

# Historical Forms of Just War Theory in Europe and Hungary<sup>1</sup>

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*Just war thinking features the history of warfare from the beginning up to the 20<sup>th</sup> century. Just war thinking, however, did not have one unique frame, but it appeared in many forms. The theory of judgement of God, the mission-related theory, the law enforcement theory, the revolutionary, and finally, the regular war theory were the important forms of historical just war thinking. This article presents these theories and classifies them with the help of the main concepts of Saint Thomas Aquinas and the principal concepts of justice.*

**Keywords:** *just war theory, revolutionary war, regular war theory, judgement of God, idea of the Holy Crown*

## Introduction: Theory, tradition and just war thinking

If someone is thinking about warfare justice nowadays, just war theory can easily come into mind. Although just war theory induces debates on some points, it is relatively a well-elaborated and well-recognised system of rules of war. These rules can earn some role in practice before the decision of going to war as a justificatory device, just like after the war as its evaluation.<sup>3</sup> Besides just war theory, one can refer to just war tradition as well. According to the tradition-related approach, rules of justice have a central role in the morality of war, but they do not constitute a commonly accepted and practically applicable device.<sup>4</sup> These two approaches can be combined by saying that elements of the theory should be built on the tradition.<sup>5</sup> This combination of tradition and theory emphasises the uniformity of traditional warfare justice. Finally, we can discern some or perhaps many forms of just war thinking in the tradition of just war. This concept accentuates the complex nature of warfare justice, and so the different forms of warfare justice. In this article I present some European and Hungarian forms of just war thinking from the early Middle Ages to the 20<sup>th</sup> century. I apply the essential categories of the just war theory of

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<sup>3</sup> McMAHAN–McKIM 1993: 501–541; FROWE 2011: 50–69.

<sup>4</sup> JOHNSON 2006: 167–195.

<sup>5</sup> WALZER 1992: 44–45.

Saint Thomas Aquinas and some related concepts of justice as a proper framework to distinguish the different forms of just war thinking.

## The framework: Saint Thomas Aquinas's essential categories of just war

Saint Thomas Aquinas (1225–1274) in his *Summa Theologiae II–II* gives the answer to the question of ‘Whether any war is licit?’ that in order for a war to be licit (just) three conditions are required. These are in general:

- *acturitas* (legitimate authority): there should be a person entitled to start the war
- *causa iusta* (just cause): there should be an immediate just cause of starting the war
- *recta intentio* (right intention): the war should be intended as the advancement of good, that is there should be a further goal of starting the war<sup>6</sup>

One can hold these conditions being equally important in warfare justice, others can prefer legitimate authority to just cause and right intention, or just cause to right intention and legitimate authority, or right intention to legitimate authority and just cause. Taking the latter option, we can discern three basic forms of just war thinking: the first one builds on the legitimate authority condition, the second one stresses the just cause condition, and the third one takes the right intention condition as a basis.

Saint Thomas's theory is a form of just war theory, for this reason his main conditions are connected to the different forms of justice. Justice, taking it on the highest abstract level, is giving everybody what is their due.<sup>7</sup> Justice has several forms, like procedural, redemptive, corrective (rectificatory), distributive and legal justice. Procedural justice rose into view in social sciences in the seventies. Then it was connected to distributive justice and was applied to evaluate the outline of social exchange and facilitated the justice of it. In this case we should take first the definition of distributive justice, and then take the just procedure which can reach just distribution.<sup>8</sup> However, much earlier in the history of thinking a different form had been appeared. According to the medieval jurist Gratian (11–12<sup>th</sup> century) a “judge is called such because he pronounces justice (*ius dictat*) to the people, or because he adjudicates (*disceptet*) justly. To adjudicate justly is to judge justly. For he is no judge who has no justice within himself”.<sup>9</sup> In this definition justice is observed after the adjudicating procedure and is secured by the procedure only without any prior definition. Redemptive justice “is with special bias in favor of the helpless who can contribute nothing at all and are in fact ‘due’ nothing” according to the Christian thinker Paul Ramsey (1913–1988).<sup>10</sup> In contrast to procedural justice, helplessness appears before the process of taking care of the helpless is terminated and defines the main feature of this form of justice. Helplessness is a negative characteristic, it means something is

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<sup>6</sup> AQUINAS 2013b: 177.

