

PAWEŁ KRAS

AN OVERVIEW: THE CONVERSION OF PAGANS
AND CONCEPT OF *IUS GENTIUM* IN THE
WRITINGS OF CRACOW PROFESSORS IN THE
FIRST HALF OF THE FIFTEENTH CENTURY

On 18 April 1413 Andrzej Łaskarzyc, Cracow professor of decrees and diplomat in the service of Polish King Ladislaus II Jagiełło (Jogaila, 1386–1434), presented Benedict Makrai, commissary of King Sigismund of Luxembourg, with a memorandum, in which he comments on the sixteen documents presented earlier by the Teutonic Knights to support their claims to the castle of Veliuona. In that document Łaskarzyc made a full-scale attack on the Teutonic Knights, challenging the crusading ideology of the Teutonic Order and undermining the *raison d'état* of their further existence in Prussia¹. As a well-trained and experienced lawyer, he first questions the validity of papal documents of Clement IV, Alexander IV and Innocent IV, which had authorized the operations of the Teutonic Knights against pagans. Actually, Łaskarzyc argues that all such documents are invalid, because the Teutonic Knights provided the popes with false information and intentionally hid some important details. For example, they falsely claimed that they had been fighting for the Catholic faith and converted numerous pagan Lithuanians to Christianity. In actual fact, they had converted no one, as they were simple laymen who did not know the Holy Writ and lacked basic skills of literacy:

¹ The historical context of Makrai's mission is discussed by: Zenon Hubert Nowak, *Międzynarodowe procesy polubowne jako narzędzie polityki Zygmunta Luksemburskiego w północnej i środkowowschodniej Europie (1412–1424)*, Toruń: Wydawnictwo Uniwersytetu Mikołaja Kopernika, 1981, pp. 31–33; see also: Marian Biskup, Gerard Labuda, *Dzieje Zakony krzyżackiego w Prusach: Gospodarka – społeczeństwo – państwo – ideologia*, Gdańsk: Wydawnictwo Morskie 1986, pp. 369–370.

quia sunt puri et simplices layci et non solum sacre Scripture, ymmo et gramatice ignari, et semper pro conversione infidelium sed pro occupatione bonorum ipsorum aliquas partes infidelium invaserunt, bona ipsorumque occuparunt et eos possederunt et possident ipsis infidelibus in sua perfidia sub eorum potestate et regimine stantibus”.²

Demonstrating the lies of the Teutonic Order, the Polish diplomat made his comments on the missions conducted among pagan Lithuanians by Franciscans and Dominicans, who were preaching the Gospel without any problems and no one tried to expel them. Furthermore, Łaskarzyc stresses the fact that Lithuanians never conquered any territories of Latin Christians, but they lived instead within their fatherland:

Tacuerunt eciam veritatem, quod in huiusmodi terris tunc infidelium, scilicet Lithwani, Samagitarum etc. semper Christiani et viri religiosi, videlicet fratres Minores, Predicatores et alii semper moram traxerunt et fidem catholicam predicarunt, quam ipsi Lithwani et alii protunc infideles predicare non prohibuerunt, nec ipsos Christianos et religiosos expulerunt nec in aliquo molestarunt, sed quiete et pacifice stare permiserunt, nec ipsi Lithwani umquam aliquam terram Christianorum occuparunt, sed in suis paternis semper morabantur, nec ipsos Christianos et terras eorum invaserunt, nisi se et sua defendendo.³

If so, in his opinion, there can be no doubts that the Teutonic Knights intentionally lied to the pope and obscured true objectives of their military operations in Lithuania. Łaskarzyc makes it clear that their activities were inspired by greed, as primarily they wished to conquer new lands and did not care at all for the conversion of indigenous pagans. Contrary to the Teutonic Knights' claims to having been so long involved in the Christianizing missions, they did very little to bring pagans to the Catholic faith. In fact, their Christianizing efforts turn out to be a complete failure and no one has been converted to the Christian faith. Once again, Łaskarzyc refers to promising results achieved by the Franciscan and Dominican missionaries, who were welcomed by

² *Lites ac res gestae inter Polonos ordinemque cruciferorum. Spory i sprawy między Polakami a Zakonem Krzyżackim*, ed. Ignacy Zakrzewski, vol. 2, Poznań: Biblioteka Kórnicka, 1982, no. 32, p. 295 (henceforward quoted as *Lites*).

³ *Ibid.*

Lithuanian dukes and allowed to preach God's word among pagans. The Teutonic raids into the Lithuanian territories compromised those missionary efforts and dramatically changed the attitude of the pagans towards Roman Christianity. The memorandum openly blames the Teutonic Knights for the aborted missions of mendicant preachers who had to leave the Lithuanian people. The Teutonic encroachments into the Lithuanian territory made Lithuanians hostile to Christian missionaries and reluctant to accept the Catholic faith. For Lithuanians, the struggle against the Teutonic Knights became a war for sovereignty, in which national feelings rose high. Following arguments by Pope Innocent IV and St Thomas Aquinas, Łaskarzyc accepts the rights of pagans to own land and property. Furthermore, he argues that Christians will violate God's law and commit robbery if they take steps to seize pagan lands without any legitimate cause:

Cum enim dominia et possessiones bonorum inducte sunt iure gentium et naturali, quia occupanti conceduntur et preoccupantem sine justa causa eis spoliare non licet iure divino prohibente nomine furti omnem rapinam et usurpacionem rei aliene etc.⁴

If so, no one, neither the pope nor the emperor, could claim any power over pagan territories. Nor could they authorize anyone to conquer the areas populated by infidels, as that would be an act of hostility which is contrary to Christ's commandment of "love of thy neighbor". If popes or Christian emperors authorized such acts of violence as those perpetrated by the Teutonic Knights in Lithuania, they would violate God's law and commit sin. Developing his arguments along these lines, Łaskarzyc arrived at the concept of religious tolerance and rejected the idea of converting pagans by force. In his opinion, no one should be coerced into accepting the Christian faith, as this would be against God's will and Christ's teaching. The conversion of pagans should be achieved only by spiritual weapons, such as preaching of God's word. Since the Teutonic Knights were "illiterate laymen" (*layci illiterati*), they lacked basic abilities to successfully accomplish any Christianizing mission. Concluding his memorandum, Andrzej

⁴ *Ibid.*

Łaskarzyc questions the legitimacy of all papal and imperial privileges for the Teutonic Knights, which had granted them pagan territories and authorized their crusading operations in Lithuania. His arguments rest upon *auctoritates* from canon law, including the opinions of Pope Innocent IV and St Thomas Aquinas, who define infidels as neighbours who share, by natural law, the same rights as Christians (“Constat enim de iure, quod infidelis fidei Christiane non minus est proximus noster asserendus”). Furthermore, Łaskarzyc discusses the concept of *proximus*, extending it to all men, even to infidels. Here he makes a reference to the canon on charity from the *Decretum Gratiani* (“Non illi tantum proximi nostri credenda sunt quos nobis gradus sanguinis iungit: sed proximi nostri credenda sunt omnes homines naturae nostrae”)⁵. All those legal arguments and supporting *auctoritates* are applied to refute the crusading ideology, which has laid foundations to military orders in general and fuelled the growth of the Teutonic state in Prussia in particular.

At the end of the memorandum from 1413, Łaskarzyc discusses one more canon law argument which allows him to expose negligible Christianizing successes achieved by the Teutonic Knights in Lithuania. An application of the legal principle of *cessante causa, cessare debet effectus ipsarum* makes it clear that the baptism of Duke Jagiełło and his brothers, boyars and all pagan people has removed the main reason for any Christianizing activities of the Teutonic Knights in Lithuania. If so, there can be no legitimate cause of further military operations under the banner of Christianization in the territory. Moreover, in the opinion of the Polish procurator, no longer can the Teutonic Order justify their raids into Lithuania, as Christian Lithuanians cannot be the target of conversion. Consequently, all papal and imperial documents for the Teutonic Knights have lost validity, as they were produced in a completely different historical and legal context. Concluding his memorandum, Łaskarzyc argues that further military operations against

⁵ *Ibid*, pp. 295–296; see comments by Leszek Winowski, *Innowiercy w poglądach uczonych zachodniego chrześcijaństwa XIII–XIV wieku*, Wrocław: Zakład Narodowy im. Ossolińskich, 1985, pp. 41–45; see also: Krzysztof Ozóg, *Uczeni w monarchii Jadwigi Andegaweńskiej i Władysława Jagiełły (1384–1434)*, Kraków: Polska Akademia Umiejętności, 2004, pp. 196–197.

