyone has ever thought that it does?) "but requires instead the clear delineation of what is one's own and what is another's, of what is due to each" (ibid.), and the notion of the *suum*, of what is properly regarded as one's own, plays an important role in his discussion.⁷⁷

What this paper adds to this Stoicizing tendency in the Grotius literature, I think, is three particular emphases. First, to argue not just that parts of the argument have plausible Stoic sources or are generally "Ciceronian" in their character, but to emphasise the closeness of fit between the general structure of a Ciceronian Stoic natural law theory and the argument that Grotius builds in *DJBP*, the most prominent point of similarity

⁷⁴ Straumann, "*Oikeiosis* and *appetitus societatis*", p.44.

⁷⁵ Miller, "Stoics, Grotius and Spinoza", p.118, p.119.

⁷⁶ Stephen Buckle, *Natural Law and the Theory of Property: Grotius to Hume* (Oxford, 1991), p.20.

⁷⁷ Ibid., especially pp.29-32.

being the organising role that *appetitus societatis* / *oikeiosis* plays in connecting the arguments about self-interest with the argument about sociability with the argument about property rights. Second, to note that the Stoic concern with autonomy combined with the use of something like what Brennan calls the “no shoving” rule as a way of regulating practical deliberation is what gives us this distinctive argument in which strong claims about the natural *sociability* of human beings end up issuing in a theory characterised above all by rights that separate people and their property off from one another, rather than in any strong doctrines mandating altruism, charity or even mutual aid. It’s a particular *kind* of sociability argument, and a thoroughly Stoic one, and it’s one that shouldn’t be mistaken for an especially “thin” theory of natural human sociability, nor for a doctrine with substantially Epicurean roots. The third emphasis is also related, I think, to the reason why there’s been quite so much disagreement over whether Grotius’s theory is to be characterised as a theory dominated by an argument about self-interest, or an argument about sociability, or some particular combination or permutation of the two. That’s this way in which Grotius calls *oikeiosis* the *appetitus societatis*, which makes it sound as if the other-regarding, “sociability” aspect of *oikeiosis* is going to be pushed to the forefront of the analysis, but he in fact works more closely with Stoic sources on the side of “personal” *oikeiosis* than on the side of “social” *oikeiosis*. With regard to the latter, as we’ve seen, he never specifically identifies the parental instinct as the (empirical, psychological) origin of justice, and he never explores any argument about the psychological mechanisms through which other-regarding natural sentiment can be strengthened and generalised; instead, he habitually takes a short-cut that by-passes much of what Stoics actually argued about what comes in between the natural parental instinct and the operation of natural laws. But both his micro-level starting-point (*appetitus societatis*) and his macro-level end point (natural laws concentrated around rights of non-interference, especially concerning property) are quite distinctively Stoic, but the connections between the two are not fully worked-out, and one result is that this lopsided account of *oikeiosis* invites misunderstanding.

My final observation – more a sketch of a thought than anything like a fully-worked out argument – is that these considerations may help us to understand why

Grotius's theory, which presents itself as a theory to regulate war-making, seems to permit an awful lot of it, especially when directed against, e.g., Native Americans, with Grotius lining up against Vitoria and the critics of European politics of dispossession and enslavement in the New World.⁷⁸ Tuck's suggestion is that this permissive approach to war stems from a combination of a "thin" "Epicurean" argument about sociability which suggests that one doesn't in fact owe anything to strangers that one cannot provide without loss (Cicero's examples: a light from my own fire, or directions to the lost), together with generous permissions for attacks, including pre-emptive attacks, on others when we believe our self-preservation to be at stake. But I wonder whether we can turn this around.

