In Stuart England, there was no clear-cut legal precedent for deposing monarchs who abused their power. Little legitimate ground existed for disobeying kingly will. The spiritual consecration of kings, and incontestability of leadership, remained largely viable according to widely-accepted political theory advocated by absolutists. Reigning as supreme rulers over their kingdoms, sovereign leaders stood unrivalled by any other person, agency, or aggregate of authority which existed in their realms. At the same time, the possibility of removing tyrannical leaders, as well as other subcategories of necessary martial strife, was in the process of acquiring precedence in political writings and modernizing the study of international law to such a degree that it served to entirely transform the discipline. Issues of rightful leadership fell increasingly under the rubric of legal inquiry. The transitional state of *jus in bello* during the seventeenth century—the absence of specifically juridical example which served to sanction the recourse to king-killing—heralds the occasion for Milton's impassioned endorsement of resistance and right of rebellion in *The Tenure of Kings and Magistrates* and *Eikonoklastes*. In his examination of the relationship between sovereignty and the law, the poet advocates the possibility of resistance against a king who does not benefit the individuals over whom he rules, whose monarchical leadership attempts to surpass the legal limits of appropriation in its usurpation of selves and reason. “[L]ook how great a good and happiness a just king is, so great a mischeife is a Tyrant; as he the public father of his Countrie, so this the common enemie,” ¹ Milton observes. Driven by his selfish interests, such a king reigns for himself and his own agenda. He fails to
acknowledge that he “holds his autoritie of the people, both originaely and naturally for _their_ good in the first place, and _not his own_” (3: 206, italics mine). Throughout the ages, the poet seeks to demonstrate in *The Tenure of Kings*, Greeks and Romans, Jews and Christians alike responded to criminally-behaved sovereigns by putting them to death (3: 212-16).

In this essay, I seek to explore how Milton’s pro-regicidal tracts support an evolutionary notion of kingship, and in doing so strive to shift the balance from a concept of monarchical rule in which the differentiation between adequate versus criminal leadership is largely inconsequential to one in which the quality of sovereign leadership matters. The language with which Milton radically re-envisions the relationship between power and the law is supported by leading organizing principles of the newly-evolving field of international law during the 1600s which accentuated the perpetuation of a societal organization consonant with the powers of human rationality, as well as man's ability to comprehend that society's well-being was contingent upon adherence to certain rules. His paradigm for rightful rulership is predicated on his optimism that battle kept within reasonable juridical limits could be used as a necessary tool for implementing political and social reform.

Most specifically, I wish to demonstrate, Milton’s adherence to the natural law-based theories of the Dutch scholar Hugo Grotius, popularly known as the father and founder of international law, is essential to understanding the poet’s representation of the relationship between monarchical rule and the law in *The Tenure of Kings and Magistrates* and *Eikonoklastes*. As a leading proponent of just / unjust martial theory during the sixteenth and seventeenth centuries, the Dutch scholar perceived lawful recourse to battle as an instrument of rational, civilized men, essential to protecting mortal society. Developing his notion of the state of nature from Aristotelian and Stoic models, Grotius maintained that individuals are motivated by the
understanding that society functions in harmony with human nature. He sought to confirm that this position of sociability serves as the foundation of all law--natural law, deriving from God, and civil law, arising from man-made legislation--which originates from society. Seeking to prove that the separation between the law of nature and its materialization into positive law could remain exceedingly narrow, he demonstrated that humanly-derived law could elucidate the laws of nature--that legal positivism could promote a more genuine or “natural” natural law--more naturally progressing in association with mortal experience. In this way, the Dutch scholar concluded that ideal standards of justice could be integrated into the man-made laws by which individuals lived their lives.