<sup>7</sup> MILLE 2021: 1.

<sup>8</sup> RAWLS 1999: 74; BOBOCEL–GOSSE 2015: 51–88.

<sup>9</sup> GRATIAN 2013: 113.

<sup>10</sup> RAMSEY 1978: 14.

missing, and it is not a due only in this sense. Helping the needy is, however, a form of duty, and not only an act of praiseworthy charity, and for this reason it is a form of justice. Corrective (rectificatory) justice, according to Aristotle (384–322 B.C.): “The other kind of justice is rectificatory, which is found in both voluntary and involuntary transactions. [...] What is just in transactions is nevertheless a kind of equality [...]. The law looks only to the difference made by the injury, and treats the parties as equals, if one is committing injustice, and the other suffering it – that is, if one has harmed, and the other been harmed. So, the judge, since this kind of injustice is an inequality, tries to equalize it”.<sup>11</sup> Corrective justice can already be observed before the judge makes his decision (it in fact grounds the decision of the judge), because it is connected to a previous injustice and the connected due on the side of the aggrieved party and the offender party as well. It is just to compensate the aggrieved party for his loss and punish the offender party for his deed. Distributive justice, according to Aristotle, is “always in accordance with the proportion stated above, since if the distribution is from common funds, it will be in the same ratio as are the corresponding investments to one another. And the injustice that is opposed to this kind of justice is what violates the proportion”.<sup>12</sup> Unjust distribution and social exchange of the goods bring about due on the side of the harmed party, and on the profiteer party as well. Finally, legal justice is linked to political life. According to Aristotle what is “legal is what originally makes no difference whether it takes one form or another, but does matter when people have adopted it; for example, that the ransom for a prisoner be one mina...”.<sup>13</sup> The content of legal justice depends on the will of special actors like the representatives of the national legislative body or the members of the international community. After the acceptance of the content as legally compelling content of an act, it is equally available and binding to every member of the national or international community. So, if one or the other member violates it, it commits legal injustice.

These main forms of justice match the required conditions of Saint Thomas Aquinas: procedural justice to legitimate authority condition, redemptive justice to right intention condition, and the remaining forms to the just cause condition. Hence, these forms of justice suit well to the different forms of just war thinking. In the following I distinguish five forms of just war thinking with the help of the conditions of Saint Thomas Aquinas and the shown forms of justice.

## Historical forms of just war thinking

There are three basic forms of just war thinking. They are built on the concept of legitimate authority, or the concept of just cause, or the concept of right intention and the related ideas of justice. In this section I am presenting these basic forms starting with the legitimate authority-related just war thinking, following with the right intention-related theory, and finally coming to the more complex just cause-related theories.

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<sup>11</sup> ARISTOTLE 2004: 1132a. 87.

<sup>12</sup> ARISTOTLE 2004: 1131b. 87.

<sup>13</sup> ARISTOTLE 2004: 1134b. 93.

