

「每場有正當理由的戰爭都是義戰」： 格勞秀斯《論捕獲法》的論述策略 及其政治思想運用

賴芸儀

國家海洋研究院副研究員

本文試圖探討荷蘭法學者格勞秀斯如何將他身處的國際現實反映在他的思想發展上，呈現以世俗化角度，將運用武力維護貿易與航海自由正當化，乃至於世俗化國家之政治論述。格勞秀斯以同意為一切人世間法秩序運作之基礎，構成荷蘭反抗西班牙統治之正當性與合法性。藉由比較《論捕獲法》與早先著作，顯示為聯合東印度公司處理劫掠法律問題的經驗，相當程度地影響了格勞秀斯日後看待國家以及國家主權之概念，而逐漸脫離傳統共和思想從理性或德行的面向，開展出以同意論為核心的共和思想與國家論述。

關鍵字：格勞秀斯、《論捕獲法》、《論海洋自由》、荷蘭獨立運動

“Every War Derived Entirely from Just Causes, Is a Just War”: Hugo Grotius’s Discursive Strategy and Political Thought in *De Jure Praedae*

Yun-I Lai

Associate Research Fellow
National Academy of Marine Research

ABSTRACT

This article reconstructs the intellectual context of the Dutch jurist Hugo Grotius’ (1583–1645) *De Jure Praedae*, in particular, the relation between Grotius’ political thought and the political reality with the Dutch Republic faced at the time, including its international politics as well as the developing political discourse of a secular state. It emphasizes the changing conceptions of the lawful use of force to maintain free trade and navigation right from the perspective of political secularization. For Grotius, consent is the foundation of all human laws and it provides the legitimacy for and legality of the right to resist the Spanish rule. By comparing his early works and *De Jure Praedae*, this article shows how Grotius’s republicanism and his thoughts on the political state gradually moves from the traditional republican conceptions, such as reason and virtue, toward consent theory.

Key Words: Hugo Grotius, *De Jure Praedae*, *Mare Liberum*, Dutch independent movement