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RELIGIOUS TOLERATION AND JUST WAR
IN THE WRITINGS OF STANISŁAW OF SKARBIMIERZ
AND PAWEŁ WŁODKOWIC*

The phenomenon referred to nowadays by Polish historians as the “Polish 15th-century school of the law of nations”¹ came into being thanks to two Kraków University professors, who were active in the first three decades after the University’s reactivation by king Władysław Jagiełło, Stanisław of Skarbimierz and Paweł Włodkowic. Both of them received their legal education abroad and both made use of it not only in service of the University of Kraków (which was an institution, just like all the universities of that time, much more international than the universities of today), but also in service of the Polish-Lithuanian state and of King Władysław Jagiełło. They were both lawyers and, first and foremost, canonists. However, their educational paths and their academic achievements differed significantly in many respects. Stanisław of Skarbimierz, who studied and received a doctorate in 1396 at the Charles University in Prague, added later interest in theological matters to his previous preoccupation with the legal ones and became famous for the orations he delivered at the University and for his sermons. From these orations and sermons there emerges a picture of a theologian-moralist readily and frequently making use of his legal knowledge. Paweł

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¹ See, e.g., Ludwik EHRLICH, *Paweł Włodkowic i Stanisław ze Skarbimierza* (Warszawa, 1954), 6 and 188–89; Stefan SWIEŻAWSKI, *U źródeł nowożytnej etyki. Filozofia moralna w Europie XV wieku* (Kraków, 1987), 147–48; SWIEŻAWSKI, “Ważniejsze problemy XV-wiecznej etyki międzynarodowej,” *Studia Mediewistyczne* 25, no. 1 (1988): 3–68, and especially 43–58.

Włodkowiec, who studied in Prague, where he earned, also in 1396, a title of bachelor in canon law, between 1401 and 1408 continued his studies at the faculty of law in Padua under the tutelage of Francesco Zabarella. Having received a Paduan diploma, and three years later a doctorate in Kraków, he gained recognition primarily as a lawyer-negotiator, or rather as an author of learned legal treatises by means of which he defended the interests of Poland and Lithuania in their conflict with the Teutonic Order. In spite of the differences regarding their education and the works they were producing, both excellent lawyers of the first three decades of the 15th century presented the same doctrine concerning war and religious toleration, one shaped in a large part by the realities of the Polish-Lithuanian state's situation, even if they expressed the doctrine in ways different to one another in respect of literary genre and writing practice.² I will try to give a characterisation of the doctrine in its original form that can be found in the writings of Stanisław—merely mentioned towards the end of my paper, and in essence identical to the one we can find undergoing a development and transformation in the writings of Włodkowiec.

The writings of Stanisław of Skarbimierz present him as a publicist rather than a scholar, but an excellent publicist. His commentary (the authorship of which is not fully confirmed) to the *Decretals* of Pope Gregory IX did not survive.³ What did survive, though, were some of *determinationes* and *replikationes*, as well as *consilia* (all of them theological and at the same time legal-canonical in character), and among the writings of this kind we find *Determinatio contra sectatores Wiclef et Ioannis Hus per sacrum concilium Basileense damnatorium*.⁴ Although these writings of Stanisław are of purely academic nature, they are concerned rather with those doctrinal problems of the Church that were topical at the time. If, however, we could describe him,

² On the subject of the abundant literature (mostly in Polish) concerning Paweł Włodkowiec and slightly less extensive (almost exclusively in Polish) about Stanisław of Skarbimierz up to 1965, see *Bibliografia literatury polskiej „Nowy Korbut”. Piśmiennictwo Staropolskie*, (Warszawa, 1965), 3:fv234–36 (“Stanisław ze Skarbimierza”) and 407–10 (“Paweł Włodkowiec”); on publications from the following years up to 1978, see *700 lat myśli polskiej. Filozofia i myśl społeczna XIII-XV wieku* (in Polish translation), ed. Juliusz DOMAŃSKI (Warszawa, 1978), 73 (“Stanisław ze Skarbimierza”) and 183 (“Paweł Włodkowiec”). On the topic of Stanisław of Skarbimierz there are two noteworthy later publications, including a catalogue of his writings: Roman M. ZAWADZKI, *Spuścizna pisarska Stanisława ze Skarbimierza* (Kraków, 1979); Bożena CHMIEŁOWSKA, “Stanislas de Skarbimierz—le premier recteur de l'Université de Cracovie après le renouveau de celle-ci,” *Mediaevalia Philosophica Polonorum* 24 (1979): 73–112.

³ CHMIEŁOWSKA, *Stanislas de Skarbimierz*, 94.

⁴ CHMIEŁOWSKA, 102 and 109–10; ZAWADZKI, *Spuścizna*, 72–73 and 168.

somewhat anachronistically, as a publicist, it would be because of his five hundred sermons and his treatises, both the academic ones and those addressed to the clergy. They constitute a collection of works written by someone who is a canonist as well as a theologian, a representative of the liberal arts and philosophy, and moreover of the University and of the State. The topics of the sermons and treatises are very diverse, but they have a common denominator: they are concerned with “public” or “social” matters.⁵

Beside the numerous treatises on academic practice—addressing ordinary educational and didactical problems as well as the issue, important from the point of view of theology and philosophy, of the relation between science and morality, seen through the lens of a slightly pessimistic conception of human nature and with a strong emphasis on the negative effects of the original sin—there are also treatises in which the moral and political doctrine of the Cracovian canonist is clearly delineated. Some of them present in a general way the principles upon which the organization and functioning of the state should be based. Others, while not renouncing the abstract and atemporal formulations, were concerned with more or less current events and issues.

The most important place in the work of Stanisław is given to the idea of justice and of the common good. As a lawyer, theologian and moralist sensitive to the ethical shortcomings of human nature, inclined to cure them by means of, above all, ascetic-repressive methods, Stanisław of Skarbimierz thinks highly of positive law. But at the same time he assumes that positive law should have its underpinnings in the highest values: truth, love of neigh-

