

## 1 Chapter 11

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### 2 **The poetic ocean in** 3 ***Mare Liberum*<sup>1</sup>**

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5 This chapter investigates Hugo Grotius's recognition of the ocean as both a  
6 visceral and abstract poetic in his *Mare Liberum* (*The Free Sea*) (1609). It indicates  
7 how moments of poetic quotation enforce, but at times more forcefully disrupt the  
8 apparent certainties of Grotius's reasoning. Suggesting that his frequent gestures  
9 to works of poetic art from the Roman canon are finally more disjunctive than  
10 junctive, this close literary critical approach to this famous work of maritime law  
11 yields anxiety about the motivation and moral coherence of Grotius's argument.  
12 Focusing on the inter-textual aesthetics of the legal narrative, this chapter aims to  
13 understand how the ideas and atmosphere generated by Grotius's use of literature  
14 predicts and even exceeds centuries of criticism of *Mare Liberum*.

15 While he has long been celebrated as a founding father of secular universal  
16 human rights discourse, more recent scholarship is tending to focus on Grotius's  
17 promotion of a modern international order premised on substantive inequalities  
18 between states and a politics of violence.<sup>2</sup> And while his prodigious output—he  
19 published over 50 books—has long been recognised as learned and sophisticated,  
20 he has always been criticised as a politically complicit and opportunistic thinker.<sup>3</sup>  
21 Nonetheless, it is hard to overestimate the importance of Grotius's work to early  
22 modern debates between European maritime powers, and to the history of trade  
23 and colonial expansion<sup>4</sup>; the continuing importance of his theories to moral, polit-  
24 ical and legal philosophy<sup>5</sup>; and the iconic significance of his work in debates over  
25 the law of the sea, and within histories of international law.<sup>6</sup> The authority Grotius  
26 derives from and lends the Roman legal tradition is crucial to his status across  
27 these histories and disciplines.<sup>7</sup> His reliance on Roman law in *Mare Liberum* has,  
28 as Philip Steinberg points out, led to an assumption of the Roman laws of the sea  
29 as the first international law, and is part of an influential body of scholarship that  
30 works upon the larger intellectual and ethical continuities between Roman and  
31 modern law.<sup>8</sup> Within this tradition, Benjamin Straumann traces the force of  
32 Grotius's arguments to Roman legal rhetorical practices of deduction from prin-  
33 ciple, representation of consensus, and testimony. He argues that in bringing the  
34 Roman conception of rules as rights-based—particularly Cicero's representations  
35 of a remedial 'just war' as an institution of natural law, and his paralleling of state  
36 and individual rights as intrinsically natural—to bear on the fraught relationships

1 between states in the early-modern period, Grotius offers ‘a genuinely modern  
2 approach to natural law’.<sup>9</sup> In developing his argument, Straumann is careful to  
3 recognise discontinuities between Greek and Roman, and between early modern  
4 and modern conceptions of rights and the laws of nations.<sup>10</sup> Other scholars work-  
5 ing on Grotius’s use of the Roman jurists are even more wary of ‘the ruinous  
6 reasoning that compels some writers to suggest that modern doctrines of interna-  
7 tional law can trace their lineage directly back to ancient times’.<sup>11</sup>

8 In Ram Anand’s persuasive but not uncontroversial view, referencing the  
9 Roman jurists enables Grotius to access laws that were generated by South and  
10 South-East Asian states.<sup>12</sup> He argues that close commercial relations between  
11 these regions and the Roman Empire operated on the basis of a legal understanding  
12 of the freedom—the unpossessability—of Indian Ocean space that was primarily  
13 generated by the practice of its Eastern littoral states. In Anand’s telling, with the  
14 collapse of the Roman Empire, this relationship was lost, Europe turned inwards,  
15 and South and South East Asia turned to trading partners in the Middle East.  
16 Over the subsequent centuries, a legal culture of *mare clausum*—enclosed seas—  
17 became more entrenched in Europe, so the late 16th/early 17th century of  
18 European maritime commercial adventure found Grotius needing the earlier  
19 Roman sources to make his argument.<sup>13</sup> In this way, his quotation of Roman  
20 jurists is central to Anand’s thesis that ‘Whatever may be said about some other  
21 rules of international law, freedom of the seas, which had formed the pith and  
22 substance of the modern law of the sea, is one principle which Europe learnt and  
23 got from Asian state practice through Grotius.’<sup>14</sup>

24 As China Miéville recognises, Anand and others offer important correctives to  
25 Eurocentric narratives of international law.<sup>15</sup> But he also critiques these recupera-  
26 tive histories as tending to offer an ‘arithmetic model’, in which ‘historical change  
27 occurs through the addition of separate sets of ideas one to the other’. In this  
28 sense, these histories of extra-European state agency are broadly continuous with  
29 a long tradition of doctrinaire and schematic international legal historiography in  
30 which ‘[t]here is no sense of social totality’, and which therefore obscures the  
31 extent to which ‘international law *is* colonialism’.<sup>16</sup> Within Miéville’s thesis,  
32 Grotius’s work on the law of the sea is foundational in its emphatically de-historical  
33 privileging of Roman law and ignoring of the vast shifts in political economy that  
34 separate Roman from early modern lives, economies and state perspectives. In his  
35 reading, the appeal of Roman law for Grotius is not that it allows him to access a  
36 lost history of international legal relations, but rather that it allows him to cun-  
37 ningly work with a tradition grounded in a distinction between *dominium* (posses-  
38 sion) and *imperium* (control) as practiced by the Romans in *Mare Nostrum* (‘our sea’),  
39 the Mediterranean. Baldly stated, this distinction allows a juridically abstract doc-  
40 trine of free seas and nominally equal states that yet enables a freedom to violently  
41 exert power.<sup>17</sup>

42 Looking to Grotius’s reliance on the Roman jurists raises acute questions  
43 around his use of the poets. In what ways does the poetic literature contribute to  
44 or adumbrate his ‘modernisation’ of Roman natural law? How do these quotations

1 testify to and how do they detract from Grotius's acknowledgement of the inter-  
2 national legal standards of Indian Ocean states? Do they lend a sense of 'real'  
3 history, or do they have a de-historicising effect? In what ways do they encourage  
4 and in what ways cast doubt on the 'right' to wage 'just war' and/or the 'imperial  
5 'rights' of the Dutch? While Grotius often quotes the poetry to prove or endorse  
6 these 'rights', his deployment of poetic art also reads as an attempt to reconcile or  
7 transcend various approaches. It often seems that what appeals to Grotius in the  
8 work of these writers—what he finds most compelling and unique in their art—is  
9 a critical nuance between custom (in literary form or thought) and unique story;  
10 myth and experience; detached enquiry and immediate emotion; the conceptual  
11 and the material; the untestable and the empirically known.<sup>18</sup> As such, flourishing  
12 moments of poetic and dramatic reference are both highly enabling and vulnera-  
13 ble points in Grotius's methodology. My argument is that these moments some-  
14 times cover-up moral qualms, but that they accrue into a more critical signification  
15 of a perplexity about the legitimacy of the legal truths that he so stridently pursues.  
16 In other words, that moral doubt is admitted through the placement of poetic  
17 scenes in *Mare Liberum*: scenes that are often drawn from texts which imagine  
18 fraught encounters between men (and occasionally women) and marine geogra-  
19 phies. Key to this chapter is the apprehension that the apparent vigour of Grotius's  
20 *Mare Liberum* is riddled by a troubled relationship between the absolutes of law and  
21 the effects of art.<sup>19</sup>