The poet’s well-known encounter with Grotius occurred during his journey to Paris in 1638-9. Milton “ardently desired” (Second Defense, 4: 615) this meeting, as the Dutch scholar’s sociability theories were generating more and more notice in England at that time. J.M. Evans has noted that “In May or June of 1638 Milton visited the Great Dutchman in Paris on his way to Italy. Soon after his return to England he began work on the dramatic drafts of Paradise Lost, of which the four versions preserved in the Trinity MS. date roughly from 1639 to 1642.” 2 The poet makes reference to Grotius in passages of his works which advocate theories, derived from the laws of nature, regarding individual integrity and the supremacy of human rationality such as The Doctrine and Discipline of Divorce (1643), The Judgement of Martin Bucer (1644), and the conclusion of Tetrachordon (1645). Confirming his desire for access to Grotian philosophy and poetry, Milton's personal library contained a vast collection of the Dutch scholar's theoretical and creative works, including Adamus Exul, Ad Genesin, Annotationes Ad Veterum Testamentum, Annotationes in Libros Evangeliorum, Christus Patiens, De Veritate Religionis Christianae, and
Poemata Collecta, in addition to his foremost De Jure Belli ac Pacis (On the Law of War and Peace). ³

In his treatise on legitimate versus criminal warfare, Grotius identified two foremost and mutually interactive arenas of justice which are based upon sociableness, founded upon man’s inherent predilection for common society—legal principles deriving from divine or eternal sources, and positive laws originating from man-made legislation. Since the former is imperceptible to mortal insight, a “bridge” between the two systems is established so that humanly-fabricated law may correlate to God's law. In order to guarantee this association, sixteenth and seventeenth century jurists referred back to ancient models for their interpretation and representation of the laws of nature. Recognition of the vital link between divine equity and man's perception was to be identified in the evolution from Socratic origins of natural law in fifth century B.C. to Aquinas's incorporation of faith and reason eight centuries later.

Functioning as that aspect of divine law which man can perceive via the powers of his rational consciousness, natural law furnishes norms for justice, inspiring man to embrace virtue and avoid vice. As a determinative specifier for individual action, “[natural law acts as] a barometer by which people must adapt their worldly laws to come as close as possible in a fallen world to enacting and obeying divine law.” ⁴ It measures the extent to which man can recapture and behave in conformity with standards of prelapsarian ideals in his motives and actions. Confirming that the laws of nature and of nations continuously interact with one another—that positive, man-made law perpetually strives to pattern itself according to exemplary, divinely-derived natural law—Grotius demonstrated that humanly-fabricated law is informed by, and seeks to correspond with, natural law's evaluative standards.
Significantly, Grotius's contention that legal and ethical standards may coincide over an expansive terrain is inherent to his prioritization of the laws of nature. As Lloyd Weinreb notes:

The simplest deontological argument for natural law is based on the claim that, notwithstanding the examples of immoral laws, there is a correspondence between laws and morals. Law's very nature, it is claimed, impresses on it a minimum moral content. There is a moral floor, below which nothing that is properly regarded as law falls.  

Never forsaking its foundation in morality, natural law fulfills the distinctive claim that there are legitimate normative principles to which legal measures--if they are to remain valid and verifiable--ought to conform. Standards of conduct based on adequate ethical intention are thus, in theory, secured. In this way, natural law claims to be able to designate principles of practical right-mindedness, as well as conditions of consistency among men and in individual behavior.

The important point to be made is that the laws of nature seek to ethically interpret positive law. They furnish an “evaluative criterion” for legal positivism by providing “a standard of identity, justification, and evaluation for positive law.” The more significantly the two domains of juridical reckoning resemble one other--the more positive law conforms with exemplary standards of justice--so any discrepancy between them lessens. Significantly, Thomas Aquinas refers to this comparative method as early as the 1200s—“If a human law is at variance in any particular with the Natural Law,” he warns—“it is no longer legal, but rather a corruption of law.”  

Among the most compelling aspects of the interaction between the natural and voluntary law, which as we will consider arises from Milton’s efforts to reconceptualize the relationship of sovereign leadership to the law in The Tenure and Eikonoklastes, is its essential involvement in the process of legal development. One of the primary objectives of Grotius's expansive notion of
civilization as a voluntarily-willed association in *De Jure Belli ac Pacis* was to exceed the medieval concept of society as a fixed or static covenant prescribed by divine decree. As a reflection of society's dynamic nature, law engages in a constant process of renovation and refinement. E. Jimenez de Arechaga observes that “No legal order, internal or international, is satisfied with being valid only for today; it aspires to continue in force and this cannot be achieved except by introducing into the system increasing doses of justice.” 8 With this goal as a priority, Grotius's volume on the international laws of war and issues of peace and justice played an essential role in updating law to be perceived as expansive—not merely comprised of rules which are in force in a given instant, but simultaneously engaged in the development of emergent standards.