⁵ These topics are also present in the individual sermons or in other minor writings published separately: (1) Ludwik EHRLICH, *Polski wykład prawa wojny XV wieku. Kazanie Stanisława ze Skarbimierza „De bellis iustis”* (Warszawa, 1955), 90–144; (2) “Stanisława ze Skarbimierza Mowa o złych studentach,” ed. Zofia Budkowa, *Biuletyn Biblioteki Jagiellońskiej* 15, nos. 1–2 (1963): 11–21; (3) Juliusz DOMAŃSKI, “Discours d’inauguration fait par Stanislas de Skarbimierz à l’occasion du renouveau de l’Université de Cracovie,” *Mediaevalia Philosophica Polonorum* 24 (1979): 123–32; (4) “Consilia contra astrologum Henricum Bohemum,” ed. Stanisław Wielgus, *Studia Medievalistyczne* 25, no. 1 (1988): 153–73; (5) Stanisław WIELGUS, “Krytyczna edycja traktatu *De indulgentiis* Stanisława ze Skarbimierza,” *Acta Mediaevalia* 3 (1978): 16–37; among the published writings there are also two extensive collections of sermons, e.g. (1) *Sermones super ‘Gloria in excelsis’*, ed. Roman M. Zawadzki (Warszawa, 1978) (Textus et studia historiam theologiae in Polonia excoltae spectantia VII); (2) *Sermones sapientiales* (entitled *Sermones de sapientia Dei* in the manuscript), ed. Bożena Chmielowska (Warszawa, 1979) (Textus et studia IV, nos. 1–3; quotes from this edition have been corrected in some places). On the ideas contained in the sermons and treatises of Stanisław, see Juliusz DREWŃOWSKI, *Uczony w świadomości polskiego środowiska naukowego pierwszej połowy XV wieku* (Wrocław, 1987), 130–63 and 182–93. Their characterisation presented in this paper is based largely on the work just mentioned.

bour, justice and equality.⁶ Every state, no matter how large and powerful, is governed by laws needed by people living within an organized society, just as reins are needed to direct horses in a team. However, hardly any state is governed by them in such a way as to deserve the name of the City of God. It is only those highest values that can impart the desired moral effectiveness to the positive law. “Justice taken away, what are kingdoms if not great robberies?”⁷ This quote from St. Augustine’s *The City of God* refers, of course, to kingdoms, *ex definitione* governed by some laws.⁸

In Stanisław’s treatment of state emerges an age-long problem, one of the desired and the actual relationship between what is effective and what is right, between the pragmatic and the moral. On an *ad hoc* basis, Stanisław calls the first a weapon of war, and the latter wisdom in the same sermon 46 from the the collection of sermons bearing mottoes from the Book of Wisdom and other books of the Old Testament similar in genre; in one of the manuscripts it has that very title: “On the higher value of wisdom than weapon of war.” Wisdom is a far better guarantee of stability and power of a state than force. Without wisdom, the real effectiveness even of successful endeavour is but a superficial and temporary pretence, whereas permanent and real effectiveness is only achieved through wisdom. That thesis is then illustrated in the sermon with many historical examples, especially of wars and battles, examples from antiquity, both biblical and classical.⁹ It is proba-

⁶ Bożena CHMIEŁOWSKA, “Les notions de la loi naturelle et de loi positive chez Stanislas de Skarbimierz (vers 1360-1431),” in *Soziale Ordnungen im Selbstverständnis des Mittelalters*, ed. Albert Zimmermann, vol. 12/2 (Berlin, 1980), 460–66.

⁷ This English translation comes from AUGUSTINE, *The City of God*, in *The Works of Aurelius Augustine, Bishop of Hippo*, ed. Marcus Dods, vol. 1 (Edinburgh, 1871) [Translator’s note].

⁸ *Sermo 46*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 2, p. 74–75, lines 15–35: “Haec res publica sola est ordinata, quae legibus regulatis lege divina regulator, quia tunc est civitas Dei, in qua dux est veritas, lex est caritas, modus, iustitia et aequitas. Et quamvis non sit civitas, provincia, principatus aut regnum, quin leges habeat, quibus homines quasi equi frenis regi debent, rarissima tamen communitas sic regitur, ut digne civitas Altissimi dici possit. Et hoc ideo, quia non est fides, corrui in plateis veritas, non est timor Dei, non reverentia, non pietas, non religio, non innocentia, non zelus domus Dei, et finaliter non est iustitia, sine qua regi nequit nullatenus res publica. Remove siquidem legem ab homine, quid erit aliud homo sine lege nisi ‘vas irae’ [Romans 9:22]? Tolle ‘de regnis iustitiam, quid erunt regna nisi latrocinia’, secundum Augustinum, IV *De civitate Dei*, capitulo IV? Tolle timorem Dei, et statim replebitur tota terra iniquitate adeo, quod merito esset disperdenda cum terra. Tolle pietatem et concordiam de finibus imperii, ‘omne regnum in se ipsum divisum desolabitur et domus supra domum cadet’, ut ait Veritas, Matthaei XII.”

⁹ *Sermo 46*, 76–79, lines 66–146 (examples of military successes owed to the virtue of fear of God: Nebuchadnezzar, Abraham, David, then Theodosius and Constantine) and 81–82, lines 205–

bly those examples, but also his general inclinations towards asceticism and repression, stemming from a recognition of human nature's weakness, that make Stanisław identify wisdom with discipline in the conclusion of the sermon, and by that identification rehabilitate convincingly also the pragmatic values of the state, ones that do not have to be rejected, but need to be provided with a base of the fundamental moral values.¹⁰

A similar duality of character is found in intellectuals, or sages, whose participation state governance is postulated by Stanisław in another of his sermons (no. 42) from this same collection—he even combines, in a Platonic fashion, ruler-like qualities and those of a sage in the ruler. “A king or a ruler takes wisdom seriously or always seeks counsel from the sages must be recommended.”¹¹ This claim is also illustrated with historical examples of rulers and ruling sages. Just as before, in those examples, taken mainly from antiquity, the Old Testament included, wisdom of rulers-sages has two aspects: the ethical and the pragmatic one, moral and, one could say, technical. Among the examples we have, for example, the king of Hellenistic Egypt, Ptolemy Philadelphos, who commissioned a translation of the Old Testament into Greek so as to be able to learn the law revealed by God, and Julius Caesar, the reformer of the calendar and a stenographer, characterised by an exceptionally divided attention, capable of dictating four letters at the same time.¹² What prevails not only in those examples but also in the general, conceptually verbalised reflection, is moralistic rather than pragmatic content.

31 (on the one hand, Alexander the Great with the discipline and experience of his soldiers, Xerxes and Darius on the other).

¹⁰ *Sermo 46*, 81, lines 204–5: “narratur in Policratico libro VI, capitulo XII, quod Romanis adeo profuit disciplina, ut orbem suae subicerent dicioni”; 82, lines 231–34: “qui secundos optat eventus, dimicet arte, non casu, amplius Dei sapientia, quae docet manus ad proelium et digitos ad bellum, quae nobis victoriam de hostibus visibilibus et invisibilibus concedat.”

