

Tomasz Tulejski¹
University of Łódź

Paulus Vladimiri and His Forgotten Concept of the Just War

1. Introduction

The theoretical reflection formulated in the neo-scholastic School of Salamanca has been regarded as the source of the contemporary concept of international relations: going beyond the paradigm of the time – determined, on the one hand, by the idea of the holy war and, on the other, by the doctrine of the just war – the Salamanca scholars laid down foundations for the edifice of modern international law². Their reflection was heavily influenced by the circumstances that Europeans faced in the 15th and 16th centuries. Firstly, the discovery of America made the white colonizers come into contact with the indigenous peoples of the New World, which resulted in a need for a unified doctrinal position towards them. Secondly, as a result of the Reformation, the Medieval *Christianitas*, previously united in acknowledging the universal authority of the Pope and the Emperor, disintegrated and split into fiercely opposed factions.

These new circumstances made the Spanish thinkers refer to *ius gentium* as the most widely accepted common ground that could reconcile Catholics, Protestants, infidels and pagans. They had to reinvent universalism in a new, genuine way. They did that by drawing on Christian thought, classical Greek philosophy³ (through Augustine⁴), and Roman jurisprudence (above all, Cicero⁵). Using all these, they developed a new paradigm of international relations, including issues of war and peace. Their intention was to create a universal normative basis that would include relations between the Spaniards and the indigenous population of their American colonies and, in general, all the peoples in the world. That is why Francisco de Vitoria in his work *De Indis Noviter Inventis* rejects the Aristotelian theory of natural slavery, and strives to demonstrate

¹ ORCID number: 0000-0001-9466-1173. E-mail: ttulejski@wpia.uni.lodz.pl

² Ch. Covell, *The Law of Nations in Political Thought: A Critical Survey from Vitoria to Hegel*, Basingstoke–Hampshire –New York 2009, pp. 27–28. I decided to cite only a minimum of Polish literature: despite being rich, especially in its historiographic dimension, it is hardly penetrable for an English-speaking reader.

³ F.H. Russell, *The Just War in the Middle Ages*, Cambridge 1975, p. 9 – footnote.

⁴ D.S. Bax Douglas, *From Constantine to Calvin: The Doctrine of the Just War*, in: Ch. Villa-Vicencio (ed.), *Theology and Violence*, Grand Rapids 1987, p. 155.

⁵ A. Keller, *Cicero: Just War in Classical Antiquity*, in: H.-G. Justenhoven, W.A. Barbieri Jr. (eds.), *From Just War to Modern Peace Ethics*, Berlin–Boston 2012, pp. 16–17; M.T. Karoubi, *Just or Unjust War. International Law and Unilateral Use of Armed Force by States at the Turn of the Twentieth Century*, Aldershot 2004, pp. 60–61.

that indigenous peoples of America are likewise children of God enjoying the same human qualities, and thus are likewise subject to the law of nations⁶. Importantly, Vitoria extends equality before God to the public sphere: he sees it as comprising also nations and states. For this reason, under *ius gentium*, Indians are entitled to the rightful possession of land and are free to run their own states⁷. According to Vitoria, they cannot be deprived of their possessions and lands only for the reason of them being pagans⁸, even by a decision of the Emperor or the Pope, who do not have authority to make such decisions⁹. Christians and non-Christians are therefore seen as equal¹⁰, and the latter have the right to resist unlawful attacks, even if committed by a Christian state. Vitoria says explicitly that “difference of religion is not a cause of just war”¹¹. Thus, he rejects the doctrine of forced conversion (so prominent in the Middle Ages) as unjustifiable, and accepts only peaceful proclamation of the Gospel. Under the natural law, faith must not be imposed by force, thus a war waged with such an intention is unjust. Natural law treats everyone equally, and applies regardless of faith: what was, in the Middle Ages, limited to Christians, becomes universalized and hence gives the doctrine of the just war a completely new dimension. Vitoria clearly draws on the writings of Augustine of Hippo, the father of the Christian concept of the just war¹², and thus he creates a conceptual basis for the subsequent thought of Hugo Grotius or Emer de Vattel (particularly the latter drawing abundantly on the achievements of the Spanish neo-scholastics). In fact, Vitoria’s arguments serve to legitimize the Spanish acquisitions in the New World, not by defining it in terms of Christians-pagans clash (like in the Middle Ages), but arguing from the law of nature standpoint. He points out that the Spaniards conduct a just war, because the native people of America unjustly hinder their propagation of the Christian religion, limit the freedom of travel and trade, refuse to renounce their idols, and abuse their converted tribesmen¹³. However, regardless of Vitoria’s real motives, his work constitutes a return to the roots of the theory of the just war.

The theory underwent a significant evolution in the Middle Ages. Initially universalistic, recognizing equal moral standing of each human person (Christian or not), it transformed into an exclusivist doctrine, applied only to clashes within *Christianitas*. Outside, in the world of barbarians and pagans, the principles developed by Christian theologians and lawyers would not apply. Therefore a conceptualization of relations with strangers posed a great political and intellectual challenge. As a result, a new concept emerged, namely, the concept of holy war. This was in fact a necessary consequence of exclusivism, somehow coming from the theory of the just war, but enriching it with biblical and eschatological themes.

