

War, States, and International Order

Who has the right to wage war? The answer to this question constitutes one of the most fundamental organizing principles of any international order. Under contemporary international humanitarian law, this right is essentially restricted to sovereign states. It has been conventionally assumed that this arrangement derives from the ideas of the late-sixteenth century jurist Alberico Gentili. Claire Vergerio argues that this story is a myth, invented in the late 1800s by a group of prominent international lawyers who crafted what would become the contemporary laws of war. These lawyers reinterpreted Gentili's writings on war after centuries of marginal interest, and this revival was deeply intertwined with a project of making the modern sovereign state the sole subject of international law. By uncovering the genesis and diffusion of this narrative, Vergerio calls for a profound reassessment of when and with what consequences war became the exclusive prerogative of sovereign states.

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*Alberico Gentili and the Foundational
Myth of the Laws of War*

Claire Vergerio
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À mon grand-père

When the king asked him what he meant by infesting the sea, the pirate defiantly replied: “The same as you do when you infest the whole world; but because I do it with a little ship I am called a robber, and because you do it with a great fleet, you are an emperor.”

– Augustine, *City of God*, IV.4, 147–48.

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