¹¹ *Sermo 42*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, 32, II, 147–50: “Laudandus est ... Deus, qui dignatur rectoribus largire sapientiam ad regendum, ac commendandus est rex vel princeps, qui sapientiae incumbit vel consilium semper a sapientibus exquirat.” As his inspiration Stanisław quotes, however, not Plato, but the Bible, for example Proverbs 8:15 (words of God's Wisdom): “Per me reges regnant et conditores iusta decernunt” (lines 38–39).

¹² *Sermo 42*, 32, lines 151–55: “Sic Ptolemaeus, licet esset gentilis, vocavit LXX interpretes, ut haberet notitiam divinae legis et eam regni sui sapientibus communicaret, nunc autem christiani principes divinam, in scripturis sanctis positam, non currant quaerere sapientiam”; 34, lines 191–99: “Item patet in Iulio Caesare, de quo narratur in libro De vita Caesaris, parte prima, qualiter investigavit cursum solis numerando horas et momenta temporis, qualiter bissextum invenit et multos libros scripsit. Et Solinus, libro primo, capitulo II, dicit, quod «eius disciplina omnium postea temporum fundata ratio est», et in eodem libro, ante finem, ait de eodem Iulio Caesare: Nullus celerius scripsit, nullus quaternas semel epistulas perhibetur dictasse.” What, however, seems to be the most

A good example of that tendency can be found in *Sermo 66* from the same collection, with a motto taken from the Book of Ecclesiastes: “For by one that hath understanding shall the city be replenished” (Ecclesiastes 16:4). Understanding, or rationality, is first conceived in a very pragmatic way—as an ability to make inferences from the past for the benefit of the future. It is such an ability that is supposed to ensure success for the rulers and help them avoid failures.¹³ This is, however, just one layer of the sermon’s ideological content. The deeper layer is constituted by a determination of what this benefit amounts to. It belongs to the realm of disinterested, non-pragmatic values. That benefit is the common good based on altruism, which in turn refers to the highest ideal values, no longer measurable by any benefit. On the one hand, the point is to “look out not for their own interests, but those of Jesus Christ”, as one could say, replacing the negative sense with a positive one in these words of St. Paul, quoted by Stanisław in their negated form.¹⁴ On the other hand, the point of reference is the natural law: life in accordance to this law is striving for common benefit, which Stanisław repeats in the sermon after Augustine’s *The City of God*.¹⁵ These two highest

characteristic is combining the virtue proper to an active life of a ruler or a commander with the contemplative life of a sage, discussed with reference to the example of Theodosius, 34–35, lines 215–21: “Patet etiam in Theodosio, de quo legitur in prologo Historiae tripartitae: «Aiunt te, inquit Ptolemaeus, per diem exercitari armis subiectionumque negotia disceptare, iudicare simul et agere, modo seorsum, modo publice, quae sunt agenda, considerare, noctibus vero libris incumbere». Et ibidem narrat, quod scivit naturas lapidum, exemplo Salomonis.”

¹³ *Sermo 66*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, 275–76, lines 3–28: “Si quis prudens esse cupit, suus animus tribus temporibus dispensetur: praesentia ordinet, futura praevideat, praeterita recordetur.... Et hinc fit, quod dicitur rectores provinciarum, regnorum, civitatum aut communitatum praeterita, quae nocebant rei publicae, non revolvunt, et quae et quanta pericula regnis, provinciis, civitatibus bonum privatum induxit, nec praesentia, si sunt prospera, ad Deum referunt, sed aut in ipsis intumescunt vel eis abutuntur, nec praeviendo futura pacem sub pace quaerunt vel ordinant, non mirum, quod dominia eorum ipsis dormientibus et non vigilantibus auferuntur ac civitates desertantur. Quod utique non contingeret, si rectores earum ex praeteritis formam ordinandi reciperent et praesentia rite peragerent ac sollerter futuris occurrerent, quia «civitates inhabitabuntur per sensum potentum» [Syr. 10:3, the *verbum thematis* of this sermon].”

¹⁴ *Sermo 66*, 276, lines 29–37: “Verum qualiter regnum, civitas, principatus, communitas, res publica ecclesiastica vel saecularis non desertabitur vel qualiter diu subsistet, quae membra continet, quorum unum alteri adversatur et unius felicitas alterius est tormentum, ubi sunt aemulationes occultae, conspirationes, odia, inimicitiae, discordiae, ubi una pars semper contendit super altera eminere, ubi omnes vel quasi omnes «quaerunt quae sua sunt, non quae Iesu Christi», rei publicae vel boni communis?”

¹⁵ *Sermo 66*, 277, lines 38–48: “Et ideo beatus Augustinus, De civitate Dei, libro V, capitulo XIX, ait, quod tunc res publica sive res populi iuste et bene regitur sive ab uno, sive a paucis optimatibus, sive ab universo populo, cum talis coetus iuris consensu et utilitatis communione est sociatus; tunc salva est res publica, cum secundum ius naturae omnes consentiunt et utilitatem

values—God and nature—constitute a frame of a kind, on which the exeplying layer of the sermon has been built. Its meaning could be explained as follows: the ancient pagans, following the natural law, motivated by the love of their homeland, practiced the virtue of disinterestedness for the sake of the common good even when it required heroic sacrifices. Therefore, the Christians, who can ground it in something of far higher value than that of the natural law, ought to do it all the more so.¹⁶ The relation between what in Stanisław's considerations is pragmatic and what is ethical and disinterested is defined, just as it was in the case of the sermons previously discussed, by various maxims of ancient writers, both pagan and Christian, and above all by the rhetorical question of St. Augustine, often quoted by Stanisław (“Justice taken away, what are kingdoms if not great robberies?”), as well as (also quoted after Augustine) Scipio the Younger's statement, “It is not a flourishing republic whose walls stand, but whose morals are in ruins.”¹⁷ They

omnes contendunt. Haec ille. Ex quo patet, quod omnis regnicola, cum sit pars rei publicae, pro posse suo bonum commune tenetur salva iustitia intendere, augere, protegere, servare et, si opus est, ne deficiat sanguinem pro ipso fundere.”

¹⁶ *Sermo 66*, 279, lines 105–25 (following some examples of the love of common good displayed by the ancient pagans): “Si ergo gentiles, non regenerati in aqua et Spiritu Sancto nec iustificati ac vivificati per gratiam Iesu Christi nec existentes pars corporis mystici Christi Iesu nec praedordinati ad vitam aeternam nec heredes nec coheredes Christi, ex amore corruptibilis patriae et laudum cupidine nec ad meriti augmentum nec praemii cumulum nec ad animarum salutem vel Dei veri honorem rem publicam tam vehementer diligebant, ut pro salute ipsius vel pace omnia contemnerent, terribilia aggredi minime formidarent, periculis et laboribus, immo morti se gaudenter exponerent, nec filios et cognatos in bellis pro bono patriae occisos lugerent, ampliori fervore pro re publica, bono communi vel patriae, et maxime fide catholica et honore Dei veri catholicus debet omnia contemnere, amorem suorum amor patriae vel divino postponere, mortem propter bonum commune, si necessitas incumbit, laeto animo exspectare, potius omnia mala pati quam malo consentire, nec eos, quos in bello rei publicae vel defensa caedi contigerit, deflare, sed potius de triumpho ipsorum gaudere, ac se suaque et suos propter honorem Dei et amorem abnegare.”