The essence of the holy war, after all, was to help and defend the brothers in faith, suffering under the terrible yoke of the infidels who despise divine laws and defile the holiest places. A crusade, seen from the point of view of the Augustinian theory of

⁶ V.M. Salas Victor, *Francisco de Vitoria on the Ius Gentium and the American Indios*, “Ave Maria Law Review” 2012/2, p. 332.

⁷ S. Zavala, *The Defence of Human Rights in Latin America: Sixteenth to Eighteenth Centuries*, Paris 1964, pp. 21–22.

⁸ F. de Vitoria, *De Indis et de Iure Belli Relectiones*, Washington 1917, pp. 121–123.

⁹ Ch. Covell, *The Law of Nations...*, p. 30.

¹⁰ G. Cavallar, *The Rights of Strangers: Theories of International Hospitality, the Global Community, and Political Justice since Vitoria*, Aldershot 2002, pp. 77–78.

¹¹ F. de Vitoria, *De Indis...*, p. 170.

¹² R.L. Holmes, *St. Augustine and the Just War Theory*, in: G.B. Matthews (ed.), *The Augustinian Tradition*, Los Angeles 1999, p. 323.

¹³ F. de Vitoria, *De Indis...*, pp. 151–159.

war, is fully justified: it constitutes a *iustissimum bellum – bellum sacrum*¹⁴. The just war is not necessarily defensive, but might also be conducted to restore equilibrium and justice. The holy war, however, is not merely political: the desire to restore justice is accompanied by the belief that it constitutes an extension of the struggle between good and evil, in which the Crusaders are the arm of the Lord. In the spiritual dimension, the war is fought by the soldiers of Christ¹⁵, against members of a wicked, depraved tribe serving demons¹⁶ – with the *acolytes of Antichrist*¹⁷. Quite obviously, the rules of the just war developed in Europe are not to apply to the latter. Thus, one might see the fundamental difference between the two concepts: in case of the holy war, ruthlessness towards the enemy is perfectly justified by the higher goal, which is not only to establish earthly peace, but to prepare the ground for Parousia and freeing the world from the servants of Satan. Therefore certain means, while completely unacceptable in the just war against other Christians, are entirely justified against the Saracens: the Peace and Truce of God is not so strict and exception-less during the holy wars conducted in the name of faith. As far as the temporal aspect is concerned, the cause of the holy war might be described in terms of the just war, but the special spiritual context allows the rejection of the principles regarding the manner of its conduct and the goal to be achieved. The latter is not peace or equilibrium between conflicting parties, but the ultimate destruction of the enemy, who is denied a normal human status.

Such a formula of the holy war had been initially applicable only to Muslims, but over time also covered all the pagans and heretics who surrounded *Christianitas*: Mongols, Cumans, Baltic Prussians, and finally Albigenses. These relations with “closer” pagans were, however, interpreted in another, older context. Converting Muslims, even though some attempts were made, was not the target of the crusades: the Muslims were perceived from the Old Testament perspective as those who, like the people of Canaan, should be beaten and destroyed. Conversely, the indigenous tribes inhabiting the eastern and northern outskirts of the Christian world seemed a natural subject of the missionary activity, supposedly being able to gain some independence and political organization within the family of Christian peoples. Therefore, whereas the purpose of the crusades in the Holy Land was to destroy the enemies of the Cross, the Northern Crusades aimed at proclaiming the Gospel and subjugating these lands to Christianity. Especially after the fall of Acre in 1291, European territories became the main field of crusade activity. Supposedly, then, only the discovery of the New World and the intellectual achievements of the Salamanca school broke with this misguided perspective.

It may seem, therefore, that this novel (despite having antique origin) view on relations between Christians and pagans originated among the Spanish monks. However, this view is true only at the first glance. **In this paper, I would like to show that similar ideas preceding the reflection of the school of Salamanca, and often going even further, had appeared a hundred years earlier in the Cracow Academia in the context of a political dispute between the Kingdom of Poland and the Teutonic Order¹⁸. The Polish argument after the battle of Grunwald was based on law, and its unique feature was the return to the universalistic (Augustinian) nature of the just war. What is the most**

¹⁴ Ch. Tyerman Christopher, *God's War. A New History of the Crusades*, Harvard 2006, p. 35.

¹⁵ *Robert the Monk's History of the First Crusade: Historia Iherosolimitana*, Ashgate 2005, p. 180.

¹⁶ *Fulcheri Carnotensis Historia Hielosolimitana*, Heidelberg 1913, p. 135.

¹⁷ *Robert the Monk's History...*, p. 167.

¹⁸ S. Belch, *Paulus Vladimiri and His Doctrine Concerning International Law and Politics*, The Hague 1965, p. 25.

important thing in Augustinian theology of war is Christianity's universalism and recognition of moral equality of those engaged in military operations. The just war is not a category that refers only to the Christian state, but also applies to pagan countries. Hence the wars of pagan Rome, if meeting certain conditions, might also be considered fair. Furthermore, a war is not a priori justified simply because it is led by Christians. They, after all, might also turn out to be members of *civitas terrena* and follow the path of iniquity. The principles of the just war are therefore an element of the *ius gentium*. That is also argumentation used by those continuing Augustine's thought – Isidore of Seville, Anselm of Lucca, Ivo of Chartres, Gratianus in the Decree, and, above all, a Polish jurist of the turn of the 14th and 15th centuries, Paulus Vladimiri.

