

**Araştırma Makalesi**

**The Just War in Political Thought: from Cicero to Grotius**

**Ezgi ÖREN**

*Atatürk Üniversitesi, İİBF*

*ezgi.oren@atauni.edu.tr, ORCID: 0000-0003-2096-2808*

**Abstract**

The concept of just war rises on a "just war" doctrine, which has important historical moments, developed on the "justification potential" of war. A better understanding of the just war theory is possible by examining these historical intellectual foundations. For this purpose, this study starts from the ideas of Cicero, who is accepted as one of the most important intellectual premises of the just war theory, St. Augustine and St. Thomas Aquinas, and then the views of Vitoria and Grotius, who represent the transition of this concept to the modern period, on just war will be examined. In the last part, the current intellectual and practical problems related to the concept and the extent reached by the relevant concept will be discussed roughly. In this context, it is thought that examining the periodic intellectual contributions made to the just war theory in the historical process will also provide a healthier evaluation of today's discussions about the concept and the content of the theory.

**Keywords:** Just War, Jus in bello, Jus ad bellum, Thomas Aquinas, Vitoria, Grotius

**JEL Classification Codes:** F59, K33, N4

**Siyasal Düşüncede Haklı Savaş : Cicero'dan Grotius'a**

**Öz**

Haklı savaş kavramı savaşın "haklılaştırılabilme potansiyeli" üzerine geliştirilmiş, önemli tarihi momentleri olan bir "haklı savaş" öğretisi üzerinde yükselmektedir. Haklı savaşı kuramsal açıdan daha iyi kavrayabilmek bu tarihi düşünsel temelleri irdelemekle mümkündür. Bu amaçla, çalışmada, haklı savaş kuramının en önemli düşünsel öncüllerden biri kabul edilen Cicero'nun fikirlerinden başlanarak, haklı savaş anlayışının Hristiyan teolojisinde kuramsallaşmasını sağlayan düşünürlerden St. Augustine ve St. Thomas Aquinas, daha sonra da bu kavramın modern döneme geçişini temsil eden Vitoria ve Grotius'un haklı savaşa ilişkin görüşleri incelenecektir. Son bölümde ise kavramın günümüzde ulaştığı boyut ve kavramla ilgili mevcut düşünsel ve pratik sorunlara kabaca değinilecektir. Bu bağlamda, haklı savaş kuramına yapılmış dönemselsel düşünsel katkıları tarihsel süreç içerisinde incelemek, kavramın ve kuramın içeriği hakkında yapılan günümüz tartışmalarını da daha sağlıklı değerlendirme olanağı sunacaktır.

**Anahtar kelimeler** Haklı Savaş, Jus in bello, Jus ad bellum, Thomas Aquinas Vitoria, Grotius.

**Jel Sınıflandırma Kodları:** F59, K33, N4

Geliş Tarihi (Received): 29.09.2022 – Kabul Edilme Tarihi (Accepted): 24.11.2022

**Atıfta bulunmak için / Cite this paper:**

Ören, E. (2022). The just war in political thought: from Cicero to Grotius. *Çankırı Karatekin Üniversitesi İktisadi ve İdari Bilimler Fakültesi Dergisi*, 12 (3), 188-204, DOI: 10.18074/ckuiibfd.1182026.

## 1. Introduction

By the fall of the Berlin Wall, considered the most important symbol of the bipolar world, in November 1989, it was thought that humanity had entered the era of a "New World Order" under the leadership of the United States. The extreme point of this wave of optimism, within the globalization debates, was Fukuyama's hasty and much-discussed assertion "End of History". This claim roughly states that the "Western liberal democratic capitalist" system is the most successful one throughout the history of humanity. Fukuyama came up with that we have come to the end of history with the elimination of possible problems by making minor reforms in the current order and the "peaceful" spread of the system to the whole world through the economy. The end of history thesis is also meant the end of ideologies, the end of politics, the end of conflicts and wars, etc. However, especially the September 11 attacks in New York and the global interventions carried out by the USA based on the new National Security Strategy (Göztepe, 2004, p. 81) announced in 2002, seemed like the declaration of a new phase, not the end of conflicts and wars. Now then we began to engage in new conceptualizations such as the "new war", preventive war", war on terrorism", "humanitarian war" etc. In these historical conditions the doctrine of "Just War", which originated in the Roman Empire but was largely nourished by medieval Christian theology, began to be intensively examined and discussed in the social-political sciences literature.