Lithuanians will result only in shedding Christian blood and committing atrocities against the innocent population. At the same time they will clearly demonstrate greed and rapacity of the Knights who have little respect for laws divine and human.

The above-mentioned arguments well reflected the opinions of Cracow University professors who cooperated with King Ladislaus Jagiełło in his diplomatic struggle against the Teutonic Knights. A number of Cracow intellectuals, who had received degrees in law and theology in Prague or at the Italian universities of Bologna and Padua, took a leading role in various activities against the Teutonic Knights. In the first quarter of the fifteenth century, diplomatic and legal operations undertaken by Polish diplomats on a wide European forum were intensified and well-concerted. For the first time, so many well-trained Polish scholars actively participated in the international debate over the Teutonic Order and its military operations against Lithuania, offering their legal expertise and experience in the service of the Polish King⁶.

Andrzej Łaskarzyc (1362–1426) was just one among them, but his diplomatic activities in the second decade of the fifteenth century made him a leading figure in the legal dispute between the Polish Kingdom and the Teutonic Knights. He was a doctor of decrees and a renowned scholar at the University of Cracow. At the same time, Łaskarzyc became a busy diplomat and a high-ranking churchman. In 1379 he started studying at the University of Prague and by 1392 he had earned a bachelor's degree of decrees. In 1402 he went to Padua and in 1405 became a doctor of decrees. During his short stay in Poland in 1397, he became the chancellor of Queen Jadwiga of Anjou and later, after her death in 1399, was employed by King Jagiełło. Since 1411 Andrzej Łaskarzyc acted as Procurator of the Polish King in the trial against the

⁶ The detailed study of Andrzej Łaskarzyc' involvement in the Polish-Teutonic negotiations is offered by Krzysztof Ożóg, "Udział Andrzeja Łaskarzyca w sprawach i sporach polsko-krzyżackich do soboru w Konstancji", in: *Polska i jej sąsiedzi w późnym średniowieczu*, eds. Krzysztof Ożóg and Stanisław Szczur, Kraków: Societas Vistulana, 2000, pp. 159–186; and see also recent study by Wojciech Świeboda, *Innowiercy w opiniach prawnych uczonych polskich XV wieku. Paganie, Żydzi, muzułmanie*, Kraków: Societas Vistulana, Kraków 2013, pp. 162–167.

Teutonic Knights, visiting various European courts and presenting Polish grievances against the Order. After January 1413, as the plenipotentiary of King Jagiełło, Łaskarzyc accompanied Benedict Makrai, executor of the Buda treaty, in the negotiations over border delimitations between Poland and the Teutonic State. In 1414–1418 he took part in the Council of Constance as a member of the Polish delegation. In reward for his services, King Jagiełło promoted Łaskarzyc to the bishopric of Poznań and secured his successful election in 1414. At the Council of Constance, as the Bishop elect of Poznań, Łaskarzyc participated in debates over the Polish-Teutonic controversy and cooperated with Paulus Vladimiri, at that time the main exponent of Polish interests⁷.

The purpose of my paper is to present the origins of the principle of *ius gentium* in the writings of Cracow professors in the first half of the fifteenth century. Furthermore, it is aimed at reexamining how the concept was used to challenge the policy of converting pagans by force and to promote instead the idea of toleration and respect towards infidels. Those problems, as presented above, are not new and they entered the scholarly debate in the first decades after World War II. In the 1950s and 1960s a number of critical editions of sources related to the political debate between Poland and the Teutonic Knights were published and made available to a wider international audience. Among them, the selected works of Paulus Vladimiri in the Latin, Polish and English editions attracted much scholarly attention⁸. At the same time, new extensive studies devoted to the concept of *ius gentium* and the idea of just war were produced. It suffices to mention here the seminal works by Stanislaus Belch⁹ and Ludwik Ehrlich¹⁰. Thanks to their gigantic

⁷ Karol Piotrowicz, “Andrzej Łaskarz”, in: *Polski Słownik Biograficzny*, vol. 1, Kraków: Polska Akademia Umiejętności, 1935, pp. 103–106; Marian Frontczyk, “Andrzej Łaskarz z Gosławic, biskup poznański”, in: *Nasza Przeszłość*, Kraków, 1969, vol. 30, pp. 125–170.

⁸ *Pisma wybrane Pawła Włodkowica: Works of Paul Vladimiri (a selection)*, ed. Ludwik Ehrlich, 3 vols, Warszawa: Instytut Wydawniczy PAX, 1968.

⁹ Stanislaus Belch, *Paulus Vladimiri and his doctrine concerning the international law and politics*, 2 vols, London, Hague, Paris: Mouton & Co, 1965.

¹⁰ Ludwik Ehrlich, *Paweł Włodkowic i Stanisław ze Skarbimierza*, Warszawa:

effort, new light has been cast on the production and circulation of theological and political writings of the Cracow professors, who, in the first half of the fifteenth century, became key players in the international debate on the Christian attitude towards infidels. In recent years, the involvement of Cracow intellectuals in the dispute over the rights of pagans and the means of their conversion to Christianity has been intensively studied by Polish and international scholars. Important contributions to that research came from Krzysztof Ozóg¹¹, Mieczysław Markowski¹², Zofia Włodek¹³, Thomas Wünsch¹⁴ and Paul Knoll¹⁵. It is

Państwowe Wydawnictwo Naukowe, 1954; Ludwik Ehrlich, *Polski wykład prawa wojny w XV wieku. Kazanie Stanisława ze Skarbimierza 'De bellis iustis'*, Warszawa: Wydawnictwo Prawnicze, 1955; Ludwik Ehrlich, *Rektor Paweł Włodkowicz rzecznik obrony przeciw Krzyżakom*, Kraków: Uniwersytet Jagielloński, 1963.

¹¹ Krzysztof Ozóg, *Uczeni*; Krzysztof Ozóg, *The Role of Poland in the Intellectual Development of Europe in the Middle Ages*, Kraków: Societas Vistulana, 2009 (unfortunately, this high quality academic study is mutilated by a poor English translation); and a number of articles by the same author listed in the bibliographies attached to the above-mentioned works and recorded by *International Medieval Bibliography* and *Bibliografia historii Polski*.

¹² Mieczysław Markowski, *Dzieje Wydziału Teologii Uniwersytetu Krakowskiego w latach 1397–1526*, Kraków: Papieska Akademia Teologiczna w Krakowie, 1996; Mieczysław Markowski, “Uniwersytet Krakowski a sobory pierwszej połowy XV wieku”, in: *Acta Mediaevalia*, Lublin, 1999, vol. 12, pp. 177–213.

¹³ Zofia Włodek, “Eklezjologia krakowska w pierwszej połowie XV wieku”, in: *Jubileusz sześćsetlecia Wydziału Teologicznego w Krakowie 20 X 1996 – 20 X 1997*, Kraków: Papieska Akademia Teologiczna w Krakowie, 1998, pp. 247–282; Zofia Włodek, “Tendencje doktrynalne na Wydziale Teologicznym Uniwersytetu Krakowskiego w XV wieku”, in: *Literatura i kultura późnego średniowiecza w Polsce*, ed. Teresa Michałowska, Warszawa: Instytut Badań Literackich PAN, 1993, pp. 17–27.

¹⁴ Thomas Wünsch, *Konziliarismus und Polen: Personen, Politik und Programme aus Polen zur Verfassung der Kirche in der Zeit der mittelalterlichen Reformkonzilien*, Paderborn, München, Wien, Zürich: F. Schöningh, 1998.

¹⁵ Paul W. Knoll, “The University of Cracow and the Conciliar Movement”, in: *Rebirth, Reform and Resilience: Universities in Transition 1300–1700*, eds. James M. Kittelson and Pamela J. Transue, Columbus: Ohio State University Press, 1984, pp. 190–212; Paul W. Knoll, “Literary Production at the University of Cracow in the fifteenth century”, in: *The development of literate mentalities in East Central Europe*, eds. Anna Adamska and Marco Mostert, Turnhout: Brepols, 2004, pp. 217–246.

also worth mentioning that in 2010 a young Cracow scholar, Wojciech Świeboda, presented a doctoral dissertation devoted to the opinions of Cracow intellectuals on infidels in the fifteenth century, based both on published and handwritten materials¹⁶. My overview is much indebted to those older and recent studies which examined the conflict between the Polish Kingdom and the Teutonic Order from various perspectives, stressing the significant role played by Cracow scholars, their writings and diplomatic activities.