2. Historical and political background

The Council of Constance saw the culmination of the dispute between the Teutonic Order and the Kingdom of Poland¹⁹. To demonstrate this, I will briefly outline the historical and political background of the conflict, the position of both parties, and the arguments formulated by two eminent Cracow professors: Stanisław of Skarbimierz and Paweł Włodkowic (Paulus Vladimiri).

The 250-year-long dispute between the Teutonic Order and the Kingdom of Poland, which was joined by the Grand Duchy of Lithuania, had begun in 1226 with the invitation of the Order of Brothers of the German House of Saint Mary in Jerusalem to Poland, issued by Duke Konrad I of Mazovia. It was a consequence of the conflicts near the border between the Duchy of Mazovia and the pagan tribes (Old Prussians) living on the Baltic coast. The settlement and Christianization campaigns that had been held in these areas since the 12th century were only moderately successful²⁰, and the borderlands of Mazovia were still exposed to invasions of belligerent pagans. In 1225, when the defence system of the Prussian border, developed by Polish princes through the crusades in 1147, 1166, and 1192²¹, broke down, Konrad found himself in need of radical solutions, and gave the Order a leasehold of the Chełmno and Michałów lands. The Order in turn sought to justify their own existence in the face of the shrinking presence of Christians in the Holy Land. Also, they needed a territorial base for conducting expeditions against pagans. Soon after their arrival into Poland, a conflict arose between Konrad and the Teutonic Knights, as a result of which the latter managed to get the Golden Bull²² in 1235, from Emperor Frederick II, granting them full power over the land obtained originally in leasehold from the Duke of Mazovia. However the detailed history of the further Polish-Teutonic relations is not the main subject of this study, it nevertheless should be noted that over time, after the conquest of the Baltic Prussians and the development of a strong, well-organized religious state, the Teutonic Order became the greatest enemy of the Polish princes. Later, after the reunification of Poland,

¹⁹ Ch.H. Alexandrowicz, *The Law of Nations in Global History*, London 2017, p. 53.

²⁰ D. von Güttner-Sporzyński, *Northern crusades: between holy war and mission*, in: A.J. Boas (ed.), *The Crusader World*, London–New York 2016, pp. 150–153.

²¹ D. von Güttner-Sporzyński, *Northern crusades...*, pp. 148–149.

²² The Bull of Rimini, issued as a result of the efforts of the Grand Master Hermann von Salza, gave the Teutonic Knights rights to all the lands they would conquer in Prussia, recognizing the legality of all the conquests carried out by the Order. Although the bulla was dated to 1226, in fact it was probably issued in 1235, when the Teutonic Knights were seeking independence from Konrad I of Mazovia (see: T. Jasiński, *The Golden Bull Allegedly Issued in 1226 by Friedrich II for the Teutonic Order*, "Quaestiones Medii Aevi Novae" 1998/3, pp. 221–244).

the Order continued to threaten the Kingdom of Poland, subsequently united with the Duchy of Lithuania by a personal union²³.

Three phases can be distinguished in the history of this conflict. The first one, from 1308 to 1343, initiated by the Order seizing the Gdańsk Pomerania²⁴, was a time of intense military and political conflicts. The second period, which began with the peace of Kalisz²⁵ in 1343 and lasted until 1385, was characterized by a relative stabilization of mutual relations. The period of 1385–1410, beginning with the ascension of the Grand Duke Jogaila to the Polish throne as Władysław II, and ending with the Great War, were marked by the emergence of new circumstances determining the legal argumentation of both parties. Finally, after 150 years of conflict, the dispute was submitted to the Council of Constance to adjudicate on the issues of national sovereignty, the rights of pagans, and just war.

The first two periods of the dispute took place within the framework of the doctrine of the just war, having a long tradition in Europe, rooted in Roman jurisprudence, and developed further by Ambrose, Augustine, or Thomas Aquinas. It was the common European basis of legal argumentation, used by both parties to the dispute. The context, and the way the dispute evolved (led primarily by jurists) showed the supremacy of the Teutonic side and inadequate reasoning of the Polish side. In response, the Polish King Casimir III the Great founded (in 1364) the Cracow University to train qualified legal staff. Back then, the University was supposed to be primarily a law school, strongly associated with the court, providing qualified clerks and jurists, like in other European countries²⁶.

It became particularly important when the Grand Duke of Lithuania married Queen Jadwiga, the daughter of Luis the Great of Hungary (dead at the time), and ascended the Polish throne. This opened a new phase of the dispute not only on the political and military plane, but, above all, on the doctrinal and legal plan. Lithuania was a pagan country at the time. Although the Ruthenian lands in Lithuanian possession had been baptized to the Orthodox order already in 988, Lithuania as the state accepted Christianity from Poland only in 1387²⁷ as the implementation of the provisions of the Union of Kreva of 1385, which established personal union between Poland and Lithuania. This fact constituted a fundamental threat to the Teutonic Order, putting into question their very presence by the Baltic sea. For over 130 years the Order had been running a Lithuanian crusade, gaining the support of papacy, the empire, and general respect throughout Christian Europe. After the Christianization of Lithuania, the Teutonic territories became surrounded by Christian countries, which is why their propaganda tried to demonstrate the illusory character of the Lithuanian baptism, and continuous practice of worshipping the pagan gods in this country. Such style persisted in the Teutonic narrative throughout the reign of Władysław II. Indeed, after

²³ M. Starnawska, *A Survey of Research on the History of the Military Orders in Poland in the Middle Ages*, in: V. Mallia-Milanes (ed.), *The Military Orders, Vol. III: History and Heritage*, Aldershot–Burlington 2008, p. 14.

