

CHAPTER I

Alberico Gentili (1552–1608)
New Ways of Posing the Problem of War and
Interstate Relations

After the Council of Trent (1545–1563) failed to reunify Christianity,¹ any pacification of interstate relations had to take into account the existence of antagonistic theologies and mutually exclusive confessions. Any basis of universally accepted religious principles, even among Christian states, seemed impossible. The Italian jurist Alberico Gentili² was among those who challenged the justifications of religious strife, and one aim of his *De Iure Belli* (1598) was to banish religion as a reason for going to war. Already in his *De Legationibus* (1585) he had warned: ‘let sovereigns be careful of their actions when they use the pretext of religion in dealing with embassies’.³ There was more needed than such an appeal to the political rulers.

¹ The emperor Charles V had aimed at uniting Christianity by means of a council, but when he eventually managed to bring it into existence, the Protestants refused to participate. The council met in three different sessions which were interrupted because of conflicting European politics. It was crucial for reforming and regenerating the Catholic Church and inaugurated the counter-reformation. See J. Bossy, “The Counter Reformation and the People of Catholic Europe” in *Past and Present* 47 (1970), p. 51–70, M. Luebke, *The Counter-Reformation* (Oxford 1999), M. Mullet, *The Catholic Reformation* (London 1999), A. D. Wright, *The Early Modern Papacy* (Harlow 2000).

² Gentili was born on 14 January 1552 in San Genesio in the Marche d’Ancona region of Italy. In 1569 he entered the law faculty of the University of Perugia where he received his doctoral degree in law on 23 September 1572. His father Matteo Gentili was increasingly under threat from the Catholic authorities and left Italy in 1574. The Roman Inquisition rightly suspected the Gentili family of having Protestant leanings and Alberico was imprisoned in 1578 in Padua. After his escape he travelled to London where he arrived in 1580. His younger brother Scipio stayed in Tübingen in Germany to study law. In 1581 Alberico Gentili was appointed professor of Roman law at St John’s College at the University of Oxford. According to Richard Tuck he was ‘one of the most important and interesting figures ever to teach at that university’. R. Tuck, *The Rights of War and Peace. Political Thought and the International Order from Grotius to Kant* (Oxford 1999), p. 9. For further biographical details see in particular the older studies by G. van der Molen, *Alberico Gentili and the Development of International Law* (Leiden 1968), A. de Giorgio, *Della Vita e delle Opere di Alberico Gentili* (Parma 1876) and E. Nys, “Introduction” in A. Gentili, *De Legationibus Libri Tres*, ed. by J. B. Scott (New York 1924), p. 11a–38a. On the religious persecution of the Gentili family and its wider implications see now also V. Lavenia, “Alberico Gentili: i processi, le fedi, la guerra” in *Ius gentium, Ius communicationis, Ius belli. Alberico Gentili e gli orizzonti della modernità, Atti del Convegno di Macerata in occasione del Quarto Centenario della morte di Alberico Gentili* (Milan 2009), p. 165–196.

³ A. Gentili, *Three Books on Embassies*, ed. by G. J. Laing (New York 1924), p. 91.

It was truly a huge task to deny religion the prominence it commanded as a reason for conflict in the late sixteenth century, given that among Christian states all major conflicts were fuelled by religious controversies. The Dutch revolt against the Spanish crown, the French and German wars of religion and the antagonism between Elizabeth and Philip II are just the most prominent examples at the time Gentili wrote his major work. The first part of this chapter will situate Gentili's international political thought within the wider context of early modern political thought.