¹⁷ *Sermo 66*, 280–81, lines 143–65: “Quod enim sit necessaria rei publicae, regno, civitati vel alteri comunitati, si debet diu laudabiliter subsistere, iustitia, ostendit beatus Augustinus, II De civitate Dei, ex sententiis sapientum conclusivè tenens sine summa iustitia rem publicam regi non posse, nihil enim tam inimicum quam iniustitia civitatum, nec omnino nisi per magnam iustitiam geri aut stare rem publicam. Et IV De civitate Dei, capitulo IV, ait, quod «remota iustitia quid sunt regna nisi latrocinia?» Et ideo nemo sibi blandiatur de potentia, magnificentia, divitiis vel gloria, si caret iustitia, quam colere summum bonum est in hac vita, XII q. II: «Cum devotissimam». Ipsa enim reddit unicuique quod suum est: superiori reverentiam et in licitis oboedientiam, pari consilium, quo erudiat ignorantia, et auxilium, quo infirmitas adiuvetur, inferiori humanitatem, custodiam et etiam disciplinam. Haec est lucifer virtutum, pacem ordinat, pacem custodit, concordiam parit, mala de rei publicae terminis eliminat et expellit, a malis retrahit, desideria camis compescit et disciplinando verae paenitentiae ferre fructum facit. Propter hanc princeps gladium suscipiat, ut feriat peccatores, XXIII q. V: «Principes», et capitulo «Regum»”.

show clearly what is the meaning and the extent of Stanisław's notion of common good.

Stanisław of Skarbimierz's reflections on the state are always abstract in character, both with respect to their form and to their content: in none of the sermons discussed appears the name of the state that the speaker could have had in mind; no the realities or any, even indirect, description of the situation appear in any of them, either which would allow to guess that the author speaks about Poland of his times.¹⁸ This, however, is our, or scholars' sentiment, rather than of the recipients of the sermons. The latter, who listened to or read them at the time, would understand it differently, of course; when the preacher was elucidating the principles of the common good or persuading them that wisdom is superior to force in the life of the state, it had to refer to the state they lived in. This situation, where the sheer fact of a direct and simultaneous contact of the speaker with the listeners was making out of even the most abstract sermons and speeches of Stanisław's concerning politics and state topical and concrete publicism, did not have to be the case only in Poland. Some of the sermons could have already been delivered earlier in Prague. But wherever the sermons were listened to or read, they had to provoke specific and topical associations.

In terms of its form, *Sermo 30* from the collection *Sermones sapientiales*, in manuscripts entitled *Of just and unjust war (De bello iusto et iniusto)* is no different from the ones discussed previously.¹⁹ It is an exposition of general principles, defining the conditions for "justice", that is, fairness of wars in general, and of wars fought by Christians in alliance with non-Christians—"the infidels"—in particular. In spite of all that, both the subject matter and the theses advanced by the author can only pertain to one particular historical situation. There is no doubt that the sermon refers to the Polish-Lithuanian-Teutonic relations, and that when Stanisław mentions pagans and Christians in general, what he has in mind is the not yet fully Christianised Lithuania and the Kingdom of Poland, Christian for centuries, fighting arm

¹⁸ EHRlich, *Paweł Włodkowiec*, 8–9, with a remark that we can understand the general and abstract statements made by Stanisław of Skarbimierz as referring to a particular historical situation only in the light of Paweł Włodkowiec's trial treatises.

¹⁹ At first it was more widely known under the title *De bellis iustis*, under which it was published by Ludwik Erlich (*Polski wykład prawa wojny*, cited in footnote 5). However, of the three manuscripts containing Stanisław's text (Jagiellonian Library 192, University of Wrocław Library IF 750, Jagiellonian Library 1629), in the second and third the sermon is entitled *De bello iusto et iniusto*, and in the first it has no title at all. See Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 1, 232. My quotes from *Sermo 30* come from this edition.

in arm against the Teutonic Order, accused by the Order of being a shameful and illegal alliance of Christians and pagans, one that thwarts the Order's mission. It is just as clear to us as it must have been for the listeners or readers contemporary to the author.

There is little content pertaining strictly to political themes, if we consider problems of state and authority as such. The subject of international relations is also virtually absent, apart from the issues arising from the problem of justifiability of war itself. These issues could in turn be divided into two separate parts. One of them is this very problem of just war in general. The other, somewhat loosely related to the first one, is the problem of the participation of pagans in a war between Christians. Present is also the duality we have already seen in the sermons previously discussed, namely the interweaving of ethical and pragmatic themes, of the general and abstract with specific ones. The erudite content and the argumentation are typically legalistic, involving canon law—much more than in other sermons of Stanisław.

There are five conditions for war to be just. First, only lay people can participate in it. Second, war can be justified when waged in order either to recover the state's possessions wrongfully seized in the result of war, or in defense of those possessions. Third, the war's objective has to be the restoration of peace, and the war itself must remain, as a last resort, only a mean to achieve that objective. Fourth, the motives behind the war need to be noble, never base: neither desire for revenge, nor greed for the spoils, but charity and justice based on divine law. Fifth, a just war needs to be supported by the authority of the Church, especially in cases when it is waged in the name of faith.²⁰

This enumeration does not contain anything that would by itself make topical writing. But if one were to consider what is the point of enumerating things obvious on the grounds of canon law,²¹ it is easy to see how they re-

²⁰ *Sermo 30*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 1, 325–26, lines 52–67: “Iustum ... bellum quis esse intelligat, si est persona saecularis, non ecclesiastica, cui prohibitum est humanum sanguinem effundere (Extra, «Ne clerici vel monachi: Sententiam»); si fiat pro rebus repetendis vel pro defensione patriae (XXIII q. III: «Fortitudo»); si causa sit legitima, ut scilicet, propter necessitatem, pugnetur, quatenus per pugnam pax turbata recuperetur aut acquiratur (XXIII q. 1: «Noli»); si non fiat propter odium aut ultionem vel cupiditatem, sed propter zelum legis divinae, propter caritatem, iustitiam et oboedientiam (XXIII q. 1: «Quid culpatur»); si fiat auctoritate ecclesiae, praesertim cum pugnatur pro fide, aut auctoritate principis. Quoniam sicut antiquitus ducibus fuit concessum bellare, sic et modernis, dummodo non bellent propter odium aut propter cupiditatem aut desiderio fundendi sanguinem.”

