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FROM PAUL VLADIMIRI TO GUSTAVO ZAGREBELSKY. CONSTITUTIONAL JUSTICE IN THE AGE OF HYBRID WARFARE

Abstract. Paul Vladimiri (1370–1435) was a distinguished Polish scholar and jurist who defended the rights of Poland and native non-Christian tribes against the Teutonic Knights and their policies of conquest. He expressed the view that a world guided by the principles of peace and mutual respect among nations was possible, and that pagan nations had a right to peace and to possession of their own lands. Vladimiri's analysis of the right of native peoples to self-determination anticipated by several hundred years the investigations of many subsequent authors – including Francesco Vittoria, Bartolome de Las Casas, Hugo Grotius, and John Marshall. The influence of his views can be seen today, among others, in the theory of constitutional justice developed by the Italian legal theorist Gustavo Zagrebelsky. The main purpose of this article is to outline the views of Vladimiri and Zagrebelsky, and to analyze the principles of constitutional justice in its global dimension as a tool for resolving conflicts between states in the age of hybrid wars.

Keywords: just war, constitutional justice, right to self-determination, human rights, Renaissance, humanism, nihilism, hybrid wars, Enlightenment tradition, constitutional principles

1. INTRODUCTION

Paul Vladimiri (1370–1435) – Paweł Włodkowic in Polish – was a distinguished Polish scholar and jurist, as well as the rector of the Cracow Academy, who defended the rights of Poland and native non-Christian tribes against the Teutonic Knights and their policies of conquest. He was born in central Poland, near Płock, and studied at the University of Prague in Czechia, where he took his degrees

in 1393. He continued to study jurisprudence at the University of Padua in Italy. In 1415, Vladimiri represented Poland at the Council of Constance in Germany, where he delivered a speech about the power of the Pope and the Emperor – the *Tractatus de potestate papae et imperatoris respectu infidelium* (Treatise on the Power of the Pope and the Emperor with Regard to Infidels). In this booklet he defended the thesis that pagan and Christian nations could coexist in peace, and criticized the Teutonic Order for waging war of aggression against native non-Christian peoples in Prussia and Lithuania.

At beginning of the 15th century Paul Vladimiri pioneered the notion of a peaceful coexistence among nations, which makes him a forerunner of modern theories of human rights. Throughout his political, diplomatic and academic career, Paweł Włodkowic expressed the view that a world guided by the principles of peace and mutual respect among nations was possible, and that pagan nations had a right to peace and to possession of their own lands.

The thought of Paul Vladimiri has become particularly relevant in the context of the contemporary dispute over the right to religious freedom, the principle of state secularism, and the ethics of international relations. It appears that these issues are currently more significant than the debate on the criteria of just war. In recent years, we have witnessed the emergence of hybrid wars as an entirely new type of military operations and response to armed conflicts. In the age of hybrid wars, it is very difficult to define clear-cut criteria of just war.

There is no universally accepted definition of hybrid warfare. According to Michael Kofman and Matthew Rojansky from the Kennan Institute at the Wilson Center in the USA, the "hybrid" concept is well established in modern Western military discourse today, while the problem set it seeks to define is not novel, but rather has been cited frequently under concepts of "unconventional" warfare and "political" warfare. For example Russia's annexation of Crimea in 2014 and subsequent invasion of Eastern Ukraine is seen by the

West as a "hybrid war" that employs "a variety of tools, ranging from conventional to irregular combat operations, sponsorship of political protests, economic coercion, and a powerful information campaign."[1]

Paul Vladimiri believed that non-Christians should not be converted to Christianity at sword's point, which was an important anticipation of the contemporary idea that people should not be forced to practice any religion. Every nation has the right to self-determination and peaceful life in its own lands. The views Vladimiri held make him a significant forerunner of the modern principle of state secularism, and a founding father of the ethics of international relations.[2] The influence of his views and insights, proposed 600 years ago, can be seen today, among others, in the theory of constitutional justice developed by the Italian legal theorist Gustavo Zagrebelsky.

What theories and ideas most influenced the views of Paul Vladimiri? What were the main sources of his revolutionary, unprecedented arguments? Can the theory of constitutional justice proposed by Zagrebelsky be an effective tool for maintaining peace between nations in the era of hybrid warfare? The main purpose of this article is to outline the views of Paul Vladimiri and Gustavo Zagrebelsky, and to characterize the principles of constitutional justice in its global dimension as an ethical foundation of international relations, and a tool for resolving conflicts between states in the age of hybrid wars.