This rebirth of the concept reveals the fact that although no one wants wars, considering their destructive nature, they continue to exist by adapting and changing form with each new historical period and condition. Some experts, who believe that complex societies and cities were born as a product of "fear", pointed out that traces of war were found in all of the first civilizations all over the world (Reader, 2006, p. 25). While some explain this constant existence of war with the "evil" (anthropological and/or religious...) of human nature, others say that a war-free world could only be established at the level of a developed cultural civilization through the opposition of Reason-Civilization and war. However, wars are a form of political inter-community relations, created by people. All these views, which deny the contingent political processes between communities (all forms of the political union such as states, tribes, etc.) and the intercommunal relationality of war, often overlook the questions of the essence and causes of war.

The debates on the essence and causes of the war at the theoretical level have led to the emergence of different concepts. One of the most prominent notions in this context is the concept of "just war" which has been widely discussed throughout the historical process. In its broadest sense, the term refers to the entire tradition of thought and practices in western culture aimed at determining when using force for political purposes of the "good" is justified and what about limiting the use of force-violence even in justified situations. Understood in this way, its component sources and its expressions include religious and philosophical moral thought, legal theory,

domestic and international customary and positive law, and military theory and practice. (Johnson, 2000, p. 332). The doctrine of just war is based on the idea of 'the possible justification of war'. In this context, war is not considered as an "evil in itself", but as a tool that can be resorted to when it has "just" reasons to prevent greater evils. Also, force may be good or bad depending on who uses it, on the objective justifying cause, the motivation, and the overall purpose (Johnson, 2011, p. 2). What is important here is the existence of justified reasons and whether the ultimate goal is "good or bad". Theoretically, it is a system that includes the whole of philosophical/religious moral thoughts, legal/military theories and practices, international law, and all of the behavioral patterns, beliefs, and attitudes related to moral principles, especially during the historical moments of Western thought. When the conceptual distinction between legitimacy-legality and justness is ignored, it is seen that the doctrine of just war is a discussion that focuses on the moral aspect of war in general and questions the morality of war. Therefore, just war theories are essentially based on moral presuppositions that exclude the political and the relationality of historically contingent socio-political unions and feed on an essential opposition between good and evil. In other words, when war is evaluated in terms of morality, it is considered together with the concepts of rightness and just. This makes the question of how the war could be waged not only based on justice, but also in terms of fairness and righteousness. Here, it is important to explain the expressions of the "jus ad bellum" (justification of war) and "jus in bello" (justice in war), which constitute two different dimensions of just war theory, in order to set forth the conceptual framework (Ereker, 2004, p. 2). Roughly, the main problem for Jus ad bellum is what causes the war to be justified; jus in bello is concerned with how to conduct war fairly (Demirbaş, 2017, p. 897).

The principle of jus ad bellum, which is intended to determine whether the war could be justified in a particular situation, defines the justification criteria of war. These criteria are moral justification, legitimate authority following the law, legitimate/moral/good intention, no alternative out of the war to achieve peace, war is limited to a certain temporality and a possibility to achieve peace (Ereker, 2004, p. 2). Jus ad bellum, whose first condition is just cause, deals with the extent of the use of force and how it is justified. Based on the idea that 'arbitrary' attacks cannot be justified, it determines the principles of which tools will be used for which targets and at what rate. It also includes civil immunity (Sönmez, 2019, p.32). *The jus in bello* is defined by two main ideas, the principle of *proportionality of means*, requiring that means of force be avoided that cause gratuitous or otherwise unnecessary destruction, and the principle of *discrimination* or *noncombatant immunity*, requiring that non-combatants should be protected so far as possible from the ravages of war and, in any case, should enjoy protection from direct and intentional harm. (Johnson, 2000, p. 334). The principle that determines who is the right target in war is civil immunity and the principle which defines the magnitude and use of violence in terms of morality is proportionality. Here, the moral ratio requires that the violence applied to be compatible with the goal that is being

sought. At the same time, it is a criterion for preventing possible revenge wars in the way of peace, which is the ultimate goal. This criterion, unlike the proportionality that minimizes the violence and destructiveness of war in the principle of *jus in bello*, expresses the proportionality of war in terms of its just cause, target, and relationship with other principles. In light of all these principles, the most basic condition for a just war is that the war was waged in response to evil.