Above all he was, by training and profession, a humanist jurist. His role within the natural law tradition is complex and interpretations as to where to position him vary considerably. Anthony Pagden rightly claimed that 'although Gentili nowhere provides a fully developed or entirely consistent *definition* of the natural law and is evidently unconcerned with the metaphysical niceties which so troubled the theologians [Vitoria and his successors at Salamanca], it is evident from what he does say, that both he and they would have been on broad agreement as to the basic principles on which it had to be based'.⁴

At the time Gentili was writing, the natural law doctrine was still largely dominated by the Spanish theologians, who followed the Thomist tradition. Gentili rather meagrely embraced the natural law doctrine; unlike Grotius, he did little to reshape the Thomist natural law doctrine.⁵ If we understand natural law in a scholastic sense, and not in its seventeenth-century use, we can discern 'two rival political moralities' which 'were now confronting each other in every commonwealth of late sixteenth-century

⁴ A. Pagden, "Gentili, Vitoria, and the Fabrication of a 'Natural Law of Nations'" in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, ed. by B. Kingsbury and B. Straumann (Oxford 2010), p. 348.

⁵ See notably J. Sauter, *Die philosophischen Grundlagen des Naturrechts. Untersuchungen zur Rechts- und Staatslehre* (Frankfurt am Main 1966) and F. Grunert, *Normbegründung und politische Legitimität. Zur Rechts- und Staatsphilosophie der deutschen Frühaufklärung* (Tübingen 2000). Despite the obvious similarities between Grotius and Gentili, Richard Tuck does not appreciate the fundamental differences on which both men based their argument. It seems problematic to downplay the influence of previous natural law theorists such as Vitoria, Vazques and Suárez on Grotius, which in turn blurs the understanding of Gentili's specific approach, which relies much more on the tradition of the *politiques* than on the natural law tradition. Cf. R. Tuck, *War and Peace*, esp. p. 108. But see Tuck's earlier work, R. Tuck, *Natural Rights Theories. Their Origin and Development* (Cambridge 1979), p. 59f. Quite a number of scholars have recently argued that Gentili's position was actually much closer to, or even part of, the natural law tradition. See B. Kingsbury and B. Straumann (eds.), "Introduction" in A. Gentili, *De armis Romanis*, ed. by B. Kingsbury and B. Straumann (Oxford 2011), p. XV: 'As in Cicero, there is a strong sense in *The Wars of the Romans* that the specifically Roman institution of *fetial law*, with its just-war procedure, has the source of its validity in natural law' and A. Wagner, "Francisco de Vitoria and Alberico Gentili on the Legal Character of the Global Commonwealth" in *Oxford Journal of Legal Studies* 31 (2011), p. 575: 'For Gentili, natural law is the foundation of international law'.

Europe. One was the natural law theory (. . .) the other was the theory of “Machiavelli and the *politiques*”.⁶ But despite this intellectual divide within the natural law tradition as well as among the *politiques*, there existed not just one homogeneous doctrine but competing strands of political thought. Gentili was part of these different currents, as is particularly clear in his position towards Machiavelli, as well as his engagement with prominent contemporary criticism of the Florentine.⁷

Well-versed in the different currents of political philosophy, Gentili was a prominent jurist of his time.⁸ He was equally acquainted with the literature on *reason of state* and notably Machiavelli and Guicciardini. Furthermore, he was well-versed in French political thought, particularly that of Jean Bodin, as this had emerged in the context of the Huguenots’ struggle for recognition of their reformed faith. After the massacres of Saint Bartholomew’s Day in 1572, this literature changed in tone and strategy: the argument now explored whether and to what extent resistance was legitimate even against the monarch. The most notorious argument along these monarchomach lines was advocated in the *Vindiciae contra Tyrannos* (1579).

Despite the similarity with his own religious and political affiliations, the Huguenot arguments for political resistance posed a threat to Gentili’s thinking on interstate relations. He saw the political theories put forward by his fellow Protestants, as much as those of the Catholics, as menacing an interstate order of peaceful relations. This order, according to Gentili, could only be established among sovereign states able to trust each other at a minimum level. Whereas Machiavelli’s name and works were regularly used in these polemics to denounce any political and confessional enemy

⁶ Q. Skinner, *The Foundations of Modern Political Thought* vol. 2 (Cambridge 1978), p. 172. The same point was made by L. Strauss, *Natural Right and History* (Chicago 1971), p. 190. Quentin Skinner discusses this with specific reference to Pedro Ribadeneira’s *Religion and the Virtues of the Christian Prince against Machiavelli*. In substance he follows Leo Strauss’s argument. See also H. Höpfl, *Jesuit Political Thought. The Society of Jesus and the State, c. 1540–1630* (Cambridge 2004), esp. p. 164–167.