22 In 1603, a ship of the *Vereenigde Oostindische Compagnie* (Dutch East India Company)  
23 captured a Portuguese trading carrack, the *Santa Catarina*, in the Strait of Singapore.  
24 With the aim of placating company shareholders worried about both the morality  
25 and costs of such action, Grotius was commissioned to write a justification of the  
26 capture as a defence against Portugal's attempts to monopolise trade in the Indian  
27 Ocean. His extensive *De rebus Indicis* (*On the Affairs of the Indies*) or *De iure praedae*  
28 *commentarius* (*Commentary on the Law of Prize and Booty*) was completed circa 1604, but  
29 not discovered and published until the mid-nineteenth century.<sup>20</sup> It may be that  
30 the dividend yielded to shareholders from the sale of the breathtaking wealth of  
31 goods from the *Catarina* overcame the qualms of the shareholders and overtook  
32 the need for Grotius's treatise.<sup>21</sup> However, in 1608 the United Provinces of  
33 the Netherlands entered a new and formal phase of negotiations with Portugal.  
34 The Portuguese were seeking a guarantee from European competitors to respect,  
35 as exclusive, their navigational, commercial and political connections with the  
36 East Indies, India and China. Concerned that their government would acquiesce  
37 to these demands, the VOC asked Grotius to publish parts of the text originally  
38 written as a justification of the capture of the *Catarina*. These parts were restruc-  
39 tured as *Mare Liberum*.<sup>22</sup> A reading of some of the continuities and discontinuities  
40 between *Mare Liberum* and its more expansive source text brings into relief  
41 Grotius's debt to the Roman poets, and foreshadows the ambivalence of their  
42 effect within the later text.

43 In the opening paragraphs of *De iure praedae*, Grotius offers his initial moves  
44 towards what was to become—through *Mare Liberum* and more fully in his most

1 famous and major treatise *De iure belli ac pacis* (*On the Laws of War and Peace*) (1625)—a  
 2 foundational description of a modern natural law of human rights. Within this  
 3 nascent argument, Grotius recognises nature as the primary source of law through  
 4 Lucretius’s poem *De Rerum Natura* (*On the Nature of Things*) (50 BC). Concluding his  
 5 proposal that ‘the truly good man will be free . . . from the disposition to accord  
 6 himself less than his due’, he quotes:<sup>23</sup>

7 *hunc igitur terrorem animi tenebrasque necessesit*  
 8 *non radii solis neque lucida tela diei*  
 9 *discutiant, sed naturae species ratioque*<sup>24</sup>

10 This terror of the mind [or soul], then, needs to be scattered, not by the rays  
 11 of the sun nor the bright weapons of the day  
 12 But by visible nature and by its [inner] law<sup>25</sup>

13 Through these lines of poetry, Grotius articulates—possibly for the very first  
 14 time in his known writing—an understanding of nature as the ‘sole . . . source’ of  
 15 the laws defining ‘how much is owed to others, and how much to oneself.’<sup>26</sup> But  
 16 the nature to which he appeals is not sole or single. The phrase ‘*naturae species*  
 17 *ratioque*’ is repeated at a number of crucial points in *De Rerum Natura*, and its mean-  
 18 ing beyond and within the poem has bothered two millennia of readers.<sup>27</sup> What  
 19 seems clear is that it conveys an idea of nature as having an outer aspect (*species*)  
 20 and an inner part (*ratio*). (The connotation of inner may derive from the contrast  
 21 with *species* and may not be given by the term itself. Or the connotation of inner  
 22 might be what distinguishes *ratio* from the more common word for law, *lex*.<sup>28</sup>) To  
 23 disperse terror—which within Grotius’s context, is to achieve something like a  
 24 steelier self-respect more than a freedom from fear connoting consolation or  
 25 peace—one needs (in the sense of both a moral and practical imperative) to look  
 26 to both these constituents of nature. One influential gloss on the phrase is that it  
 27 signifies a necessary merger of poetic and philosophical approaches, where poetry  
 28 is emotive, reactive, and immediate (*species*) and philosophy is detached and scientific  
 29 (*ratio*).<sup>29</sup> Another persuasive gloss highlights the sense of inextricability (beyond  
 30 simple complementarity) yielded by the phrase. With close reference to surround-  
 31 ing lines of poetry, *species* is read as connoting the ‘causal’ ‘regularity of all visible  
 32 phenomena’, so that the final vision of nature captured by the words is one in  
 33 which ‘the massive sensuous earth . . . becomes a crystalline abstract’.<sup>30</sup> Following  
 34 these scholars and bringing a wide interpretation of Lucretius’s *naturae species*  
 35 *ratioque* to *De iure praedae* and Grotius’s *oeuvre* more generally, the lines may be read  
 36 to indicate the sense of a necessary commitment to the visceral natural world as a  
 37 poetic *in itself* which both derives from and gives rise to natural law. Grotius may  
 38 be read as turning to Lucretius at the beginning of this early text to define both an  
 39 entwined sense of nature and his entwining method, which we then see enacted by  
 40 his continual turns to poetry in *De iure praedae* and even more starkly in the more  
 41 compact *Mare Liberum*. Further, that this *natura* is contrasted with *radii solis* and

1 *lucida tela diei* emphatically grounds both its parts. In other words, the poem posits  
2 a nature that is not legitimated or shaped by—that does not derive inner meaning  
3 from—anything transcending (descending to) the earth. The contrast connoted  
4 through the use of the term ‘*necesses*’—literally ‘it is necessary’—is highlighted in  
5 William Ellery Leonard’s translation of the final line as ‘But *only* Nature’s aspect  
6 and her law’ (my emphasis; see note 12). The secular or at least potentially secular  
7 nature of this exclusive *natura* predicts Grotius’s fame.