In conjunction with these progressive ideals, military strife existed as a fundamental element of state formation in sixteenth and seventeenth century Europe, and was inherent to its very structure. The legal organization of society raised the state to the highest level in the graduations of authority. And, in keeping with this expansive notion of community, conversely, the people themselves were perceived as ethically upstanding individuals whose association was safeguarded by means of the established institutional order. Restricted modes of battle were thus accepted as necessary means to the creation and perpetuation of an orderly and organized society, which more and more responded to misuses of sovereign authority by supporting the individual's right to resist and expel a bad king. When contradictions to common interests and values arose, defense of them--sometimes involving war--became essential. The association of martial struggle with fighting for the public good, and against corrupt monarchy, became intrinsic to the maintenance and development of an international society. 9

If we now take a closer look at *The Tenure of Kings and Magistrates* and *Eikonoklastes*, written in January and October of 1649, we can see how Milton follows Grotius in portraying
battle as an essential tool for promoting and safeguarding personal liberty as part of an individual's property. The trial and execution of King Charles I represented the culminating moment of the English Civil War. By the end of 1648, the King’s royalist troops had been entirely overpowered by the Parliamentary Army commanded by Generals Thomas Fairfax and Oliver Cromwell. Despite widespread investigation and confirmation of King Charles’ despotism--the details of which we will consider shortly--and in conjunction with failed efforts to deal with his misgovernment through less war-like measures such as negotiation, many Parliamentarians who had championed the rights of resistance against their corrupt sovereign for nearly a decade nevertheless objected to the notion of king-killing.

The state of political emergency brought on by Charles’s abuse of power, on the other hand, served to inspire Milton’s impassioned and audacious defenses of regicide. Appearing thirteen days after the execution of Charles I, the Tenure of Kings and Magistrates is one of Milton's most controversial statements. This tract derives, as his earlier Areopagitica does, from the premise that men are naturally liberated in nature: “No man who knows ought, can be so stupid to deny that all men naturally were borne free” (3: 198), the poet states. This freedom, significantly, is based upon and perpetuated by the powers of rational consciousness. The need to exercise that “freedom” under the rubric of a common authority, furthermore, leads men to unite themselves together in interests of collective preservation or to protect themselves against myriad forms of injury. There must not be discord between the individual and the state, if state formation should serve the people “for common peace and preservation” (3: 209).

Like Grotius in De Jure Belli ac Pacis, Milton maintains that God created man free and sui iuris--each individual and the use of his possessions are made subject not to another's will but to his own. Strikingly, both men's theories of “statehood” seek to protect the uniqueness and self-sufficiency of the individual. Like Milton, the Dutch scholar believes that there should not be a
discontinuity of interests between the individual and the state, if the state is to safeguard personal welfare. As Richard Tuck observes, “Grotius . . . made the claim that an individual in nature (before transferring any rights to a civil society) was morally identical to a state, and that there were no powers possessed by a state which an individual could not possess in nature”. Under natural law, the individual was, ethically speaking, a “miniature sovereign state,” about whom the language of freedom and rulership could be employed. 10 The fact that states held no privileges which the individuals within them had not previously held, in their respective minds, served to restrict monarchical power.

In keeping with Grotius's appeal to the individual's rights to self-preservation and fulfillment of natural aims as social beings, Milton informs us that the power of kings and magistrates--the corporeal embodiment, so to speak, of “common authority”--is derivative, posited in association with the peoples' belief that this arrangement will mutually benefit all parties. “The power of Kings and Magistrates is nothing else, but what is only derivative, transferr'd and committed to them in trust from the People, to the Common good of them all” (3: 202). Legitimate kingship thus remains conditional upon its ability to perpetuate this foundational state of human liberty. In all circumstances, a monarch must proceed in accordance with what his subjects have rationally determined to be “in service” to the public benefit.