THE POLISH-TEUTONIC CONFLICT: HISTORICAL BACKGROUND

In the late Middle Ages the Kingdom of Poland became a political and military power in East Central Europe. Demographic and economic growth of the Kingdom resulted from skilful policies of the two last Piast monarchs who reintegrated and consolidated most of the Polish territory into a single kingdom. Their successes paved the way for the golden age of Polish politics and military in the fifteenth century¹⁷. After the death of the last Piast King Casimir the Great, the Polish throne was succeeded by King Louis Anjou of Hungary and, after his death in 1382, inherited by his younger daughter Jadwiga. The unique status of Jadwiga, who was the crowned monarch of Poland with the right of succession, provided favourable opportunities for the first political alliance between Poland and Lithuania. The so-called Union of Krewa, signed in 1385, made it possible for Grand Duke Jagiełło to be crowned King of Poland, following his baptism and marriage with Jadwiga. The new dynasty established in Poland by Jagiełło was to rule the Polish Kingdom and the Grand Duchy of Lithuania for almost two centuries, stimulating fast political

¹⁶ As quoted in note 6.

¹⁷ In English the best overview of the problem is still offered by: Paul W. Knoll, *The Rise of the Polish Monarchy: Piast Poland in East Central Europe, 1320–1370*, Chicago and London: University of Chicago Press, 1972. The reexamination of various historical processes related to the growth of Poland under the two last Piasts is provided by: Janusz Kurtyka, *Odrodzone Królestwo: Monarchia Władysława Łokietka i Kazimierza Wielkiego w świetle nowszych badań*, Kraków: Societas Vistulana, 2001.

and economic advancement in the two countries. Under the reign of Jagiełło, Poland took an important role in debates on crucial problems of Latin Christendom such as Church reforms, Great Schism of Western Christianity, the invasion of Turks in the Balkans, the outbreak of the Hussite movement in Bohemia and relations with Eastern Christians. Gigantic diplomatic and military efforts were, however, focused on the Teutonic Order, which threatened the territorial integrity of Lithuania and blocked the economic development of Poland by its hold of Gdańsk Pomerania¹⁸.

To achieve the long-term goals of Polish politics, it was not enough to defeat the Teutonic Knights at the battlefield of Grunwald in 1410. For King Ladislaus Jagiełło and his entourage, the same priority was to be given to the legal and diplomatic campaign against the Teutonic Order on a wide European forum. Before and immediately after the battle of Grunwald, Polish diplomats and experts in law launched a series of diplomatic and judicial manoeuvres to counterbalance the Teutonic propaganda and to justify Polish military operations against the Order. To give a fatal blow to the high reputation that the Teutonic Order enjoyed in most European countries, it was necessary to present Polish grievances and reveal the gruesome nature of the Order's operations against Poland and Lithuania. That is why King Jagiełło employed a number of Cracow scholars, mostly doctors of law, who represented the Polish interests in the legal proceedings against the Teutonic Order at the courts of the pope and various international arbiters, as well as at the general council of Constance. Roughly, almost 100 scholars of Cracow University served at his court, either in the royal chancery or as legal experts to represent the King in the judicial proceedings against the Teutonic Order.

On the other hand, the Teutonic Knights also developed a wide-scale campaign across Europe to demonstrate that their military operations were in fact well-grounded. They argued that the Order had

¹⁸ For recent overview of those complex problems see a collection of studies with an extensive bibliography: *Państwo zakonu krzyżackiego w Prusach: Władza i społeczeństwo*, eds. Marian Biskup and Roman Czaja, Warszawa: Wydawnictwo Naukowe PWN, 2009.

been established a long time ago to protect Christians against infidels and to promote Christianity in pagan territories. Such objectives were to be achieved by all means necessary. First, the Teutonic Knights spread Christianity to the heathen Prussians, the people living along the Baltic coast, between Gdańsk Pomerania and Lithuania. Within less than half a century, the Teutonic Knights had successfully conquered all Prussian territories and converted local population by force. The Teutonic state, which accompanied the conquest of Prussia, was founded by merciless terror, brutally crushing any form of resistance. By the end of the thirteenth century, the Teutonic Knights had built a highly centralized and militarized state in Prussia, which became the platform for their further expansion along the Baltic coast. After securing their conquest of Prussia, their Christianizing efforts were directed towards Lithuania and Samogitia.

The military operations of the Teutonic Knights followed directly from the idea of Holy War, which had been first invoked in the eleventh century, at the time of the first crusade to the Holy Land, and was later extended to all forms of conflict between Christians and non-Christians. In general, the concept of Holy War was imbedded in the structure of medieval Christendom. As soon as Latin Christendom was defined as a separate and integral civilization ruled by its own system of religious and moral values, its enemies were clearly identified and their suppression authorized. In political theology, Roman Christianity was the only true religion and was to be defended by all means and actively promoted to non-Christian peoples. From the perspective of most medieval popes and the Roman clergy, converting pagans to Christianity was not only a recommended option, but a necessity to be apprehended and enforced by all Christians. Military orders which formed in the Holy Land were the extreme product of that ideology. Their members were regarded as Christ's knights (*milites Christi*), who combined monastic discipline with military skill to fight for the Christian faith. Their operations against infidels were not only morally legitimized, but recommended as an ideal service for Christian knights. The treatise *De laude novae militiae*, produced by St Bernard of Clairvaux for the Templars, well reflected the amazing mixture of spiritual and military ideas that legitimized and

promoted the growth of military orders in the twelfth and thirteenth centuries¹⁹.

The Teutonic Knights, who came into being in that climate of crusading fervor, were profoundly inspired by the ideology of Holy War and the concept of *miles Christi*. The Teutonic Order of the Hospital of St Mary in Jerusalem, known in Poland as the Teutonic Knights, was established in 1189 in the Holy Land by a group of German knights to protect pilgrims and to fight against enemies of Christianity²⁰. Their ideological program was based upon the doctrine of St Augustine, who developed the concept of two opposing societies, *civitas Dei* and *civitas dyaboli*, that were in a permanent conflict. The idea of Christian universalism and its enforcement by all means across the world became *raison d'être* of the Order's activities both in the Holy Land and later in Eastern Europe²¹. For the Teutonic Knights, human life was worthless unless completely subjugated to God's will. Some medieval scholars argued that life in primeval sin and rejection of Christ made human soul and body dead. In consequence, pagans who refused to accept the Christian faith were predestined to death. The Teutonic Knights were reluctant to convert pagans because they believed that pagans simply lacked divine grace which was necessary for their successful conversion to Christianity. In their approach to infidels, the Knights applied the doctrine of Duns Scotus who considered one's love for God and neighbour the supreme

¹⁹ The international literature on that topic is extensive; good recent overviews are presented by Jonathan Riley-Smith, *Krucjaty: Historia*, translated into Polish by Janusz Ruskowski, Poznań: W drodze, 2008 (English edition: *The Crusades: a History*), pp. 33–56; Georges Minois, *Kościół i wojna: Od czasów Biblii do ery atomowej*, translated into Polish by Adam Szymanowski, Warszawa: Oficyna Wydawnicza Volumena & Domw Wydawniczy Bellona, 1998 (French edition: *L'Église et la guerre*), pp. 125–164.

²⁰ Janusz Trupinda, *Ideologia krucjatowa w Kronice Piotra z Dusburga*, Gdańsk, Oficyna Ferberiana, 1999, *passim*.

²¹ Marian Dygo, "Ideologia panowania zakonu niemieckiego w Prusach", in: *Państwo zakonu krzyżackiego w Prusach*, pp. 357–369, here pp. 357–360; Marian Dygo, "Die heiligen Deutschordensritter. Didaktik und Herrschaftsideologie im Deutschen Orden in Preußen um 1300", in: *Die Spiritualität der Ritterorden im Mittelalter*, ed. Zenon Hubert Nowak, (ser. *Ordines Militares. Colloquia Torunensia Historica*, 7), Toruń: Uniwersytet Mikołaja Kopernika w Toruniu, 1993, pp. 165–176.

and absolute virtue, and therefore a justification of bringing faith by force. Furthermore, they identified the natural law (*lex naturalis*) with the divine order which ruled the world and which all creatures had to obey. Lack of faith was considered a sin which destroyed that order and threatened social stability. If so, Christians were encouraged to restore the order, either by converting pagans or by fighting them²².