There seems to be an asymmetry in Grotius's account, in such a way that makes it significantly easier for European states (and private individuals) to make war on non-European peoples than it is for those European states to make war on each other. In the interstate domain, Grotius's insistence that criteria concerning injustice regulate warfare places him close, it seems to me, to the mainstream of scholastic just war theory. And this suggests that the problem, for Grotius, with, e.g., Native Americans is essentially the same as Locke's problem, not that the account of sociability is obnoxiously "thin", thus permitting attacks (as Anthony Pagden suggests in his paper on Stoic cosmopolitanism and imperialism⁷⁹) but that it is too "thick", and that Grotius is smuggling into his Stoic theory with its strong presumption in favour of autonomy-respecting non-interference in other people's lives, lands and property some fairly robust normative presumptions about what a reasonable form of human society or a legitimate property regime in fact looks like. (When one reads Tuck's pro-sociability critics, one often gets the sense that they think that the world will be a more peaceable place if we can produce a satisfactory statement of a natural law theory with a stronger basis in the kinds of human sociability that generates thicker notions of interpersonal connections; this doesn't seem to me to be at all obvious.)

⁷⁸ See especially the discussion in Tuck, *Rights of War and Peace*, pp.102-8.

⁷⁹ Anthony Pagden, "Stoicism, Cosmopolitanism, and the Legacy of European Imperialism". *Constellations*, 7.1 (2000).

Pagden is of course absolutely right to trace the historical links between imperialism and cosmopolitan political theory; but imperialism requires an argument that legitimates interference in the affairs of others in the name of universal values, and when the Stoic cosmopolitan theory is fleshed out in such a way that emphasises the autonomy-respecting presumption against such interference (as Grotius chose not to so flesh it out), then it is not at all clear that it is co-operating with empire to anything like the same extent. And, to bring us right up to the present, exactly the same tension exists, of course, in modern liberalism, which can be used and has been used as a resource for developing arguments both for and against a politics of humanitarian imperialism, whether in the nineteenth, twentieth or twenty-first centuries.

c.10,700 words [12,000 inc. notes]

Bibliography

Julia Annas. *The Morality of Happiness*. Oxford University Press. Oxford. 1993.

Julia Annas. "Reply to Cooper". *Philosophy and Phenomenological Research*. Vol. 55, No.3 (September 1995). Pages 599-610.

Matija Berljak. *Il diritto naturale e il suo rapporto con la divinità in Ugo Grozio*. Università Gregoriana Editrice. Rome. 1978,

Reinhard Brandt. "Self-Consciousness and Self-Care: on the Tradition of *Oikeiosis* in the Modern Age". In Hans W. Blom and Laurens C. Winkel, editors, *Grotius and the Stoa*, pages 73–91. Van Gorcum, Assen, 2004.

Tad Brennan. *The Stoic Life: Emotions, Duties, and Fate*. The Clarendon Press. Oxford. 2005.

Annabel Brett. "Natural Right and Civil Community: The Civil Philosophy of Hugo Grotius". *The Historical Journal*. Vol.45, No.1 (2002). Pages 31-51.

Stephen Buckle. *Natural Law and the Theory of Property: Grotius to Hume*. Clarendon Press, Oxford, 1991.

John Cooper. "Eudaimonism and the Appeal to Nature in the Morality of Happiness: Comments on Julia Annas, *The Morality of Happiness*". *Philosophy and Phenomenological Research*. Vol. 55, No.3 (September 1995). Pages 587-598.

Hugo Grotius, *De Iure Belli ac Pacis Libri Tres*. Paris. 1625. [Facsimile download available through Gallica.fr.]

Hugo Grotius, *De Iure Belli ac Pacis Libri Tres*. Amsterdam. 1631. [Facsimile download available through the Kress collection / Making of the Modern World database.]

Hugo Grotius, *De Iure Belli ac Pacis Libri Tres*. Amsterdam. 1642.

Hugo Grotius. *The Rights of War and Peace*. (3 vols.) Richard Tuck and Jean Barbeyrac (eds.) Liberty Fund edition. Indianapolis, IN. 2005.

Knud Haakonssen, *Natural Law and Modern Philosophy*. Cambridge University Press. Cambridge. 1996.

Ross Harrison, *Hobbes, Locke, and Confusion's Masterpiece: An Examination of Seventeenth-Century Political Philosophy*. Cambridge University Press. Cambridge. 2003.

