The foregoing chapter has retraced the main themes in the debate on the Barbary issue from the second half of the sixteenth century up to the first half of the eighteenth century. The present chapter returns to Vattel. It provides a detailed analysis of his criminalisation of Barbary warfare and contextualises it within his broader project of universalising and enforcing the European law of nations. The chapter emphasises the innovative character of Vattel's intransigent attitude towards Barbary privateering compared with former tolerant views of jurists like Bodin, Grotius and Bynkershoek. In opposition to the pluralist tradition, Vattel posited that the Barbary corsairs' warfare, in particular their habit of enslaving war captives, could no longer be tolerated in a civilised age. It had to be punished by a coalition of powers willing to protect collective security and international trade. The great powers did not follow Vattel's advice immediately, but they would do so from the end of the eighteenth century, when France and the United States justified military adventurism in North Africa in the name of the civilising mission and moral duty to repress piracy.

The chapter commences by illustrating the arguments used by Vattel to criminalise Barbary warfare. It expounds the four conditions he requested as requirements for a war to be lawful: sovereign authority; declaration of war; workable pretext, as opposed to just cause; and compliance with the laws of war. Vattel acknowledged the pluralist argument that the Barbary corsairs acted under sovereign authorisation, but pointed out that they failed to comply with all other requirements for lawful warfare. In particular, he blamed the corsairs for not observing the laws of war as they carried on the 'barbarous' custom of enslaving war captives (a custom in fact followed by Europeans too). It was to eradicate this custom and to ensure maritime security and safety in the Mediterranean that Vattel called on all European nations to join forces and punish the Barbary Regencies.

Collective anti-piracy measures had to be set up not only to repress the Barbary corsairs but also to deter others from committing grave breaches
of the law of nations. Vattel indeed criminalised Barbary privateering to advance a general theory on the repression of international crimes grounded on the idea of collective security. The theory demanded that the ‘civilised’ nations take action to preserve the customs of the ‘war in due form’ as developed from the ‘good mores of Europe’ in the first half of the eighteenth century. The chapter however questions Vattel’s idealisation of the war in due form as opposed to ‘barbarian’ warfare. It notes that Vattel eventually admitted several exceptions to the war in due form, as he clearly privileged military necessity over humanity. In this regard, he came close to realist writers on the _ius belli_ like Gentili, or to just war doctrinarians like Pufendorf, all of whom saw war as a quasi-feral condition hardly restrained by moral obligations, in which every means of injuring the enemy was licit if it was necessary to secure victory. Vattel did not entirely agree with this tradition, but he did not break off from it.

The chapter concludes by problematising the notion of sovereign equality in the _Droit des gens_. Vattel claimed that international offences may be repressed worldwide for the sake of collective security, yet he maintained that European offenders should be punished gently, while irredeemable ‘barbarian’ offenders, for instance warlike Tartar tribes, might be ‘exterminated like ferocious and pernicious beasts’. Allegedly, such warlike peoples could not be deterred by any lesser means. If Vattel began by seeming to put forward an egalitarian approach as he pleaded for all international crimes to be punished, be they committed by ‘civilised’ or ‘uncivilised’ offenders, both inside and outside Europe, he ended by discriminating against the ‘uncivilised’ as far as punishment was concerned.

### Vattel’s Four Requirements for Lawful Warfare

Vattel addressed the Barbary issue in a more radical fashion than most of his predecessors. He felt that Barbary warfare stalled the progress of the law of nations, especially by perpetuating the idea that war captives may be enslaved. By the 1750s the project of establishing ‘civilised’ war customs appeared to many to be accomplished within Europe, and Vattel set out to provide a systematic, doctrinal treatment of such customs and to demonstrate their potential universal validity. In his eyes, Barbary privateering could no longer be tolerated as it trampled on the fundamental principles of the modern law of nations.

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1 _DG_, I, 7, § 81.