A good insight into the ideology of the Teutonic Order is provided by the Chronicle of Peter of Dusburg, which was produced in 1330s and was continued until 1434. Its author was a canon of Sambia, and later deputy judge and dean of Königsberg. The main purpose of his work was to give praise to the glorious deeds of the Teutonic Knights in their struggle against pagan Prussians. The Teutonic Order was presented as an institution which had been inspired by God to combat pagans in His name. In the opinion of Peter of Dusburg, the crusade conducted by the Knights in the Holy Land was later continued in Prussia. The aims and methods of the crusade thus remained the same. The conversion of Prussians was to be achieved by force. First, the Teutonic Knight crushed any military resistance of the local population and later Christianity was imposed by the victorious conquerors. Peter of Dusburg had no doubt that the military power of the Teutonic Order demonstrated the superiority of Christian God over pagan deities. In numerous fragments of his Chronicle, he justifies wars waged by the Teutonic Knights and provides moral legitimization of their brutal methods of conquest. Furthermore, he argues that peace can be granted only to those who love Christ. As pagans do not love Christ, even hate Him, they do not deserve to be offered peace and should be subjugated to the rule of Christians. It is worth noting that the Prussians are described as wild and cruel creatures, stubborn and stupid, wicked by nature, who could be brought to Christian faith by force²³.

²² Stefan Kwiatkowski, *Zakon Niemiecki w Prusach a umysłowość średniowiecza. Scholastyczne rozumienie prawa natury a etyczna i religijna świadomość krzyżaków do około 1420 roku*, Toruń: Wydawnictwo Uniwersytetu Mikołaja Kopernika, 1998, pp. 43–51.

²³ *Piotra z Dusburga Kronika ziemi pruskiej*, eds. Jarosław Wenta and Sławomir Wyszomirski, (ser. *Pomniki Dziejowe Polski*, seria II, t. XIII), Kraków: Polska Akademia Umiejętności, 2007, pp. 31–45; see comments by: Jarosław Wenta, *Kronika Piotra*

When the Teutonic Knights were relocated from the Holy Land to Prussia, they adhered to the same ideals and concepts they had adopted while serving in Palestine. In the ideology of the Teutonic Order, there was not that much difference between fighting against Muslim Saracens and against pagan Prussians or Lithuanians. The target of their operations remained the same: enemies of Christ and His Church who should be either converted or exterminated. Pagans were treated as inferior human beings, savage, brutal and illiterate people who had no knowledge of the true faith and lacked intellectual abilities to understand its superiority. Therefore, the only successful method to convert them from pagan superstitions to the Christian religion was the use of force. As warrior monks, the Teutonic Knights were neither priests nor missionaries. Of course, there were some clergymen in their ranks, who first of all had to provide pastoral care for the knights, but the Order was neither intended nor trained to undertake Christianizing missions among pagans. The Order was founded to protect and spread Christianity by force, extirpating pagan cult sites and crushing all resistance to Christian missionaries. That was the key principle of its operations in the Holy Land and Prussia, its *raison d'être*.

It is worth noting that various popes and emperors claimed their rights to territories populated by pagans. The popes of the eleventh and twelfth century even used a forged charter of Constantine's Donation to demonstrate their dominion over infidels and their territories. It was widely acknowledged that pagans had no right to dominion and property, which were reserved exclusively to Christians. Pagans were inferior to Christians and as such their claims to property were denied. If so, it was legitimate according to divine and human law to wage war against pagans and deprive them of their territories and property²⁴.

z *Dusburga. Szkic źródłoznawczy*, Toruń: Wydawnictwo Uniwersytetu Mikołaja Kopernika, 2003, pp. 22–25.

²⁴ Horst Fuhrmann, "Konstantinische Schenkung und abendländisches Kaisertum. Ein Beitrag zur Überlieferungsgeschichte des Constitutum Constantini", in: *Deutsches Archiv für Erforschung des Mittelalters*, 1966, vol. 22, pp. 123–142; Paweł Kras, "Donacja Konstantyna – legenda w służbie polityki papieskiej", in: *Studia Mediaevalia Bohemica*, Praha, 2011, vol. 3, no. 1, pp. 7–32, here pp. 8–11.

The Teutonic Knights adopted those concepts and applied them to legitimize their military operations against the Prussians, Lithuanians and Samogitians.

For a very long time, from the Order's foundation in 1189 to its secularization in 1525, the Teutonic Knights enjoyed popes' and emperors' protection. The two highest leaders of Latin Christendom, either cooperating with each other or openly in conflict, granted generous privileges to the Knights and political and financial support to their military operations. For the popes, the Teutonic Order was an instrument of expanding Catholic Christianity to new territories in Eastern Europe. Their operations in Prussia and later in Lithuania were considered legitimate as directly related to the protection of Christians and the conversion of pagans. The Teutonic Knights developed amazing diplomatic abilities to demonstrate how much they served the Catholic Church at the Eastern peripheries of Latin civilization. In the thirteenth and fourteenth century they exerted great efforts to promote the image of the Order as the avant-garde of Latin Christendom. Their military ideals gained much popularity in Western Europe, in particular the German-speaking countries, attracting a number of noble offspring to join the Order and dedicate their lives to the service of *militia Christi* "in the East". As early as the first decades of the thirteenth century, Grand Masters of the Teutonic Knights, starting with Hermann von Salza, became prominent figures who were always welcome guests and sought-after advisors at various European courts. That is why dozens of European monarchs, counts and princes made long journeys to the Prussian or Lithuanian forests to participate in the campaigns organized by the Order.

This short overview of the Order's ideology and its significant position within Latin Christendom should allow to better understand the challenges Cracow intellectuals had to face while promoting the concept of *ius gentium* and the idea of just war. When the first generation of Cracow masters working in the service of Polish King Ladislaus Jagiełło started developing political and moral reflections on law, government and Christian-pagan relations, they discovered a coherent system of ideas which had been well-grounded in the European theology

and philosophy. Looking from the academic perspective of the twenty-first century, we may admire their courage and determination to raise issues which were innovatory and even revolutionary. The concept of *ius gentium*, which originated from the natural law and became a cornerstone of European political philosophy in the seventeenth century, at the beginning of the fifteenth century looked absolutely bold and, in a way, rebellious. That concept of *ius gentium* undermined the dominant idea of Christians' superiority over non-Christians and promoted equality of all people, based on natural law and divine law. Moreover, it brought further consequences. If all people are equal, infidels share with Christians the same rights to live, own property, run their own states and preserve their traditions. Furthermore, in their writings Cracow professors argued that it was against God and nature to persecute non-Christians, enforce new faith, invade their territories, kill them, burn their settlements and destroy their states. Those were the methods used by the Teutonic Knights to conquer new territories and convert pagans to Christianity. Applying scholastic methods to political and judicial debates, Polish intellectuals demonstrated that the military operations of the Teutonic Knights violated divine and natural law and as such should be condemned and abandoned.

After the end of military campaigns in 1410 and signing the truce of Toruń in 1411, the Polish King continued the diplomatic struggle against the Teutonic Knights, rallying international allies all around Europe. In the summer of 1411 an official Polish delegation chaired by Andrzej Łaskarzyc, doctor of decrees, came to Rome to pay homage to Pope John XXIII. During the official audience Łaskarzyc made an important speech related to the Teutonic Knights and their conflict with the Polish Kingdom. The first part of the speech focused on the Polish King who was presented as the most Christian of monarchs, new David, graced by God with wisdom, justice and gentleness. In the second part Łaskarzyc sketched out the circumstances of the Polish-Teutonic conflict and focused on the recent war. He listed various attempts by King Jagiełło to peacefully settle the conflict with the Teutonic Knights. In particular, he stressed the Christianizing achievements of the Polish King and Duke Vytautas in Lithuania, who were portrayed as ideal monarchs and shields

of Christianity. They were contrasted with the Teutonic Knights, sons of the devil, who were accused of destroying churches in Lithuania, spilling Christian blood and a number of atrocities. The war waged against them by the Polish King and the Lithuanian Grand Duke was just, as it served to punish the Order which betrayed Christ's teaching and Christian ideals. Furthermore, he argued that it was against God and nature to kill people, burn their houses and seize their property. Such atrocities committed by the Teutonic Order could not be explained and excused by their Christianizing efforts²⁵.

