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# Literature and the Law of Nations, 1580-1680 / Christopher N. Warren

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**Christopher N. Warren. *Literature and the Law of Nations, 1580–1680*. Oxford: Oxford University Press, 2015. 286 pp.**

Reviewed by JASON E. COHEN

Christopher Warren, perhaps best known already as the face of the Six Degrees of Francis Bacon project, has produced an impressive first book, *Literature and the Law of Nations, 1580-1620*. In it he pursues a far-reaching intervention through its twinned scholarly directions, and in so doing, hopes to ground in early modern literary forms problems in international law that continue to resonate with us today. The most forceful arguments in Warren's book succeed in historicizing and contextualizing the terms according to which an early modern law of nations (*jus gentium*) operated through the conventions of genre (5). Warren argues broadly that modern legal categories emerged as categories for organizing foreign and domestic "persons, actions, events, and evidence" (2). A useful remedy to the tendency to apply anachronistic terms such as globalism, cosmopolitanism and even internationalism to the early modern world, this book shows how the law of nations gave rise to the very concept of "international law" in the work of Jeremy Bentham (1). By directing the terms of analysis to the period prior to that later coinage, Warren describes how the law of nations also drew upon a diverse range of quasi-legal categories including, for instance, private domain, possession, and property that allow the project to consider topics more frequently associated with domestic affairs. The distinction between a greater (public) and lesser (private) law of nations also serves Warren as a platform for teasing out insightful distinctions in generic convention, understood specifically to entail conceptual links to law through the relationship of *gens*, the root of "genre," to categorical terms such as "*kind, house, family, or people*" in addition to "*nation*" (3, original emphasis). The argument for genre as the basis for translation from literary forms to legal categories at times, and for all its strengths, strains the limits of structural analysis, particularly in claims that hinge on the function of "singular moments," Aristotelian "ultimate particulars," and "topicality" (23) to assert, citing Foucault, a "homology" between literary and legal conventions taken "from the common source of humanist *praxis*" (24).

"The Stakes of International Law and Literature," central to the Introduction, sets out the project's centrally intertwined arguments: Warren uncovers an analogy between genre and law in their parallel capacities to operate as generative structures. The categories of epic, tragic, comic, historical, and tragicomic facilitate the development of relationships such as property, subjecthood, and responsibility that, in turn, carry legal weight and reflect on the physically and epistemologically "built" logic of legal decision-making (15). In each chapter, Warren pursues one genre and one central legal issue in the process of discussing the "problematic of the made" (14), wherein like genres, laws are refined, ameliorated, and delimited over time.

Beginning in Chapter Two with a discussion of epic and public international law in Sidney and Alberico Gentili, Warren uncovers the "morally

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fraught” (33) ambivalence in the early modern jurists’ discussions of the low threshold required by sovereigns to declare enemy status (*inimicus*). One wants in this discussion perhaps more than a mere wave toward that concept’s difficult return in the Nazi jurist Carl Schmitt’s seminal work in the early twentieth century, particularly given the treatment that the term has received in recent Continental philosophy from Derrida to Agamben; nevertheless, Warren’s discussion of the Ciceronian roots of public international law are productively sharpened by an emphasis on the epic tropes that reflect the political ambiguities inherent in *jus gentium*. The third chapter discusses Roman comedy through a study of *Pericles* as grounds for excavating the function of recognition (*anagnorisis*) in private international law, including a fascinating discussion of how legitimacy relates to property seized in piracy that, following prize law, emerges in Shakespeare’s capacious interest in the rapidly expanding world of the seventeenth century. The Union debates shape Chapter Four’s focus on tragicomic form in *The Winter’s Tale*, its genre defined as a boundary-scenario for new “geopolitical” as well as “rhetorical forms” (126) that require a dialectal view to resolve conflicting positions. Turning in Chapter Five to the genre of history by way of Thomas’s Hobbes’s translation of Thucydides’s *History of the Peloponnesian War* (1629), Warren tracks a shift toward autonomy in the Virginia Company’s charter by showing how Hobbes, acting as both humanist historian and translator, used “custom” (130) in canon law to justify the Company’s retribution in response to the Dutch East India Company’s 1624 massacre of the English at Amboyna. Chapters Six and Seven work together to treat Milton via Grotius, first through an attention to biblical tragedy and *jus bellum* (just war doctrine) in *Samson Agonistes*, and subsequently through an analysis of Eve’s choice to disobey God in *Paradise Lost* by comparison with the later human rights doctrine of the “responsibility to protect.” These two chapters suggest how Warren is thinking about the early modern moment as foundational to contemporary problems in human rights because, as he debates the juridical limitations of sovereignty in chapter six and the domestic limitations of Adam’s responsibility to protect Eve in chapter seven, he positions the early modern moment as the grounds by which laws have in subsequent centuries come to articulate structurally-organized models to mediate or alleviate the perpetual iniquities of human difference and power.

Consider the limitations to Warren’s paired law-genre approach for a moment. How do we read his argument, for instance, when he proposes, “In the heat of international controversy, words of law sublimated to become powerful literature. Under pressure, literature solidified into law” (18)? Similarly, he suggests, genre-based “*topoi* hardened into recognizable kinds of international law” (19). His chiasmic formulation seems at first glance to articulate a balanced reciprocity where the pressure of one domain crystalizes in the other; however, the closer we get to his text here and elsewhere, the more Warren’s deepest claim suggests that literature reduces to law, whether through genre-based conventions, juridical processes and entailments, or the regulatory schema associated with property, personhood, or the status of agents and goods. One wonders, for instance, about how the functions of affect and imagination (terms with which Warren engages secondarily) might refract his focus on generic analysis. When Warren insightfully

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discusses Eve's election of autonomy in *Paradise Lost* in terms of the sovereign boundaries of protection, for instance, he loses track of Eve's intimate language as it becomes displaced by his appreciably careful concern for her status as a juridical subject. Similarly, while the discussion of *Pericles* ranks among my favorite arguments in this book, its highly selective attention to policies of prize and piracy under the tenets of *jure praedae* draw the analysis away from some of the most challenging textual moments, such as the gendered problems of privacy that underlie the Antiochus episode or the rich economic ironies shaping Marina's fate after being sold into the sex trade in Mytilene. This claim for seeing law as a distillation of literature supplies Warren with a powerful but incomplete analytic: ultimately, and despite its formidable power, law does not supply a totalizing discourse. It is to Warren's credit that his interest in finding the limitations of the law of nations presents yet another challenge, equal to the processes of determining its early modern genealogy.

Warren's brilliant Conclusion reflects on the instabilities we have inherited from the authors who gave shape to an early modern law of nations. Taking up the contemporary issue of human rights, the book's coda calls attention to a 1997 Introduction to Alberico Gentili's 1585 classic title in intentional law, *De Legationibus*, by John Yoo, one of the principle legal architects of George W. Bush's harsh interrogation policy, which ultimately licensed the tortures at Abu Ghraib prison and beyond. In Yoo's reductive gloss of Gentili, Warren rightly sees an implicit rationale *avant la lettre* for the autocratic policies Yoo would later author under the second Bush presidency. In the final analysis, then, Warren reveals one last way in which the rhetoricity of law itself becomes subject to the same ideological forms and historical contingencies that the rise of early modern imaginative literature anticipated. However much law determines consequences or influences behavior, it is ultimately the work of literature to make sense of the shifting public and private domains that describe our ever more international discipline.

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