²⁴ See: B. Śliwiński, *Rzeź i zniszczenie Gdańska przez Krzyżaków w 1308 roku: przyczyny, przebieg i skutki* [Eng. *The Slaughter and Destruction of Gdańsk by the Teutonic Knights in 1308: Causes, Course, and Consequences*], Gdańsk 2006.

²⁵ As a result of this treaty, the King Casimir III the Great recovered Cuiavia and the Dobrzyń Land, in exchange for renouncing the claims to the Gdańsk Pomerania, as well as Chelmo and Michałów Lands.

²⁶ M. Owczarska, *Uniwersytet Krakowski w europejskim dyskursie politycznym początku XV w.* [Eng. *The University of Cracow in European Political Discourse in the Beginning of the 15th Century*], in: Z. Rau, T. Tulejski (eds.), *Bellum iustum versus bellum sacrum: Uniwersalny spór w refleksji średniowiecznej. Konstancja 1414–1418* [Eng. *Bellum Iustum versus Bellum Sacrum: A Universal Dispute in Medieval Reflection. Constance 1414–1418*], Toruń 2014, pp. 131–132.

²⁷ D. Baronas Darius, *The Conversion of Lithuania from Pagan Barbarians to Late Medieval Christians*, Vilnius 2015, p. 2.

the battle of Grunwald (germ. Tannenberg, lith. Žalgiris)²⁸ it became the last resort for the defeated Order. That is why Jogaila, like Casimir the Great, acknowledged the importance of strong legal arguments, which were needed to ultimately delegitimize the presence of the Order in North-Eastern Europe. Therefore, in 1400, he renewed the foundation privilege of the University of Cracow, and the burden of defending Poland against the Teutonic accusations rested to a large extent on the jurists and diplomats educated there. The goal was not easy to achieve, as the great Polish-Lithuanian victory at Grunwald was won with the support of not only Orthodox Ruthenians, heretical Czechs, but also Muslim Tatars²⁹.

3. Arguments of the Cracow school at the Council of Constance

The Cracow school doctrine of the just war, shaped by the conflict with the Teutonic Order, was created by Stanisław of Skarbimierz. In his most important sermon on the subject, *De bellis iustis*, he referred to the writings of Augustine, Aquinas, Wilhelm of Rennes, Henri de Segusio, Oldrad da Ponta, and Raymond of Penyafort, and to the Decree of Gracian³⁰. Nevertheless, perhaps the most original element of his argumentation – which was the aftermath of the fight against the Teutonic Order – was the justification for using pagans in a just war against Christians. Stanisław of Skarbimierz asks: “why (...) should they not be considered servants [of God] when they engage in a just war together with Christians pursuing the just cause, fighting against other Christians, who are evil?”³¹. Justifying the positive answer, Stanisław argues that if the rightful peace should be the goal of all efforts, and a kingdom cannot defend itself on its own, then “who in their right mind would take it amiss that [this kingdom] adopted even the unbelievers, if they cannot cope otherwise with securing the peace, which is so beneficial and useful, and is permitted by the law of nature”³². By the very nature of the just war, therefore, it is possible to use all the necessary means to accomplish its goal. Moreover, since Christian rulers can use just “slingers, machines, bombards, and the like in war, then all the more they can use any man to restrain injustice, as man is the most dignified creature in the world”³³. There is no difference whom the righteous monarch uses to punish the unjust Christians, nor is he responsible for their transgressions “insofar as he intends to fight in a just way”³⁴.

²⁸ E. Christiansen, *The Northern Crusades: The Baltic and the Catholic Frontier 1100–1525*, London–Basingstoke 1980, pp. 219–220.

²⁹ M. Biskup, *Wojny Polski z Zakonem Krzyżackim 1308–1521* [Eng. *The Wars Between Poland and the Teutonic Order 1308–1521*], Gdańsk 1993, p. 66.

³⁰ See: L. Ehrlich, *Polski wykład prawa wojny XV wieku. Kazanie Stanisława ze Skarbimierza De bellis iustis* [Eng. *Polish 15th Century Lectures on the Law of War. The Sermon of Stanisław of Skarbimierz. De Bellis Iustis*], Warszawa 1955, pp. 15–38. As for the definition of the just war, Stanisław repeated the arguments of his forerunners (Stanisław ze Skarbimierza, *De bellis iustis*, in: L. Ehrlich (ed.), *Polski wykład...*, pp. 95–97):

§ 4. One might think that a war just insofar as it is conducted by [someone who] is a layman, and not a clergyman, as the latter is forbidden to shed human blood.

§ 5. If it is conducted to restore property or defend the country.

§ 6. If the cause is rightful, that is, when one fights out of necessity, to restore or achieve the infringed peace

§ 7. If the war is not conducted out of hate nor revenge nor greed, but from the love towards the law of God; [to restore] love, justice, and obedience.

§ 8. If it is backed by the authorization obtained from the church (especially when conducted for faith), or from the monarch.