⁷ Andreas Wagner convincingly argued that Richard Tuck’s dichotomy of ‘the “humanist” and “scholastic” views’ (R. Tuck, *War and Peace*, p. 9) ‘masks the diversity of (at least) the humanist camp’. A. Wagner, “Lessons of Imperialism and of the Law of Nations: Alberico Gentili’s Early Modern Appeal to Roman Law” in *The European Journal of International Law* 23 (2012), p. 876. See also B. Kingsbury and B. Straumann (eds.), “Introduction”, p. XXIII: ‘Gentili (. . .) cannot be situated in any simple way in a “humanist” camp’ and, from the perspective of the Spanish scholastics, Pagden, “Gentili, Vitoria, and the Fabrication of a ‘Natural Law of Nations’”, p. 345: ‘the more one examines the humanist/scholastic or humanist/theologian distinction the more fuzzy it becomes. The various members of the “School of Salamanca” were by no means consistent in their opposition to humanism’.

⁸ He was Regius professor of civil law at Oxford.

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as treacherous, Gentili's reading of Machiavelli revealed a less biased viewpoint, enabling him to discuss the provocative and divisive issue of trust exposed in the *Principe* without denouncing Machiavelli.

Gentili's discussion of interstate trust was closely related to his understanding of state sovereignty. He endeavoured to extend Jean Bodin's concept of sovereignty to the sphere of interstate relations, and, in doing so, he challenged the existing natural law doctrine and the theory of a *just war*⁹, the terms of which were still dominated by Catholic thinkers. At the end of the sixteenth century, Alberico Gentili was perhaps the first political thinker to recognise the fundamental problem of the relationship between sovereign states: the very nature of their sovereignty precluded pacification of what was in effect an anarchical society. Despite this, he advocated that any solution to this problem had to be founded on the concept of sovereign states. For Gentili's discussion of international political order, sovereignty is both the problem and the solution.

1.1 Confessional Strife and the Question of Trustworthiness among European States

As Diego Panizza has shown, Gentili argued against, among others, the Dutch Protestant Justus Lipsius, who was involved in one of the principal religious–political struggles.¹⁰ Gentili rejected Lipsius's argument, because in his view, it culminated in the assertion that religious unity was essential for social cohesion and civil stability. For Gentili, on the contrary, to enforce religious unity was more a reason for sedition and a cause of strife than a factor of stability. What of Huguenot resistance theory? Despite some drastic rhetoric and the repeated outbreak of open civil war, the Huguenots' position had always been that they needed to address a wrong which had been committed by zealous advisers of the Crown, not by the Crown itself. The Saint Bartholomew's Day massacres marked a significant shift in attitude. It is important to note that the massacres were followed by gleeful

⁹ Gentili uses the term *just war*, but from the outset of his main work he makes clear that he employs it with a very different meaning. See A. Gentili, *The Three Books on the Law of War*, ed. by J. C. Rolfe (Oxford 1933), p. 14.

¹⁰ See notably D. Panizza, "Il pensiero politico di Alberico Gentili. Religione, virtù e ragion di stato" in D. Panizza (ed.), *Alberico Gentili Politica e religione nell'Età delle Guerre di Religione* (Milan 2002), p. 57–213, esp. p. 75 and p. 88–89. On Lipsius's political thought, see E. de Bom, M. Janssens, T. Van Houdt and J. Papy (eds.), *(Un)masking the Realities of Power. Justus Lipsius and the Dynamics of Political Writing in Early Modern Europe* (Leiden 2011). His main political theory is now available in an excellent translation: J. Lipsius, *Politica. Six Books of Politics or Political Instruction*, ed. and translated by J. Waszink (Amsterdam 2002).

anti-Huguenot Catholic propaganda, for instance, the anonymously published *Allegresse chrestienne*, or *Discours contre les Huguenotz*. These aggressive anti-Huguenot writings were seconded by semi-official pamphlets by Legier du Chesne or Claude Nouvelle, to name only two.¹¹ Gentili perceived the threat to political stability posed by Huguenot responses such as *Vindiciae contra Tyrannos* that openly endorsed armed resistance against the monarchy.¹² Confessional antagonism within a single state undermined legitimate sovereignty.