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1 M. Kofman, M. Rojansky, *A Closer Look at Russia's "Hybrid War"*, Kennan Cable (2015)7, 1. Cf. M.S. Bond, *Hybrid War: A New Paradigm for Stability Operations in Failing States*, Pennsylvania 2007; B.P. Fleming, *Hybrid Threat Concept: Contemporary War. Military Planning and the Advent of Unrestricted Operational Art*, Fort Leavenworth 2011; A. Jacobs, G. Lasconjarias, *NATO's Hybrid Flanks. Handling Unconventional Warfare in the South and the East*, NATO Research Paper 112(2015), 1–12.

2 Cf. M. Marzano, *Etica oggi. Fecondazione eterologa, guerra giusta, nuova morale sessuale e altre grandi questioni contemporanee*, Trento 2011, 75–80.

2. HUMANISM AND THE IDEAS OF THE RENAISSANCE

The most significant years in the development of the views and thought of Paul Vladimiri were from 1403 to 1408, when he studied jurisprudence at the University of Padua in Italy. At that time, Padua was the main centre of Renaissance ideals in Europe. Combining the basic tenets of the Christian religion with humanist thought and certain elements of Stoic philosophy, Vladimiri developed a strong belief that the proclamation of the Gospel and the conversion of pagans could not justify the use of force and the waging of war.

In 2000, Ronald G. Witt published a very important book entitled *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni*.[3] This study by the most outstanding Renaissance expert in America has shed an entirely new light on the beginning of humanism and the Renaissance by arguing that they began a century earlier than traditionally thought. For many ages, we have believed that the Renaissance began in Italy in the middle of the 14th century and that its founding fathers were Francesco Petrarca (1304–1374) from Arezzo and Giovanni Boccaccio (1313–1375) from Certaldo.

Ronald G. Witt believes this is not true. According to him, Petrarca and Boccaccio belong to the third generation of Renaissance artists. Witt believes that the Renaissance began in Padua around 1260 – not long after the University of Padua was established in 1222. The beginning of the humanist tradition can be traced back to as early as 1260, in the imitation of the authors of Antiquity in its own prose and poetry. The American researcher argues that the real precursors of the Renaissance were Lovato dei Lovati (1240–1309) and Albertino Mussato (1261–1329) from Padua, as well Leonardo Bruni (1370–1444) from Florence. These three Italian scholars were well acquainted with the classical Latin authors, including Catullus,

3 Cf. R.G. Witt, *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni*, Boston – Leiden 2000, 2003^2.

Livius, Horace and Seneca. Thanks to them, a new vision of the world was born in which man and his worldly and civic life took a central place. Witt concludes that the humanist ideas and the Renaissance tradition began in Padua in the middle of the 13th century and then spread to Florence, with a key contribution coming from the tradition of Cicero's sophisticated oratorical art.

Why is this important to understand the development of Paul Vladimiri's views? The fact that the beginning of humanism and the Renaissance can be anticipated by a hundred years is of fundamental significance here. We can now appreciate that when Vladimiri arrived in Padua, he did not witness the beginning of the Renaissance but met with a well-developed tradition of humanist thought, which was already 150 years old. At the beginning of the 15th century, when Vladimiri studied jurisprudence in Padua, a new vision of the world and culture was already well established in the minds of many of his contemporaries.

One of them was Francesco Zabarella, who studied philosophy, liberal arts and theology in Padua and jurisprudence at the University of Bologna. Zabarella was one of the close associates of Pope Boniface IX. He was called the "king of the Paduan decretalists", who were scholars administering the canon law according to the *Decretum Gratiani* and the papal law. He was also one of the three cardinals commissioned by Pope John XXIII to go to Constance in 1414, and organize the Council together with the commissaries of the Emperor and the municipal officials.[4]

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4 Cf. G. Vedova, *Memorie intorno alla vita ed alle opere del cardinale Francesco Zabarella*, Padova 1829, 76–77; D. Girgensohn, *Francesco Zabarella aus Padua: Gelehrsamkeit und politisches Wirken eines Rechts Professors während des grossen abendländischen Schismas*, Zeitschrift für Rechtsgeschichte 110(1993), 232–277; Id., *Zabarella Francesco*, in: *Dizionario biografico dei giuristi italiani (XII–XX secolo)*, eds. I. Birocchi, E. Cortese, A. Mattone, M.N. Miletti, Vol. 2, Bologna 2013, 2071–2074; Th. Morrissey, *Conciliarism* and *Church Law in the Fifteenth Century: Studies on Franciscus Zabarella and the Council of Constance*, Abingdon on Thames 2014.