According to Grotian standards of justice and injustice, Milton argues that the ability to eliminate a king who does not work to the ends of the common good--who retards or contradicts community interests and “transgresses against the laws and the state” 11--emerges as an inevitable and natural right. The peoples' relation to their ruler is one of voluntary contract which may be terminated at will. 12 A leader thus derives his power from the people by contract--a quasi-legal understanding--and they consequently have the privilege to revoke his authority if he abuses it—“either choose him or reject him, retaine him or depose him . . . to be govern'd as
seems to them best” (*Tenure of Kings*, 3: 206). The poet refers to resort to battle in this treatise in regard to the necessary removal of a tyrannical king who does not respect the law or the common good, observing that “For lawfull warr is but the execution of justice against them who refuse Law,” (3: 254), and more specifically,

That it is Lawfull, and hath been held so through all Ages, for any who have the Power, to call to account a Tyrant, or wicked KING, and after due conviction, to despose and put him to death.

(3: 189, title-page to the first ed. of *Tenure*, 1649)

In his delineation of the qualities which define a tyrant, James Holly Hanford points out, Milton makes no specific indictment of Charles. He does not mention him by name or refer specifically to those of His Majesty's practices he deems objectionable. Defending against the imposition of tyranny in general is the focus, supportive of potential action leading to reformation. Seeking to justify the trial of Charles I, the poet argues that “Justice is the onely true sovran and supreme Majesty upon earth” (3: 237). In keeping with Grotian notions of individual freedom, he equates worthwhile rulership with leaders who remain voluntarily accountable to the law, who thereby remain deserving of their subjects' commendation, unlike despots--their “will(s) boundless and exorbitant” (3: 212)--who exercise their power capriciously and immoderately. In this way, rational government becomes the primary criterion for political legitimacy.  

In *Eikonoklastes*, Milton again sets out to confidently de-mythologize the untouchable sanctity of kings. Composed as a confutation of a work known as the *Eikon basilike* (“the King's Image”) which was circulated immediately following the Charles I's death, *Eikonoklastes* (or “Image-breaker”) aims to deconstruct what Milton perceived as the faulty alignment of the sovereign with martyrdom perpetuated in the earlier tract. Though much controversy surrounds
the actual authorship of *Eikon basilike*, it is generally believed to have been based on Charles' own notes, expanded upon by his chaplain prior to his execution. Charles' refutation of ill-conduct, informed by his imminent demise, thus takes on a personally-constituted and heart-felt air.

Compared to *Tenure of Kings and Magistrates*, Milton gets much more personal about Charles in *Eikonoklastes*. He attaches his objection to tyranny to a face, to specific criminal practices. By the time we arrive at this work, it is significant to note, the optimism for liberty of the sort we saw in an earlier political pamphlet such as *Areopagitica* (1644) has been utterly devastated. If we look back to the previous tract as a means of surveying the evolution of the poet's revolutionary stance, we may perceive a much more fanciful work, punctuated by conjecture. Predicated on his confident belief that his countrymen would richly benefit from an open market in ideas, Milton's *Areopagitica* seeks to predict what might occur if external constraint were imposed. He hypothesizes *what if* literature were censored. 15 By 1649, obstruction to liberty had manifested itself concretely, an invasive malignancy identified as Charles I which required immediate and total extraction. The point-by-point deconstruction of the King included in *Eikonoklastes* reflects the fruition of Milton's revolutionary imperative which had fermented during the mid 1640s. At the end of this decade, with revolutionary sentiment affixed dramatically and unapologetically behind him, his indictment had become pointed. His Majesty served as an absolute paradigm of bad government for Milton. The King was, in short, a materialization of the external constraint on freedom and hindrance of rationality most feared in *Areopagitica*.

Inspiring Milton's ground-breaking and (by the time of *Eikonoklastes*) personal responses were the dramatic quality of Charles Stuart's offenses. Historical accounts emphasize that the King placed self-interest above national interest in his desire for total power. John Sanderson
notes that “from the very onset of his reign, Charles had worked to make himself an absolute ruler, worked with a resolution that ‘all the Machiavells in the world’ could not match.” 16 By the late 1630s, many of his fellow countrymen openly accused him of pursuing an absolute prerogative, of using “powers which he possessed pro bono publico, for the public welfare, pro bono suo, for his own benefit”. 17 Charles was especially criticized for increasing emergency taxation in non-crisis situations, for permitting private individuals to benefit from an exercise of authority intended only for the monarch himself, and for general obstruction of justice. John Morrill further observes that