²¹ On the subject of the sources of the five conditions of just war, see EHRlich, *Pawel Wlodek*, 30–31.

late to the particular situation. The first condition, for example, is banal and every clergyman knew about it. The fact that it appears at the beginning makes us realise that it refers to those monks-not-monks, whose status was ambiguous, but the vows of whom would put them among regular clergy. Similarly, the fifth condition, excluding a private or particular crusade as not contained in the concept of just war, is also against the Teutonic Order.²² Further elements of the sermon's contents make it even more explicit.

If these conditions are satisfied, we can invoke a more general principle to justify war. The author finds it, just like the previous ones, in the canon law, but this time canon law has grounding in natural law, namely in the right to "self-preservation", making it possible to "suppress force and violence or resist it".²³ This right is universal, because it is also a right of irrational beings, "that protect and defend themselves, and sometimes even bite back".²⁴ In the human sphere, there are also other factors at play. They make a difference a philosopher would probably conceptualize as the difference between the irrational compulsion of instinct and the freedom of rational will. Stanisław employs similar argumentation and follows a similar argument, but closer to the mentality of a lawyer. Within the sphere of human activity he sees first and foremost the problem of means to an end, a particular example of the constant concomitance of pragmatic and ethical factors in his reasoning. This problem appears as the question whether one is allowed to commit evil, inevitably connected with war, for the sake of the good of achieving the objective of a just war.²⁵

²² On the subject of the status of the Knights of Teutonic Order in regard to the church discipline, see EHRlich, 56–57.

²³ *Sermo 30*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 1, 327, lines. 108–10: "cuilibet licet de iure naturali vim vi in continenti repellere cum moderamine inculpatae tutelae (I distinctione: «Ius naturale»)."

²⁴ *Sermo 30*, 330, lines 189–94: "Ius quippe naturale est, ut unusquisque se conservet in esse et vim aut violentiam, prout potest, reprimat et contrario resistat. Hoc enim est cernere in creaturis irrationalibus, quae se, prout possunt, tuentur et defendunt, et [probably ought to be read: ut] interdum in se ferientem remordendo consurgant."

²⁵ *Sermo 30*, 330, lines 195–99: "Nec obstat, quod in bellis iustis multa mala et innumera flagitia committuntur. Absit enim, ut ea, quae bono animo agimus, si praeter voluntatem nostram aliquid contrarii evenerit, nobis debeat imputari (XXIII q. V: «De occidendis»); 330, lines 209–17: "Et si forte quis dicat; «Non sunt facienda mala, ut eveniant bona» (XIV q. V: per totum), igitur non est bellandum, cum sine malis multis exerceri bellum non possit, ut pax, quod est bonum, acquiratur. Sed id non obstat. Nam militare sive bellare non est malum, et licet propter pronitatem hominum ad peccandum tunc flagitia et nefandissima crimina committuntur, id tamen iusto bello non oberit, quia «utile per inutile minime vitiatur» («De regulis iuris: Utile, libro VI»)."

Against the background of this general question²⁶ emerges a pragmatic and the most specific topic of all discussed here: Are Christian rulers allowed to ally with pagans in a just war against Christians?²⁷ The answer²⁸ is close to the principle “the end justifies the means”.²⁹ Just like in just war in general, also in this kind of war it is necessary to make use of “means” evil in essence, especially of deception, and of various “tools” that make them even more evil. This category includes aid accepted from pagans. Although man, as the noblest of creatures, is superior to the tools and modes of action that he himself invented, and is therefore morally responsible for, in this situation they become something morally neutral: “And because ... when someone engages in a just war, it is neutral with respect to justice whether he fights in the open or makes an ambush, therefore it can be understood that in what pertains to justice there is no difference whether one does it with the aid of Christians only, or of Christians allied with pagans, who can be used by Christian rulers just like an ambush or deception. In any case, if in a just war those rulers are allowed to make use of catapults, machines, cannons and other equipment of this kind, they are all the more permitted to make use

²⁶ *Sermo 30*, 326, lines 84–87: “Inter iustum igitur et iniustum bellum princeps vel miles catholicus discernat et tandem auctoritate iuris vel hominis gladium assumat.”

²⁷ *Sermo 30*, 332, lines 255–62: “si gentiles idolatrae Deum verum ignorantes, templum Dei et sancta sanctorum profanantes, innocentes poenis variis afficientes, stupra, fornicationes et adulteria et innumera detestanda peccata committentes, servire Deo dicebantur [that is: in the Scripture], non miretur, quod princeps catholicus effundens sanguinem inimicorum suorum, ipsum persequentium iniuste et maxime delere quaerentium, servire Deo dicatur”; 334, lines 313–17: “Audi ergo, an licet regi vel principi catholico paganos in adiutorium contra christianos, iniuste ipsum damnificantes vel delere quaerentes, necessitate ductos inevitabili, invocare, quod in bello iniusto fieri non posse dubium non est sapienti.”

²⁸ *Sermo 30*, 332–33, II, 269–76: “contra eius [tj. Regis Assur] superbiam loquitur Dominus (Isaiae X) dicens: «numquid gloriabitur serra contra eum, qui secat in ea?», aut: «numquid gloriabitur securis contra eum, qui caedit in ea?». Quasi dicat: Sicut securis et serra nec secare nec caedere ligna potest, nisi ab aliquo regatur, ac ideo contra regentem se superbire non debet, sic fideles aut infidels chistianos peccatores punientes Deo servire dicuntur.”