The concept of just war, whose conceptual framework is briefly put forward in this way, rises on a "just war" doctrine, which has important historical moments, developed on the "justification potential" of war. A better understanding of the just war theory is possible by examining these historical intellectual foundations. For this purpose, this study, starting from the ideas of Cicero, who is accepted as one of the most important intellectual premises of the just war theory, St. Augustine and St. Thomas Aquinas, and then the views of Vitoria and Grotius, who represent the transition of this concept to the modern period, on just war will be examined. In the last part, the current intellectual and practical problems (justification, legitimation, legalization, etc. problems) related to the concept and the extent reached by the relevant concept will be discussed roughly. In this context, it is thought that examining the periodic intellectual contributions made to the just war theory in the historical process will also provide a healthier evaluation of today's discussions about the concept and the content of the theory.

## **2. Intellectual Foundations: Rome**

In the studies on the Just War theory, it is seen that Cicero (106-43 B.C.), one of the most important thinkers of the Roman Empire period, made important contributions to the related theory. "The Roman philosopher Cicero was the first to use the expression "bellum iustum" (just war)" (Keller, 2012, cited from Sigrid Albert, p. 9). His opinion on this subject was shaped during his senatorial and governorship duties. Reflecting on the justifications for war, Cicero introduces three principles for just wars a proper motive; due announcement and proclamation; the demand of restitution, and he advises that a state should not go to war except in situations that jeopardize its honor or safety. According to him, some ways must be followed so that when your attackers harm you, they will not do the same again and others will be less inclined to their actions: attack to remove the threat (Cicero, 1961, p. 22). Therefore, Cicero sees the state's going into war as just for the two main purposes of correcting a wrong committed against it by another state and protecting itself from destruction. Therefore he made an important contribution to the principle of just cause by adding the notion of defensive war to the reasons for a just war.

The justification of war will be valid as long as establishes peace, ensures its continuity, and has a reasonable chance of success. According to Cicero, no war is just, unless it is begun to make things right and is officially declared by a legitimate authority as he (1961, pp. 23-24) said "indeed, the rights of war are prescribed?

with the most sacred care by feacial law of the Roman people, from which it may be understood that no war is just unless after a formal demand of satisfaction for injury, or after an express declaration and proclamation of hostilities” For him, war rights should also be considered sacred in public administration. Also, disputes are resolved either by discussion or by force. If there is no opportunity for employing the first, the second must be recoured and once such a victory is gained, those not to be spared who have been cruel and inhuman in war (Cicero, 1961, p. 22). At this point, stating that conflicts should first be resolved diplomatically and war should be the last resort to be applied to, Cicero also argued that there should be a limitation in the methods of punishment and response that a state can use against its enemies in a war (İren and Gürkaynak, 2015, pp. 155-156).

He also emphasizes the principles that war should be just and aim at peace and underline that war should be resorted to as the last remedy. But it must be fought bravely when the only way is war and a dignified death must be preferred to captivity. However, it should not be forgotten that when superiority is coveted, it is difficult to maintain fairness, which is the most essential feature of justice. Now it is hard, when you covet pre-eminence, to maintain equity which is the most essential property of justice. However it is not unpreservable; the greater the difficulty, the greater the glory. In this case, not those who make cruelty, but those who are persecuted should be deemed brave and honorable (Cicero, 1961, p. 41). Thus, Cicero once again emphasizes the justification of defensive wars. As Harrer (1918, p. 26-27) says, "it is impossible to understand his expressed views on peace and war except based on his belief in peace as the normal international relationship. His condemnation of war is strong enough. And a preference for peace is evident from his statement, "In my opinion, we should always plan for peace, peace which will involve no treachery... War was horrible and yet should be done for a cause”.

Since Cicero's theory is secular, it has also been taken into account in the religious field. His thoughts on war and justice, who theorized on the ethics of war four hundred years before St. Augustine, affected the Christian theory of just war from Augustine to Thomas Aquinas. Amongst others, these two theologians used Cicero's texts to answer their questions concerning the justice of war. Therefore, studying Cicero can also contribute to a better understanding of the theological doctrine of the Just War Theory (Keller, 2012, p. 9). As Van Neste (2006, p. ii) says, “Augustine was quite heavily influenced by Cicero. He credited Cicero with his conversion to Christianity”.