Diplomatic activities of Andrzej Łaskarzyc should be analyzed in a much wider context. The arguments he used to refute Teutonic opinions on the conversion of pagans were widely discussed at the University of Cracow and presented in various academic texts. The concept of *ius gentium* or the idea of just war can be easily found in a number of writings produced by Cracow scholars in the first two decades of the fifteenth century. Below I will present only two of Cracow intellectuals who made significant contribution to the debate.

THE IDEA OF JUSTICE AND COMMON WELFARE
BY STANISŁAW OF SKARBIMIERZ

Stanisław of Skarbimierz (*circa* 1365 – 1431-01-09) is one of the prominent Polish intellectuals under the reign of King Ladislaus Jagiełło. He was born to a merchant family of Skarbimierz in Little Poland; his father Jan was a Skarbimierz citizen and his brother Jan was a *scultetus* in Siemiechów near Tarnów. Thanks to his natural abilities and hard work, he made an extraordinary academic and ecclesiastical career. He was one of the leading Polish theologians in the fifteenth century and a highly popular preacher. In the years 1380–1396 he studied at Prague, achieving academic distinction in the faculty of arts and later in the faculty of law. In 1382 he became a bachelor and, three years later,

²⁵ Maria Kowalczyk, "Mowa obediencyjna do antypapieża Jana XXIII", in: *Biuletyn Biblioteki Jagiellońskiej*, Kraków, 1996, vol. 46, pp. 19–24; see also comments by: Krzysztof Ożóg, *Uczeni*, pp. 186–188.

master of arts. Conrad of Worms, who supervised his early career in Prague, exerted much influence on his intellectual formation. In 1389 he started studying law, earning a doctor's degree in 1396. In 1397 he returned to Cracow and joined a group of intellectuals that played the leading role in reopening Cracow University. Probably it was his involvement in Cracow University that granted him access to the royal court, where he became the confessor of Queen Jadwiga of Anjou. In 1400 he was elected the first rector of the new *studium generale* in Cracow and until his death in 1431 he was one of the busiest and best-known Cracow professors. He also became an important churchman, receiving canonry of Cracow cathedral in 1402. At the same time Stanisław was appointed cathedral preacher and performed his preaching duties until 1423. Since 1419 he acted as vicar general *in spiritualibus* for the bishop of Cracow²⁶. However, he never took any position in the royal administration. Stanisław was very active in the political life of the Polish Kingdom. His interests were focused on the Polish-Teutonic conflict and in his writings and sermons he made comments about the issue. In 1422, as the substitute royal procurator (*procurator substitutus*), he took part in the Polish-Teutonic trial presided by papal legate Antonio Zeno. His reputation as a great preacher ran high in his own time. He left more than 600 pieces of writing, including more than 500 sermons, which remain one of the best sources for the study of theological, moral and legal problems discussed in Cracow in the first half of the fifteenth century²⁷.

As a theologian, moralist and lawyer, Stanisław was sensitive to moral shortcomings of human nature. That is why he readily accepted the application of ascetic discipline and repressions to correct the sinfulness of human nature. He highly valued the system of codified law, but at

²⁶ Roman Maria Zawadzki, "Stanisław ze Skarbimierza", in: *Polski Słownik Biograficzny*, t. XLII, Kraków and Warszawa: Polska Akademia Umiejętności and Polska Akademia Nauk, 2003–2004, pp. 76–80; on his career and teaching at the University of Cracow see also Mieczysław Markowski, *Dzieje Wydziału Teologii*.

²⁷ Roman Maria Zawadzki, "Stanisław ze Skarbimierza", p. 78. His literary legacy was extensively presented in: Roman Maria Zawadzki, *Spuścizna pisarska Stanisława ze Skarbimierza. Studium źródłoznawcze*, Kraków: Polskie Towarzystwo Teologiczne, 1979.

the same time he believed that such a system must rely upon the highest virtues of truth, love for one's neighbour, justice and equality. In his opinion, each state, regardless of its size and population, is ruled by laws which are indispensable to secure peace and welfare of its inhabitants. People need laws like horses need harness. He argues that there are no ideal states which are governed like the city of God. Stanislaw used to quote St Augustine's well-known comment that "if justice is removed from kingdoms, they will become nothing but bands of thieves". Stanislaw's theory of just war and his approach to pagan-Christian relations are well-reflected in the collection of *Sermones sapientiales*. Of particular interest is the sermon on *De bello iusto et iniusto*, numbered XXX²⁸. Actually, it is a lecture on the principles of justice in general, and on military cooperation of Christians and pagans in particular. The sermon was written in the first half of 1410 and is related to the military campaign which ended at the battlefield of Grunwald. The public impact of that sermon is still under discussion, as it was never separately copied and circulated. At the same time the sermon was well-known to Bishop Wojciech Jastrzębiec, a close collaborator of King Ladislaus Jagiełło, who produced and distributed several letters related to the Grunwald victory. Arguments used by Jastrzębiec to legitimize the war against the Teutonic Knights in 1410 originated directly from those presented by Stanislaw in his sermon *De bello iusto et iniusto*. It looks like the production of Stanislaw's sermon was not incidental and it should be analyzed as an integral element of a much wider action launched by Cracow intellectuals to promote the idea of just war against the Teutonic Order.

Stanislaw's reflections on the relations between the state and the people are focused on the problem of what is efficient and what is licit, what is pragmatic and what is moral. The central place in the system of government is given to the king. Following Plato's concept, Stanislaw

²⁸ The first critical Latin-Polish edition was published by Ludwik Ehrlich in: *Polski wykład prawa wojny*, pp. 91–145; from that edition the Latin-Polish text was reprinted in a selection of Skarbimierz's sermons on the Book of Wisdom: Stanislaus de Skarbimieria, *Sermones de sapientia selectae*, ed. Mirosław Korolko, Cracoviae: Officina Arcana, 1997, no. 5 (XXX), pp. 84–109.

argues that an ideal king should combine features of an efficient ruler and a wise man. A good king should always support the growth of wisdom and listen to wise men. Among king's virtues the highest position is given to prudence, which is defined as one's reasonable ability to draw conclusions from the past to achieve good results in the future. That ability, if well learnt and consequently applied, should make all king's activities successful and allow him to avoid failures. Stanisław of Skarbimierz raises here another important problem, trying to define what the common welfare of people is. On the one hand, he turns his attention to the Bible, which provides guidelines to how Christians should act to achieve the highest good, i.e. eternal life with Jesus Christ. The Bible is a Holy Writ given by God to humans as an instrument of religious and moral instruction. At the same time the Bible is the code of divine law which provides guidelines for how to live according to God's commandments²⁹.

On the other hand, Stanisław's political and moral concepts are much indebted to the idea of natural law. Stanisław of Skarbimierz argues that, along with God's commandments, natural law is necessary to define the common good and to adopt due measures to achieve it. God and nature are thus presented as the highest values of the whole moral system, something common to all people. Even ancient pagans respected and implemented natural law. That is why, out of love for their fatherland, they practiced the virtue of selflessness to achieve the common good, even sacrificing their lives. If so, Christians, who are given divine law, should do even more than pagans. These moral and political principles let Stanisław develop his idea of just war. His arguments on war are embedded in the contemporary political situation of the Polish Kingdom and respond directly to the military conflict between Poland and the Teutonic Knights. The central problem of Stanisław's writings, but at the same time a key issue in the political debate at European universities and royal courts, was to establish which party was right.

²⁹ For a detailed analysis of the ideal king in the writings of Cracow professors see: Krzysztof Ożóg, "Król w refleksji uczonych polskich XV wieku", in: *Król w Polsce XIV i XV wieku*, eds. Andrzej Marzec and Maciej Wilamowski, Kraków: Societas Vistulana, 2006, pp. 7–37.