³¹ Stanisław ze Skarbimierza, *De bellis...*, p. 127.

³² Stanisław ze Skarbimierza, *De bellis...*, p. 130

³³ Stanisław ze Skarbimierza, *De bellis...*, p. 131.

³⁴ Stanisław ze Skarbimierza, *De bellis...*, p. 133.

The arguments which question some aspects of the holy war and the justification for the forced conversion are equally innovative. The innate right to refute unlawful aggression is not enjoyed exclusively by Christian rulers, but has a universal character. Like for Augustine, war does not become just because Christians fight with pagans, but by the normative force of justice that is available to all. Good deeds can be performed together with pagans, and “justice and generosity are cardinal virtues that both the faithful and the unfaithful are capable of gaining”³⁵. Therefore, the pagan states may also be just, as the state in itself was “created not only for the faithful, but for every reasonable being”³⁶. Therefore no one, not even the pope – the Vicar of God on earth – is allowed to deprive pagans of their lands as they hold them in accordance with God’s law. Thus, Stanisław of Skarbimierz denies the Order the right to organize expeditions to pagan areas if these have not been provoked by acts of aggression. Also, according to his argument, these expeditions do not have the character of crusades, because this name can refer only to fighting in the Holy Land, which Christians were unjustly deprived of by the Saracens.

This argumentation was the basis of the Polish position at the Council of Constance (1414–1418), presented by another scholar of the Cracow University – Paulus Vladimiri³⁷. He had to face the accusations of the Teutonic side formulated by its two prominent members: the general prosecutor of the Order at the Roman Curia, Peter von Wormditt, and the Dominican priest Johannes Falkenberg. According to the former, who presented his position to the participants of the Council in 1415, the Teutonic Order had effectively been defending Christianity against attacks by pagans for many years, and led to the Christianization of Prussia. Also, the raids against the pagans became a fight school for the entire European knighthood. Unfortunately, the ungrateful and jealousy-driven Poles led by Jogaila, allied with pagans and delivered to the Order a blow aimed at Christianity itself³⁸. Moreover, they had violated all the conditions of the Torun peace, aiming at the destruction of the Order.

Another adversary of Vladimiri, Johannes Falkenberg³⁹, is more radical in his arguments: in his *Satira contra hereses et cetera nephande Polonorum et eorum regis Jaghel*⁴⁰, he clearly argues in terms of the holy war. In this spirit, he intends to show that Poles and Lithuanians do not have any authority to raise their claims and pretenses. From this perspective, the Order constitutes an armed force of Christianity, and enjoys a complete monopoly of righteousness. Therefore, Falkenberg focuses primarily on showing that Władysław II⁴¹ is in fact a pagan who is a threat to the pillar of Christianity in the East, that is, to the Order. “The Poles and their king Jaghel – he writes – want to ravage the church, and having abandoned God, their Creator, seek the false help of the devil.

³⁵ Stanisław ze Skarbimierza, *De bellis...*, p. 133.

³⁶ Stanisław ze Skarbimierza, *De bellis...*, p. 137.

³⁷ L. Ehrlich, *Polski wykład...*, pp. 77–79.

³⁸ E. Christiansen, *The Northern Crusades...*, p. 224.

³⁹ Falkenberg gave his speech after Vladimiri, but as the latter defended Poland against the propaganda used by the Order, and Falkenberg’s speech was in fact a repetition of this propaganda, I decided to present Falkenberg’s view first, for the sake of clarity.

⁴⁰ This work is known also as *Tractatus doctoris cuiusdam de Prutenis contra Polonos et paganos de potestate papae et imperatoris respectu infidelium*. The manuscript, though considered lost for decades, was found at a library in Leipzig. First published in: H. Boockmann, *Johannes Falkenberg, der Deutsche Orden und die Polnische Politik*, Göttingen 1975, pp. 312–353.

⁴¹ Symptomatically, Falkenberg denied that Jogaila had any right to use his Christian name Władysław, and constantly referred to him by his pagan name Jogaila (germ. Jaghel).

Trying to excuse themselves, they say in public and preach that man can fairly accept the help of the devil to overcome the enemy⁴². Therefore, he continues, “the Poles, together with their king Jaghel, (...) are more dangerous to the church than pagans⁴³, and “should be sentenced to deaths more cruel than pagans⁴⁴. All Christian kings and princes, therefore, have a duty to exterminate Poles who deserve eternal damnation. There is no place for neutrality here, because anyone who does not do this godly work becomes a partner of the devil. As one might see, then, Falkenberg’s worldview is heavily influenced by the crusade ideology. The political or legal status is determined by belonging to *Christianitas*, and the rules of interpersonal and international relations cease to apply outside. Law and rules were created only for the baptized, so all others are not to be treated as God’s children, but as children of the devil. Therefore, every means can be used to defeat and convert them, regardless of the circumstances or the alleged rightful claims they might have. Meanwhile, the Polish side tries to break with this view, seeing it as false and contradictory with the spirit of the Gospel.