### **3. Just War in Christian Thought**

#### **3.1. Saint Augustine**

Two important names that come to mind when the concept of just war is mentioned in theological thought are St. Augustine and St. Thomas. Christianity's contribution to the just war theory is generally based on St. Augustine (354-430 A.D.) who

rearranged Cicero's concept of just war within the framework of his religious beliefs. Considered the father of just war theory, St. Augustine was substantially influenced by the Archbishop of Milan, St. Ambrose's ideas about providing a theological justification for war (Ereker, 2004, p.7). Saint Augustine, who created a doctrine by combining the accumulation of Roman paganism and Christianity in the definition of just war, was influential in the formation of a concept that was effective throughout the Middle Ages and even today (Taslaman, 2011, p. 30). St. Augustine mostly expressed his thoughts on the just war in his famous work *On the State of God (De Civitate Dei)*, in which he defined two separate states as the earthly state (*Civitas Terrana*) and the God state (*Civitas Dei*). In Augustine's thought, the state of God represents "true justice" as it is governed by the grace of God, while the earthly state represents "injustice" as it is governed by the sovereignty and love of rulers (Ağaoğulları ve Köker, 2011, p. 153-154). St. Augustine's views on war are not systematic and the main subject in his work is the wars of God, who has an absolute right. However, by saying that Christians can fight for the states of the world, he pointed out that war is necessary in some cases, but also revealed that it is morally and religiously possible (Walzer, 2002, p. 925). Thus, he put the war out of sin for Christianity and legitimized it. Here Augustine says that if war is justified, it will not be a sin anymore. Augustine asserts that wars for power and vengeance around a worldly leader are unjust but wars waged to carry out a divine command or for defensive purposes are justified (İren and Gürkaynak, 2015, p. 161). In this case, according to him, just war means revenge to punish the wrong done by a state against which war is waged or for the damages that will occur in cases where he neglects to return something taken by mistake (Swift, 1983, p.135).

According to Augustine war is inevitable as long as humanity exists, if it is right or wrong and for being justified, except the wars of God, it must be waged by legitimate authority and has a just cause and goodwill. Thus, it is seen that Augustine developed three basic conditions within the scope of *jus ad bellum* for war to be justified.

A just war is primarily fought for the compensation of the damage suffered, and the main purpose of this war is to punish the state that commits a crime or harms it (Deane, 1963, p. 160). Secondly, the force that a state will use to defend itself is also seen by Augustine as a just war. In addition, the war waged to prevent a wrongdoing state is also justified because the belligerent has a good intention to fix the wrong. For this, the right intention should be pursued in every action, and the well-being and welfare of society should be considered. In Augustine's theological approach, just warfare is based on "love for neighbor"; striving for the well-being of one's neighbour is the result of unselfish love for the other (Taslaman, 2011, p. 30). According to Augustine, wars are events that should be avoided even if they are justified because the real evil in war is not the war itself, but the desire to use it as a tool rather than using the force affected by cruelty, greed, and similar bad feelings. Therefore, if war is inevitable, what Christians will do is try to conduct the

war as justly and peacefully as possible. Peace is nothing but a victory over those who resist us. When this is accomplished, there will be peace. That's why wars are declared to achieve peace (Augustine, 2015, p. 628).

According to Augustine, for war to be justified, it must first be declared by a legitimate authority. The only competent authority to decide to go to war is the ruler, who represents the will of God. In this case, all believers in the society are obliged to obey the ruler appointed by God.

Another principle of Augustine about just warfare is that there is a just cause to fight. He argues that war could be justified in the cases such as correcting the wrongdoing, compensating for the damage, and punishing the evils. In addition, since the damages in question cause not only material but also moral disorder, Augustine adds the moral dimension to the material justifications which accepted until him. In this respect, Augustine perceives the violation of God's rules and Christian doctrines as injustice and thought that this should be punished (Taslaman, 2011, p. 38).

"Right intention" is another element of Augustine's just war doctrine. According to him, a war waged with right intentions is a well-intentioned action to rein in evil, cruelty, and earthly ambitions. War is a necessity for evil to be eradicated and those who act to fulfill it have the right intentions. Wars are justified only when they are started to achieve peace and success.

Augustine also mentioned somebody who should not be in war; soldiers, clergy, and non-combatants should be discriminated against. He does not recommend that the clergy go to war while saying that only the actions of soldiers are approved and allowed to fight by a legitimate government. Introducing especially women and children are non-combatants, Augustine demands that no harm be done to them and that those who fall into the hands of the enemy should be shown mercy. According to Augustine, the bad conditions of war should be minimized since just war aims for good. Soldiers acting to achieve peace at the end of the war should only resort to violence as much as necessary within the principle of "proportionality".