Nevertheless, Gentili proposed a framework to restrict the wars which threatened to tear Europe apart. It was based on the concept of sovereign states, that is to say the order and stability of princely or republican government. While it is true to say that ‘Gentili did not completely possess the modern concept of sovereignty’¹³, he nonetheless saw the state as the decisive agent in the international sphere.¹⁴ Sovereign states might be both a challenge and a solution to the problem of organising interstate relations,

¹¹ Anonymous, *Allegresse chrestienne de l'heureux succes des guerres de ce royaume* (Paris 1772), Anonymous, *Discours contre les Huguenotz, auquel est contenue et déclarée la source de leur damnable religion* (Lyon 1573), L. du Chesne, *Exhortation au Roy, pour vertueusement poursuivre ce que sagement il a commencé contre les Huguenots, avec les Epitaphes de Gaspar de Colligny* (Paris 1572), C. Nouvell, *Ode triomfale au roy, sus l'equitable justice que sa majesté fait des rebelles, la veille et jour de saint Loys* (Paris 1572). See F. J. Baumgartner, *Radical Reactionaries: The Political Thought of the French Catholic League* (Geneva 1975) and R. Birely, *The Counter-Reformation Prince: Anti-Machiavellism or Catholic Statecraft in Early Modern Europe* (London 1990).

¹² Cf., for example, Anonymous, *Remonstrance d'un bon Catholique françois aux trois estats de France* (n.p. 1576). This good Catholic is, of course, everything but a good Catholic. The main thrust of the argument claims, similarly to the *Vindiciae contra Tyrannos*, that Machiavelli's odious teachings are to blame for the massacre. The anonymously published *De furoribus Gallicis, horrenda et indigna amirallij Castellionei, nobilium atque illustrium virorum caede...* (Basle 1573), which is now attributed to Hotman, argued in a similar vein. See also F. de La Noue, *Discours politiques et militaires* (Basle 1687). Particularly instructive on the St Bartholomew's Day massacres are R. M. Kingdon, *Myths about the St Bartholomew's Day Massacres 1572–1576* (Cambridge Mass. 1988), A. Soman (ed.), *The Massacre of St Bartholomew. Reappraisals and Documents* (The Hague 1974). On the French Wars of Religion more generally, see M. Yardeni, *La conscience nationale en France pendant les guerres de religion, 1559–1598* (Paris 1971), M. P. Holt, *The French Wars of Religion, 1562–1629* (Cambridge 1995) and J. H. M. Salmon, *The French Religious Wars in English Political Thought* (Oxford 1959).

¹³ Panizza, “Il pensiero politico di Alberico Gentili”, p. 158: ‘Gentili (...) non possedeva compiutamente il concetto moderni *sovranità*, ma mostrava un chiaro senso della distinzione dei due ordini di realtà, quella di interna e quella di internazionale’. See also B. Kingsbury, “Confronting Difference: The Puzzling Durability of Gentili's Combination of Pragmatic Pluralism and Normative Judgement” in *The American Journal of International Law* 92 (1998), p. 714f.: ‘Gentili does not have a very precise concept of the state – he discusses many different types of political entities without much distinction. (...) the whole concept of sovereignty is not clearly developed’. More generally on this subject see L. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge 2010).

¹⁴ P. Haggenmacher, “Grotius and Gentili: A Reassessment of Thomas E. Holland's Inaugural Lecture” in *Hugo Grotius and International Relations*, ed. by H. Bull, B. Kingsbury and A. Roberts (Oxford 1990), p. 172.