Stanisław's treatment of pagans is much influenced by his concept of divine and natural law. Nevertheless, his general ideas on political and moral issues remain universal and might be applied to various cases of European politics in his own times. Furthermore, Stanisław's treatment of pagans is much influenced by his concept of divine and natural law. In his opinion, pagans have the same rights as Christians to property and government. Referring to the decree of Pope Innocent IV, he claims that no one can seize pagan lands or property without sin³⁰. Furthermore, Stanisław argues that pagans possess a universal system of virtues, which originates from natural law and as such should be respected. If so, they might be called to defend moral virtues such as justice and magnanimity and which are common to Christians and pagans³¹.

Stanisław proposes five main conditions of just war. First, such war is waged only by laymen; second, war serves either to retrieve territories seized by force by another country or to defend those territories; third, war is aimed at restoring peace and war itself is only the means to achieve it; four, only noble reasons can legitimize war, war cannot result from anger or greed, but it should rest on God's love and justice; five, just war should be endorsed by the authority of the Church, in particular if it is waged in the service of faith³². If war is just under those five conditions, what about military alliances with pagans? Stanisław raises

³⁰ "... *dominia et possessiones et iurisdictiones licite sine peccato possunt apud infideles secundum Innocentium, eo quod, ut ipse dicit, non tantum pro fidelibus, sed pro omni rationali creatura facta sunt... non licet papae vel fidelibus auferre dominia sive iurisdictiones infidelibus, quia sine peccato ea possident et de iure*" (*ibid.*, p. 106).

³¹ "... *sicut in actibus virtutum moralium potest quis communicare pagano, et, maxime 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*" (*ibid.*, p. 102).

³² "*Iustum autem bellum, quis esse intelligat, [1] si est persona saecularis non ecclesiastica, cui prohibitum est humanum sanguinem effundere... [2] si fiat pro rebus repetendis vel pro defensione patriae; [3] si causa sit legitima, ut scilicet propter necessitatem, pugnetur, quatenus per pugnam pax turbata recuperetur aut acquiratur..., [4] si non fiat propter odium aut ultionem vel cupidinam, sed propter zelum legis divinae, propter caritatem, iustitiam et obedientiam..., [5] si fiat auctoritate ecclesiae, presertim cum pugnetur pro fide aut auctoritate principis...*" (Stanislaus de Scarbimiria, *Sermones de sapientia selectae*, no. 5 (XXX), p. 86).

that issue and discusses circumstances when Christians are allowed to cooperate with pagans. In his opinion, if war is just under those five conditions, various means and techniques might be used to defeat the enemy. Even pagans might be legitimately called into action to achieve the main objective of just war. This is the implementation of the ancient principle that “the end justifies the means”³³. What does matter is the final result: the triumph of justice which should be achieved by all means. That is why alliance with pagans is justified if it serves to restore justice³⁴. The Cracow professor argues that for the implementation of justice it does not matter whether someone fights by means of ambush or in an open field; it does not make a difference whether the Christian king uses exclusively Christian knights or if he cooperates with pagan forces as well. Stanisław of Skarbimierz supports his statements with arguments related to the natural law (*ius naturale*), which justifies the use of any military technique to defeat the enemy, and to the law of nations (*ius gentium*), which legitimizes cooperation between Christians and pagans³⁵.

Thus the arguments of Stanisław might be used to justify the war of Poland with the Teutonic Knights. The war was waged by King Jagiełło in alliance with Lithuania, whose population at that time still remained partly heathen. Poland waged just war, and if so, it was legitimate for the Catholic king to cooperate with pagans, because such alliance was justified by the rules of war and by natural law as well. During the war

³³ “*Nec est differentia in ratione flagelli, an christianus delinquens per alium christianum vel infidelem puniatur. Et sic si pagani per se inscrutabili Dei iudicio ad puniendum christianos delinquentes quandoque moveantur, et ei bellando, interficiendo et peccatores de terra delendo servire dicuntur, cum etiam in bello iusto christianis iustam partem habentibus coniuncti, contra alios christianos malos pugnantes, Deo servire non dicantur*” (*ibid.*, p. 100).

³⁴ “*...quantum ad iustitiam nihil refert, an per christianos tantum vel christianos iunctis paganis quasi quibusdam insidiis, christiani principes uti possunt*” (*ibid.*, p. 102).

³⁵ “*Item ius naturale idem est apud omnes; sed principes vim vi repellentes ius naturale tuentur, in quo cum paganis convenient, 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*” (*ibid.*, p. 102).

of 1410, justice was done to the Teutonic Knights, and if so, it was of secondary significance whether pagans made a contribution to that military success.

PAULUS VLADIMIRI'S CONCEPT OF *IUS GENTIUM*

Paweł Włodkowic of Brudzewo (*circa* 1370–1435), known in the international literature as Paulus Vladimiri, was 15 years younger than Stanisław of Skarbimierz. He was a distinguished scholar, jurist and rector of Cracow University (1414–1415). Like Stanisław of Skarbimierz, he was a doctor of decrees and graduate of Prague University. After his studies at Prague, where he received his master degree in arts, he moved to Padua, where he studied canon law under the supervision of famous lawyer and conciliarist Francesco Zabarella. At forty Paulus Vladimiri returned to Poland and took position at the Faculty of Law in Cracow. In 1413 he became a royal diplomat and the most prominent Polish advocate in the legal disputes with the Teutonic Knights. As the rector of Cracow University, Paweł Włodkowic represented Poland at the Council of Constance, where he delivered a thesis 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 in regard to the infidels*). As Stanisław Bełch has rightly argued, Vladimiri's treatise "is the first work to deal critically and systematically with the extent of the authority of the spiritual and secular powers, i.e. the papacy and the empire, in relation to non-Christian states". Furthermore, "it is the first elaborate system of doctrine concerning the rights of infidel independent nations vis-à-vis Christian kingdoms and powers, particularly the papacy and the empire"³⁶. In his *Tractatus Vladimiri* argues that pagan and Christian nations can coexist in peace and criticizes the Teutonic Order for its wars of conquest of native non-Christian peoples in Prussia and Lithuania. Vladimiri's arguments are extensively supported by a collection of *auctoritates* from the Bible,

³⁶ Stanisław Bełch, *Paulus Vladimiri and his doctrine*, vol. 2, pp. 780–789, here p. 780.

theological and political writings, as well as from codification of Canon law. All supporting documents are well-arranged and bound together by Vladimiri's comments. There is no doubt that the *Tractatus* is a work of gigantic effort and demonstrates both Vladimiri's intellectual abilities and his expertise in theology and law. His activities at the council of Constance, which are well-recorded by his literary production, made him a leading Polish expert on international law and an important representative of the Polish king in the subsequent diplomatic struggle against the Teutonic Knights. It was thanks to his busy diplomatic activities that in 1421 Pope Martin V entrusted his legate Antonio Zeno with the investigation of the conflict between Poland and the Teutonic Order. The literary production of Włodkovic includes a rich variety of texts: academic treatises as well as official statements related to the legal or diplomatic actions of the Polish King against the Teutonic Knights. Almost all of those texts are pieces of high-quality legal writing, formatted for court debate and supplied with due arguments³⁷.

Paulus Vladimiri adopted the concept of just war elaborated by Stanisław of Skarbimierz and applied it to the Polish-Teutonic relations. In contrast to universal treatment of political and moral issues by Stanisław, Paulus is much more concrete and almost always either discusses a particular problem of the Polish-Teutonic agenda or applies to it his conclusions. If analyzed together, his opinions on the activities of the Teutonic Knights and his treatment of pagans' rights aptly have been called a doctrine of religious toleration. That doctrine has made Włodkovic famous in the history of European religious ideas and gave him the position of a pioneer of religious toleration. Actually, his religious opinions are deeply embedded in the medieval political and theological concepts, and are articulated in the scholastic language of academic discourse. His doctrine of religious toleration matured in Padua and was much impressed by the teachings of Zabarella. He used widely thirteenth-century canonistic opinions formulated by Pope Innocent IV and Thomas Aquinas. What makes his doctrine original is, first of all, his amazing ability to combine legal and historical arguments.

³⁷ *Works of Paul Wladimiri (a selection)*, vol. 1, pp. x–xiv.