### 3.2. Thomas Aquinas

Thomas Aquinas (1225-1274 A. D.) dealt with war-related issues in his *Summa Theologica*, which he wrote about eight centuries after Augustine. It could be said that Aquinas, who made important quotations from Augustine, was most influenced by the works of Augustine among all other sources related to the just war (Brownlie, 1963, p. 6). Augustine's Christian just war doctrine and the accumulation of just war after him were codified and theorized by Aquinas. For this reason, Aquinas is considered to be the theorist of just war. He blended theological and philosophical thought and used these two ways of thinking to legitimize each other (Bellamy, 2008, p. 37). However, Aquinas, who added a political extent to the just war, was

more interested in the jus ad bellum dimension of the just war (Ereker, 2004, p. 285). In his work *Summa Theologica*, in which he questions whether fighting is a sin or not, whether the clergy can participate in the war, and whether it is appropriate to fight on holy days (Dinçer, p. 114-115), Aquinas made important quotations from Augustine in this respect. While Aquinas defines peace as a state of benevolence, love, and mercy, he sees war as evil. Like Augustine, he believes that war may be necessary to maintain justice and peace, and does not agree with the idea that war can be a sin under all circumstances. Aquinas revised the just war doctrine by summing up the conditions required for a just war to be justified under three main items. These three conditions can be listed as follows: First, the declaration of war by a legitimate competent authority; just cause, and finally, the right intention for the benefit of humanity (Aquinas, 1947, vol. I-II, q. 40, art.1).

First of all, in a just war, there must be a legitimate authority that could decide to declare war and the war must be waged with this authority according to Aquinas. It is not possible for any person without this authority to decide on a war. Authority was a moral and theological matter and the legitimate prince who received the authority from God (Fixdal and Smith, 1998, p. 292) will take care the just war that he will initiate, is compatible with moral and theological principles. According to Aquinas, since everyone under such a government must also be subordinate to their ruler, the actions of those who hold the sword by the order of the authority are legal (Miller, 2012, p.184).

Secondly, there must be a just cause for a just war to be declared. According to Aquinas, the attacked body must deserve this attack. Just cause is the right of the injured side to attack because of wrongdoing. Aquinas said that it is legal to kill those who harm the public order, but this right to kill applies only to those who have public authority (Aquinas, 1947, I-II, q. 40, art.1). That is, the protection of the people is under the authority of the rulers, so it is with the rulers to punish those who do evil to the people by using force (Aquinas, 2002, p. 240). According to Augustine, while the existence of damage is a sufficient reason for just war, Thomas Aquinas claims that there must be some faults on the side that committed the wrongful act (Dalar, 2008, p. 231). Here, he mentions the necessity of reasons such as aiming to fix the wrong and to avenge the wrongdoing to enter the war.

According to Aquinas, who also counts the punishment of injustices and attacks against God as a just cause, wars that contain true faith and are fought for the defense of Christianity are also just (Aquinas, 1947, IIa-IIae, q.188, art.3). But Aquinas, who made an exception like Augustine, said that the clergy could not directly participate in wars, because war is an action that keeps the clergy away from worship. Since war is about shedding blood, it is also not suitable for the clergy. However, only to give spiritual and religious support to those who fight for just causes, clergy may participate in wars with the permission of their superiors (Aquinas, 2002, p. 244).

The third criterion of Aquinas for a just war is the principle of rightful intention. In Aquinas' own words; those who resort to war must have good intentions that are, they must aim both to cause good, to remove evil, and reach to peace (Aquinas, 2002, p. 241). Not harming the innocent is also a condition of rightful intention. According to Aquinas, killing an innocent just for killing is a violation of any right. But the accidental death of the innocent is not against natural, sacred, or written law (Aquinas, 1947, IIa-IIae, q.64, art.7). According to Aquinas A, death is inevitable in war, but a war waged with the sole intention of killing cannot be a just war (Ereker, 2004, p.13).

#### **4. The Secularization of the Just War: Vitoria and Grotius**

##### **4.1. Vitoria**

By the Renaissance and Reformation, the concept of just war has moved towards a secular plane. A major contributor to the concept in this context is Francisco de Vitoria (1483-1546 A. D.), a professor of theology at the University of Salamanca and one of the prominent thinkers of the Spanish Golden Age. He represents the transition from the Middle Ages to a new world with his contributions to the doctrine of just war. This transition could be seen in Vitoria's relationship just war with natural law, removing it from the theological field and giving it a secular and universal dimension. Although Vitoria, who also established the connection of just war with international law, was not the person who theoretically determined the principles of modern international law, his views on this subject became a guide for thinkers like Suarez and Grotius, who would create a secular theory of international law after him (Uzun and Uzun, 2009, p. 43). The importance of Vitoria is that he paved the way for the legal discussion of just and unjust forms of war by legalizing the concept (Demirbaş, 2017, p. 910).