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but the idea of a single universal sovereign as potential arbiter, such as the Pope – who had indeed claimed and assumed such a role, most famously in the Treatise of Tordesillas in 1494¹⁵ – was not a feasible option for Gentili.¹⁶

We begin to recognise why Huguenot political writings such as the anonymous *Vindiciae contra Tyrannos*, were particularly unsettling for Gentili's own position. In the preface to the *Vindiciae*, the rhetorical ploy was to accuse the advisers of the French Crown of plotting against the Huguenots: 'You princes of men, I consider that these investigations [undertaken in the *Vindiciae*] are able to contradict both the Machiavellians and their books, by whose wicked counsels the commonwealth is divided by so many civil dissensions, factions, and disturbances'.¹⁷ To what extent the *Vindiciae* engaged with Machiavelli's *Principe* is still debated.¹⁸ Despite the ardent rhetoric of the preface, there is only one explicit mention of Machiavelli in the main body of the text. However, there are many allusions to the Florentine which would have been clearly identifiable to contemporary readers. Gentili's engagement with the *Principe* and the *Vindiciae* draws into focus an unsettling core issue of sixteenth-century, political and moral theory. He was a close reader, indeed a great admirer, of Machiavelli. When combined with his own intellectual engagement with Machiavelli's theory¹⁹, Gentili's study of the anti-Machiavellian rhetoric in the *Vindiciae* led him to an illuminating understanding of Machiavelli that would provide a crucial starting point for tackling the problems of interstate relations and the role of trust.²⁰

¹⁵ See F. de Vitoria, "On the American Indies" in *Vitoria, Political Writings*, ed. by A. Pagden and J. Lawrence (Cambridge 2003), p. 285, who endorses this authority of arbitration of the Pope. For the Treaty of Tordesillas and its wider context, see M. E. Wiesner-Hanks, *Early Modern Europe, 1450–1789* (Cambridge 2006), p. 229–231.

¹⁶ See, for example, Gentili, *On the Law of War*, p. 16 where he dismisses the Pope as arbiter between sovereign states, as well as A. Gentili, *Hispanicae Advocatio Libri Duo*, translated by F. Frost Abbott (Oxford 1921), p. 95.

¹⁷ S. J. Brutus, *Vindiciae contra Tyrannos or, Concerning the Legitimate Power of a Prince over the People, and of the People over a Prince*, ed. and translated by G. Garnett (Cambridge 1994), p. 10.

¹⁸ Cf. E. Barker, *Church, State and Study* (London 1930), esp. p. 72–108. Pertinent and most comprehensive is G. Garnett, "Editor's Introduction" in S. J. Brutus, *Vindiciae contra Tyrannos*, esp. p. XXI–XXII. S. Mastellone, *Venalità e Machiavellismo in Francia (1572–1610)* (Florence 1972), p. 58–60 suggests that Innocent Gentillet might be the author of the preface. But this seems merely an interesting speculation without any substantial proof.

¹⁹ Panizza, "Il pensiero politico di Alberico Gentili", p. 126 characterises 'Machiavelli [next to Aristotle as] l'altra autorità paradigmatica dell'universo teorico-politico di Gentili'. See also D. Panizza, "Political Theory and Jurisprudence in Gentili's *De Iure Belli*. The Great Debate between 'theological' and 'humanist' Perspectives from Vitoria to Grotius" in *The Roots of International Law*, ed. by P.-M. Dupuy and V. Chetail (Leiden 2014), who rightly stresses that 'the "Machiavellian Moment" (...) certainly defines the "theoretical-political" dimension of his [Gentili's] *De Iure Belli*', p. 214.

²⁰ This is not to suggest that this explicitly political aspect of Gentili's theory should be perceived as replacing his juridical argument. However, it certainly complemented it. Given that modern

Machiavelli's legacy to Gentili concerned the question of trust in inter-state relations specifically and in politics as a whole. In Chapter XVIII of the *Principe*, Machiavelli asked if princes should keep their word. The chapter opens by posing the problem in unambiguous terms: 'Everyone knows how praiseworthy it is for a ruler to keep his promises, and live uprightly and not by trickery. Nevertheless, experience shows that in our times rulers who have done great things are those who have set little store by keeping their word, being skilful rather in cunningly confusing men; they have got the better of those who have relied on being trustworthy. (...) Therefore, a prudent ruler cannot keep his word, nor should he, when such fidelity would damage him, and when reasons that made him promise are no longer relevant. This advice would not be sound if all men were upright; but because they are treacherous and would not keep their promises to you, you should not consider yourself bound to keep your promises to them'.²¹