8 The status of Grotius’s work is in no small part due to the perception that he  
9 conceived a natural law that lent a newly secular shape and force to the language  
10 of freedoms and rights.<sup>31</sup> But whether Grotius’s secularity was new or is truly secular  
11 is a point of continuing discussion, with most of the debate beginning and  
12 ending with Grotius’s statement in *De iure belli ac pacis* that ‘What we have been  
13 saying would have a degree of validity even if we should concede that which  
14 cannot be conceded without the utmost wickedness, that there is no God, or that  
15 the affairs of men are of no concern to [H]im’.<sup>32</sup> However, there does seem to be  
16 consensus that Grotius’s position—whether truly secular or not—was politically  
17 astute, and at least in part driven by a desire to place his argument beyond denom-  
18 inational arguments over scripture. But it is also clear that his ‘relative neglect of  
19 theology’ derives from a political need to recognise the non-Christian players in  
20 the maritime trading world of the Malay Archipelago and the Indian Ocean.<sup>33</sup>

21 As Anand most emphatically highlights, the argument of *De iure praedae* closely  
22 relies on a detailed history of the relationships between the various national—state  
23 and commercial—actors in Indian Ocean trade.<sup>34</sup> This is offered as the set of facts  
24 to which legal principle is to be applied, but also as customary proof of universal  
25 rights to trade, to violently defend that right to trade, and to claim recompense for  
26 losses incurred by those acts of defence. Beyond the presentation of the Portuguese  
27 as consistently and deeply iniquitous, what is most striking about these passages—  
28 and of greatest importance to their presentation as proof of accepted law—is the  
29 insistence on the agency and rights of local states. So when Grotius’s version of  
30 Indian Ocean trading history reaches the incidents leading up to the capture of  
31 the *Catarina*, we are first told: ‘We come now to the last part of our narrative,  
32 which has to do with the King of Johore.’<sup>35</sup> In his rendering of events, the VOC  
33 took the Portuguese carrack in defence of their own right to trade with the King,  
34 but even more fully in defence of the King’s right to trade with the Dutch.<sup>36</sup>  
35 The alliance with Johore crucially thickens the narrative of rightful defence by  
36 providing an atmosphere of local state authorization and principled defence to  
37 what was *prima facie* an act of outright piracy by the VOC.<sup>37</sup> Or—taking another  
38 common perspective—it provides a secular moral gloss on the fact that Grotius’s  
39 ‘very argument for “free seas” is justification for an act of violent maritime  
40 plunder’.<sup>38</sup>

41 This detailed historical narrative does not appear in *Mare Liberum*, which was  
42 distilled from earlier parts of *De iure praedae*. While still keyed around the rights of  
43 the Dutch to access the Indian Ocean, the later text is projected as a more general  
44 argument for freedom of trade and navigation. Lifted away from the politics and

1 intricacies of the *Catarina* incident, the argument that, while ‘infidels’ may be  
2 ‘entangled in grievous sin’, they nonetheless have ‘both publicly and privately  
3 authority over their own substance and possessions’ has a purer and more abstract  
4 force in *Mare Liberum*.<sup>39</sup> The effects of this are consolidated and sustained through  
5 poetry. The absence of (even a schematic and biased) detailing of history means  
6 that the exemplary human moments of *Mare Liberum* are predominantly provided  
7 by scenes from Roman poetry, which tell even more sordid and significantly  
8 more personal stories than are present in Grotius’s rendering of Indian Ocean  
9 maritime history. This cutting of historical detail makes more exclusive and  
10 less metaphoric space for the mythic poetic of human pre-history and history that  
11 Grotius derives from the poets. That *Mare Liberum* is not bound to any over-  
12 determining references to the Bible makes even more space for these inter-textual  
13 effects. While this scriptural absence might only ambivalently gesture Grotius’s  
14 secular intent, the ‘replacement’ of potential Biblical quotation with gritty moments  
15 from the Roman canon more fully suggests a strident secular agenda. In these  
16 ways, the distillation of *Mare Liberum* from *De iure praedae* allows for the larger and  
17 looser play of poetry within the text, but also more tightly binds its structure of  
18 ideas to the different kinds of ‘truths’ yielded by the poetry. That the poetry signifies  
19 an attenuated relationship between the text’s arguments and recent political-  
20 economic history, but at the same time offers a more intimate sense of a material  
21 relationship between man and sea is a marked tension within the narrative.

22 In continuity with *De iure praedae* and with the foundation of that work in  
23 Lucretius’s *De Rerum Natura*, the introductory passages of *Mare Liberum* set up the  
24 physical world as the first source of legal learning. This is not in contradiction to  
25 divine law, but in recognition that divine law as laid out in scripture is a form of  
26 positive law that derives ultimate authority from nature, as created by God. The  
27 impact of these early statements is less to acknowledge God than to put Him and  
28 scripture aside. One of the opening paragraphs of the text states:

29 For even that ocean wherewith God hath compassed the Earth is navigable  
30 on every side round about, and the settled or extraordinary blasts of wind, not  
31 always blowing from the same quarter, and sometimes from every quarter, do  
32 they not sufficiently signify that nature hath granted a passage from all nations  
33 unto all? . . . even by the wind she hath mingled nations scattered in regard of  
34 place and hath so divided all her goods into countries that mortal men must  
35 needs traffic among themselves. This right therefore equally appertaineth to  
36 all nations, which the most famous lawyers enlarge so far that they deny any  
37 commonwealth or prince to be wholly able to forbid others to come unto  
38 their subjects and trade with them. Hence descendeth that most sacred law of  
39 hospitality; hence complaints:

40 *Quod genus hoc hominum? Quaeve hunc tam barbara morem*  
41 *Permittit patria? Hospitio prohibemur harenae*

42 [What race of men, and what land is so barbarous as to permit this custom?  
43 We are debarred the welcome of the beach]

1 And  
2 . . . *litusque rogamus*  
3 *Innocuum et cunctis undamque auramque patentem*<sup>40</sup>  
4 [We now crave a harmless landing-place, and air and water free to all].<sup>40</sup>

5 The lines are from Book One (lines 539–40) and Book Seven (lines 229–30) of  
6 *The Aeneid* (29–19 BCE), Vergil’s epic of the Trojans’ voyage to Italy to establish  
7 the Roman Empire.<sup>41</sup> Grotius’s choice to open *Mare Liberum* with a statement  
8 on the absolute sanctity of a natural law of hospitality, and to promote the force  
9 of this law through Vergil’s dramatic scenes, has expansive implications. Both  
10 quotes are taken from speeches by Ilioneus, the eldest Trojan serving under  
11 Aeneas, the prophesied founder of the new Empire. The first is from the speech  
12 he makes to Dido, Queen of Carthage. On their way to Italy, the Trojans have  
13 been shipwrecked on the coast of North Africa, and he is complaining against her  
14 people. She reassures him that their wariness of foreigners is justified, but that  
15 ‘Phoenicians know the world!’ and so will now behave according to the universal  
16 laws of hospitality.<sup>42</sup> The second quote is taken from the beginning of Ilioneus’s  
17 speech to Latinus, in which he reveals that the Trojans have arrived in Italy, not  
18 as shipwrecked exiles, but seeking hospitality as part of a deliberate pursuit of a  
19 ‘prophetic order’ to found an empire. Ilioneus reassures Latinus that his people  
20 won’t be ‘shamed’, but warns against ‘scorn[ing]’ his offer of an alliance.<sup>43</sup> Read  
21 back into their original context, then, Ilioneus’s words exceed a simple statement  
22 of a law of hospitality deriving from the right to trade. Indeed, in its movement  
23 from a request for hospitality to an imperial assertion, his speech assumes the  
24 ‘impossibility’ of a ‘law of hospitality’ posited by Jacques Derrida.