Zabarella exerted a profound influence on Paul Vladimiri and his views. It was through this distinguished professor at the University of Padua that the student from Poland was introduced to the new and inspiring ideas of the humanism. One of them was the concept of natural law, which had been developed by Stoicism, among others, and which largely influenced the theory of just war and the right of nations to self-determination in the views of Paul Vladimiri. Zabarella was so profoundly influenced by the Stoic tradition that, following the example of Seneca and his *De Felicitate*, he published a treatise with the same title in 1393. Although Zabarella was above all a jurist, through his writings he also proved to be, and was admired as, a "wise and insightful philosopher."[5]

Vladimiri seems to have independently elaborated on the new humanist and Renaissance ideas to analyze the issue of a just war and the right to religious freedom. At the beginning of the 15th century, the problem of the forced conversion of pagans was rather alien to the intellectuals of Padua and Florence. Their local problem was the very difficult task of preventing incessant armed conflicts between such Christian city-states as Padua, Ferrara, Florence, and Assisi. Within this context, Vladimiri had to work on his own in order to examine the dispute between Poland and the Teutonic Knights, as well as the problematical issues concerning the forced conversion of pagans, in light of the new humanist ideas. In addition, one must not forget that the views presented by Vladimiri and Zabarella were also linked with the tradition of Medieval law that stretched back to the 13th century.[6]

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5 G. Vedova, *Memorie intorno alla vita ed alle opere del cardinale Francesco Zabarella*, op. cit., 38. "Zabarella – according to Vedova – promulgava sani principi di morale e di religione, facendosi conoscere ed ammirare con questi ed altri suoi scritti come dotto e profondissimo filosofo" (ibid.).

6 Cf. K. Pennington, *Bartolomé de Las Casas and the Tradition of Medieval Law*, Church History 39(1970), 149–161; J. Muldoon, *Popes, Lawyers, and Infidels: The Church and the Non-Christian World, 1250–1550*, Philadelphia 1979, 113–126.

Paul Vladimiri owed his success in Constance largely to the members of the committee appointed by the Pope to assess the arguments in his address to the Council Fathers. The committee was presided over by Cardinal Francesco Zabarella – his lecturer and mentor in Padua.[7] The revolutionary theses proposed by Vladimiri during the Council of Constance would probably have had a different reception had it not been for the sympathetic attitude of Francesco Zabarella and a group of Italian jurists who supported the Polish delegates.

One could argue that, were it not for Italian humanism and the ideas of the Renaissance, the arguments proposed by the Dominican friar John Falkenberg, who aggressively supported the Teutonic Knights and attacked Poland by calling King Ladislaus Jagiello a "mad dog" and unworthy to be king, would have been received successfully. Falkenberg believed the Polish people should be severely punished for supporting pagans in their struggle against the Teutonic Knights.[8] In his opinion, Poles deserved to be enslaved and to die even more than pagans.

3. THE ETERNAL STRUGGLE BETWEEN ANTIGONE AND CREON

Gustavo Zagrebelsky is a contemporary scholar who has done important work on the philosophical foundations of national and international law. This well-known Italian intellectual has Russian roots – during World War I his grandparents moved to Italy from Russia, passing through France. Before the war, his family lived in Sankt Petersburg – not far from the lands fought over during the

7 Cf. J. Lenfant, *Histoire du Concile de Pise, et de ce qui s'est passé de plus mémorable depuis ce concile jusqu'au Concile de Constance*, Amsterdam 1724, 238.

8 Cf. J. Møller Jensen, *Denmark and the Crusades, 1400–1650*, Leiden – Boston 2007, 55.

Council of Constance. Zagrebelsky claims that western jurisprudence is founded on Antigone, a tragedy by Sophocles, with Creon symbolizing the will of the state to establish laws and control the life of citizens, and Antigone guarding the traditions, the gods, and that which is eternal and unchangeable.