In his work which he wrote on just warfare "De Jure Belli", Vitoria concludes that war should not be opposed religiously because war has a place in natural law, because the holy basis is not against natural law (Vitoria, 1991, p. 43). However, based on Vitoria's associating just war with natural law lies the idea that non-Christians should also be granted rights (Miller, 2000, p. 542). Vitoria mentions that indigenous peoples own their lands and property that the right to property has nothing to do with religion, and therefore what belongs to them cannot be confiscated without reason (Sönmez, 2019, p. 86). Thus, stating that religious difference cannot be a just cause at all, Vitoria creates a moment in the Christian just war thought and sets forth an important difference from the Middle Ages in this regard.

In Vitoria's thought, political society is an institution of natural law. It is not possible to talk about a pre-social naturalness in which public life does not exist. *Res Republica* stems from the natural sociability of man, and every human community has an earthly authority that guarantees the common good (Akal, 2013,

p. 41). According to Vitoria, although the first source of political power is God, the society that transfers its authority to the ruler determines the political power. As a result of this transfer, the political power entirely belongs to the monarch and the monarch has to act coherently to the laws (Scott, 2000, p. lxxxix.). In this manner, by separating the legality of power from religion, Vitoria opens up an area of sovereignty for political power completely independent of religious authority (Erkiner, 2012, p. 95).

Francisco de Vitoria, bringing concepts such as international law and universal law to the fore, also questions the freedom of the natives and the legitimacy of the wars of conquest (Sönmez, 2019, p. 86). This led him to set new norms on the legality of war and conquest. Vitoria saw the elements of right intention, just cause, and legitimate authority as the main principles of just war like other thinkers before him. However, according to him, because of the claims of universal justice, the ambitions of the sovereign power, and the wars waged religious differences are not justified (Ballis, 1937, p. 84). A society preparing to wage war must have suffered a serious injustice, must have a legitimate authority to wage this war and only the acquisition of the attacked right must have been aimed at the end of the war.

Therefore, it is important who has the authority to declare war within the scope of the justification of war. According to Vitoria, states have the power to declare war and fight (Scott, 2000, p. lii). States have to protect both themselves and their people. If states fail to protect their people and stand up to their enemies, it encourages them. Therefore, it is a necessity for states to have the authority to declare war and fight. This duty is also under the authority of the monarch on behalf of the state (Taslaman, 2011, p. 128). Decisions regarding public affairs such as war or peace could not be made without a legal king who draws his authority and power from the people (Akal, 2013, p. 63).

Another important issue regarding the justification of war is just causes as in the others. Claiming that the only just cause of war could be self-defense, Vitoria argued that offensive wars could also be justified under certain conditions. But this attack must be done proportionately to punish previous wrongdoing (Ereker, 2004, p.15). According to Vitoria, for a war to be justified, it must have been fought for the protection of Christians, the innocent, and especially for compensation for the harm that is already done (Vitoria, 1991. p. 290-303). Vitoria argues that it is justified to fight to protect ourselves or our property, to recover what has been taken from us, to avenge an injustice done to us, and finally to maintain peace and security (Scott, 2000, p. lxxv).

One of the important issues for Vitoria, who is more interested in the jus in bello dimension of just war theory, is the plight of civilians and innocents. According to him, he defines those who are not related to the war and do not help the wrong side as innocent, women, children, peasants, clergy, and foreigners are in this group. Therefore, the murder of the innocent and the entire hostile society, even if there

are criminals among them, is neither lawful nor justified. Vitoria also states that the accidental killing of innocents is possible and not unlawful in a war that was never intended to kill innocent people.

Vitoria, who made important contributions to modern and secular war theories with his views, also had a great influence on the thoughts of just war of the Dutch philosopher Grotius.

#### 4.2. Grotius

After the contributions of Vitoria and other thinkers to the doctrine of just war on the path of secularization, another thinker who had a significant impact on the modernization of the doctrine is Hugo Grotius (1583-1645 A. D.), who is accepted as the founder of modern international law. In his work-related the war, *De Jure Belli Ac Pacis*, he dealt with many subjects such as war, peace, just and unjust causes, punishment, and also made references to both Vitorio and Gentili in his works. According to Grotius, whose thoughts base on natural law, legal problems should be solved with legal rules outside of the religious field. With this approach, what makes him different from his predecessors in just war is that he tries to justify the justification of war not with religious elements, but with secular reasons. In *De Jure Belli Ac Pacis*, Grotius said that war can be justified in cases of defense, punishment, recovery, and compensation for damage, and he took the causes of war out of the religious sphere. According to him, the purpose of war to punish unjust acts or to protect the victims is to achieve peace (Grotius, 2005, p. 309). Since wars cause undeserved suffering to innocent people, it is necessary to desire peace first. Grotius, like his predecessors, argues that war should be waged for the purpose of peace.