Charles maintained that he could raise money without formal consent for naval defense in a national emergency, that he was sole judge of what constituted an emergency, and that there was in fact a sustained state of emergency. 18

This illicit taxation, in combination with his additional transgressions, inspired widespread dislike and disbelief in the English people. By 1640, disapproval of Charles I had become so widespread within the political nation that his rule was on the brink of total failure. 19

Suspicions regarding Charles' wrong-doing were confirmed when a cabinet containing the king's correspondence was captured at Naseby in June of 1645. According to Joad Raymond, these documents advertised the king's most dire character flaws--his predilection for absolute rulership, his passion for fraudulency. Parliamentarians exploited the propaganda value of the papers, and guaranteed their widespread distribution by publishing them as The Kings Cabinet Opened. Supporters of the King objected to his being unmasked in this manner, thus securing a popular audience for Eikon Basilike. Other Royalists attempted to present the letters as testament to Charles' superlative writing ability. But even more extensively, this episode encouraged popular antipathy to the sovereign. 20 Charles's separation from his power as king may be further
attributed to the quality of his rule. His exceptional unfriendliness, in lethal collusion with his
duplicitous actions, segregated him from his fellow Englishmen. \(^{21}\) Dislike of the King, Milton
assures his readers in *Eikonoklastes*, was widespread:

> All men inveigh'd against him; all men, except Court-vassals,
> oppos'd him and his tyrannical proceedings; the cry was universal;
> and this full Parlament was at first unanimous in thir dislike and
> Protestation against his evil Goverment. (3: 344)

Far from being merely besieged from without by Parliament, Charles acted as a critical facilitator
of his own self-destruction. He was an essential participant in the collapse of his own authority
and image.

In keeping with his adherence to the Dutch scholar, Milton believed that the conflict between
Royalists and Parliamentarians divided along the Grotian distinction between just and criminal
battle. Whereas the Parliamentarian rebellion coincided with Milton's Grotian conviction that the
boundaries for legitimate war must be drawn in relation to the laws of nature, the Royalist point
of view contradicted these standards of justice. In defense of Charles, Royalists decreed that the
sanctified nature of the king simply prevented him from being challenged or removed from
service. Supporters of the monarch cited Biblical passages, especially Romans 13 and I Peter 2,
as proof that war against reigning sovereigns and magistrates--not just magistrates of whom the
majority approved--was officially prohibited. Regal authority, they maintained, was not an
aggregate of human authority shared among the masses and assembled under a single leader;
rather, it occasioned a participation in divine omnipotency. In this way, it follows, those
supporting Charles argued that those who resisted the King resisted God. The king, they
contended, existed as a manifestation of God on Earth.
Whereas the pro-Stuart regime advocated peace and nonresistance based on obligatory honor and exoneration of the King, the Parliamentarian enterprise challenged the status quo by initiating “a rational cultural revolution against the Royalist appeal to the primitive magic of kingship.” They attempted to dismantle the “static” nature of law under monarchical rule by emphasizing the supremacy of human reason. These assertions, conforming to Grotian standards of rightful warfare, were founded on natural law, on the premise that men are empowered to discern universally binding decrees of right conduct.

Milton's effort to define the association between sovereign leadership and the law in the *Tenure of Kings* and *Eikonoklastes* is especially pertinent to Milton’s Grotian emphasis. The poet's task involves naturalizing the possibility of revolt against a leader who does not serve the people advantageously--of condoning war itself in instances where tyranny is apparent. In this sense *Eikonoklastes* reads as an exercise in how to recognize, object to, and rebel against a leader who betrays his power--an authority given to him in the first place by the people themselves.