The Italian legal theorist points out that our historical epoch witnesses contingent laws, promulgated by modern Creons. Such laws represent our past and present, but most certainly not our future. The silent sacredness of the eternal law has been displaced by the "garrulous externality of man-made law. The state has long become a legislative machine. It is expected that law will only be forged in its smithy, while no one knows what it will be like – this depends on who is able to take control of this machine from time to time. Legislation has dominated all areas of our existence, even the most private ones, those which for a long time proved resilient to external norms: the emotional relationships between people, family, social life, relationships between parents and children."[9]

Zagrebelsky argues in favour of a dualist view of law as *lex* and *ius*. *Lex* is the formal side of law, and *ius* its substantial dimension. He thus opposes the reduction of law only to the formal aspect. Considering the myth of Antigone, the Italian legal theorist reflects on the changeable relationship between *lex* and *ius* that can be observed in the development of western civilization. The historical and spiritual evolution of law over the past 25 centuries can be seen for him as a "constantly changing relationship between *lex* and *ius*. A dual definition of law is thus necessary."[10]

We are now witnessing the domination of law (*lex*) over right (*ius*), which is the main thesis of legal positivism, or the reduction of law to positive law. This explains the tendency to address social and political problems by establishing "new legal norms of higher

9 G. Zagrebelsky, *Antigone e la legge che smarrisce*, La Repubblica 25th April 2003, 1.
10 Ibid.

precedence."[11] Zagrebelsky rejects the legal positivism of Hans Kelsen. He believes Antigone was right when she warned us, many centuries ago, that law (*lex*) without right (*ius*) becomes both weak and tyrannical. Law is not merely a pure mathematical formula, or a technical tool to wield power, but should be created first of all in conjunction with justice.[12]

The Italian legal theorist acknowledges the limits and risks involved in a purely speculative approach aimed at developing an absolute notion of justice. Such efforts may end up reducing the fundamental virtue of justice to an empty concept without any content at all, thus susceptible to be upheld even by a bloody dictator or a ruling class. Justice is not the same as legality; it is related to hope, and it is a necessity that involves personal experience.[13] Justice does not belong to the realm of purely abstract theories, but is concerned with the actual existence of particular peoples and nations.

We experience justice not so much as a notion, but as a desire and hope. The essence of justice appears before our eyes when we experience its lack and when we see the negative consequences of depriving people of justice. Zagrebelsky says that we do not truly know what justice is yet, but we understand very well the experience of injustice. Justice has to do with pain and suffering, with hell on earth and in our societies, not with wellbeing or paradise, which is often presented by those in power as the goal of their political endeavours.[14]

An important tool to promote justice and protect individual citizens against the sovereign power of today's legislators is constituted by the constitutional laws of democratic states. In liberal democracies, we entrust our fate to their fundamental statute with its catalogues of inalienable rights and inviolable principles of justice, which in

11 Ibid., 2.

12 Cf. G. Zagrebelsky, *La legge e la sua giustizia: tre capitoli di giustizia costituzionale*, Bologna 2008.

13 Cf. C.M. Martini, G. Zagrebelsky, *La domanda di giustizia*, Torino 2003, 16.

14 Cf. ibid., 41.

turn require mechanisms and procedures to elect our presidents as well as the legislative branch, the executive branch and the judicial branch. The constitution, in its most profound sense, should become a way to restore the legitimacy and legality of law. The challenge we are facing today consists in restoring the constitution so that, once accepted by the nation as *lex* it could also become *ius* – thus capable to leave the influence and the cold words of the written text behind, and move into "the living sphere of beliefs and precious ideas man cannot live without."[15]

4. THE NOTION OF CONSTITUTIONAL JUSTICE

Constitutional justice is an important part of the system of jurisdiction – next to civil, penal and administrative justice. Its specific nature consists in an attempt to define the fundamental norms of political coexistence and protection against the risks of arbitrary power. One may say it emerges from the combination of political goals and specific elements of the legal system. Constitutional justice aims at maintaining the continuity of communal life by solving political disputes through the application of the principles of constitutional law.[16]

What is the point of constitutional justice? What does the constitutionalization of the principles of justice consist in? The constitution is not merely a mechanism regulating the relationship between the centres of political power and government agencies to prevent despotism and enable the proper functioning of the state; it is above all a collection of norms that include fundamental provisions concerning ethics, axiology and the formation of particular worldview.

15 Ibid., 2.

16 Cf. G. Zagrebelsky, *One Among Many? The Catholic Church Between Universalism and Pluralism*, in: *Constitutional Secularism in an Age of Religious Revival*, eds. S. Mancini, M. Rosenfeld, Oxford 2014, 247–268; G. Zagrebelsky, *Contro l'etica della verità*, Roma – Bari 2009, 61.