Grounding the justification of war primarily with the principles of nature, Grotius defines war as a defensive reflex against any threat, danger, or attack, just like in nature, and making the war a defensive character. So war starts with a negative impulse from outside. For example, the side on whom war is waged must have committed an injustice before. In this case, injustice is the only justification for declaring war and if there is no injustice, there is no just cause. Grotius considers threats to life or property as unjust and considers defense against this threat, the desire to get back what was lost, and punishing the evil-doers as just cause for war (Grotius, 2005, pp. 264). According to Grotius, although sometimes there are situations where an attack can be considered justified, such as avenging the injustices suffered by the states, the real just war is defensive. Therefore, the only justifiable reason for a state to go to war should be the protection of borders, people, traditions, and laws in the face of threat or attack from outside (Johnson, 2008, p. 549). On the other hand, if the war begins by provoking the other side or if it harms a neighbor, it is not considered a defensive war.

Concerning the declaration and conduct of just war, Grotius says that the public authority that defends the interests of the state or wants to help its allies, subjects, or friends can wage a just war, and a public war can be waged by those who hold state power (Grotius, 2005, p. 60). However, individuals also have the authority to decide individually whether to participate in the war or not. However, this decision should not mean revolt against its ruler. Because, according to Grotius, while it is right to interfere with a cruel ruler, it is not right for the people to revolt against their own ruler (Meron, 1991, p. 111).

According to Grotius, who examines the unjust causes of the war as well as the just ones, wars waged for expediency (e.g., the desire to expand the territory), because of fear or declared to weaken a state is obviously unjust causes. Something unjust conflicts with the nature of the society of intelligent beings (Grotius, 2005, p. 20). According to Grotius, the task of determining which side is just or unjust would be undertaken by a neutral state. The impartial state will determine and apply the necessary sanctions against the state initiating the unjust war (Dalar, 2008, p. 232).

Another important issue that should be mentioned here is the principle of right intention, which was considered among the necessary conditions of war by previous thinkers. For Grotius, the right intention is? little importance compared to just causes of war, and it cannot be a necessary condition. Because if a war has just causes, they cannot change the justification of the war even if the intentions make the warlord guilty.

According to Grotius, who also emphasized the principle of proportionality like his predecessors, in a just war to punish, everything necessary must be done within the scope of punishment, but the method to be applied to the enemy must be proportional and proportionate to the crime committed. Here Grotius argues that revenge and punishment must also have a limit (Grotius, 2005, p. 394). In addition, in a just war, the guilty and the innocent should not be equated (Bellamy, 2004, p. 137) and especially children, women, and the elderly should be protected. According to him, the main target in war is the attackers.

As a result, with the Renaissance and Reformation, the just war evolved from the Christian just war doctrine to a secular understanding -with the influences of Vitoria and Grotius--was not only secularized but also universalized. Grotius's attempt to justify the just war with natural law by stripping it from its religious sources is an important contribution at this stage. His interpretation of just war and his views on jus ad bellum and jus in bello have been the source of modern just war discussions. Some consider his thoughts on the legalization of war, the definition of the state as a sovereign entity with its borders and the right to protect itself, as the beginning of modern and secular international law (Johnson, 2008, p. 550). In the modern state system formed after Westphalia, the just war has turned to the political field. After that, the war became the subject of the interstate political field, not the moral

debates made within the framework of the criteria of rightness and injustice. And now then wars are justified based on national interests.

## 5. Conclusion

As it seems, the just war theory has continued to exist by making different justifications in every period, just as wars continue to exist by adapting to each new historical period and condition by changing their form. Obligations such as creating an element of consent to fight in the eyes of the belligerent societies, ensuring the legitimacy of all the results of the war in the relevant social segments, creating a moral and legal (historically both natural and normative) justification for the causes and consequences of this practice have led to the intellectual discussion of the just war doctrine for centuries and has caused a revival in every systemic transition period historically. Of course, it could be argued that people who contributed to this theory are actually "right-intentioned". However, this judgment doesn't change the fact that the "just war" theory is used as a strategic tool by those who hold geopolitical power or those who want to seize that power. Such as the facts that Cicero's understanding of absolute justice internal to the Roman Empire dominates over the communities outside the pax-Romana, the preservation, strengthening, and spread of the holy Christianity of Augustine and Aquinas against non-Christian communities and the Vitoria and also the national wars that created the nation-states in the times of Grotius, the established national armies and most importantly the colonization activities accelerated with the conquest of the "New World".