Stanislaw Bełch, in his extensive study on the political doctrine of Paulus Vladimiri, made important comments on the origins of *ius gentium* and discussed the original contribution of Paulus to the European debate on the natural rights of infidels. In Bełch's opinion, "the problem with which Vladimiri was mainly occupied was that of the rights of politically organized nations viewed in the light of the papal and imperial universal authority. In connection with this, he also dealt with the question of conversion by force. Of war aimed at the political subjection of infidel nations to the empire. Of the guilt and punishment for the guilt of the infidels, the distinction between peaceful and non-peaceful infidels, and of many other questions related to missionary as well as international law"³⁸. Furthermore, it is worth stressing that Paulus Vladimiri's concept of *ius gentium* and his rejection of conversion by force originated both from the New Testament and from the writings of Church fathers, in particular St Augustine and St Gregory the Great. In Christ's command to the Apostles, who were dispatched to the world to preach the Gospel (Mk 16,15), the conversion was treated as reasonable act of any human being resulting from free will. Following those instructions, St Augustine and St Gregory the Great argued that no one should be enforced to accept Christian faith and that pagan customs needed to be respected. That attitude towards peaceful conversion of infidels was endorsed by medieval collections of canon law³⁹. The teaching of Church Fathers was included in the *Decretum* by Yves of Chartres (*circa* 1091–1094), and later repeated in the *Decretum Gratiani* and *Decretales* of Gregory IX⁴⁰. Thus the principles of *ius gentium* and the concept of conversion by persuasion were deeply rooted in the theological tradition of ancient and medieval Christianity. As late as in the Carolingian period, the presence of that peaceful attitude towards pagans was paralleled by the growth of an opposing view, which legitimized the use of force as a means of Christianizing infidels. During the reign of Charlemagne, it became widely accepted that pagans should be first defeated and

³⁸ Stanislaus Bełch, *Paulus Vladimiri and his doctrine*, vol. 1, pp. 57–58.

³⁹ *ibid.*, pp. 58–59.

⁴⁰ Wojciech Świeboda, *Innowiercy*, pp. 69–74.

later pacified and Christianized. Such a model of Christianization was brutally adopted in Charlemagne's policy towards heathen Saxons⁴¹.

To get a better understanding of Paulus Vladimiri's international doctrine and his concept of *ius gentium*, it is worth discussing his two major works: *Tractatus de potestate papae et imperatoris respectu infidelium*, also known as *Saevientibus olim Pruthenis*⁴², and *Causa inter reges Poloniae et Cruciferos*, entitled also *Ad aperiendam*. The two were produced at the council of Constance and closely related to the Polish-Teutonic conflict, which was discussed at one of the council commissions. *Ad Aperiendam* was written at the turn of 1415 and 1416, and published a year later⁴³. The text was produced in consultation with the Cracow professors and accepted by the whole Polish delegation at Constance. In the first part of the treatise, Paulus Vladimiri criticizes legal and ideological foundations of the Teutonic Order, calling it the cruelest sect ever recorded in the Church history. In his opinion, the Order is even more dangerous because it corrupts Christian souls and bodies by means of scandals, murders and robberies. In 156 articles Paulus Vladimiri presents legal and historical arguments to support his thesis. After demonstrating that the Teutonic Knights are heretics, he calls for a fast and final extermination of that dangerous heresy. In conclusion, he argues that the Teutonic Knights cannot claim legitimate rights to

⁴¹ Stanislaus Belch, *Paulus Vladimiri and his doctrine*, vol. 1, pp. 59–60: “The occasional necessity of defending Christian states against aggressive infidels grew into the settled practice of defending the Church by force of arms against pagan enemies. This in turn gave rise to the conviction that the best way of pacifying and effecting the conversion of infidel barbarians was to defeat them in battle. The vanquished Saxons adopted Christianity and were incorporated into the empire. The armed conflicts and contacts with Islam were not without influence in this matter of taking to the sword in order to make converts and win territories from the infidels. From this attitude it was only a step to the notion of fighting the heathen *because* they were infidel; this resulted in wars of conquest and colonization which sometimes meant the extermination of heathen populations.”

⁴² *Works by Paulus Vladimiri*, ed. Stanislaus Belch, in: Stanislaus Belch, *Paulus Vladimiri and his doctrine*, vol. 2, pp. 779–844.

⁴³ Paweł Włodkovic, *Pisma wybrane*, vol. 1, ed. Ludwik Ehrlich, Warszawa: Instytut Wydawniczy PAX, 1968, pp. 144–259.

any of the lands they conquered and the general council should enforce their resettlement to some other area:

quia falsitas litterarum istarum falsam causam eis prestitit occupandi tum quia ea detinent nomine hospitalis quod in rerum natura nullum est notorie, tum quia optinent ea per rapinam notoriam.⁴⁴

His second anti-Teutonic treatise *Saevientibus olim Pruthenis* was produced in the first half of 1416⁴⁵. In that piece of writing he extensively uses arguments of Andrzej Łaskarzyc against the Teutonic obstruction of Christianization process in Lithuania, and those of Stanisław of Skarbimierz on just war and the cooperation between Christians and pagans. Following the concepts of *ius gentium* and *ius naturale*, Paulus Vladimiri argues that pagans living in peace have the right to property and their own states. At the same time he challenges the right of pope and emperor to declare war on pagans without any justified cause. Neither popes nor emperors can claim their power over territories populated by pagans. Consequently, papal and imperial documents which granted pagan territories in Prussia or Lithuania to the Teutonic Knights are invalid, as they violate natural law and divine law alike. Furthermore, Paweł considered all wars against pagans waged by the Teutonic Order unjust. Fighting against pagan Prussians and Lithuanians, they violate divine, natural, canon and civil laws. Their possession of territories in Prussia is illegal. Their claims to spreading Christianity are false as the conversion of pagans by force is against natural law, *ius gentium* and Christ's commandments. Sketching the history of the long conflict between Poland and the Teutonic Order, the Cracow scholar demonstrates that just war was waged only by Polish kings, while the Teutonic Knights

⁴⁴ *Ibid.*, p 259: „Cum igitur evidenter constat ex predictis ad predictos Cruciferos nichil iuris pertinere de omnibus prefatis bonis, terris, et dominiis, per eos occupatis ut dictum est, tum quia falsitas litterarum istarum falsam causam eis prestitit occupandi, tum quia ea detinent nomine hospitalis quod in rerum natura nullum est notorie, tum quia optinent ea per rapinam notoriam: igitur constat notorie de non iure ipsorum. Et per consequens constat nullum eis pro dictis dominiis comptere accionem nec eciam excepcionem, sed simpliciter per hanc sacram synodum fore realiter compellendos cum effectu ad eorum dimissionem.”

⁴⁵ Dated by the editor to 1415; Paweł Włodkovic, *Saevientibus*, in: Paweł Włodkovic, *Pisma wybrane*, vol. 1, pp. 2–112.

acted against the Christian doctrine. His treatise concludes with an appeal to the council to condemn the Order as heretic and abolish it⁴⁶.

Employing legal and logical *auctoritates*, Paulus Vladimiri promotes the concept of religious toleration, which openly rejects any use of force in the matters of religion. All men are equal and each man possesses unlimited religious freedom. Only God as the supreme being and the principle of all beings has the absolute power over all men. Free will is part of human nature and makes all men different from animals. If so, it should be respected and protected as a key human right. Free will offers each person the right to decide what he or she wants to do. That is why it is against divine and natural law to enforce any choice on a person. In particular, free will should be respected in relation to matters of faith. The choice of faith should result from free will and no force should be used to infringe freedom of that act. Paulus Vladimiri does not deny that Christianity has a missionary character and that the teaching of Jesus Christ should be disseminated by Christians among pagans. Actually, he acknowledges the role of Christians to be active in spreading the Gospels to all people who have not learnt them yet. Tracing back the history of Christianity, he realizes that mass conversion of pagans often followed the baptism of their ruler. It seems that Paulus Vladimiri does not criticize such conversions of pagans, respecting the leading role of their rulers. At the same time he does not reject the crusade ideology as long as crusades serve to restore Christianity among the peoples who were once baptized and later abandoned the Christian faith. His reflections on the conversion of pagans are closely associated with his concept of political government within Christendom. Interestingly, Paulus Vladimiri argues that the highest and universal power belongs only to the pope. As the vicar of Christ, the pope is the highest authority in spiritual matters, and as such is superior to the emperor.