²⁹ *Sermo 30*, 334, II, 304–5: “Sed diceret aliquis: Non congruit principi catholico cum infidelibus societatem habere”; 334–35, II, 319–38: “tanta pulchritudo pacis esse dinoscitur, quod omnia, quae bona sunt, melius pacis tempore disponuntur et melius colitur auctor pacis.... Et nedum rationalia, immo bruta pacem quaerunt, quia mortem et perniciem quaerunt possunt, declinant, et vegetabilia, velut arbores.... Nec mirum de creaturis, quod laborant, ut conserventur in esse et sic in pace, cum et ipsa bella, de quibus minime videtur, fiant propter pacem. Ac sic, si tam bona sit pax, ad quam omnes aspirant, si turbatur pax regni, merito tota potestas eius ad recuperandum eandem consurgit. Et si forsitan propter adversariorum fortitudinem se ipsa recuperare pacem non valet, quis sanae mentis imputare velit, quod sibi associatis tunc etiam infidelibus, si altier providere non valet, pacem tam salubrem et utilem sibi procurat, cum id ius naturale concedat?”

of people of any kind to suppress iniquity. For any human being is the noblest of the world's creatures."³⁰

A just war "someone" engages in "with the help of Christians allied with pagans", being an *argumentum crucis* in the sermon of our master can only be a single war: the one waged by Władysław Jagiełło as the king of Poland in alliance with Lithuania, part of which was still pagan, and in its defence against the Christian Teutonic Order. We can see here Stanisław of Skarbimierz fulfilling the task of a publicist: he is demonstrating, as both a canonist and a moralist, that this particular war is a just one. He does not avoid pragmatic or even casuistic arguments. But the last sentence from the text just quoted leaves behind pragmatics and casuistry and puts the issue in question in the context of theology and philosophy. Alliances with pagans are justified not only by the necessity of the situation, but also on the grounds of natural law. For it is this law that decides the question of a war being justifiable or not, the law that is the same for everyone and on which the law of nations is based.³¹ The word "nations" (*gentes*) is not as unequivocal in the medieval canon law terminology as it is today. In the terminology of the time it meant both nations as we understand them today, and pagans, with, in the latter case, an Old-Testament connotation: nations other than the one chosen by God. Stanisław employs this particular word only a few times in the whole sermon, for example in an expression *ius gentium*. In other situations he chooses unequivocal expressions: *gentiles*, *pagani*, *infideles*, as well as *barbari*, but he uses them to designate groups, not individuals.³² These

³⁰ *Sermo 30*, 335, II, 339–47: "Et quoniam, ut ait Augustinus, cum quis iustum bellum suscepit, utrum aperte pugnet, an ex insidiis, nihil ad iustitiam interest. Dominus enim iussit loquens ad Iesum [Iosue Nave], ut constitueret sibi retrorsum insidias, id est, insidiantes bellatores (XXII q. II: «Dominus»). In quo datur intelligi, quod quantum ad iustitiam nihil refert, an per christianos tantum vel christianos iunctis paganis, quasi quibusdam insidiis, christiani principes uti possint ... Ceterum si possunt uti catholici principes in bello iusto balistariis, machinis, bombardis et similibus, fortius hominibus quibuscumque pro reprimenda iniustitia uti possunt; omnis enim homo est dignissima creaturarum mundi."

³¹ *Sermo 30*, 335, lines 353–61: "Item ius naturale idem est apud omnes; sed principes vim vi repellentes iure naturali tuentur, in quo cum paganis conveniunt; igitur quantum ad hoc ipsis uti possunt. Item bella sunt de iure gentium, quae, quantum consonant iustitiae, ab ecclesia amplectentur; ergo nihil obviat, quin christiani, ut fiat satis iustitiae, quae praeclarissima est virtutum, paganorum adiutorium, si aliunde non habent, invocare possint"; 336, lines 370–75: "Item, sicut in actibus virtutum moralium potest quis communicare pagano, et maxime si nititur ipsum ducere ad salutem, cum iustitia et magnanimitas sint virtutes cardinales communes fidelibus et infidelibus, in actibus ipsarum christianus et paganus convenire possunt, quod esse potest in iusto bello."

³² *Sermo 30*, 335, line 357 (quoted in the previous footnote): "de iure gentium" (332, line 255: "gentiles idolatrae"); 336, lines 384–85: "in barbaris nationibus ad se adiuvandam invitatis"; 329,

“nations”—and pagans at the same time—if they act justly, that is, according to the divine law and the natural law, belong or will belong to the Church: “gentes, quae, quantum consonant iustitiae, ab ecclesia amplectentur”.³³ With this assumption, nothing keeps Christian rulers from satisfying justice—which Stanisław believes to be, somewhat Platonically, the crowning of all virtues—by calling “aid from the pagans, if they cannot find aid elsewhere”.³⁴

Following this line of reasoning Stanisław of Skarbimierz’s sermon *Of just and unjust war* gives an outline of a general and universally applicable doctrine. Its usefulness for the international situation of Jagiełło’s monarchy is, however, just as obvious as the fact that this situation created demand for such a doctrine. It is clearly a doctrine of just war, but because of the current political problem of the pagan’s participation in a just war against Christians some premises of a doctrine of religious toleration are implicitly contained in it.

Stanisław’s sermon was written, supposedly, before 1410, which is before the decisive Battle of Grunwald.³⁵ Several years later, during the debates at the Council of Constance Paweł Włodkowic addressed the same idea of just war in concrete terms of politics, negotiation and process. It was presented in a clear and synthetic way in his little text known under the title *De potestate papae et imperatoris respectu infidelium*.³⁶ This new elaboration is by no means a mere restatement of Stanisław’s ideas. It is rather a development of the same idea and its valuable enrichment. Even when Paweł repeats in his work those same five conditions of a just war enumerated by Stanisław (pointing out in passing their source in the writings of Raymond of Penafort, a canonist living in the 13th century³⁷), in accordance with the trial and

lines 180–81: “sicut pacem acquirere per pugnam licet contra barbaros, ita contra christianos”; 333, line 294: “per barbaros seu infideles”.

³³ *Sermo 30*, 335, line 357.

³⁴ *Sermo 30*, 339, lines 483–86: “Qui vult, intelligat, quod paganos contra malos christianos principi catholico in necessitate inevitabili, si aliter humanitus sibi providere non potest, invocare ad bellum iustum, non est malum.”

³⁵ Noting that the sermon was written “before the Battle of Grunwald”, Ehrlich (*Paweł Włodkowic*, 8) does not exclude the possibility of a later date, i.e. a date immediately preceding the war waged by the Polish king against the Teutonic Order, rekindled in 1414. ZAWADZKI, *Spuścizna*, 123, suggests a date “before 1410”.

³⁶ Published in its entirety at least three times: (a) in 1878 by Michaelis Bobrzyński in his *Starodawne Prawa Polskiego Pomniki*, vol. 5 (Kraków, 1878); (b) by Stanislaus Belch in his *Paulus Vladimiri and his Doctrine concerning International Law and Politics*, vol. 2 (The Hague, 1965); (c) by Ludwik Ehrlich (with parallel translations into Polish and English and with references to Włodkowic’s sources), in *Pisma wybrane Pawła Włodkowica* (Warszawa, 1968). Here I am using Ehrlich’s edition.