## ***Legitimate authority: Just war as judgement of God***

According to just war thinking based on legitimate authority just wars are those victorious wars which have been won by the just judgement of God.<sup>14</sup> In details:

- justice of war is a consequence of God's judgement which is the result of the functioning of God's just judging ability, and so it is procedural justice
- the necessary consequence of God's judgement that a war is just is the victory in war showing *ex post facto* which was (is) the just party in the war (the defeated side was (is) the unjust party)
- God's judgement can be influenced by just and pious peacetime and wartime behaviour of the king and his people, however
- God starts or organises the war Himself

An important example of just war thinking based on legitimate authority is the political theology and the connecting warfare theory of Isidore of Seville (560–636). According to Isidore, Christ is the perpetual king and priest at the same time, and the Church, the baptised people are His body. This unified godly empire can be followed by a politically divided earthly Christian empire, like the different Christian–German kingdoms contained by the Western Christian world in the early Middle Ages. These kingdoms are the cells of the Church and are ruled by earthly (human) kings. A kingdom is a present of God to the king, who is at the same time vested responsibility for taking care about his subjects. Kings should set good example in practicing the virtues of justice and piety to their subjects. Kings have to be just regarding the Christian ideals and the local customs as well, so kings are Christian priests and members of the local German community. Kings should be pious at the same time to their people which is restriction of excessive strictness of just judgements. In exchange, the subjects' God given obligation is to obey to the kings. Kings are also supposed to maintain Christian and customary laws and to extend the just and pious form of life by applying violence if it is necessary. Wars are important means of founding and extending Christian kingdoms.<sup>15</sup>

Beyond his political theology, Isidore mentions and defines just war particularly. His definition comes from Cicero: "Those wars are unjust that are taken up without due cause, for except for the cause of avenging or of driving off the enemy no just war can be waged."<sup>16</sup> This definition shows Isidore's awareness and acceptance of the Roman approach only. However, in the 12<sup>th</sup> century Gratian used this definition with an additional part, which he supposedly ascribed to Isidore: "A judge is called such because he pronounces justice (*ius dictat*) to the people, or because he adjudicates (*disceptet*) justly. To adjudicate justly is to judge justly. For he is no judge who has no justice within himself."<sup>17</sup> This supplement, which is related to the concept of just war in Gratian, deduces justness of a judgement from the justice of the judge. Further, this supplement can also be found in Isidore's text, some

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<sup>14</sup> BODA 2021a: 63–67; BODA 2022b.

<sup>15</sup> ISIDORE OF SEVILLE 2006: 117–118, 199–200, 359–360.

<sup>16</sup> ISIDORE OF SEVILLE 2006: 359.

<sup>17</sup> GRATIAN 2013: 113.

pages after the Ciceronian definition of just war.<sup>18</sup> The combination of the two parts, with the political theology in the background, shows that Isidore holds the judgement of God theory in which procedural justice has eminent role.

This form of just war thinking lies on God's judgement which justifies the deeds and lifestyle of the king and his people backward in time.<sup>19</sup> God judges the just and unjust deeds always in the present and connects His judgement necessarily to the realisation of that judgement, to victory or punishment.<sup>20</sup> According to Isidore, the attack of Attila and the Huns was God's punishing judgement and its realisation.<sup>21</sup>

God's judgement is not entirely unpredictable for people, so they are able to influence that by just and pious, or even unjust and impious lifestyle. However, influence is not equal with determination, so one cannot be certain that their influence will be successful, because God's judgement concerns all the connecting deeds of the past, present and future as well,<sup>22</sup> most of which are knowable only for Him. Even the most pious men cannot have hundred percent certainty in principle (however, according to Isidore, the just men understand that they are only tested in adversities).<sup>23</sup> If the king and his people live on the standards of God then God "lives in them"<sup>24</sup> and hence starts their war. This is possible because all the earthly things were formed as being in God, and man particularly was created in the image of God.<sup>25</sup> However, if the king and his people disrespect God's rules then God starts a war against them by organising other peoples (like the Huns) for attacking them as the "scourge of God's fury".<sup>26</sup> So God starts the war of the king and his people, judges that war, and makes it victorious or lost. God, however, makes the decision on the just or unjust nature of a particular war by starting that war, His judgement becomes clear for the men by the victory or defeat at the end of war.

### ***Right intention: Just war as mission***

Just war thinking based on right intention takes mission-related wars as just wars, which have the following character: it violently purposes to build or maintain a political rule in order to take care in some way of the needs of the (prospective) subjects, so for the reason of redemptive justice.