Zagrebelsky argues that we are now witnessing the constitutionalization of law and of the principles of justice. Constitutions contain the material principles of justice that support the entire legal system. The content of a particular statute, however, is not entirely dependent on these principles. If it were, the entire democratic system would become crystallized. The legal norms actually enforced express a particular combination out of the possible set of permutations allowed by the constitutional principles. The principles of justice contained in the fundamental statute are of different types, and they may enter into various relations of mutual conflict or contradiction, for instance when we attempt to define the limits of freedom in relation to the principle of equality. In such cases, the role of the Constitutional Tribunal is to ensure that individual statutes comply with the principles of justice in accordance with the constitution.

Zagrebelsky distinguishes between constitutional norms as principles (*principi*) and legal norms as rules (*regole*). Principles are constitutive of the legal order. They are the source of the criteria needed to address situations that are, by their very nature, indefinable. Constitutional principles enable us to maintain an adequate approach to real-life political processes. Statutes are usually the outcome of democratic rivalry, which presupposes the logic of a strategic rationality of political parties, whereas constitutional law is inherently cooperative: the goal of all participants is to arrive at a consensus on the principles.

In democratic states, courts should always stand above political disputes. Their basic function consists in preserving the supremacy of the judiciary over political power. Courts should always protect the fundamental principle of communal life, *lex facit regem* (rather than *rex facit legem*), regardless of whether the sovereign power is that of a king or of a democratic body. Political parties do not have the last word. The principles of justice are embedded in most modern

constitutions. They are more important than all other statutes and regulations. The legislator must remember this and act accordingly.[17]

Zagrebelsky stresses the discrepancy between legality (*legalità*), typical of law (*lex*), and legitimization (*legittimità*), typical of right (*ius*). In an age dominated by the principle of legality, understood as compliance with legal regulations, at the cost of legitimization, understood as compliance with right (*ius*), the only form of resistance and safeguard against the legalized arbitrariness of power is through a reference to the constitution, which is not only *lex*, but also *ius* – or the expression of both public values and the social contract.[18]

Mature and just democracies, as well as a healthy public life, are always founded on two pillars: rule and law. Law without rule is anarchy; rule without law quickly leads to despotism and dictatorship. In the thesis proposed by Zagrebelsky we can see the influence of Carl Schmitt, whose work on the issue of legality and legitimization arrived at many valuable conclusions many years ago.[19] The Italian legal theorist believes that for several decades now we have been witnessing the abuse of legality by the legislative branch and the centralist state, and argues that legitimization is the only way to effectively manage national and international public life . The lack of legitimization today is the reason for various problems in the political and social spheres of many societies.

5. A NIHILIST SERPENT IN POWER

One of the most distinctive traits of our time is the birth of a global financial system. Zagrebelsky says that the distinction between means

17 Cf. S. Veca, *Dell'incertezza. Tre meditazioni filosofiche*, Roma – Bari 2006.

18 Cf. A. Casu, *Democrazia e sicurezza. L'istituzione parlamentare e le sfide del nuovo scenario internazionale*, Soveria Mannelli 2005, 141–143; A. Buratti, *Dal diritto di resistenza al metodo democratico. Per una genealogia del principio di opposizione nello Stato costituzionale*, Milano 2006.

19 Cf. C. Schmitt, *Legalität und Legitimität*, München – Leipzig 1932.

and ends, which was clear in the past, " is [now] disappearing: means become ends and ends become means. This novelty is terrifying, for it makes us blind. It is the issue of money and its value in relation to power."[20] The relationship between power and money evolves over time, in accordance with changes in the concepts of life and society. In the past, money was a means rather than an end. It was a means among many others – but, most importantly, it was a means to other ends rather than an end in itself.

Today, the idea of money as a means has developed into a whole financial system separate from the so-called real economy, and money has become an end in itself – it is no longer used to support production, but to support itself and its continued expansion through the constant creation of financial products. In this way, industrial capitalism has turned into financial capitalism. Human reason, lacking a deeper philosophical orientation, is no longer concerned with ends but only with means (instrumental reason), and is therefore "willing to serve any master."[21]

To illustrate this situation Zagrebelsky uses the image of the mythological serpent Uroboros eating its own tail, thus feeding on its own self. In the current context, this metaphor describes the relationship between money and politics. Power supports and sustains money; money supports and sustains power. This money/power cycle gradually becomes an entirely self-referential system, which finds the reason for its own existence entirely in itself. If we were to formulate an adequate definition of nihilism today, it would not be about the lack of goals – as Friedrich Nietzsche suggested; rather, it would concern the collapse of the means/ends distinction, with all its consequences.