The Polish response to the Teutonic standpoint was Paulus Vladimiri’s speech on 6 July 1416, in which he exposed the hypocrisy of his adversaries, referring to the natural law and Christian universalism. Vladimiri handed to the German delegates his extensive treaty, known as *Tractatus de potestate papae et imperatoris respectu infidelium* (*The Treaty on the Power of the Pope and the Emperor against the Infidels*⁴⁵). The next day, during the session of the Council, a shortened version of this treaty, the so-called *Opinio Ostiensis, or disputation with the views of Henry de Segusio* was given to the rest of the delegates. Vladimiri omitted the most controversial subject, that is, the problem of reforms in the Church⁴⁶. Instead, he focused on the relatively narrow problem of the power of the Pope and the Emperor over the infidels by presenting an extremely innovative lecture on the just war and forced conversion.

At the outset, Vladimiri compares the methods of Christianization used by the Order with those applied by the Kingdom of Poland. Whereas the former uses violence and coercion (not only against pagans, but also towards the converted), Poland conducts the Christianization in a peaceful manner, fully consistent with the universalistic spirit of the Gospel. As a result, what has not been accomplished by the Teutonic Knights’ failure (over a hundred years of ineffectual activity), was accomplished by Poles peacefully proclaiming the Christian religion, leading to voluntary conversion of Lithuania⁴⁷. As a result of these peaceful practices, numerous pagans “rush to the holy spring of baptism, and almost all natural subjects in Lithuania have received ablution in the holy spring, and others are consequently receiving it⁴⁸. This passage is particularly marked by the Augustinian tradition.

⁴² J. Falkenberg, *Satira contra hereses et cetera nephande Polonorum et eorum regis Jaghel*, in: H. Boockmann, *Johannes Falkenberg...*, p. 239.

⁴³ J. Falkenberg, *Satira...*, p. 341.

⁴⁴ J. Falkenberg, *Satira...*, p. 342.

⁴⁵ P. Włodkowiec, *Traktat o władzy papieża i cesarza w stosunku do pogan* [Eng. *The Treaty on the Power of the Pope and the Emperor against the Infidels*], in: J. Domański (ed.), *700 lat myśli polskiej* [Eng. *700 Years of Polish Thought*], Warszawa 1978, p. 184.

⁴⁶ It was, in fact, very clever, as Vladimiri was also the author of a quite conciliaristic treatise *Speculum aureum de titulus beneficiorum*, and that could turn the prospective Pope against him. What was even worse was that Jan Hus, who was burned at the stake during the Council, considered Vladimiri to be one of his few friends.

⁴⁷ “Finally, the Holy Spirit, which breathes where it wants to, have called the most powerful pagan Dukes, made them abandon their failures, and receive the Holy Baptism. One of them took over the rule of the Kingdom of Poland, the other remained the governor of Lithuania and other neighboring lands, schismatic and pagan” (P. Włodkowiec, *Traktat...*, p. 184).

⁴⁸ P. Włodkowiec, *Traktat...*, p. 184.

St. Augustine fought with paganism, heresy, and schisms, but mostly by means of public debates and literary work: his initial position was that nobody should be forced to change his views. This standpoint was best expressed in his letters to Donatist bishops (from the end of the 4th century). Also, in his anti-Manichean treaty *Contra Epistulam Fundamenti* he condemned the use of force in the matters of faith. In another (albeit lost) work *Contra Partem Donati* he disagreed with forced conversion of the Donatists⁴⁹. Following this path, Vladimiri questions the justification of the forced conversion (well-established at the time), arguing that “faith should not be a result of necessity, as God dislikes the forced services (...); and those aiming at converting others should use persuasion, not cruelty”⁵⁰. Therefore, he continues, “the mission of conducting wars, performed by the Teutonic Knights in these areas, has no longer been proper for many years”⁵¹. Meanwhile, the Teutonic Knights – Vladimiri continues – do not want to admit it, and continue to foray the newly-converted Christians as well as Christian princes who have contributed to their baptism and are therefore allies of the Order itself. They turn their swords not only against (alleged or real) pagans, but also against the Christian Kingdom of Poland.

Vladimiri argues that even the remaining pagans, when living peaceful lives, should never be attacked by Christians. Meanwhile, “[d]espite the fact that after being defeated, Prusians have ceased to attack Christians and abandoned cruelty, the Teutonic Knights have not yet stopped attacking the unbelievers, though calm and peaceful, and invade their lands and states”⁵². Drawing on Pope Innocent IV and St. Thomas Aquinas, he argues that property is part of the natural order, and therefore property and power “were created not only for the faithful, but for each reasonable being”⁵³, and therefore can rightfully belong to the infidels. Consequently, a war is just only if it is conducted to recover the lands seized unrightfully by the infidels, like in case of the Holy Land. In other cases, a war contradicts the natural law and God’s order. Natural law, then, authorizes pagans to repel the unlawful attacks, even if committed by a Christian state. Thus, all the more, the fight that Poles lead against the Order, who have been “nourished in their own bosom”⁵⁴, is justified. As Vladimiri gladly points out, the fight has been successful, and “the Polish sword feasts on Teutonic blood”⁵⁵. As he further argues, the help of heretics, schismatic or pagans does not change much, as even Moses, or Maccabees who allied with Romans, took such help. However, the same natural law allows the Pope to rightly punish pagans if they act against the natural order or mistreat Christians under their power. On the other hand, “the Pope should tolerate the infidels as long as they do not threaten Christians’ safety or promote wrongdoing”⁵⁶. By the same token, “[i]t is not the Church’s work to punish for infidelity, as far as those who have never received the faith are concerned”⁵⁷. Likewise, the Emperor has only very limited power over the infidels, limited to *ministerium*.

