A Neglected Aspect of the Early Modern Jurists and Edmund Burke

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In this article, I deal with the issue of how the early modern thinkers dealt, over time, with the question of 'international law' and its enforcement. To draw out Burke's underappreciated view of enforcement, it recounts the law of nations ideas by some of the main jurists of the period such as Vitoria, Gentili and Suárez. As is well known, their differentiation of the law of nations from the law of nature led to the gradual emergence of the legal principle and moral right of intervention to prevent gross violations of the natural law in the discourse of international justice. Such ideas were refined by Grotius, who largely equated international law with punishment, something Pufendorf and Vattel would later criticise. I argue that it is nevertheless Edmund Burke to whom we must look to bridge the two concerns of international law: authority and enforcement. Burke provided the conceptual scope needed to plausibly resolve the issues of enforcement by prescribing specific common law foundations, binding the legal and the moral in international law and presenting it as domestic law. This way of looking at Burke is under-recognised and provides insight into some of the same concerns we face today with enforcement in international law.