In the context of nihilism and self-reference (the money/power cycle) there is no hope for true politics. There is room only for blind power,

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20 G. Zagrebelsky, *La dittatura del presente. Perché è necessario un discorso sui fini?*, Roma – Bari 2014, 6.

21 G. Zagrebelsky, *Contro l'etica della verità*, op. cit., 4.

indifferent as to the purpose of its existence. As a result democracy as a real political choice gradually disappears, and we are left with anti-democracy. In his analyses, Zagrebelsky refers to a book by the Italian intellectual Norberto Bobbio entitled *The Future of Democracy* (1984).[22] In this book, Bobbio discusses the promises democracy failed to keep due to various factors originating from corruption: oligarchy, lack of adequate social education, bureaucracy, etc.

Zagrebelsky agrees with many ideas presented by Bobbio, who played the role of the critical conscience in the Italian society for many decades.[23] In his life, he followed the maxim: "understand first, then discuss; discuss first, then condemn."[24] Bobbio was open to dialogue, and showed a very rational and analytical approach to reality – some commentators, not without irony, called him the 'Italian Descartes'. He was aware that his generation had lost, in part at least, the fight for justice and freedom. Bobbio, like Zagrebelsky, believed that the presuppositions of justice had only been partially implemented in most countries, and that freedom in our time is under threat of being gradually lost.

The author of *The Future of Democracy* believed that the reasons for the crisis of the Italian society, and western democracy more generally, should be sought in the downfall of the idea of actionism (*azionismo*). As an agnostic who was in some sense a "religious" person, he emphasized the need for an awareness of the limitations of human existence and the mystery of life.[25] He also stressed the importance of

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22 Cf. N. Bobbio, *Il futuro della democrazia*, Torino 1984, 2005[3].

23 G. Zagrebelsky, *Contro l'etica della verità*, op. cit., 157–162.

24 V. Possenti, *Il motto di Bobbio: prima capire*, Avvenire 47(2014)7, 7.

25 "Bobbio – according to Possenti – riconfermò numerose volte di non essere un uomo di fede: »Non sono un uomo di fede, sono un uomo di ragione e diffido di tutte le fedi, però distinguo la religione dalla religiosità«. La religiosità significa per Bobbio avere il senso dei propri limiti, e sapere che la ragione è un lumicino piccolo piccolo, ma di cui sarebbe stolto fare a meno. Una ragione che ha il senso dei propri limiti è più aperta al dialogo di una che ritiene di essere da sola capace di svelare il significato del tutto e il mistero della vita" (ibid.).

the Enlightenment tradition, and the need to develop a rational vision of man and the world adequate to face the challenges of our time. Bobbio believed we need a "militant philosophy" (*filosofia militante*) today, capable to fight back against all attacks on the freedom of modern reason as shaped by the Enlightenment.

6. CONCLUSIONS

Paul Vladimiri's analysis of the right of native peoples to self--determination anticipated by several hundred years the investigations of many subsequent authors – including Francesco Vittoria, Bartolome de Las Casas, Hugo Grotius, and John Marshall. His thought has become particularly relevant in the context of the contemporary dispute over the right to religious freedom, the principle of state secularism, and the ethics of international relations. It appears that these issues are currently more significant than the debate on the criteria of just war. In today's age of hybrid wars, it is very difficult to define clear-cut criteria of just war . The work of Paul Vladimiri, which anticipated the right to religious freedom and defined the principles of local and global justice, constitutes a very valuable contribution to these debates.

We need new and effective ethical principles in contemporary international relations. The concept of constitutional justice proposed by Gustavo Zagrebelsky is very helpful in this regard. Within an international framework, it appears that the national constitutions could be substituted by such documents as the Declaration of Human Rights of 1948, or the Charter of Fundamental Rights adopted in Nice in 2000 and later introduced into the Lisbon Treaty, signed on 13 December 2007 in the capital city of Portugal. Through an in-depth analysis of these two important texts, we can characterize the principles of constitutional justice in its global dimension as an ethical foundation of international relations, and a tool for resolving conflicts between states in the age of hybrid wars.