Accordingly, in the *Tenure of Kings* Milton maintains that transfer of loyalty to a ruler remains in a state of perpetual re-evaluation: “the right of choosing, yea of changing thir own Goverment is by the grant of God himself in the People” (3: 207). Contravening this contractual theory of law which seeks to safeguard the benefits of leadership for all individuals, Charles acts in an irrefutably “lawless” (3: 257) manner. He shirks his legal obligation to the people in favor of his personal brand of rule which benefits himself. In what we can recognize as a trangression distinctively Grotian in nature, in “attempt(ing) to usurp that part of the sovereign power which does not belong to him” (*DJBP*, I, IV, XIII 158), the poet associates the King's arbitrary government with his attempt to substitute the peoples' natural endowment and exercise of right reason with his own. In *Eikonoklastes*, Milton further questions

Did wee therfore not permit him to use his reason or his conscience,
not permitting him to bereave us the use of ours? And might not he
have enjoy'd both, as a King, governing us as Free men by what Laws
we our selves would be govern'd? It was not the inward use of his
reason and of his conscience that would content him, but to use them
both as a Law over all his Subjects, *in whatever he declar'd as a King
to like or dislike.* (3: 412)

In a mockery of justice predicated upon his wayward predilections, Charles endeavored to
replace community interests and social obligation of his rulership—“to kick down all Law,
Government, and bond of Oath” (3: 414)—with personal advantage and private interest.

In contrast to Charles' indifference to legality, Milton argues that Parliamentarian resistance
embraced the law rather than attempted to redefine it, as Charles did, in the manner of God
himself. In keeping with the Dutch scholar, the republican revolution derived from natural law as
a tool for measurement and analysis, adhered to the notion that ethical and legal standards must
coincide over a vast terrain. It associated the commonwealth ideal of government with freedom
of conscience and growth of human liberty. The Royalist agenda, by contrast, appears motivated
by a cavernous breach between natural law and positive law, seems ultimately supportive of a
tyranny that only pretends to be grounded in the law. Usurping established right away from
individual reason—having “renounced his governmental authority, or manifestly . . . abandoned
it” (*DJBP*, I, IV, IX 157), as the Dutch scholar would regard it—Charles attempted to assume an
unnatural status with regards to law. His abuse of state became a dire affliction stemming from a
distortion of natural justice.

In a Grotian manner, war for the anti-Stuart contingency proceeded as a social effort used to
combat unsociability. Unlike the Royalist defenders, the Republican initiative expanded its
interests toward the public well-being—in service, as Milton identifies in *The Tenure of Kings*
and Magistrates--to that rulership which is “most conducing to the public good” (3: 212). In contrast to Charles' corrupt solitude, Parliamentarians designated themselves as subjects unified and joined in the representative body of the kingdom, taking up arms as an extension of their desire to preserve community interests from a despot. Accordingly, Corinne Comstock Weston uses the phrase “community-centered view of government” to describe the Parliamentarian attitude. From their point of view, the people rather than the monarchical head encompassed the human basis of law and political power, and consequently, “sovereignty was seen as shared.”

Opposing the notion that “the Majestie of the Crowne of England [may be] bound by any Coronation Oath in a blind and brutish formalitie” (3: 415) in Eikonoklastes, the poet contends

But if it neither doe enjoyn, nor mention to him, as a part of his duty, the making or the marring of any Law or scrap of Law, but requires only his assent to those Laws which the people have already chos'n, or shall choose . . . to deny the passing of any Law which the Commons choose, is both against the Oath of his Coronation, and his Kingly Office. (3: 414)

From this perspective, Charles is not above the law, or beyond it. He is both accountable to law and its foremost administrator. He is, in fact, the opposite of the immune and inalienable entity his Royalist defenders make of him--he is the law's servant. It is noteworthy that Milton reduced the King's legitimate role in politics to that of “chief executive,” enlisted to do little else than execute the decisions of Parliament in a timely manner.

Milton's justification for defensive resistance against this avoidance and deformity of law is distinctively Grotian. “Most true is the saying,” the Dutch scholar had cautioned in his Prolegomena to De Jure Belli ac Paci, “that all things are uncertain the moment men depart from the Law” (17). Employing the language of justice and reason of state, the poet appeals to
his conviction that "the Law of nature justifies any man to defend himself, eev'n against the King in Person" (3: 254) in reference to necessary preservation of the commonwealth. This is the point at which battle commences for Milton--the critical point, emphasized by Grotius--in which justice has formally broken down. Peaceful means of adjudicating Charles' wrongs have proven ineffective. For Milton, as for Grotius in De Jure Belli ac Paci, “where judicial settlement fails, war begins” (DJBP, II, I, II 171).