25 Having circled the idea that to be a law of hospitality, that law must be uncondi-  
26 tional, Derrida says: ‘For it to be what it “must” be, hospitality must not pay a debt,  
27 or be governed by duty: it is gracious. . . . This unconditional law of hospitality . . .  
28 would then be a law without imperative, without order and without duty. A law  
29 without law . . .’<sup>44</sup> As such, it prescribes its ‘own perversion’.<sup>45</sup> But Derrida pursues  
30 this reasoning, not to demonstrate the non-existence of the law, but the constant,  
31 everyday manifestation of the law as an enactment of its own perversion. In always  
32 entailing an assertion of ownership, the granting of hospitality is always an act of  
33 limiting the guest, and so fails to be truly hospitable. On the other hand, the  
34 attempt to grant unconditional hospitality—to offer a home without limit, without  
35 an assertion of property, without an imposition of law—must turn the ‘host’ into  
36 the ‘hostage’ of the guest: and so ‘hospitality’ becomes ‘hostility’.<sup>46</sup> The ‘without  
37 law’ stops signifying (or never managed to signify) the grace that exists outside  
38 compulsion: it becomes the possibility of war. *The Aeneid* bears out Derrida’s thesis.<sup>47</sup>  
39 In the speeches to which Grotius directly gestures, the Trojan can be seen to  
40 pre-emptively refuse the ‘possible’ hospitality that would also signify Latinus’s  
41 assertion of ownership of Italy and thereby control over the Trojans (thereby  
42 failing to be hospitable at all). In edging his speech towards a claim to power and  
43 property, he undercuts Latinus’s very ability to offer hospitality (and so again this

1 law of 'highest sanctity' becomes impossible). While *The Aeneid* inevitably ends  
2 with a triumphant vision of Trojan settlement that also respects Latin heritage,  
3 this finale doesn't resolve the problematic of Ilioneus's speech. This isn't a purely  
4 literary point. Placing this deconstructive reading of *The Aeneid* back into the con-  
5 text of Grotius's thesis, it reveals how closely—how, in Derrida's terms, inelucta-  
6 bly closely—Grotius's protection of the law of hospitality is related to his assertion,  
7 later in *Mare Liberum*, of a right to claim what is claimable if it appears to be unoc-  
8 cupied, uncultivated or inexhaustible, which in turn—and with appalling speed—  
9 turns into a sense of imperial right. The quotations from Vergil don't just evidence  
10 Grotius's complicity in a larger imperial project, but invokes an atmosphere of  
11 poetic predestination that exceeds the legal reasoning on rights with a mythic  
12 sense of right.

13 In the words of van Ittersum, 'Grotius does not qualify as a democrat or a  
14 human rights activist'. Pointing beyond his publications to letters and other evi-  
15 dence of his relationship to the VOC, she offers an image of a dedicated company  
16 man whose final and life-long aim was 'to defend the establishment of a Dutch  
17 empire of trade in the East and West Indies'.<sup>48</sup> Alongside the work of Keene and  
18 Miéville, this biographical research quietens more celebratory readings of the  
19 potential of Grotius's recognition of the rights and powers of non-Christians  
20 nations, and highlights the distance between Grotius's driving focus on commer-  
21 cial freedoms, and a version of history and rights that transcends the laws and  
22 metaphors of European conceptions of property (of cultivation, use, and individ-  
23 ual and state ownership). Strategically championing non-European state practice  
24 certainly does not make Grotius a champion of subaltern rights. The emphatic  
25 materiality—first taken from Lucretius—of Grotius's conception of nature can  
26 thus be seen to have politically and culturally limiting as well as secular and liber-  
27 ating consequences. This is further borne out in Grotius's use of *The Aeneid* to  
28 metaphorically predict Dutch ascendancy by invoking a speech that supersedes  
29 moral interrogation by righteously collapsing the right to material hospitality into  
30 a right to colonise. But in his use of other poets, Grotius seems almost to acknowl-  
31 edge the moral vulnerability of the legal theory he stridently presents.<sup>49</sup> This doubt  
32 is revealed in the mythic history informing the thinking laid out in the crucial fifth  
33 chapter of *Mare Liberum*.

34 Grotius's basic argument in Chapter Five of *Mare Liberum* is that by nature,  
35 nothing is private property. But it is in the nature of certain things—land, for  
36 example—to have the capacity to become private property through use and  
37 occupation. Things may also become public by the same processes of use and  
38 occupation, meaning they may become the property of the state in right of its  
39 citizens. But some things in nature cannot by their nature ever be possessed. Most  
40 importantly and fundamentally, 'the sea . . . cannot be made proper'.<sup>50</sup> Because  
41 the sea cannot be contained and the sea cannot be exhausted, it must remain  
42 common to all. The right to navigation of the sea is thus a natural law emerging  
43 from physical principles. This is all apparently in line with Lucretius's *naturae species*  
44 *ratioque* and in confluence with a Vergilian sense of epic order. We are given a



1 vision of history as a movement of epochs, in which the laws of property allowed  
2 by nature become ever more sophisticated. But what is intriguing and disruptive,  
3 I think, is that what is presented as a history of legal refinement is simultaneously  
4 comprehended as a history of total and devastating moral decline. Nature may be  
5 legally malleable in consonance with the growth of ‘civilisation’, but Grotius catches  
6 himself in a poetic myth of nature as a fixed, originary standard of morality.

7 Early in Chapter Five, Grotius refers to a ‘primitive law of nations, which is  
8 sometimes called Natural Law, and which the poets portray as having existed in a  
9 Golden Age . . . [in which] there was no particular right. . . . For nature knows no  
10 sovereigns.’<sup>51</sup> Grotius spends a notable amount of text elaborating this pre-history  
11 in this central chapter (and this history even more fully permeates *De iure praedae*).  
12 This discourse is keyed around the work of Seneca, and particularly a quotation  
13 from *Octavia* (circa 62 AD).<sup>52</sup> This play tells the story of Nero’s cruel divorce  
14 and exiling of his wife, prompted by his desire for another woman. In line with  
15 Seneca’s larger *oeuvre* and fame, the play offers a clear warning against the abuse  
16 of power: a warning that is also explicitly pursued by Grotius in *De iure praedae*,  
17 *Mare Liberum* and his later texts.<sup>53</sup> (Like Seneca, Grotius approves a strong  
18 state, but couples this approval with repeated warnings against tyranny and  
19 decadence.) In *Octavia*, the rule of Nero is presented as a time of excess and  
20 tyranny. The ‘Seneca’ of the text—a truth teller who turns the complaints of  
21 Octavia and her nurse into universal principles—is given a speech which opens  
22 by acknowledging ‘Mother Nature’ as the ‘great architect/of infinite creation’  
23 (386–87).<sup>54</sup> The speech then offers a remarkably compressed but vividly material  
24 outline of the declining ‘ages’ of humanity. Grotius lifts these lines from a description  
25 of the first age, long past:

26 . . . *pervium cunctis iter,*  
27 *Communis usus omnium rerum fuit*<sup>55</sup>

28 . . . roads were free for all,  
29 And all earth’s goods were common property.<sup>56</sup>

30 This first age is a time when people were ‘gentle’ and ‘just’. It is followed by an  
31 era in which a ‘restless breed . . ./drag the sea with nets/For fish that sheltered in  
32 its lower depths’, who cage, noose and yoke animals, and who plough the land. The  
33 third generation—the ‘base sons’ of this second era—‘spared not to rifle their own  
34 mother’s body/For gold, and that dread iron whence ere long/They fashioned  
35 arms to fit their murderous hands/This was the generation that set bounds.’ But it  
36 is the last era—the contemporary of the play—that is most debased, and defined by  
37 greed, lust, and lechery. It is ‘wicked’ and ‘blood-polluted’.<sup>57</sup> We could scarcely be  
38 offered a starker vision of a world history in which the development of a sense of  
39 property is portrayed as a moral dissolution. This disjuncture between Grotius’s  
40 systematic legal argument and the moral impetus of the poetry on which he relies  
41 is even more fully complicated by his use of Ovid’s *Metamorphoses* (circa 8 AD).

