

humanitarian interventions is the protection of human beings from harm—at that time from religious human sacrifice and cannibalism, today from criminal regimes that rack their own people with terror, civil war, torture and oppression—once powered by a religious mission to provide Christianity by converting the people, today by a civil-religious motivation to provide human rights, freedom and democracy. But also economic and political circumstances did and do influence the decision whether or not to intervene. The articulated motives are noble, the reality banal, because intervention revolves around the economic values of the time—gold, then, and today, oil—as well as around political interests: the hegemony of the Hapsburgs historically, and today the “Pax Americana,” have both attempted to support world domination, not least militarily. It seems as if wars of intervention have always had a geo-strategic meaning alongside their motives of rescue, of saving human lives and of “making the world a better place.”

Because of these parallels it seems interesting to analyse how the topic of *bellum iustum* was treated in the past, and what we can learn for the treatment of this topic today. This comparative analysis between concepts of war, developed in relation to the first and second stages of globalisation, offers the possibility of devising contemporary solutions, and involves a fundamental rejoinder to those who criticise humanitarian interventions for their political and economical motivation. Therefore I want to demonstrate continuous lines of argument on the topic between, on the one hand, the Spanish Baroque scholasticism around Francisco de Vitoria, Bartolomé de Las Casas and Juan Ginés de Sepúlveda, and on the other, a recent proposal developed in Ottawa by the International Commission on Intervention and State Sovereignty

approach concerning the *ius post bellum* (“legitimate post-war order”), represented by the prosecution of “crimes against humanity” according to the *Roman Statute* (1998) of the International Criminal Court (ICC).

Historical understanding of *bellum iustum*

The argument referring to the legitimacy of the *Conquista* is based on the patrician and scholastic concept of *bellum iustum*, namely on the positions of Augustine and Thomas Aquinas. Augustine reflects on the question of whether Christians may fight in a war or not. He comes to a positive conclusion for those cases in which war is waged to restore p

In Augustine the *recta intentio* (right intention) sets its limit to the way of warfare. According to Augustine only such means are permitted as contribute to fast and direct victory and the refinement of the sinner, and not those that are meant only to carry out revenge, to promote greed, or to show cruelty, because revenge, greed and cruelty do not lead to peace but to irreconcilability. The exclusive authority to carry out a just war and to decide on the means always lies with the state (*auctoritas belli*).

Thomas Aquinas asks whether waging war is always a sin. Setting three conditions, he answers his question in the negative: there must be an authorisation by the monarch (*auctoritas principis*), a just reason (*causa iusta*), and a right intention (*recta intentio*), simultaneously, for a war to qualify as just, a *bellum iustum*.² In addition to the three terms of the scholastic *ius ad bellum* (the right to wage-0.004 Tc 0.004B3h/TT0 1364.92 512.3 T(5r)3(i)-12.v

With regard to the question of who has the right to decide whether and how a war should be carried out, however, Sepúlveda and Las Casas broadly agreed: the monarch alone had the right to wage a war as *auctoritas legitima* (“legitimate authority”). Sepúlveda, in particular, included the pope as the highest dignitary of the church in his concept of *auctoritas legitima*,

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the Augustinian *iustitia vindicativa* to an instrument of argument that also justifies the pre-emptive war that prevents the law-breaker's "ability to do wrong."