³⁷ *Pisma wybrane Pawła Włodkowica*, 66. Paweł Włodkowic mentions him—together with Henryk of Segusio (known as Ostiensis or Hostiensis)—by his name (“quinque requiruntur ad

negotiations under way, in his argumentation he is more concerned with an unjust war, because that is how he perceives the war the knights of the Teutonic Order have been waging for almost two hundred years, first against the Prussians, and later on against the people of the Gand Duchy of Lithuania, under the pretence of converting them to Christianity after making them their subjects.³⁸

Having related the events of that war and determined its totally illicit character, Paweł Włodkowic develops and supplements in his theory of authority and its legitimacy some ideas contained in the sermon of Stanisław of Skarbimierz on the subject of just war and the natural basis of its justness.

It is also Włodkowic who builds a general theory, starting, similarly to what Stanisław had done, with philosophical and theological assumptions, particularly with a tacitly assumed premise of equality of all people and of their freedom having virtually no limits (or rather limited only by their own nature). Only God, as the highest being, the beginning and the principle of every existence, can have authority over people. If, however, some people happen to have authority over others, it is a result of transferring the authority from God to his deputies, which in turn is an effect of the original sin. Certain substitutionary kind of authority was in particular established by the salutary actions of Christ: a spiritual authority as a plenipotentiary of God's authority over people. The spiritual authority in turn imparts some part of its entitlements to the secular monarchs, recognized by their subjects.³⁹ There

hoc, ut bellum sit iustum secundum Hostiensem per Raymundum”), whereas Stanisław mentions him only by references to *Corpus iuris canonici* (*Sermo 30*, in Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 1, 325–26, lines 52–67).

³⁸ Włodkowic formulates first a general question of whether Christians are allowed to start a war against pagans living peacefully in a neighbouring land (*Pisma wybrane Pawła Włodkowica*, 6: “Secundo, si infideles habent regna et provincias separatas a nostris et ibidem iurisdictionem exercent et omnia tenent, utrum licet Christianis illis in pace viventibus bellum movere et eorum bona occupare sine peccato”), next he formulates it in the context of a particular problem, whether the Teutonic Order, fighting with the peacefully minded pagans is waging a just war (p. 8: “quinto quaeritur: An Cruciferi pugnantes cum infidelibus pacificis habent iustum bellum”), answering in the end, that the knights of Teutonic Order are not allowed to occupy the lands belonging to the pagans (p. 58: “Ex quibus colligitur evidentiter alterius quaestionis solutio: Quod Cruciferi etc. pugnantes cum infidelibus pacificis ut sic numquam habuerunt iustum bellum: patet, quia illos in pace degere volentes impugnantibus omne ius resistit”; what follows is a legal justification of this statement, continuing up to page 60).

³⁹ *Pisma wybrane Pawła Włodkowica*, 49: “iurisdictionem ab initio mundi exercuit Deus per se ipsum in puniendo Adam et Evam (Genesis II et IV), deinde fuit tradita a Deo post diluvium Noe, cui Deus gubernationem commisit (Genesis V et VI), per quam ecclesia significatur. Succederunt deinde reges et alii, de quibus in Veteri Testamento. Sed tempore gratiae evacuata est lex Veteris Testamenti. Et Christus habuit omnem plenitudinem et fuit Rex noster, de quo di-

is, however, also an authority of some people over others being a result of usurpation and violence, obtained through unjust wars.⁴⁰ This authority is particularly interesting to Paweł Włodkowic as the objective of the innumerable military interventions of the Teutonic Order and it is with regard to this kind of authority that he formulates the two fundamental theses of his treatise, theses that enrich and extend the general idea of natural justice and just war in an essential way, and at the same time are particular exemplifications of the idea we have already seen in the writings of Stanisław of Skarbimierz.

The first thesis states that the universal, supreme and the only authority is the authority of the pope, whereas the authority of the emperor is not universal and in some sense depends on the authority of the pope.⁴¹

The second thesis is a peculiar and rudimental variant of the idea of religious toleration based on the notion of faith as an act of free will⁴²—and is

citur (in psalmo): Deus, iudicium tuum Regi da etc., et hoc transmisit in Petrum et successores eius.... Fiunt et aliae rationes..., per quas concluditur, quod papa, consideratus quatenus est vicarius Christi, habet utramque iurisdictionem [i. e. spiritual and temporal], Sed exercitium habet imperator in temporalibus, quia non fuit conveniens, quod ecclesia uteretur gladio temporalis...”

⁴⁰ *Pisma wybrane Pawła Włodkowica*, 56–57: “quando quaeritur..., quam potestatem sive iurisdictionem habet imperator super infidelibus et eorum bonis, praesertim suum imperium non recognoscentibus, ad istorum evidentiam sciendum, quod regnum in terris surgit tribus modis: primo per voluntatem Dei revelatam aliquo modo hominibus; secundo modo per consensum eorum, qui reguntur; tertio modo per violentiam. Primo modo et secundo modo regnum est iustum, tertio modo non. Secundum primum modum iustificatur potestas papae, incipiendo a potestate tradita patribus in Veteri Testamento, postea resumpta a Christo et translata in Petrum et successores eius. Insuper eadem potestas iustificatur secundo modo, ex quo tota ecclesia catholica et omnium fidelium congregatio in hoc consentit, quod est iam approbatum antiquissima consuetudine, cuius contrarii memoria non extitit. De tertio modo non est prosequi, cum sit de facto potius quam de iure. Cum igitur non constat imperium super infideles praedictos generaliter esse iustificatum primo aut secundo modo, non potest dici imperatorem aliquam potestatem habere super infideles, sed tantum tertio modo: per violentiam et tyrannidem.”

⁴¹ Such is also the thesis of the long argument, separated in the edition I am using here and entitled “the emperor’s authority”, 39–55, and this reasoning in turn constitutes the second main part of the treatise “de potestate (1) papae et (2) imperatoris respectu infidelium” (see pp. 5–6, where an expression defining the topic more precisely can be found). A summary of that reasoning can be found in the following words from p. 42: “In hoc autem est haec veritas, quod utraque iurisdictio, scilicet temporalium et spiritualium, est in papa; probatur multis rationibus”, and those *rationes*—*pro* and *contra*—aim at the refutation of the emperor’s authority over the infidels; see the previous footnote. See also EHRlich, *Paweł Włodkowic*, 154–55; BELCH, *Paulus Vladimiri*, 1:341ff.

⁴² *Pisma wybrane Pawła Włodkowica*, 60–61: “non est licitum infideles armis vel oppressio-nibus compellere ad fidem Christianam, quia hic modus est cum iniuria proximi et non sunt facienda mala, ut eveniant bona (XXII quaestione IV: Sic non sunt; XIV quaestione V: «Forte», et canone «Neque»). Unde in canone «Quid autem», XLV distincione, legitur: «Nova vero atque inaudita est ista praedicatio, quae verberibus exigit fidem». Et in capitulo «Sicut», Extra: «De

closely linked to the first one, as well as to the problem of just and unjust wars, more precisely with this particular kind of wars the crusades are. It is here that Paweł Włodkowic's argumentation prepared for the trial and negotiations seems to unfold—but without a clear reference to the Cracovian precursor⁴³—the topic present already in the sermon 30 of Stanisław.