1 Following his curiously dense, legally objective, but inter-textually morally and  
 2 emotionally loaded evocation of the ages of man, Grotius goes on to demonstrate  
 3 why some things in nature—particularly the sea—remain common. While he  
 4 writes of those things that are ‘classed by the jurists . . . common to all mankind’,  
 5 he turns to poetry for an actual list. He takes it from *Metamorphoses*, from Goddess  
 6 Latona’s plea to a mob of peasants who are refusing to let her drink from a pool  
 7 (and who, in vengeance, she turns into frogs):

8 *Quid prohibetis aquas? Usus communis aquarum est.*  
 9 *Nec solem proprium natura nec aera fecit*  
 10 *Nec tenues undas: in publica munera veni*<sup>58</sup>

11 Why must you stop me drinking? Water belongs to everyone.  
 12 Nature never intended the sun or the air or the flowing streams [possibly  
 13 ‘flowing water’ with a sense that includes ‘waves’] to be private: I’m simply  
 14 here for my common right [literally ‘I have come for public gifts’]<sup>59</sup>

15 In line with the classical tradition, Ovid—like Seneca and Lucretius—offers his  
 16 stories within the highly explicit schema of man’s decline through epochs. This  
 17 appears in *Metamorphoses* as a preamble in which a Golden Age (when humans  
 18 ‘without laws or enforcement’ did what was right) inexorably declines through  
 19 silver and bronze ages towards a final age of iron, defined by ‘criminal lust for pos-  
 20 session’, man ‘presumptuously bobb[ing] in the alien ocean’, and in which ‘[t]he  
 21 land that had been as common to all as the air or the sunlight/was now marked  
 22 out with the boundary lines of the wary surveyor’.<sup>60</sup> However, Ovid’s famously  
 23 lucid and debunking sensibility is evident in the preamble to this preamble. Here  
 24 he describes a pre-history to this pre-history, in which ‘the whole of nature dis-  
 25 played but a single/face, which men have called Chaos: a crude/unstructured  
 26 mass, nothing but weight without motion’.<sup>61</sup> He goes on to describe the division  
 27 of the world into its various elemental parts before turning to the ages of men.  
 28 So while Ovid appears to follow tradition in bemoaning man’s growing sense  
 29 of property as a moral decline, his sneaky pre-pre-preamble undercuts and con-  
 30 fuses this narrative by insisting on the necessity of divisions and boundaries  
 31 to ward off decline into this archaic, undifferentiated chaos (many of Ovid’s tales  
 32 of metamorphoses involve the comically horrifying reduction of humans into  
 33 parts of the natural world). In being continuous with these foundational divisions,  
 34 the growth of man’s sense of property appears more natural and necessary,  
 35 although Ovid does not give this dynamic moral loading. Ovid’s massive and  
 36 carefully chaotic poem delights in stories of elemental change, in which men,  
 37 women and Gods are constantly skirting a return to a state of undifferentiated  
 38 and mere physicality: Lucretius’s *natura* without *ratio*. So while in one sense it is  
 39 fitting that Grotius should turn to Ovid for a list of common resources, the  
 40 presence of *Metamorphoses* in *Mare Liberum* also reads uneasily. It threatens  
 41 Grotius’s legal rigour by highlighting the tenuousness of our individual sense of

1 being within a natural law and order. This threat is, naturally, most manifest in  
2 the freedom of Grotius's ocean.

3 It is a starting point of classical scholarship that Ovid's *Metamorphoses* threatens  
4 the world of tense, hard won, but epic order offered by Vergil. But within  
5 *The Aeneid*, the ocean has, at times, something like Ovidian effect. As Sarah Ruden  
6 notes, 'one of [Vergil's] favourite words is *ingens* (immense, boundless), often giving  
7 a sense of surroundings . . . uncontrollably swooping in'.<sup>62</sup> This word commonly  
8 describes the ocean, and the ocean is often a metaphor for a sensibility of the  
9 *ingens*. But while it threatens to overwhelm the Trojans in the first part of the  
10 poem, Vergil's ocean is more finally the means by which peoples are connected,  
11 great empires formed, and fate sealed. The ocean in *Mare Liberum* is narrated  
12 the other way around. Grotius most immediately and explicitly offers the ocean  
13 as connective and productive, a means to trade and commerce. But to argue the  
14 continued and current freedom of this ocean, he draws back to a poetic of the  
15 ocean as always already an uncontrolled commons that neither can nor should  
16 ever be made proper. This links the ocean to an Arcadian pre-history. It isn't just  
17 legally distinct from land, but within this mythic, it is a material residue of a long  
18 lost, yearned-for morality. It is a reminder that legal refinements have been made  
19 necessary by moral dissolutions. The ocean isn't a threat within Grotius's text  
20 because it is *ingens* as such, but rather because its boundlessness poetically signifies  
21 a different order of freedom: an order that isn't driven by a legal freedom to access  
22 property, but the freedom of a more fervently held commons that precedes divi-  
23 sions (including the division between *dominium* and *imperium*: in Ovid's Golden  
24 Age, the exclusion of one is the exclusion of the other). Grotius insists that the sea  
25 cannot be turned into territory because 'it cannot be possessed and also because it  
26 oweth a common use to men'.<sup>63</sup> What is latent in the first half of this crucial state-  
27 ment, but is brought forth by the poets, is that man also morally 'oweth' the sea.