⁴⁹ In fact, Augustine changed his mind during the escalation of the conflict with the Donatists (P. Burnell, *The Problem of Service to Unjust Regimes in Augustine’s City of God*, in: D.F. Donnely (ed.), *The City of God: A Collection of Critical Essays*, New York 1995, p. 39). His ultimate position was that in some cases the force was a necessary means to turn back the sinners from the evil path (*Sancti Augustini Hipponensis Episcopi Opera Omnia*, vol. VI, Paris 1902, pp. 527, 754–755, 823).

⁵⁰ P. Włodkowiec, *Traktat...*, p. 204.

⁵¹ P. Włodkowiec, *Traktat...*, p. 185.

⁵² P. Włodkowiec, *Traktat...*, p. 183.

⁵³ P. Włodkowiec, *Traktat...*, p. 189.

⁵⁴ P. Włodkowiec, *Traktat...*, p. 185.

⁵⁵ P. Włodkowiec, *Traktat...*, p. 185.

⁵⁶ P. Włodkowiec, *Traktat...*, p. 194.

⁵⁷ P. Włodkowiec, *Traktat...*, p. 194.

To justify this thesis, Vladimiri indicates three sources of monarchs' power. The first is the will of God, the second is consent of the ruler's subjects, and finally, violence and coercion. However, the third one makes the rule unjust. Since „it has not been disclosed that the authority over the infidels in question was whatsoever justified in the first or the second way, one must say that the power of the Emperor over those infidels consists in violence and tyranny”⁵⁸. Thus, since even the Pope is not authorized to acquire the land of the pagans, then all the more the Emperor “has no right to authorize seizure of the land of infidels, who do not recognize his power”⁵⁹. Vladimiri needs such reasoning to show the unlawful nature of the privileges issued by the Emperor, granting power over Samogitia and Lithuania to the Teutonic Order. The injustice was even clearer in the face of the fact that the Teutonic Knights had referred to the principles of the just war. Vladimiri formulates five conditions of the just war, repeating, to a large extent, theses put forward by Stanisław of Skarbimierz. Those conditions are: 1) the person entitled to conduct war; 2) the subject matter, which is regaining freedom or defending the country; 3) the need for the fight or the cause of regaining freedom; 4) the spirit, that is, not conducting war with hatred, vengeance or greed, but for love, justice and obedience; and 5) the authorization from the Church, when the war is fought for faith, otherwise from the monarch. Those rules cover not only relations between Christians, but, by virtue of the natural law, are to be applied likewise to those beyond *Christianitas*: as Vladimiri argues, “our neighbors are those who are faithful, as well as those who are not, according to the Truth”⁶⁰. In this context, the Teutonic expeditions to the pagan lands, if the pagans are peaceful, are not justified: waged out of hatred, their goal being not to defend Christianity, but to conquer, to gain more power and possessions.

4. Conclusions: the holy war, the just war and the Cracow school

The work of the Cracow school clearly constitutes an original and coherent vision of international relations, based on the Roman conception of *ius gentium*, and enriched by Christian morality. The standard international relations (including Christian-pagan relations), according to the doctrine, should be based on mutual recognition of status and the right to existence within the communities' own states. Therefore, the use of violence to convert pagan peoples, and all the more the use of the means of holy war against them is excluded. Such state of peaceful, though often difficult, coexistence may be violated by an act of injustice, the consequences of which, according to the law of nature, must be voluntarily redressed. If this does not happen, the ultimate means of restoring justice is war, which, however, is subject to special conditions. In addition to its just cause, an essential feature of the just war is the way it is conducted, excluding rapes, looting, and the desire for revenge, regardless of whether it is carried out against Christians or pagans. This is because its only purpose is ultimately to restore a lasting, rightful peace between parties treated equally.

Despite the fact that in the legal sphere Poland and Lithuania were not as successful as in the battlefield of Grunwald, many participants to the Council were truly impressed by the excellence of the argument offered by Vladimiri. The symbolic triumph over Falkenberg was demonstrated by the latter's imprisonment and his theses being

⁵⁸ P. Włodkowiec, *Traktat...*, p. 202.

⁵⁹ P. Włodkowiec, *Traktat...*, p. 202.

⁶⁰ P. Włodkowiec, *Traktat...*, p. 203.

declared untrue and wrongful⁶¹. Although Vladimiri's speech did not bring a resolution favorable for Poland⁶², it could not be ignored, and became the object of a lively polemical debate in the following years. The revolutionary, though integral, arguments of Vladimiri – a scholar admittedly respected but born in a country on the outskirts of *Christianitas* – were not easily accepted by the mentality of the late Middle Ages. Also in his homeland, which owed so much to his intellectual achievements, his theory was not developed further, in the face of a relative success in Constance and new challenges the state was facing. The political power of the country, which was a result of the victory over the Order at Grunwald, needed the bravery of soldiers, rather than the power of intellectuals: it is a very symbolic fact that Vladimiri's works appeared in print only in the 19th century. It is not surprising then that today the monks from Salamanca, and not the professor from Cracow, are considered to be the founders of modern international law. Even though they were formulated in the context of a local conflict, Vladimiri's arguments were able to contribute to the debate on the most important issues of international law and international relations, including armed conflict.