Istvan Hont. *Jealousy of Trade: International Competition and the Nation-State in*

Historical Perspective. Harvard University Press, Cambridge, MA, 2005.

A. A. Long. *From Epicurus to Epictetus: Studies in Hellenistic and Roman Philosophy*. Oxford University Press, Oxford, 2006.

A. A. Long and D. N. Sedley, *The Hellenistic Philosophers*. (2 vols.) Cambridge University Press. Cambridge, 1987.

Thomas Mautner. "Not a Likely Story". *British Journal for the History of Philosophy*, 11(2):303–307, 2003.

Thomas Mautner. "Grotius and the Sceptics". *Journal of the History of Ideas*. Vol.66, No.4 (2005). Pages 577-601.

Jon Miller. "Stoics, Grotius and Spinoza on Moral Deliberation". In Jon Miller and Brad Inwood, editors, *Hellenistic and Early Modern Philosophy*. Cambridge University Press, Cambridge, 2003.

Jon Miller. "Innate Ideas in Stoicism and Grotius". In Hans W. Blom and Laurens C. Winkel, editors, *Grotius and the Stoa*, pages 157–175. Van Gorcum, Assen, 2004.

Jon Miller, "Grotius and Stobaeus". *Grotiana (New Series)*, forthcoming.

Martha C. Nussbaum, "Patriotism and Cosmopolitanism". In Joshua Cohen, editor, *For Love of Country: Debating the Limits of Patriotism*. Beacon Press. Boston, MA. 1998. Pages 2-17.

Anthony Pagden, "Stoicism, Cosmopolitanism, and the Legacy of European Imperialism". *Constellations*, Vol.7, No.1 (2000). Pages 3-22.

S. G. Pembroke, "*Oikeiosis*". In A. A. Long (ed.), *Problems in Stoicism*. [New edition.] The Athlone Press. London and Atlantic Highlands, NJ. 1997. Pages 114-149.

J. B. Schneewind. *The Invention of Autonomy*. Cambridge University Press, Cambridge, 1998, p.175.

Robert Shaver. "Grotius on scepticism and self-interest". *Archiv für Geschichte der Philosophie*, 78, 1996.

Benjamin Straumann, *Hugo Grotius und die Antike: Römisches Recht und römische Ethik im frühneuzeitlichen Naturrecht*, Nomos Verlagsgesellschaft, Baden-Baden, 2007.

Benjamin Straumann, "*Oikeiosis* and *appetitus societatis*: Hugo Grotius' Ciceronian argument for natural law and just war". *Grotiana (New Series)*, vol.24/25 (2003/2004), pp.41-66.

Brian Tierney. *The Idea of Natural Rights: Studies on Natural Rights, Natural Law and Church Law, 1150-1625*. Scholars Press, Atlanta, GA, 1997.

Richard Tuck. *Natural Rights Theories: Their Origin and Development*. Cambridge University Press, Cambridge, 1979.

Richard Tuck, "Grotius, Carneades and Hobbes". *Grotiana (New Series)*. Vol.4 (1983). Pages 43-62.

Richard Tuck. "The Modern Theory of Natural Law". In Anthony Pagden, editor, *The Languages of Political Theory in Early Modern Europe*. Cambridge University Press, Cambridge, 1987.

Richard Tuck, "Grotius and Selden". In J.H. Burns and Mark Goldie (eds), *The Cambridge History of Political Thought, 1450-1700*. Cambridge University Press. Cambridge. 1991. Pages 499-529.

Richard Tuck. *Philosophy and Government, 1572-1651*. Cambridge University Press, Cambridge, 1993.

Richard Tuck. *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*. Oxford University Press, Oxford, 1999.

Gloria Vivienza. *Adam Smith and the Classics*. Oxford University Press, Oxford, 2001.

Laurens Winkel. "Les origines antiques de l'*appetitus societatis* de Grotius". *Tijdschrift voor Rechtsgeschiedenis*, LXVIII:393-403, 2000.

Perez Zagorin. "Hobbes without Grotius". *History of Political Thought*, XXI (1), 2000.