One can find a mission-related war theory in Saint Augustine<sup>27</sup> (354–430) and in the historical Hungarian idea of the Holy Crown.<sup>28</sup>

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<sup>18</sup> ISIDORE OF SEVILLE 2006: 365.

<sup>19</sup> ISIDORE OF SEVILLE 2018: III. 48.11. 200.

<sup>20</sup> ISIDORE OF SEVILLE 2018: III.48.11. 200.

<sup>21</sup> ISIDORE OF SEVILLE 1966: 15.

<sup>22</sup> GERICS 1980: 118.

<sup>23</sup> ISIDORE OF SEVILLE 2018: 210.

<sup>24</sup> ISIDORE OF SEVILLE 2018: I.2.5. 39.

<sup>25</sup> ISIDORE OF SEVILLE 2018: I.2.1a. 38.

<sup>26</sup> ISIDORE OF SEVILLE 1966: 15.

<sup>27</sup> BODA 2020: 1689–1692; WEITHMAN 2001: 234–252; LUBAN 2011: 10–15.

<sup>28</sup> BODA 2021b: 269–280.

According to Saint Augustine, just war should be started and waged against the heretics and the sinners in general, because this sort of war is well-suited to God's intention of redemption. God's intention includes a particular plan for redemption, which should be mirrored by the intention of Christian participants of war and has to be conceived as a Christian mission for spreading redemption.

Saint Augustine considers happiness as the basic purpose of humans. Happiness, however, cannot be reached in the earthly world because of the earthly sins and original sin in general, but only in the afterlife with the help of redemption by God. Such happiness means living forever in spiritual (and celestial) peace.<sup>29</sup> Redemption of humanity is not a unique deed of God, but an uncovering series of events in history.<sup>30</sup> Wars are the characteristic features of history,<sup>31</sup> through which God wants<sup>32</sup> to bring the peace of redemption to humanity. The ways to redemption for those who live Christian (just and pious) life and for those who live a sinful life are different.

People loving God and living a Christian life are called the citizens of the 'City of God' (*civitas Dei*) by Saint Augustine, and they may count for redemption in a peaceful way. Redemption will supplement earthly life in this case and bring everlasting spiritual (and celestial) peace for them. Leading a life of this sort, however, is not easy, because sinners and their wars rule earthly world, as Saint Augustine calls it, the 'Earthly city' (*civitas terrena*).<sup>33</sup>

Sinners are those who lead their life selfishly, adversely, violently, cruelly and unmercifully, and they are motivated by power-mongering instead of loving of God; or those who promulgate their heretic ideas prevent the uncovering of God's redeeming plan. Redemption, however, is not denied from sinners. They can reach it if they let themselves to be persuaded by arguments and abandon their sinful activity. If not, then they can attain redemption with the help of violent or even deadly punishment. According to Saint Augustine, punishment is a feasible method to change convictions and purify the soul of the sinners as oral persuasion, even it results the death of the sinners' body and to reach redemption.<sup>34</sup> This is the clearest form of redemptive justice.

The theory of Saint Augustine focuses on redemption, afterlife peace and happiness, and represents an offensive form of mission-related theories. The Crusades were good examples for the application of this theory.<sup>35</sup> In contrast, just war thinking based on the Hungarian idea of the Holy Crown connects happiness to the earthly 'redemption', to living on a particular territory. The theory also links warfare justice to the defence of this territory and the country situated on it, to secure the happiness of the country, and to punish the peacebreakers of the unity of the country. Hence just war thinking based on the Hungarian idea of the Holy Crown also includes redemptive justice.

<sup>29</sup> AUGUSTINE 2000: XIX. 11.

<sup>30</sup> AUGUSTINE 2000: XV. 1.

<sup>31</sup> AUGUSTINE 2000: XV. 4.

