THE LEGALITY OF WAR
Article 1: “condemn recourse to war for the solution of international controversies, and renounce it, as an instrument of national policy in their relations with one another.”
Japan Invades Manchuria, 1931
Italy Invades Ethiopia, 1935
Germany Invades Poland, 1939
“The conception of renouncing war by governmental fiat seems inherently absurd.”

Henry Cabot Lodge
Hugo Grotius, 1583-1645
Plan of the Lecture

1) Dutch-Portuguese Conflict in East Indies
2) Seizure of the *Santa Catarina* by Heemskerck
3) Grotius’ defense of Heemskerck
4) Grotius’ construction of the Old World Order
5) Significance of Kellogg-Briand Pact
Portuguese Empire
Philip II of Spain / Philip I of Portugal
Dutch Revolt Against Spain (1568-1648)
Insula Cora esse tenet Mauritius. Insula egna is eclusins Maurity.

N. I.

De Uit, Marineris, 

De melknap, 

Troyo saltar

Droochte

Droochte

Ins. egna Lusit. a nostris Maurity nomine indigita, sita ad 22° gradum ab Equoctiali Meridiem versus inventa et detecta Decima octava die mensis Septembris annum 1598.
Portuguese Siege of Bantam, 1601
(Claes Visscher)
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THE

ADAMUS EXUL OF GROTIIUS;

OR THE

PROTOYPE OF PARADISE LOST.

NOW FIRST TRANSLATED FROM THE LATIN,

BY

FRANCIS BARHAM, Esq.

LONDON:

SHERWOOD, GILBERT, AND PIPER;
SIMPKIN & CO.; WHITTAKER & CO.;
PATERNOSTER-ROW.
1839.

777.
HUGONIS GROTI

DE

JURE PRAEDEA

COMMENTARIUS.

Ex Auctoris Codice descripti et vulgavit

H. G. HAMAKER, A.M. D.D.

YALE LAW LIBRARY.

HAGAE COMITUM

APUD MARTINUM NIJHOFF.

CIOBCCCCLVIII.
Lettre de Marque.

Aux représentants du peuple des États de la République française, aux États de la Confédération du Rhin.

...
1) Did Maurice have the authority to issue a letter of marque?

2) Did Heemskerck act within its terms?
Heemskerck was a privateer in a public war
Heemskerck was a soldier in a private war.
Remedial Conception of War

War is a permissible remedy for wrongdoing

“[W]ar is just for the very reason that it tends toward the attainment of rights; and in seizing prize or booty, we are attaining through war that which is rightfully ours.” (DJP, 68)
“subject matter ... is the same in warfare as in judicial trials.” (104)

- Collect debts
- Recovery property
- Compensation for accidents
- Resolve dynastic disputes
- Seek redress for treaty violations
- Protect freedom of the seas
- Punish crimes
- Self Defense
Scott    Hugo

You
Battle of Gibraltar (1607)
HUGONIS GROTII
DE
IVRE BELLI
AC PACIS
LIBRI TRES.

In quibus jus naturæ & Gentium: item juris publici præcipua explicantur.

Editio secunda emendatur, & multis locis auctior.

AMSTERDAMI,
Apud Gvilielmvm Blaevw.
1691
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Private War: No Justice, No Rights

Public War: No Justice, Yes Rights

Just Wars without Just Causes
“Neither slaves nor things taken in war are restored with peace. ... To controvert this principle would in truth be to make wars to spring up with wars.” (Bk 3, ch. 9, sec. iv, 3)

“To undertake to decide regarding the justice of a war between two peoples would be dangerous for those who interfered ....” (Bk 3, ch. 4, iv)
A war is often called just (justum bellum) not from the cause from which it arises … but because of its peculiar legal consequences. (BK III, Ch 3, 1).

Power to acquire Booty
Immunity to Prosecution
Power of Conquest
Duress is not a defense to a coerced agreement
The Old World Order

- Rights of Conquest
- Immunity from Prosecution
- Privilege to use Force
  - Gunboat Diplomacy
  - Strict Duties of Neutrality
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