It was this kind of advice that caused Catholics and Protestants alike to react against Machiavelli with such vehemence.²² It was also in this context that Gentili had to position himself.²³ Machiavelli discussed trust

interpretation of Gentili's thought – aside from a few exceptions – is largely dominated by legal historians and their discussion about his juridical argument, my interpretation hopes to shed light on a less studied, but no less important, aspect of his thought.

- ²¹ N. Machiavelli, *The Prince*, ed. by Q. Skinner and R. Price (Cambridge 2008), p. 61–62. M. Jay, *The Virtues of Mendacity. On Lying in Politics* (Charlottesville 2010), p. 48: 'Lying, it seems, impedes the basic trust'.
- ²² Around the time that Gentili published his major writings, his countryman Giovanni Botero, who had left the Jesuit order in 1581, published his critique of Machiavelli, *Della ragion di stato*, in 1589, four years after Gentili's *De Legationibus* of 1585 and nine years before his *De Iure Belli* of 1598. The Spanish Jesuit Pedro Ribadeneyra published his *Tratado de la religion y Virtudes que deve tener el Principe Christiano, para gobernar y conservar sus Estados*. This explicit attack on Machiavelli and the *politiques* first appeared in 1595, was widely circulated, and reprinted in several editions. These writings, together with Justus Lipsius's *Politicorum sive civilis doctrinae libri sex* (1589) and Jean Bodin's *Six Livres de la République* (1576), as well as the polemical writings which dominated the immediate aftermath of the St Bartholomew's Day massacres, provide the context for Gentili's own theory. This is still a very limited selection of a much more complex ongoing debate. For the Jesuit's engagement with Machiavelli, see the masterful study by Höpfl, *Jesuit Political Thought*, esp. p. 84–90. See also C. Benoist, *Le Machiavellisme* (Paris 1936), A. M. Battista, "Sull'antimachiavellismo francese del secolo XVI" in *Storia e Politica* 1 (1962), p. 412–447, G. Procacci, *Machiavelli nella cultura Europea dell'età moderna* (Rome 1995). S. Anglo, *Machiavelli. The first Century* (Oxford 2005), esp. p. 229–414 is, despite its focus on Gentillet, helpful on the wider Catholic and Huguenot context, but adds hardly anything on Gentili. R. W. Truman, *Spanish Treatises on Government, Society and Religion in the Time of Philip II* (Leiden 1999), esp. p. 277–314, Birely, *The Counter-Reformation Prince*, esp. p. 111–135 and the excellent essay by A. Merle, "Un aspect de l'antimachiavélisme des Jésuites: Le Prince Chrétien de Pedro de Ribadeneyra entre simulation et dissimulation" in *Les Jésuites en Espagne et en Amérique*, ed. by A. Molinié, A. Merle and A. Guillaume-Alonso (Paris 2007), p. 111–140.
- ²³ The most notable attacks on Machiavelli were Innocent Gentillet's *Anti-Machiavel* and the notorious *Vindiciae contra Tyrannos*. Gentili makes his own position on the *Anti-Machiavel* abundantly clear:

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and faithfulness as an option a prince or a politician was able to choose or reject. They could keep their word and trust others to do the same. Or they could break their word and would have to expect that others would not trust them that easily in the future. Machiavelli stressed a dynamic understanding of trust that opened up the scope of human action. Only on this basis was it meaningful to carry out a political or prudential calculation of whether or not to trust others.²⁴

The ideological and political agenda Gentili pursued in his interpretation of Machiavelli reveals his view of the relationship between politics and religion. He explored the scope and, in his view, the political necessity of confessional coexistence, in concurrence with discussions of sovereign state power. Or, in other words, he addressed the issue of sovereignty and resistance, which had profound implications for regulating the relationship between states of differing confessions.²⁵ His legal and political theory is based on the cardinal assumption that there is still scope for mutual trust between such states. But how could he establish a basis for trust? This question had been contested in antiquity²⁶, and Gentili had to demonstrate