28 One area of quandary over Grotius's natural law thesis is the fissure between  
29 what Thomas Maunter and Haakonssen describe as 'the validity of the content of  
30 natural law and the obligation to keep natural law'.<sup>64</sup> While Grotius offers sources  
31 and structures of legal knowledge, he is ambiguous about why or how we are  
32 impelled to act in accord with that knowledge. He is read as leaving room for  
33 Thomas Hobbes to develop his influential vision of humanity as impelled by pure  
34 self-interest to recognise others' rights and to sometimes give up one's own rights  
35 to a strong state: acts of prudent cession that are necessary in order to live well,  
36 beyond a natural state of disorder. (While Hobbes famously draws on Grotius, the  
37 contrast between Hobbes's natural disorder and Grotius's natural order is famously  
38 stark.<sup>65</sup>) But while a language of self-interest as the 'primary' law of nature drives  
39 *De iure praedae* and also dominates many parts of *Mare Liberum*, it is not the only law  
40 directly given by nature. In opening *Mare Liberum* with 'that most sacred' and  
41 universal law of hospitality, Grotius sets a rhetorical tenor that disallows a vision  
42 of sociability as only deriving from self-interest, even if—as his thesis develops—he  
43 finds himself unable to lend it the same primary legal status as self-interest, and  
44 even if that law of sociability ultimately slides into imperialism.<sup>66</sup> This point is

1 made by the righteous, thirsty, sea-blown lines taken from *The Aeneid*—particularly  
2 the lines to Dido—which more fully institute a law of commons given directly by  
3 nature, not simply derived from the coolly selfish right to trade and commerce.<sup>67</sup>  
4 This is a point that seems to defy legal precision. Grotius needs poetry to gesture  
5 to this moral hold against rampant self-interest. The most human, dramatic and  
6 emotive moments of *Mare Liberum* come from Roman poetry, epic and plays, and  
7 these scenes are mostly keyed around a complaint against a failure to allow  
8 general access to a commons (the shore or fresh water), or are keyed around a  
9 wistful evocation of a mythic Arcadian past when all was common (the earth, the  
10 roads): a time when a hard sense of self-interest was unnecessary. Gathered  
11 together, Grotius’s uses of the poets may be read as articulating a resistance to a  
12 Hobbesian resolution to the question of obligation. The poets signify the space  
13 between Grotius and Hobbes: a space that is filled by a sensibility of the ocean  
14 as the residue of a non-proprietary morality that has otherwise been lost.  
15 Analysing Grotius’s use of poetry does not solve the quandary over obligation;  
16 concentrating on his use of the poets doesn’t yield a natural law solution that  
17 transcends Hobbes, or a reading of *Mare Liberum* that doesn’t ultimately require a  
18 turn to positive law (variously given by divine scripture and a strong state) for the  
19 provision of the necessary sense of obligation. What it does suggest is a textual—if  
20 not fully personal—anxiety that there is a more *ingens* moral freedom expressed by  
21 the physical and poetic nature of the sea than is accounted by his natural law  
22 theory.

## 23 Notes

- 24 1 The author thanks the UK Arts and Humanities Research Council Landscape and  
25 Environment Programme for supporting the research and writing of this chapter. She  
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27 whose knowledge and advice this chapter has greatly benefited.
- 28 2 L. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900*,  
29 Cambridge: Cambridge University Press, 2010, particularly pp. 121–137; E. Keene,  
30 *Beyond the Anarchical Society: Grotius, Colonialism and Order in World Politics*, Cambridge:  
31 Cambridge University Press, 2002, Chapters 2 and 3; C. Miéville, *Between Equal Rights:*  
32 *A Marxist Theory of International Law*, London: Pluto Press, 2005, Chapter 5.
- 33 3 For an overview of this critical history see R. Anand, *Origin and Development of the Law of the*  
34 *Sea*, The Hague: Martinus Nijhoff Publishers, 1982, particularly Chapter 4, pp. 102–109.  
35 See also Miéville, *Between Equal Rights*, Chapter 5; and most extensively M. J. van Ittersum,  
36 *Profit and Principle: Hugo Grotius, Natural Rights Theories and the Rise of Dutch Power in the Indies*  
37 (1595–1615), Leiden: Brill Publishers, 2006.
- 38 4 Benton, *A Search for Sovereignty*; M. J. van Ittersum, *Profit and Principle*; Keene, *Beyond the*  
39 *Anarchical Society*; and B. Schmidt, *Innocence Abroad: The Dutch Imagination and the New World,*  
40 *1570–1670*, Cambridge: Cambridge University Press, 2002.
- 41 5 K. Haakonssen, ‘Hugo Grotius and the History of Political Thought’, *Political Theory*  
42 13.2, 1985, pp. 239–65, reprinted in K. Haakonssen (ed.), *Grotius, Pufendorf and Modern*  
43 *Natural Law*, Aldershot: Ashgate, 1999, pp. 35–61; K. Haakonssen, *Natural Law and Moral*  
44 *Philosophy: from Grotius to the Scottish Enlightenment*, Cambridge: Cambridge University Press,  
45 1996; K. Haakonssen, ‘Introduction’ in *Grotius, Pufendorf and Modern Natural Law*, pp. xiii–xix;  
46 J. Muldoon, ‘Who Owns the Sea?’ in B. Klein (ed.), *Fictions of the Sea: Critical Perspectives on*

- 1 *the Ocean in British Literature and Culture*, Aldershot: Ashgate, 2002, pp. 13–27; R. Tuck,  
2 *The Rights of War and Peace: Political Thought and the International Order from Grotius to Kant*,  
3 Oxford: Oxford University Press, 1999.
- 4 6 R. Anand, *Origins and Developments of the Law of the Sea*; C. H. Alexandrowicz, *An Introduction*  
5 *to the History of the Law of Nations in the East Indies (16th, 17th and 18th Centuries)*, Oxford:  
6 Clarendon Press, 1967; D. J. Bederman, ‘Reception of the Classical Tradition in  
7 International Law: Grotius’, *Emory International Law Review* 10, 1996, pp. 1–49; D. J.  
8 Bederman, ‘Grotius and his Followers on Treaty Construction’, *Journal of the History of*  
9 *International Law* 3, 2001, pp. 18–37; Benton, *A Search for Sovereignty*; J. Dugard, ‘Grotius,  
10 the Jurist and International Lawyer: Four Hundred Years On’, *South African Law Journal*  
11 100, 1983, pp. 213–220; Miéville, *Between Equal Rights*; I. Shearer, ‘Grotius and the Law  
12 of the Sea’, *Bulletin of the Australian Society of Legal Philosophy* 26, 1983, pp. 46–65;  
13 K. Zemanek, ‘Was Hugo Grotius Really in Favour of the Freedom of the Seas?’, *Journal*  
14 *of the History of International Law* 1, 1999, pp. 48–60.
- 15 7 This is despite the fact that within the textual culture of Grotius’s era, misrepresentation  
16 and selective quotation of Roman sources was common, if not ‘almost a rule’ as argued  
17 by W. S. M. Knight in his article on ‘Seraphim de Freitas: Critic of *Mare Liberum*’,  
18 *Transactions of Grotius’ Society* 11, 1926, pp. 7–8, quoted in Anand, *Origins and Development*  
19 *of the Law of the Sea*.
- 20 8 P. E. Steinberg, *The Social Construction of the Ocean*, Cambridge: Cambridge University  
21 Press, 2001, pp. 60–67. Anand’s *Origins and Developments of the Law of the Sea* offers  
22 an influential reading of continuities between the Roman Mediterranean and other  
23 maritime geographies and legal histories.
- 24 9 B. Straumann, ‘“Ancient Caesarian Lawyers” in a State of Nature: Roman Tradition  
25 and Natural Rights in Hugo Grotius’s “De iure praedae”’, *Political Theory* 34.3, 2006,  
26 p. 345; and B. Straumann, ‘The Right to Punish as a Just Cause of War in Hugo  
27 Grotius’ Natural Law’, *Studies in the History of Ethics* 2, 2006, pp. 1–20.
- 28 10 For discussion of Grotius’s complex understanding of the Roman word *ius* (right) see  
29 Straumann, ‘“Ancient Caesarian Lawyers”’, pp. 343–45.
- 30 11 D. J. Bederman, *International Law in Antiquity*, Cambridge: Cambridge University Press,  
31 2001, p. 6, quoted in Miéville, *Between Equal Rights*, p. 159.
- 32 12 Benton argues that Anand overstates his case. See *A Search for Sovereignty*, p. 138.
- 33 13 Anand, *History and Origin of the Law of the Sea*, Chapters 2 and 4, particularly pp. 77–89.
- 34 14 *Ibid.*, p. 86. Anand and other writers concerned with correcting the Eurocentric  
35 historiography of international law draw on the foundational work of Alexandrowitz’s  
36 *An Introduction to the History of the Law of Nations in the East Indies*.
- 37 15 Miéville, *Between Equal Rights*, pp. 165–69.
- 38 16 *Ibid.*, pp. 168, 169.
- 39 17 My statement reduces the deep and complex arguments that have been developed  
40 around this point. Grotius’s resourceful, implicit deployment of the distinction between  
41 *dominium* and *imperium* is also at the core of Keene’s reading of Grotius as a foundational  
42 figure of colonial ideology in *Beyond the Anarchical Society*, particularly pp. 40–60. This  
43 distinction and Grotius’s use of it are also central to the ‘corridors of jurisdiction’ and  
44 ‘anomalous zones’ theses that Benton develops in *The Search for Sovereignty*, Chapter 3,  
45 particularly pp. 121–122 and 135. For a more general discussion of this aspect of  
46 Roman law and the implications of Grotius’s use of it, see Steinberg in *The Social*  
47 *Construction of the Ocean*, Chapters 2 and 3.
- 48 18 As Haakonssen notes, ‘Grotius . . . wanted to proceed both with arguments derived  
49 from general ahistorical theories of human nature and with arguments from the his-  
50 torical recordings of “the common sense of mankind”. It was, however, the latter he  
51 practiced most . . . and this led to the common criticism that, instead of using a properly  
52 empirical investigation of human nature, he relied on the authority of historians, poets,