The conceptualization of war combines political, moral, and legal reflection. Its political dimension consists in weighing the interests of the parties to the conflict. The moral dimension, on the other hand, indicates the criteria of good and evil, which should be used in a moral assessment of such struggles. The legal dimension looks for rules of conducting war by trying to combine the other two dimensions. For more than two thousand years, under the concept of the just war attempts have been made to combine all these aspects in different philosophical and ideological perspectives. The indisputable value of this concept is that it does not subordinate its assumptions solely to the principles of real politics: it does not ignore moral principles. On the other hand, it acknowledges political reality, in contrast to the utopian ideas of pacifism. Therefore, the concept of the just war is neither a full compromise with political reality nor a purely utopian standpoint. It recognizes the moral standing of all parties to the conflict: their interests and rights. Thus, the concept of the just war requires reciprocity of rights and obligations of the parties in all legal considerations. This is the foundation not only for relations during warfare, but also in periods of peace.

The debate about the just war, however, inspired an idea that brought a fundamental challenge to this very idea: the idea of the holy war. The radical nature of this challenge results from the difference in ontological perspectives that characterize these two approaches: whereas the concept of the just war is based on earthly, empirical dimension of human condition, the idea of the holy war, both in its religious and secular form, assumes the existence of a potential world. The latter is a desirable, perfect, final social order, which is to be realized only through the holy war efforts. The imperative to realize such a project always stems from the norms known to, and practiced by, one side of the conflict only. One might find many examples of such logic: medieval Western

⁶¹ In 1417, in June, the General Chapter of the Dominican Order convicted Falkenberg to life imprisonment as an unjust man who had brought a shame on the Dominican Order. The Cardinal's Commission had deprecated the Satire as "wrong, contrary to good manners, scandalous, inciting, bloody, hurtful, shameless, and offensive to each pious man". Quoted by: T. Brzostowski, *Paweł Włodkowiec*, Warszawa 1954, p. 145.

⁶² Pope Martin V revoked the decrees of Pope John XXII and confirmed all privileges that the Order had gained (including the forged ones). Indeed, the new Pope confirmed the status quo, which was not particularly favourable for the Order either, as they did not achieve Poland's condemnation. At the time Europe considered the mission of the Teutonic Order completed. A hundred years after the Council, the Great Master Albrecht Hohenzollern declared secularization of the Order's State, and by the year 1657 it became a seigniorship of the Kingdom of Poland.

Christians, Crusaders particularly; Islamic militants of jihad; promoters of the rationally understood progress of the Enlightenment, above all the Jacobins; the Marxists, especially Bolsheviks; and finally, American neo-conservative fighters for the cause of triumph of democracy in the modern world⁶³. Knowledge or practice of the principles of the better world usually places the party waging the holy war in the superior position in comparison to the other parties to the conflict. This results in rejection of a balanced, reasonable reflection on the armed conflict, which was inherent in the concept of the just war. By the same token, a rational, realistic analysis of all parties' interests is excluded. It is replaced by the assumption that the party waging the holy war represents and implements the only universal interest and good of humanity. An impartial moral assessment of the way the war is conducted is likewise rejected: the party waging the holy war is in fact the only party that could be considered morally superior. The reason is that this party embodies the one and only common good to be realized in the potential, better order. For this reason, in the concept of the holy war, equal moral standing of the parties, and reciprocity of duties and rights, are excluded. Thus, it does not in fact welcome any legal regulation that constitutes the foundation of relations between states during both war and peace. The normative basis for conducting the holy war are constituted by unilateral ideological manifestos, not multilateral legal conventions.

It would not be very realistic to claim that the clash between the concepts of the holy war and the just war is ultimately over. Rather, it is fundamental to our civilization, and as long as the ideas inspire actions, the natural temptation will be to change the world in the most dynamic, effective and irreversible manner, that is, through a holy war. And if these attempts will meet the defenders of the conception of the just war, then those defenders will inevitably build on the achievements of generations of their predecessors, including the sophisticated doctrine of Polish lawyers of the Cracow school from the beginning of the 15th century.

Paulus Vladimiri and His Forgotten Concept of the Just War

Abstract: The theoretical reflection formulated in the neo-scholastic School of Salamanca has been regarded as the source of the contemporary concept of international relations: going beyond the paradigm of the time – determined, on the one hand, by the idea of the holy war and, on the other, by the doctrine of the just war – the Salamanca scholars laid down foundations for the edifice of modern international law. In this article the author argues that similar ideas preceding the reflection of the school of Salamanca, and often going even further, had appeared a hundred years earlier in the Cracow Academia in the context of a dispute between the Kingdom of Poland and the Teutonic Order. The culmination of this dispute was the Council of Constance. The Polish argument after the battle of Grunwald was based on law, and its unique feature was the return to the universalistic (Augustinian) nature of the just war. What is the most important element in Augustinian theology of war is Christianity's universalism and recognition of moral equality of those engaged in military operations.

Keywords: just war, holy war, Paulus Vladimiri, international law

⁶³ See: T. Tulejski, *Nieświęte „Święte wojny” nowożytności* [Eng. *The Unholy, “Holy Wars” of Modernity*], “Studia Prawno-Ekonomiczne” 2013/88, pp. 157–188; M. Walzer, *Just War and Holy War: Again*, “Ethical Perspectives” 2017/1, pp. 7–20.

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