Most extensively, it seems to me, Milton's apology for king-killing is indebted to Grotian principles of sociability. Most reprehensible of all to the poet is the manner in which Charles's misgovernment assails his subjects personally and individually. If we reconsider those tenets of sociableness which Grotius prioritized, we may see that his derivation avoids merging all individuals into an undifferentiated social whole, but rather strives to preserve the original distinctness of persons. Stephen Buckle clarifies that according to the Dutch scholar

What belongs to a person is what is one's own--in Latin, suum. The notion of the suum is pre-legal (that is, prior to positive laws) . . .

What belongs to a person is prior to private ownership according to positive law. Essentially it includes a person's life, limbs, and liberty. The suum is . . . what naturally belongs to a person because none of these things can be taken away without injustice. Reason and the nature of society thus dictate that the life, limbs, and liberty of individuals be protected. The law of nature is, in other words, ineluctably committed to the defence of the suum. 26

In violation of this aspect of sociability, Milton believes, Charles strove to perpetuate an amorphous social whole subjected to his convoluted rationality. The King's measures to usurp the essential selves of his subjects, to appropriate that which existed as their subjects' suum
(DJBP I, I, V 35), directly challenges the integrity of their identities based on natural law. In Eikonoklastes, the poet alleges

[Charles] confesses a rational sovranitie of soule, and freedom of will
in every man, and yet with an implicit repugnancy would have his
reason the sovrnan of that sovranty, and would captivate and make
useless that natural freedom of will in all other men but himself. (3: 412)

Milton's outstandingly impassioned indictment in Tenure of Kings and Eikonoklastes may be seen as a reaction to individual liberty dismantled on this minute and devastating scale. Organized resistance may be seen as a response to this exceedingly personal invasion. In a Grotian manner, the poet identifies the point at which Charles commits criminal behavior as the point at which--to extend Buckle's argument--he encroaches upon “[n]one of the . . . things [that] can be taken away without injustice.” In invading that space, in trespassing that intimately upon his subjects, Milton suggests, Charles is ultimately accountable with his own life.

With no clear-cut legal precedent for the necessary execution of tyrannical kings, Milton looks beyond humanly-fabricated positive law to the eternal, divinely-derived laws of nature in his demand for legitimate leadership. Believing, in keeping with Grotius, that each individual and the use of his possessions are governed by his own will rather than another's, the poet urges there should not be an incompatability of interests between the individual and state if the state is to protect individual well-being. Placing self-interest above national interest in his vie for absolute authority, Charles’s illicit sovereignty collapses through the moral floor insisted upon by natural law’s ethical imperative. The site of King Charles I’s decapitation outside the Banqueting House at Whitehall on the cold, blustery afternoon of January 30, 1649 signals an optimism that legal evolution may proceed in conjunction with the progressive priorities of the emergent nation-state. The resort to king-killing serves as a bold attempt to get the law moving
again in terms of ethics, predicated upon a moral expectation which at its most ambitious approaches prelapsarian standards of community embraced under an uncontested and absolute justice.


7 See White, *Natural Law in English Renaissance Literature*, 4.


11 Hugo Grotius, *The Law of War and Peace* (De Jure Belli ac Pacis), trans. Francis W. Kelsey (Indianapolis: Bobbs-Merrill, 1925), I.IV.VIII: 156. All future quotations will be cited parenthetically within the text under the abbreviation DJBP.


15 An “artificial” Adam as he is “in the motions,” a mere marionette maneuvered from outside, is far less substantive, the poet suggests to us in *Areopagitica*, than one who determines his own movement: [W]hen God gave [Adam] reason, he gave him freedom to choose, for reason is but choosing; he had bin else a meer artificial Adam, such an Adam as he is in the motions, We our selves esteem not of that obedience, or love, or gift, which is of force: God therefore left him free, set
before him a provoking object, ever almost in his eyes; herein consisted his merit, herein the right of his reward, the praise of
his abstinence (See 2: 527).

18 Ibid., 291.
21 Ibid., 51-3.
24 Sanderson, “But the People’s Creatures,” 133.
25 Grotius, “Prolegomena” to De Jure Belli ac Pacis, 17.