- 1 and so on . . .'. Haakonssen, 'Hugo Grotius and the History of Political Thought',  
 2 pp. 46–47.
- 3 19 This chapter does not offer a close reading of every quote from every poet. For  
 4 example, it does not engage with Grotius's use of Boethius's *Consolatio Philosophiae*  
 5 (*Consolations of Philosophy*) (524 AD), which might be read as complicating the relation-  
 6 ship between Grotius's natural law thinking and his general eschewing of Christian  
 7 texts. The impetus of my reading is complicated by but is not drastically challenged by  
 8 other references to artistic literatures that appear in *Mare Liberum*.
- 9 20 M. J. van Ittersum, 'Note on the Text', in Grotius, *Commentary*, pp. xxiii–xxvii.
- 10 21 For a discussion of the shareholders' concerns and public opinion, see Anand, *Origins*  
 11 *and Developments of the Law of the Sea*, pp. 78–79.
- 12 22 D. Armitage, 'Introduction' in H. Grotius, *Mare Liberum*, 1609, Richard Hakluyt the  
 13 younger (trans.), *The Free Sea*, manuscript circa 1614, D. Armitage (ed.), Indianapolis:  
 14 Liberty Fund, 2004, pp. xi–xx. See also M. J. van Ittersum, 'Preparing *Mare Liberum*  
 15 for the Press: Hugo Grotius' Rewriting of Chapter 12 of *De iure praedae* in November–  
 16 December 1608', in H. W. Blom (ed.), *Property, Piracy and Punishment: Hugo Grotius on*  
 17 *War and Booty in De Iure Praedae—Concepts and Contexts*, Leiden: Brill, 2009.
- 18 23 Grotius, *Commentary*, p. 12.
- 19 24 Lucretius, *De Rerum Natura*, 50 BCE. Online. Available <<http://www.thelatinlibrary.com/lucretius/lucretius1.shtml>> (accessed 1 May 2010).
- 20 25 This verse was put together from translations provided by A. Janowitz, 'Re: some  
 21 advice on translation of Lucretius', e-mail, 15 May 2010; and B. Millett, 'Re: some  
 22 advice on translation of Lucretius', e-mail, 16 May 2010. The translation provided by  
 23 Gwladys L. Williams in the *Commentary*, p. 13, reads:
- 24
- 25 Thus it is needful that these *clouds of fear*  
 26 Be vanquished, not by any solar shaft  
 27 Nor by the day's bright spear, but by the mien  
 28 And *ordered plan of nature*. . .
- 29 An alternative translation that informs my discussion is by William Ellery Leonard,  
 30 *On the Nature of Things*, 1916. Online. Available <[http://classics.mit.edu/Carus/nature\\_](http://classics.mit.edu/Carus/nature_things.html)  
 31 [things.html](http://classics.mit.edu/Carus/nature_things.html)> (accessed 1 May 2010):
- 32 This terror then, this darkness of the mind,  
 33 Not sunrise with its flaring spokes of light,  
 34 Nor glittering arrows of morning can disperse,  
 35 But only Nature's aspect and her law.
- 36 26 Grotius, *Commentary*, pp. 13–14. Van Ittersum, in her 'Introduction' to the *Commentary*,  
 37 notes that 'Grotius did not produce any significant legal scholarship prior to the writing  
 38 of *De Jure Praedae*', p. xiv.
- 39 27 J. M. Duban, 'Venus, Epicurus and *Naturae Species Ratioque*', *The American Journal of*  
 40 *Philology* 103.2, 1982, pp. 165–77.
- 41 28 The distinction in modern case law between *ratio decidendi*—the decision's rationale, or  
 42 core reason—and *obiter dicta*—literally 'something said in passing'—might further  
 43 underline a reading of 'ratio' as involving a connotation of 'inner'. The history of the  
 44 existence/circulation of these phrases in the periods in which either Lucretius or Grotius  
 45 were writing is beyond the scope of this chapter.
- 46 29 R. Minadeo, *Lyre of Science: Form and Meaning in Lucretius De Rerum Natura*, Detroit:  
 47 Wayne State University Press, 1969, p. 21. Quoted in Duban, 'Venus', p. 167.
- 48 30 Duban, 'Venus', pp. 168, 171.

