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Monopolizing war : codifying the laws of war to reassert governmental authority, 1856-1874 / Eyal Benvenisti and Doreen Lustig

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Abstract:	<p>This article challenges the canonical narrative about civil society's efforts to discipline warfare during the mid-19th century – a narrative of progressive evolution of Enlightenment-inspired laws of war, later to be termed international humanitarian law. Its authors argue that, while the multifaceted influence of civil society was an important catalyst for the inter-governmental codification of the laws of war, the content of that codification did not simply reflect humanitarian sensibilities. Rather, as civil society posed a threat to the governmental monopoly over the regulation of war, the turn to inter-state codification of IHL also assisted governments in securing their authority as the sole regulators in the international terrain. The authors argue that, in codifying the laws of war, the main concern of key European governments was not to protect civilians from combatants' fire, but rather to protect combatants from civilians eager to take up arms to defend their nation – even against their own governments' wishes. These concerns were brought to the fore most forcefully in the Franco-Prussian War of 1870–1871 and the subsequent short-lived, but violent, rise of the Paris Commune. These events formed the backdrop to the Brussels Declaration of 1874, the first comprehensive text on the laws of war. This Declaration exposed civilians to war's harms and supported the growing capitalist economy by ensuring that market interests would be protected from the scourge of war and the consequences of defeat.</p>
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