‘The fact that some claim that he was a man of no learning and of criminal tendencies makes no difference to me. It is his remarkable insight that I praise; I do not defend his impiety or his lack of integrity, if actually he had such faults. And yet if I, reviewing *the book issued against him* [my emphasis], take into consideration his position, if I give a just estimate of his purpose in writing, and if I choose to reinforce his words by sounder interpretation, I do not see why I can not free from such charges the reputation of this man who has now passed away. He was not understood by the person who wrote against him and he has been calumniated in many ways. There is no doubt that Machiavelli is a man who deserves our commiseration in the highest degree’. Gentili, *Three Books on Embassies*, p. 156. Given that Gentili was one of the few writers who dismissed Gentiler’s criticism of Machiavelli and defended the latter against the charges issued against him in the anonymously published *Anti-Machiavel*, I will focus on the *Vindiciae contra Tyrannos* rather than on the *Anti-Machiavel* when assessing Gentili’s take on the Huguenot writings on religion, state and resistance.

²⁴ This is important to note, as Christian religion worked with a static concept of trust and faith. There was no alternative than to trust in God, unless you were prepared to be damned. See the entry on *Vertrauen* (trust) in J. H. Zedler (ed.), *Großes vollständiges Universal-Lexikon aller Wissenschaften und Künste* vol. 48 (Leipzig, Halle 1746), p. 19–29. The parallel with modern conceptualisations of trust is striking. Hartmann criticised modern scholarship on trust and argued that trust should not be seen as ‘an apriori stance to be treated as [a] psychological or ontological default position’. M. Hartmann, “On the Concept of Basic Trust” in *Behemoth. A Journal on Civilisation* 8 (2015), p. 13.

²⁵ For the crucial controversy between Gentili and the orthodox theologians at Oxford University see D. Panizza, *Alberico Gentili giurista ideologo nell’Inghilterra elisabettiana* (Padua 1981), p. 55–87 and Panizza, “Il pensiero politico di Alberico Gentili”, p. 116.

²⁶ Most famously by Carneades. Neither in *De Iure Belli* nor in *De Legationibus* did Gentili mention Carneades, and he mentioned him only once in *De armis Romanis* (cf. Gentili, *De armis Romanis*, p. 69), but the whole structure of this book reflects the famous debate which he would have known about via Lactantius’s *Divine institutions*. Cicero’s *De republica* or *On the Commonwealth* was only rediscovered in 1819. ‘Book 3 [of *On the Commonwealth*] contains what was undoubtedly the most famous section of the dialogue in antiquity, a reformulation of the pair of speeches delivered by the Academic Carneades in Rome 155 BCE in which he had argued on successive days that justice is

how the challenge could be answered, and how the values of justice, legal order and trust could be achieved and preserved between antagonistic states.

In addition to *De Iure Belli* and *De Legationibus*, we need to consider Gentili's *De armis Romanis* to appreciate how he developed his argument.²⁷ The interpretation of the latter is not straightforward, as the work is divided into two books which argue for opposing positions.²⁸ The first is entitled *Indictment of the Injustice of the Romans in Warfare*, while the second answers the accusation of the first and undertakes, as the title of the second book makes clear, a *Defence of the Justice of the Romans in Warfare*. Depending on whether one takes the first or the second book as Gentili's more authentic position, the resulting conclusions will necessarily be very different. In their introduction, the editors of *De armis Romanis* advance the argument that Book 1 aims to demonstrate the injustice of Rome's expansion, and not to show that there is no such thing as justice or injustice in international relations. In order to show that Rome's imperialism is unjust, they argue, there has to be criteria of justice in the first place. For them, both books make for a coherent argument, because 'both the indictment of Roman imperialism in Book 1 of *The Wars of the Romans* and its defense in Book 2 are predicated on the assumption that it is apposite to judge the expansion of the Roman empire by way of warfare according to certain moral normative criteria – indeed, denying or affirming the justice of the Roman empire is precisely what *The Wars of the Romans* is all about'.²⁹