<sup>32</sup> AUGUSTINE 2000: XXII. 2.

<sup>33</sup> AUGUSTINE 2000: XV. 1–4.

<sup>34</sup> AUGUSTINE 1886: Chapter 14. 485.

<sup>35</sup> CUSHING 1995: 359–360; RILEY-SMITH 2005: 52–53.

The idea of the Holy Crown was developing between the 14–20<sup>th</sup> centuries, and its basic element is the reference to the historical Hungarian crowning device – the Holy Crown –, and to its two important features, its holiness and territorial connotation. The Holy Crown was respected and applied in crowning ceremonies as the crown of the Hungarian state founder King Saint Stephen I (975–1038) for centuries, last time in 1916. According to the Catholic tradition, King Stephen asked a crown from Pope Sylvester II at the very beginning of the 11<sup>th</sup> century, and the pope gave it to the king because a messenger of God had advised so in his dream. Therefore, the origin of the holiness of the crown is the God-given feature of it. However, it is linked to the Hungarian saint kings, Stephen I and Ladislaus I (1046–1095) also, and in the 12<sup>th</sup> century the crown was referred to as ‘the crown of the saint kings’. Finally, because of its ‘saint kings’-related nature, the crown earned a territorial connotation as well. It meant to refer to the territory of the Medieval Hungarian Kingdom. Stephen and Ladislaus were the kings who conquered, stabilised and organised the core territories of the Hungarian Kingdom.

Just war thinking based on the idea of the Holy Crown is a right intention-related theory, which includes a mission to secure the peace, stability and happiness on the territory of the Hungarian Kingdom. One of the important representatives of the theory is Péter Révay (1568–1622).<sup>36</sup> Révay dealt with the history of the Holy Crown and linked it to the civil wars of Hungary. According to Révay, the Holy Crown is not only holy in its origin, but It is Godly in Its nature, because It includes the Godly Providence, which is taking care – through the king – of Hungary and its members. The Godliness of the Crown grounds its highness, which results in the authority and honour of the properly crowned king and the liberty of the crowing nobility; who (together) in turn manage the happiness of the country with the help of their laws.

If the king is power-monger or the nobility is divided, then the Crown emigrates from the country (i.e. an unaccordant person from the ruling dynasty takes it abroad), and the king does not serve the happiness of the country. The result is civil war between the members of the ruling dynasty, or the parties of the nobility. According to Révay, civil war is a sin against God, hurts the highness of the Crown and causes unlawful situation. The Crown, and of course the properly crowned king who applies it to his holy and just aims, punishes the peacebreakers and separatists, restores the unified condition of the country and secures happiness. As Révay puts it: “Because finally with the support of the Holy Crown the true case of the kings comes to win. Those princes to whom the God judges lordship and who at the same time are meek, pious, true, and are taking care of their subjects, such kings are always protected by the Heavenly creatures, and finally escape from any trouble and danger.”<sup>37</sup> Révay’s examples for these kings are Charles (Angevin) I (1308–1342), Matthias (Corvinus) I (1458–1490), who made peace among the families, or the parties of the nobility, and Matthias (Habsburg) II (1557–1619) who – in the lifetime of Révay – brought peace between Christian denominations.

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<sup>36</sup> RÉVAY 1979: 195–232.

<sup>37</sup> RÉVAY 1979: 203.

## *Just cause*

According to the just cause-related forms of just war thinking, justice of war depends on whether the warring party has a just cause before of the war, or not. Right intention defines a sort of ‘cause’ as well, but it differs from just cause. Just cause articulates an aim, which can be reached in the near future, and right intention defines a more remote purpose. We can discern three main types of just cause-related just war thinking: when the state or the leader of the community (in the Middle Ages the prince) wages just war for enforcing law, maintaining Christian peace, and attaining punishment; when two conflicting or even warring states act equally demanding their causes are just and they (or one of them) regard the laws of conduct in warfare also; finally, when revolutionaries wage just war against the state (or the leader of the state).