These two problems discussed above are important as the foundation

⁴⁶ Ludwik Ehrlich, *Paweł Włodkowic*, pp. 67–71, Hartmut Boockmann, *Johannes Falkenberg, der Deutsche Orden und die polnische Politik. Untersuchungen zur politischen Theorie des späteren Mittelalter*, (ser. *Veröffentlichungen des Max Planck-Instituts für Geschichte*, 45), Göttingen: Max Planck-Institut für Geschichte, 1975, pp. 230–234; Krzysztof Ozóg, *Uczeni*, pp. 213–214.

of Paulus Vladimiri's theory of toleration. It is worth noting that the whole argument related to the conversion of pagans in *De potestate papae* is presented in a dozen of verses, but its intellectual potential is outstanding and theological consequences explosive. Discussing the crusades against pagan Lithuanians, Paulus Vladimiri argues that Lithuania was never a Christian country and as such should not be the target of crusades. The situation of Lithuania is juxtaposed to that of the Holy Land, where Jesus Christ was born, lived and sacrificed His life. If so, the pope has the right to declare war on Saracens and to organize crusades to restore Christian control over the Holy Land. In the eyes of Paulus Vladimiri, in every territorial dispute legal arguments should come first and be decisive. In the case of Lithuania, the principle of religious freedom does not contradict the above-mentioned principle of restitution, but it does not in itself protect the Lithuanian sovereignty. It is interesting to see how Paulus Vladimiri attempts to explain his two different approaches to the crusades against Saracens and against pagan Lithuanians. His preliminary thesis raises the question whether Christian monarchs can legitimately expel Saracens and Jews from their kingdoms and confiscate their property. Additionally, he poses another question the circumstances under which the pope has the right to punish infidels. In his arguments, Włodkowiec accepts the following presumptions:

1. If infidels want to live in peace among Christians, they should not be repressed and their property confiscated. Neither any ruler nor the pope might repress them if they respect religious and social order of Christendom.
2. The pope has the power over infidels living outside the Christian world even if they are outside his jurisdiction. The pope as the vicar of Christ has the power over all human beings. So he could punish infidels if they act against natural law and commit idolatry.

The idea of religious toleration promoted by Paulus Vladimiri is thus limited and can be granted only conditionally. As idolatry is against natural law (it is natural to venerate only one God the Creator of all universe), it should be punished by the pope. Only Muslims and Jews as monotheists are excluded from those repressions.

In international literature Paulus Vladimiri is rightly considered a forerunner of modern theories of human rights, as in his writings and public proclamations he did pioneer the concept of peaceful coexistence among nations, regardless of their ethnicities or religions. With great zeal and determination, he argued that the world should be guided by the principles of peace and mutual respect among nations. In his opinion, pagans have their place in the world created by God and ruled by the principle of natural law, they are God's creatures and possess the same rights as Christians. If so, they have a right to peace and to ownership of their lands, and no one is allowed to attack them and seize their property without sin.

IUS GENTIUM AND THE CONVERSION OF PAGANS
AT THE COUNCIL OF CONSTANCE (1414–1418)

Polish activities against the Teutonic Knights reached its climax at the Council of Constance, which became the biggest international forum where the Polish-Teutonic conflict was presented and a move towards resolution was attempted. On the one hand, the Teutonic Order, represented by its procurator Peter of Ornetá, took steps to demonstrate that the Polish King had cooperated with pagans to the detriment of Christianity and waged war to destroy a Christian institution, the Teutonic Knights. On the other hand, the Polish delegation, headed by Mikołaj Trąba, archbishop of Gniezno and former chancellor, launched an active campaign to counterbalance the Teutonic offensive and prove that the struggle against the Teutonic Order was just war. Among the members of the Polish delegation there were three outstanding and experienced lawyers: Jakub of Kurdwanów, Andrzej Łaskarzyc and Paweł Włodkowic. All of them were doctors of decrees who had studied at the University of Padua and kept friendly contacts with leading Italian professors of Roman and canon law. At the same time they were highly experienced diplomats who had spent a long time in the service of the Polish King and were responsible for legal proceedings against the Teutonic Knights. Their knowledge of law, diplomatic experience and friendship with European intellectuals made them perfectly able advocates of the Polish King at the Council of

Constance. Undoubtedly, Paulus Vladimiri and Andrzej Łaskarzyc were behind the appointment of Simon of Teramo, professor of law at the University of Padua, as the procurator of the Polish King in the trial with the Teutonic Knights. All activities of Polish delegates were supported by Italian lawyers such as Casper of Perugia and Augustine of Pisa. It is worth mentioning two other representatives of Cracow University: Piotr Wolfram, licentiate of canon law, and Andrzej of Kokorzyn, bachelor of theology, who acted as intermediaries between the Polish King and his delegates at Constance⁴⁷.

Activities of Polish delegates at Constance took various forms. On 13 February 1416, at the suggestion of King Jagiełło, representatives of Samogitia, 60 baptised Samogitians, arrived in Constance and made a formal complaint against the Teutonic Order, called *Proposicio Samaytarum*. They complained about a number of atrocities perpetrated by the Teutonic Knights in their lands. At the same time they requested that the council of Constance appoint King Jagiełło and Grand Duke Vytautas to be protectors of Samogitia's Christianization and entrust Christianizing mission to the archbishop of Lviv and the bishop of Vilnius. That Samogitian action was supported by members of the Polish delegation. Their *Propositio Polonorum* was publicly presented at the same session by Cracow professors Piotr Wolfram and Italian scholar Augustine of Pisa⁴⁸. The authors of that text are unknown, but it seems that the draft was first prepared in the chancery of the Polish King and its final version was produced at Constance by Paul Vladimiri, Andrzej Łaskarzyc and Mikołaj Trąba. In the *Propositio* Polish delegates presented a list of charges against the Teutonic Knights, describing in detail injuries committed by them in Lithuania after its conversion to Christianity. The *Propositio Polonorum* focused on the hostility of the Teutonic Order towards the Polish King and Poland in general. But it discussed two opposing approaches to the Christianization of Lithuanians as well. On the one hand, the Polish delegates presented the progress of Christianizing missions in Lithuania, extolling the

⁴⁷ Krzysztof Ożóg, *Uczeni*, pp. 206–207.

⁴⁸ *Ibid.*, pp. 210–211.

role of Jagiełło and Vytautas in the construction of new churches and promoting Catholic clergy. On the other hand, they stressed that the progress of Christianization was obstructed by the Teutonic Order, which continued to invade Lithuania as it was still a pagan country. The message conveyed by the *Propositio* was clear: the Teutonic Knights interrupted the spread of Christianity and waged unjust war against Christians. In doing so, they compromised their own mission and deserved to be punished for that. The *Propositio* was concluded with two proposals: that the Order be quickly reformed and that it be transferred from Prussia to the outskirts of Christendom, to the borderlands of Turks and Tartars (*in metis Tartharorum et Turcorum*)⁴⁹.

CONCLUSIONS

In the first decades of the fifteenth century Cracow scholars adopted the concept of *ius gentium* stemming directly from *ius naturale* and *ius divinum*. It served to demonstrate that natural rights were granted to all human beings and included religious freedom and the right to own property. Employed by the Polish King, Cracow professors used those concepts to undermine the idea of Holy War and conversion by force promoted by the Teutonic Order. Krzysztof Ożóg and Wojciech Świeboda have recently reexamined the role played by Cracow intellectuals such as Stanisław of Skarbimierz, Andrzej Łaskarzyc or Paweł Włodkowic in the diplomatic dispute with the Teutonic Order. Their international actions intensified a few years before the battle of Grunwald and culminated at the Council of Constance in 1415–1418. Thanks to their writings and public activities, the concept of converting pagans by force was successfully challenged and the Teutonic military operations against Lithuania exposed to wider criticism. At the same time, their pioneering reflections on *ius gentium* and *bellum iustum* questioned the medieval idea of Holy War and stimulated new approaches to infidels.

⁴⁹ *Codex epistolaris Vitoldi magni ducis Lithuaniae 1376–1430*, ed. Antoni Prochaska, (ser. *Monumenta mediae aevi historica res gestas Poloniae illustrantia*, 6), Cracoviae: Akademia Umiejętności, 1882, pp. 1001–1008; see comments by: Hartmut Boockmann, *Johannes Falkenberg*, pp. 206–208, 219–222.