However, this overstates what these two books are arguing for. Alternatively, *De armis Romanis* can be read as a reconsideration of the problems formulated by Carneades and Machiavelli. This is not necessarily a difference in substance, but rather a difference in emphasis and nuance.

essential to civic life and, conversely, that injustice is essential'. J. E. G. Zetzel, "Introduction" in Cicero, *On the Commonwealth*, ed. by J. E. G. Zetzel (Cambridge 2008), p. XVI. Carneades will play an even greater role for Grotius. See Chapter 3.1.

²⁷ This crucial text is now available in an excellent new edition. Gentili, *De armis Romanis*.

²⁸ Like Carneades in Rome.

²⁹ B. Kingsbury and B. Straumann (eds.), "Introduction", p. XI. See also D. Panizza, "Alberico Gentili's *De armis Romanis*: The Roman Model of Just Empire" in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, ed. by B. Kingsbury and B. Straumann (Oxford 2010), p. 53–84 and D. Luper, "The *De armis Romanis* and the Exemplum of Roman Imperialism" in *The Roman Foundations of the Law of Nations: Alberico Gentili and the Justice of Empire*, ed. by B. Kingsbury and B. Straumann (Oxford 2010), p. 85–100. Wagner, "Lessons of Imperialism and of the Law of Nations" advances a different position. Cicero argued that 'the whole of our fetial code is about such an enemy [who is just and legitimate] and we have many other laws that are shared'. Cicero, *On Duties*, III-107, p. 149.

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My interpretation of how Gentili constructively engaged with Machiavelli will focus on the aspect already conceded by Benedict Kingsbury and Benjamin Straumann that ‘there are indications in *The Wars of the Romans* that mere unconstrained imperial self-interest could amount to a justifying principle. Such a prudential principle, devoid of any moral constraint of natural law, would situate that work quite obviously in a prudential, Machiavellian tradition of *ragion di stato*’.³⁰

Nevertheless, it is in his *De Iure Belli* and to a lesser extent *De Legationibus* that Gentili discusses most fully the challenges for a political order between sovereign states of his own time. Above all, for Gentili the differences of Christian confessions must not stand in the way of an emerging European state system. If his argument was to work, he had to show that, despite Machiavelli’s advice in the *Principe*, trust and good faith in the domain of interstate politics were possible. The explosive amalgam of simplified Machiavellian concepts and the actuality of religious strife was the obstacle to overcome.

Although it may seem that Pedro Ribadeneyra argued in a similar vein when he advised the Christian Princes not to follow Machiavelli’s advice, there are fundamental differences to Gentili’s position: ‘because Machiavelli teaches that sometimes the Prince should break his word and his faith, (...) it is very fitting that the Christian Prince be very attentive and greatly consider first what he says, promises, and swears; but afterwards that he be constant and firm in fulfilling what before God he has promised and sworn. And let him know for certain that the keeping of his faith and word is very important for the conservation of his State and for being better thought of, richer, better obeyed, and feared’.³¹ The underlying issue concerns the reasonable expectation of mutual trust and faith. Ribadeneyra argues that Machiavelli’s theory undermines all possibility of trusting in the promises and declarations of others, notably due to the lack of fundamental moral values in the absence of religion. But unlike Ribadeneyra, Gentili was well aware of the *problématique* Machiavelli had set out in his political writings. In the second book of his *De armis Romanis*, Gentili endorsed the reason of state argument, which allowed the state to make use of all available means in the case of necessity. Machiavelli and Gentili referred to the existing discussion of Roman writers on the question of whether and to what extent necessity allowed moral and legal standards to be overridden

³⁰ B. Kingsbury and B. Straumann (eds.), ‘Introduction’, p. XXIV.

³¹ P. Ribadeneyra, *Religion and the Virtues of the Christian Prince – against Machiavelli*, ed. by G. A. Moore (Washington 1949), p. 303.