### Just war as enforcing the laws of the community of Christians

We have met the general points of the theory of Saint Thomas Aquinas in a previous section. I have been using these basic points to show the different forms of just war thinking. Saint Thomas Aquinas, however, developed a particular just cause-related theory as well.<sup>38</sup> According to him:

- the most important character of just war is its cause, because
- it is morally permissible to wage war against people or a country which deserves punishment for the previously committed injustice
- punishment is a form of corrective justice which means in this case enforcing human law
- enforcing the law is the duty and obligation of the prince in order to maintain Christian peace

Several thinkers before Saint Thomas Aquinas conceived just war as punishment, one of them was Saint Augustine, who linked the concept of punishment to his more basic concept of redemption. These thinkers had a quite different theory on the standards of implementing punishment. They typically linked this standard to the will, the order, or the judgement of God. Saint Thomas Aquinas, in harmony with his recognition and acknowledgment of natural characteristics of men, claims human laws are dependent on natural laws. He thinks natural laws define what is just or unjust, and hence that justice regarding the starting of a war depends on natural laws. The first and most important law of nature is that “good is to be done and pursued, and evil is to be avoided”, a case of which is that “human life should be secured”.<sup>39</sup> In connection with war Saint Thomas Aquinas holds that “a just cause is required, namely that those who are attacked, should be attacked because they deserve it on account of some fault (*culpa*)”.<sup>40</sup>

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<sup>38</sup> BODA 2022a: 172–175; REICHBERG 2018: 17–41.

<sup>39</sup> AQUINÓI SZENT TAMÁS 2011: q. 94/2. 31.

<sup>40</sup> AQUINAS 2013b: 177.



Committing a fault is to violate the human law, which is framed as the rule of all human acts, and purpose of the common good. Human law has two forms, the civil law of the state and the law of the nations. Further, human law is a form of positive law, which in turn is the declared form of natural law, which, again, is the rational aspect of the eternal law (in fact plan and wisdom) of God.<sup>41</sup> Because of the relationships of the different types of laws violating human laws (whether the civil law of the state or the law of the nations) it is violating the eternal law. Likewise, enforcing human law (whether the civil law of the state or the law of the nations) is not other than enforcing the eternal law of God. Just cause of war is violating unjustly human law (whether the law of the state or the law of the nations) which deserves punishment and correction in order to enforce the law. This is the clearest case of corrective justice.

According to Saint Thomas Aquinas punishment of injustice should be initiated by the sovereign prince, so he has legitimate authority. This is a right and an obligation of the prince, which originates from the fact that he is the leader of the community, so he has the right and duty to secure the common good of the community, to protect the community against invaders, and to maintain the social order of the community against crime.<sup>42</sup>

This right and duty of the prince implies that the prince's reflection to injustice should propose the general aim of maintaining the peace of the Christian community. Peace was an important Christian concept already before Saint Thomas Aquinas, for example in Saint Augustine. The previous conception, however, conceived peace spiritually, as the God secured harmony between the desires of a man, which can be reached completely only in the Heavens. Saint Thomas Aquinas takes peace partly as earthly and naturally occurred harmony between the members of Christian community.<sup>43</sup>

### Just war as revolution against the oppressive and exploitative state

The second just cause-related theory is the communist theory of the revolutionary war, according to which the just cause is the oppression and exploitation of the class of proletariat by the state leader class of bourgeoisie.<sup>44</sup> In details:

- the just cause is the bourgeois state oppression and exploitation and so distributive injustice
- the oppressed people are morally permitted to start a revolutionary war for the elimination of the class of bourgeois and the state as its representative
- revolution terminates oppression and exploitation inside the society and all over the world

One prominent representative of the communist just war theory is Vladimir Ilych Lenin (1870–1924). According to Lenin bourgeois oppression of the proletariat should be

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<sup>41</sup> AQUINÓI SZENT TAMÁS 2011: q. 90–96. 3–53.