Paweł does not fully exclude the possibility that a crusade could be just, but he introduces some differentiations. Recognizing as legal (and therefore just) the crusades embarked upon with a consent or permission of the pope in order to recover the lands that once used to be Christian, he declares illegal (unjust) the crusades waged as aggressive wars against the pagans who had never been Christian. There is a general principle Paweł Włodkowic expresses in a concrete way, in the form of an exemplification. A war waged with an objective of recovering the Holy Land—the land that Jesus Christ and his family used to live in, and the cradle of Christianity—is an unjust war, independently of the fact that—although this is not verbalised, but merely implied—it cannot convert the Saracens to Christianity by force. The war against the Lithuanians is an unjust war, because Lithuania had never been a Christian land.⁴⁴

Iudaeis», dicitur: «Quippe Christi fidem habere non creditur, qui ad Christianorum baptismum non spontaneus, sed vi cogitur pervenire». Ubi probatur secundum glossam, quod nullus ad fidem cogendus est (XXIII quaestione V: «Ad fidem»), quia fides ex necessitate esse non debet (XLV distinctione: «De Iudaeis», et canone Qui autem, et canone Qui sincera, quia servitia coacta Deo non placent (dicto canone De Iudaeis). Et ideo statutum est in generali Toletano concilio (dicto canone De Iudaeis), quod blandimentis, non asperitatibus debent illi studere, qui alios debent convertere. Ratio ibi redditur: Ne quorum mentem reddita ratione plano poterant revocare, pellat procul adversitas. Et subditur: Nam quicumque aliter agunt, suas illic magis quam Dei probantur causas attendere. Quod autem de Iudaeis dicitur, eadem penitus subest ratio de quolibet infideli et idem ius.... Ubi autem magis operatur potestas quam caritas, hi quae sunt sua quaerunt, non quae Iesu Christi, et ideo facile a legis divinae regula disceditur et dum dominari magis quam consulere placet, honor inflat superbiam et quod provisum fuit ad concordiam, tendit ad noxam.»

⁴³ That in *De potestate* of Paweł Włodkowic only some loose borrowings from Stanisław's *Sermo 30* can be found is claimed by Ludwik Ehrlich in his *Polski wykład prawa wojny*, 77, and after him by ZAWADZKI, *Spuścizna*, 123; a rather elusive similarity of general ideas contained in the two works is noted also in EHRlich, *Paweł Włodkowic*, 170–72; the similarity of some details is found also in BÉLCH, *Paulus Vladimiri*, 249, footnotes 63 and 64.

⁴⁴ *Pisma wybrane Pawła Włodkowica*, 61: “Ex his concluditur error nulla ratione tolerabilis, scilicet quod Christiani confluunt illic [i.e. Teutonic Order] ad impugnandum infideles, ex eo quia infideles, sive hoc dicatur causa fidei Christianae ampliandae, cum praetextu pietatis non est impietas facienda (XXX quaestione 1: Nosce; XIV quaestione V: Forte; I quaestione 1: Non est putanda), sive etiam dicatur causa militiae exercendae etc., cum omnes voluntarie auxilium praebentes Cruciferis impugnandi mansuetos infideles a mortali peccato excusari non possunt, sive sunt eorum subditi sive non. Non enim opem fert qui ad peccandum adiuvat (XXIV quaestione VI: Si res), et per consequens qui ibi impaenitentes pereunt foventes huiusmodi bellum

Independently of such a distinction between just and unjust crusades, Włodkowiec rejects war and coercion as a method of converting to Christianity in general. As a separate point of his treatise he claims explicitly that “it is not allowed to coerce the non-believers into accepting the Christian faith by means of arms and oppression, because in so doing one harms one’s neighbours, and it is not allowed to do what is evil in order to achieve what is good”.⁴⁵ “Our neighbours,” he writes elsewhere, “are, in the Truth, both the believers and the non-believers, all the same.”⁴⁶

Stanisław’s sermon *De bello iusto et iniusto* does not contain this idea of religious toleration, nor does it contain, even in rudimentary form, any theory of power. Nevertheless, every point of Włodkowiec’s treatise here commented has a counterpart in that sermon. Therefore, although Włodkowiec does not in fact refer to his colleague from the University of Kraków, merely supplying ample scholarly documentation from his own arguments and from the writings of earlier canonists and theologians, including his master from Padua, Zabarello, it seems very probable that not only did he know Stanisław’s sermon, but also that it was an important source of inspiration for him. Having this in mind in particular, we can reasonably speak of the Polish 15th-century school of law.

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illicitum, filii irae sunt sortemque habere cum damnatis merito sunt censendi. Bellum autem Hispanicum contra Saracenos est iustum secundum Oldradum (in Quaestionibus, quaestione LXXII) ideo, quia est ad recuperationem Christianarum terrarum et in quibus Christiani habitabant”; also 20–21: “dicit Innocentius..., quod licet Terram Sanctam possideant Saraceni, licite papa indicit eis bellum, quia iuste movetur, si intendit Terram Sanctam recuperare, quae consecrata est nativitate, habitatione et morte Iesu Christi, et in qua tamen non colitur Christus, sed Mahometus, ut incolatur a Christianis. Item Terra Sancta iusto bello victa fuit ab imperatore Romano post mortem Christi. Unde licitum est papae ratione imperii Romani, quod obtinet [obviously: as a result of the so called donation of Constantine the Great], eam ad suam iurisdictionem revocare, quia iniuste spoliatus est ab eo, qui non habuit ius spoliandi. Et secundum Innocentium haec ratio sufficit in omnibus aliis terris, in quibus imperatores Romani iurisdictionem habuerunt”; 25: “licet Christianis vel saltem regi liceat Terram Sanctam recuperare..., quo ad alias terras secus”; Stanisław of SKARBIMIERZ, *Sermones sapientiales*, no. 1, 337, lines 424–28; see also BELCH, *Paulus Vladimiri*, 180.

⁴⁵ See footnote 42.

⁴⁶ *Pisma wybrane Pawła Włodkowica*, 59: “impugnatio infidelium, maxime sine iusta causa, non compatitur secum dilectionem proximi, quia ingressus unius contrarii alterius operatur egressum, proximi autem nostri sunt secundum Veritatem tam fideles quam infideles indistincte (De paen. distinctione II: Non illi tantum proximi, in textu et glossa in canone Proximos).”

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