- 1 31 Haakonssen, 'Hugo Grotius and the History of Political Thought', pp. 43–45.
- 2 32 H. Grotius, *De iure belli ac pacis*, 1625, Francis W. Kelsey (trans.), *Hugo Grotius Prolegomena*  
3 *to the Law of War and Peace*, Indianapolis: Liberal Arts Press, 1957, p. 9. Quoted in  
4 M. B. Crowe, 'The "Impious Hypothesis": a Paradox in Hugo Grotius?' in *Grotius,*  
5 *Pufendorf and Modern Natural Law*, p. 4.
- 6 33 Haakonssen, 'Hugo Grotius and the History of Political Thought', p. 43. See Anand,  
7 *Origin and Development of the Law of the Sea*, Chapters 4 and 5 on the necessity of recognising  
8 the agency of non-Christian states.
- 9 34 Grotius, *Commentary*, pp. 243–300 and 391–499. Anand, *Origin and Development of the Law*  
10 *of the Sea*, Chapters 4 and 5.
- 11 35 Grotius, *Commentary*, p. 296.
- 12 36 *Ibid.*, pp. 296–9. For a discussion of the crucial role of Johore that traces the geographical  
13 facts and political intrigues leading up to and surrounding the capture of the *Catarina*,  
14 see P. Borschberg, 'The Seizure of the *Sta. Catarina* Revisited: The Portuguese Empire  
15 in Asia, VOC Politics, and the Origins of the Dutch-Johor Alliance (1602–c. 1616)'  
16 *Journal of Southeast Asian Studies* 33, 2002, pp. 31–62.
- 17 37 In *De iure praedae* and in his later texts, Grotius argues for the right to make private  
18 war without explicit state sanction. Whether his theory therefore allows citizens to rise  
19 against their own state remains an open question, but the very terms of this debate  
20 provide a reading of the entailments of Grotius's thinking that contrast (and possibly  
21 mitigate) the readings of Miéville and Keene.
- 22 38 Miéville, *Between Equal Rights*, p. 210.
- 23 39 Grotius, *Mare Liberum*, Hakluyt (trans.), p. 14. This chapter uses two translations of  
24 *Mare Liberum*: the translation by Hakluyt, and *Mare Liberum*, Ralph Van Deman Magoffin  
25 (trans.), *The Freedom of the Seas: Or, The Right which Belongs to the Dutch to Take Part in the East*  
26 *Indian Trade*, 1916, New York: Carnegie Endowment for International Peace and  
27 Oxford University Press, printed on my request by BiblioLife Reproduction Series,  
28 2009. The Magoffin translation is accompanied by the Latin text as published in a 1633  
29 edition of *Mare Liberum*.
- 30 40 Grotius, *Mare Liberum*, Hakluyt (trans.), p. 11. The translation in this edition is provided  
31 by the editor, David Armitage. This chapter is also informed by Vergil, *The Aeneid*,  
32 29–19 BCE, Sarah Ruden (trans.), New Haven and London: Yale University Press,  
33 2008. In her modern (and often accurately enjambling) translation:
- 34       What race is this? What nation would permit  
35       Such outrage? They have thrust us from the beach  
36       With war and yield no stopping place. (p. 16)
- 37       And
- 38       (. . . through vast seas we've come,  
39       To beg a tiny home here for our gods)  
40       A harmless beach. Water and air cost nothing! (p. 151)
- 41       *Mare Liberum* Van Deman Magoffin (trans.) uses John Dryden's translation of *The Aeneid*:
- 42       What men, what monsters, what inhuman race,  
43       What laws, what barbarous customs of the place  
44       Shut up a desert shore to drowning men,  
45       And drive us to the cruel seas again.
- 46       And
- 47       To beg what you without your want may spare—  
48       The common water, and the common air (p. 8)

- 1 41 Vergil, *The Aeneid*, 29–19 BCE. Online. Available <<http://www.thelatinlibrary.com/verg.html>> (accessed 1 May 2010).
- 2  
3 42 Vergil, *The Aeneid*, Ruden (trans.), p. 17.
- 4 43 *Ibid.*, p. 151.
- 5 44 J. Derrida, 'Step of Hospitality/No Hospitality', 1997, in *Of Hospitality: Anne Dufourmantelle invites Jacques Derrida to Respond*, Rachel Bowlby (trans.), Stanford: Stanford University Press, 2000, p. 83.
- 6  
7  
8 45 *Ibid.*, p. 85.
- 9 46 *Ibid.*, p. 107.
- 10 47 Derrida centrally generates his ideas from a reading of Greek poets and philosophers, and particularly from the stories of *Oedipus* and *Antigone*. While Greek literature grounds his argument, he offers a conceptual thesis that is not limited to that tradition.
- 11  
12  
13 48 van Ittersum, 'Introduction', p. xviii.
- 14 49 E. Keene, *Beyond the Anarchical Society*, pp. 40–60.
- 15 50 Grotius, *Mare Liberum*, Hakluyt (trans.), p. 30.
- 16 51 Grotius, *Mare Liberum*, Van Deman (trans.), Magoffin, p. 28.
- 17 52 It is not certain that Seneca was the author of *Octavia*: E. F. Waitling, 'Introduction', in *Seneca: Four Tragedies and Octavia*, London: Penguin Books, 1966, p. 38.
- 18  
19 53 Grotius, *Mare Liberum*, prefacing address 'To the Princes and Free States of the Christian World'.
- 20  
21 54 Seneca (?), circa 62 AD, *Octavia*, E. F. Waitling (trans.), *Seneca: Four Tragedies and Octavia*, pp. 386–87.
- 22  
23 55 Grotius, *Mare Liberum*, Van Deman Magoffin (trans.), p. 24.
- 24 56 Seneca, *Octavia*, p. 272.
- 25 57 *Ibid.*, pp. 272–73.
- 26 58 Grotius, *Mare Liberum*, Van Deman Magoffin (trans.), p. 28.
- 27 59 Ovid, *Metamorphoses*, circa 8 AD, David Raeburn (trans.), London: Penguin Classics, 2004, p. 226. Alternative translations in square brackets are from Grotius, *Mare Liberum*, Van Deman Magoffin (trans.), p. 28.
- 28  
29  
30 60 Ovid, *Metamorphoses*, pp. 9, 11.
- 31 61 *Ibid.*, p. 5.
- 32 62 S. Ruden, 'Introduction', in *The Aeneid*, p. viii.
- 33 63 Grotius, *Mare Liberum*, Hakluyt (trans.), p. 25.
- 34 64 T. Maunter, 'Divine Will in Modern Natural Law Theory', *Bulletin of the Australian Society of Legal Philosophy* 26, 1983, pp. 29–84, summarised in Haakonssen, 'Hugo Grotius and the History of Political Thought', p. 48.
- 35  
36  
37 65 Haakonssen, 'Hugo Grotius and the History of Political Thought', p. 49.
- 38 66 Grotius, *Mare Liberum*, Hakluyt (trans.), p. 11.
- 39 67 *Ibid.*



The poetic ocean in Mare Liberum. June 2011. Stephanie Jones. This essay traces the effect of literary quotation in Hugo Grotius's *Mare Liberum* (The Free Sea) (1609). This article provides a critical interpretation of Gerard Manley Hopkins' poetry and vision of reality by comparing some of his focal ideas with those of Alfred North Whitehead. There is a fairly explicit theological cosmology in Hopkins' poetry, just as there is poetic expression in the cosmology of Whitehead. The creative and idiosyncratic terms and phrases of Hopkins are explained as they are [Show full abstract] correlated with technical terms in Whitehead's cosmology.