<sup>42</sup> AQUINAS 1997: I. 3. 65–67.

<sup>43</sup> AQUINAS 2013a: 174.

<sup>44</sup> RYDER 2019: 31–44.

terminated and what makes attainable this purpose is the war between the bourgeois class and the proletariat only. As Lenin puts it: “We fully regard civil wars, i.e., wars waged by the oppressed class against the oppressing class, slaves against slave-owners, serfs against land-owners, and wage-workers against the bourgeoisie, as legitimate, progressive and necessary.”<sup>45</sup>

Erich Wollenberg (1892–1973), the Russian–German communist thinker between the world wars, lists four different just causes among the different forms of oppression which justifies war. War is just if it is the revolutionary war of the proletariat against the oppressor, or against a foreign aggressor who supports the oppressor, or against counterrevolutionaries who are supported by foreign aggressors; further, if it is liberty war of the people of an oppressed colony against the oppressors.<sup>46</sup> The common point of all these wars is their just cause, the fight against the morally mistaken distribution of goods, exploitation and for the liberation and protection of the people. Revolutionaries ground their just cause to distributive injustice.

This cause is the suitable cause for those classes which suffer from the oppression, so the proletariat and the people of the colonies, and which is in the proper situation. The proper situation for revolution is defined by the developed social-economic conditions of the country, and particularly of the oppressed class. Hence war is the continuation of politics, and politics is the corollary of economic situation.<sup>47</sup> In this case other socialist countries, which already have fought successfully against their oppressors, are morally permitted to intervene into the revolution against oppression in another country. The revolution, however, cannot be exported arbitrarily.

The future purpose of communist just war, the right intention condition of the communist theory is to eliminate oppression all over the world. In the preferred future but yet during the war against the bourgeoisie, proletarian national states will persist and they come into the relation of equality with each other; after the victorious war, however, the proletarian state will be dying away because after the bourgeois class ceased to exist the proletarian will cease to exist too.<sup>48</sup>

### Just war as regular war between states

Finally, the third just cause-related theory defines just war as a legally regulated contest between states.<sup>49</sup> In details:

- in contest both conflicting states have a (possibly) just cause for starting the war
- the war itself serves as the process of settling the conflict and to make decision about it
- conflicting states should conduct their war with regarding the rules of international law and so legal justice

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<sup>45</sup> LENIN 1966: 4.

<sup>46</sup> WOLLENBERG 1936: 2–5.

<sup>47</sup> LENIN 1964a: 65.

<sup>48</sup> LENIN 1964b: 398–399.

<sup>49</sup> KALMANOVITZ 2018: 145–165.

Two important representatives of this theory are Alberico Gentili (1552–1608) and Hugo Grotius (1583–1645).

According to Gentili “war is a just and public contest of arms”<sup>50</sup> between sovereign states, which is initiated by the leaders (princes) of states in necessity. In this case a superior judge does not exist who is entitled to make decision in a debate between sovereign states, and if the conflict demands some settlement and there is no time for negotiation and judicial argumentation, then the debate should be settled by war.<sup>51</sup> This sort of war is just on both sides, because it is possible that in the debate none of the debating parties take an unjust position. Since even if one or the other party seeks to draw a sincere moral judgement on the just or unjust nature of his war, it is possible that it does not possess all the relevant information to reach the sound conclusion. Further, in war both parties have just cause if they go to war for any sound reason and aim at justice at the same time. This is because going to war without sound reasons is neither just war nor war but brigandage. Finally, it is possible that one side is just, but the other one is more just, because one side does not cease to be just because of his opponent has more just case.<sup>52</sup>