BIBLIOGRAPHY

Bobbio N., *Il futuro della democrazia*, Einaudi Editore, Torino 1984, 2005[3].

Bond M.S., *Hybrid War: A New Paradigm for Stability Operations in Failing States*, U.S. Army War College, Pennsylvania 2007.

Buratti A., *Dal diritto di resistenza al metodo democratico. Per una genealogia del principio di opposizione nello Stato costituzionale*, Giuffrè Editore, Milano 2006.

Casu A., *Democrazia e sicurezza. L'istituzione parlamentare e le sfide del nuovo scenario internazionale*, Rubbettino Editore, Soveria Mannelli 2005.

Fleming B.P., *Hybrid Threat Concept: Contemporary War. Military Planning and the Advent of Unrestricted Operational Art*, US Army Command and General Staff College, Fort Leavenworth 2011.

Girgensohn D., *Francesco Zabarella aus Padua: Gelehrsamkeit und politisches Wirken eines Rechts Professors während des grossen abendländischen Schismas*, Zeitschrift für Rechtsgeschichte 110(1993), 232–277.

Girgensohn D., *Zabarella Francesco*, in: *Dizionario biografico dei giuristi italiani (XII–XX secolo*, eds. I. Birocchi, E. Cortese, A. Mattone, M.N. Miletti, Vol. 2, Casa Editrice Il Mulino, Bologna 2013, 2071–2074.

Jacobs A., Lasconjarias G., *NATO's Hybrid Flanks. Handling Unconventional Warfare in the South and the East*, NATO Research Paper 112(2015), 1–12.

Kofman M., Rojansky M., *A Closer Look at Russia's "Hybrid War"*, Kennan Cable (2015)7, 1–8.

Lenfant J., *Histoire du Concile de Pise, et de ce qui s'est passé de plus mémorable depuis ce concile jusqu'au Concile de Constance*, Pierre Humbert, Amsterdam 1724.

Martini C.M., Zagrebelsky G., *La domanda di giustizia*, Einaudi Editore, Torino 2003.

Marzano M., *Etica oggi. Fecondazione eterologa, guerra giusta, nuova morale sessuale e altre grandi questioni contemporanee*, Edizioni Centro Studi Erickson, Trento 2011.

Morrissey Th., *Conciliarism* and *Church Law in the Fifteenth Century*: *Studies on Franciscus Zabarella and the Council of Constance*, Routledge Publisher, Abingdon on Thames 2014.

Møller Jensen J., *Denmark and the Crusades, 1400–1650*, Brill Academic Publisher, Leiden – Boston 2007.

Muldoon J., *Popes, Lawyers, and Infidels*: *The Church and the Non-Christian World, 1250–1550*, University of Pennsylvania Press, Philadelphia 1979.

Pennington K., *Bartolomé de Las Casas and the Tradition of Medieval Law*, Church History 39(1970), 149–161.

Possenti V., *Il motto di Bobbio: prima capire*, Avvenire 47(2014)7, 7.
Schmitt C., *Legalität und Legitimität*, Verlag von Duncker und Humblot, München – Leipzig 1932.
Veca S., *Dell'incertezza. Tre meditazioni filosofiche*, Casa Editrice Feltrinelli, Roma – Bari 2006.
Vedova G., *Memorie intorno alla vita ed alle opere del cardinale Francesco Zabarella*, Tipi della Minerva, Padova 1829.
Witt R.G., *In the Footsteps of the Ancients: The Origins of Humanism from Lovato to Bruni*, Brill Academic Publisher, Leiden – Boston 2000, 2003².
Zagrebelsky G., *Antigone e la legge che smarrisce*, La Repubblica 25th April 2003, 1.
Zagrebelsky G., *La legge e la sua giustizia: tre capitoli di giustizia costituzionale*, Casa Editrice Il Mulino, Bologna 2008.
Zagrebelsky G., *Contro l'etica della verità*, Edizioni Laterza, Roma – Bari 2009.
Zagrebelsky G., *La dittatura del presente. Perché è necessario un discorso sui fini?*, Editori Laterza, Roma – Bari 2014.
Zagrebelsky G., *One Among Many? The Catholic Church Between Universalism and Pluralism*, in: *Constitutional Secularism in an Age of Religious Revival*, eds. S. Mancini, M. Rosenfeld, Oxford University Press, Oxford 2014, 247–268.

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