Gentili claims that just war appears in the state of necessity and for the reason of protecting the state. This condition seems at first sight to be a restrictive one; however, in the theory of Gentili it works in quite the opposite manner. Gentili lists several different causes of just war, from which some come from the human nature and in this sense, they are necessary and protective. These causes are self-defence in actual danger, defence in fear that one may himself be attacked, and honourable defence of others based on any association with them (e.g. kinship, love, kindness, human fellowship).<sup>53</sup>

Similarly to Gentili, Hugo Grotius also holds a theory of war as a contest which he calls regular war (*bellum solenne*) (besides this theory he holds a theory based on law enforcement and punishment as well [*bellum iustum*]<sup>54</sup>). The origin of regular war theory is those past situations which involved a debate between states but in which the outsider states could not make a clear judgement on the justness of the claims and on the right range of reactions. If outsider states had made judgement in these situations they would have got involved in the debate.<sup>55</sup> For this reason they entrusted the decision in debate to the states and to the Laws of Nations.<sup>56</sup>

According to Grotius: “Two Things then are requisite to make a War solemn [regular] by the Law of Nations. First, that it be made on both Sides, by the Authority of those that have the Sovereign Power in the State: And then, that it be accompanied with some Formalities”.<sup>57</sup> This means that war should be started by that person who possesses the legitimate authority, who represents the sovereignty of the state, and should be waged by respecting the international legal rules of conduct in war. The most important such

<sup>50</sup> GENTILI 1933: I–II. 12.

<sup>51</sup> GENTILI 1933: I–II–III. 12–21.

<sup>52</sup> GENTILI 1933: I. VI. 31–33.

<sup>53</sup> GENTILI 1933: I. XIII. 58–73.

<sup>54</sup> GROTIUS 2005b: I. II. 1–2. 393–395.

<sup>55</sup> GROTIUS 2005c: IV. IV. 1275–1277.

<sup>56</sup> GROTIUS 2005a: III. IV. 1. 248.

<sup>57</sup> GROTIUS 2005a: III. IV. 1. 250.

rule is the rule of declaration of war, which shows the war begun by the possessor of the legitimate authority. By the declaration the state lets the other party (and the allies and members of his own state) know that the declarator is legally at the state of war with him. Declaration also changes the range of the valid legal rules, so it connects legal effects to the state of war, so the declaration separates state of war from state of peace before the war (like the peace treaty at the end of war).<sup>58</sup>

## Summary and conclusion: Forms of justice and forms of historical just war thinking

I overviewed five forms of historical just war thinking, the theory of judgement of God, the mission-related just war thinking, the law-enforcing theory, the revolutionary theory and the regular theory. I classified these theories with the help of the main concepts of Saint Thomas Aquinas's just war theory. Now I match them to the main concepts of justice I mentioned at the beginning of the article.

Hence, the theory of the judgement of God holding that just wars are wars which started by God, judged as just by God, and brought about being victorious by God. This theory so emphasises legitimate authority of God and the procedural justice of God's judgement. The mission-related form of just war thinking sees right intention and remote aims to be important, and focuses on helping the needy and for this reason redemptive justice. The law-enforcing, the revolutionary and the regular theory similarly hold essential just cause; however, the law-enforcing theory includes punishment and corrective justice, the revolutionary theory contains in reference to exploitation and so distributive justice, and finally the regular theory secures just cause for both warring parties and introduces the legal justice of international law.

This classification shows that historical just war thinking did not have a simple frame and a simple history starting from Saint Augustine or the Roman or Greek Antiquity. Just war thinking in its every form should refer to some forms of justice, however, as many concepts of justice occurred, many forms of just war thinking appeared. This is a process which did not end up with the revolutionary theory. After the Second World War, a new form of just war thinking turned up. Michael Walzer claims just cause is the most important part of the theory, in which justice is the protection of the rights of the communities against injustice and violation. This form of just war thinking is like the law-enforcing model, with the difference that the law-enforcing model stresses punishment but Walzer claims protection of rights as the basic tenet of just war theory.

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<sup>58</sup> GROTIUS 2005c: III. 1246–1269.

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