Today, the revival of the just war theory should be evaluated through the frequently discussed concepts of "humanitarian intervention" and "war against terrorism". Although it is true that after the two great world wars, the relevant efforts have succeeded in creating an international legal norm on peace (the United Nations Convention restricting the use of war, etc.), the period after the September 11 attacks includes signs that a new era has been started in the wars and thus in the World Order, especially by the effect of the foreign policy of USA. (*this situation, which has also found its place in the recent social-political sciences literature, continues to be discussed again and intensively with related concepts such as Empire, New Imperialism, New World Order, globalization and related Global Civil War, Global Security, New Type Wars, etc.*) In this sense, today, correspond the inadequacies of international law in controlling wars and conflicts, the effort to provide a moral-based justification for the current conflicts and interventions that are devoid of legal grounds, and also the effort to establish legitimacy have revived the just war discussions. Hereby, while humanitarian intervention basically provides "justifiable" justifications for "humanity" such as "good intention", "moral just cause", and "aiming peace", the concept of "war against terrorism" refers to the being waged against an immoral enemy and general "evil" as a just cause.

The concept of just war redefines the understanding of the belligerents or the conditions of hostility and gives them new meanings. All are united against such an

abstract concept as terrorism for the sake of humanity. Here, morally justified concepts of "righteousness" or "justice" are universalized as the interest of all humanity far beyond any specific benefit of war. The concept of "good", which is universalized on behalf of humanity, calls "evil", in its popular usage, "forces of evil". Presenting the enemy as evil takes the struggle from being a limited, exceptional, and short-term political element and gives it an absolute, permanent, and essential character. So, evil becomes the enemy of all humanity that must be destroyed. This state of constant vigilance and war creates a world in which all governments are forced to be totalitarian and even authoritarian by the ways of the concept of war, dominated by the whole society, the concept of security, fetishizing in every field and all the gains of the freedom and rights, rasping for the sake of "security". As Negri and Hardt underlined in *The Multitude*, today's just war theory provides the moral-legitimate basis for the social life-regulating and new law-creating function of a permanent global civil war.

As a result, when considering the concepts such as "just war" and "the war against terrorism", what questions we should focus on is what the society we live in will be and how the world will be shaped "here" and "now", rather than the war itself. Because the main political target of these conceptual discourses is not the "evil", but us; how our political-social order will change and to what extent we would/could accept this change as justified and legitimate.

### **Kaynakça**

- Ağaoğulları, M. A. and Köker, L. (2011). *İmparatorluktan tanrı devletine*. Ankara: İmge Kitabevi.
- Akal, C. B. (2013). *Modern düşüncenin doğuşu: ispanyol altın çağı*. Ankara: Dost Yayınevi.
- Augustine, St. (2017). *City of god*. (M. Dods, Trans.). Moscow: Roman Roads Media.
- Aquinas, St. T. (1947). *The summa theologica*, (Fathers of the English Dominican Province Trans.). Vol. I-II. Benziger Bros.
- Aquinas, St. T. (2002). *Political writings*. R.W. Dyson (Ed.) and (Trans). Cambridge: Cambridge University Press.
- Ballis, W. B. (1937). *The legal position of war: changes in its practice and theory from plato to vattel*. The Hague: Martinus Nijhoff.
- Bellamy, A. J. (2004). Ethics and intervention: the 'humanitarian exception' and the problem of abuse in the case of iraq. *Journal of Peace Research*, 41(2), 131-147.

- Bellamy, A. J. (2008). *Just wars from cicero to iraq*. Malden: Polity Press,
- Brownlie, I. (1963). *International law and the use of force by states*. London: Oxford University Press.
- Cicero, (1961). *De officiis*. (W. Miller, Trans.). Cambridge: Harvard University Press.
- Dalar, M. (2008). Uluslararası hukukta “haklı savaş” doktrini: bir problemin analizi. *Muhafazakâr Düşünce Dergisi*, 4(15), 229-247.
- Deane, H. A. (1963). *The political and the social ideas of st. Augustine*. London: Columbia University Press.
- Demirbaş, Ç. E. (2017). Haklı savaş öğretisinin fikri temelleri üzerine bir inceleme. *Atatürk Üniversitesi İktisadi ve İdari Bilimler Dergisi*, 31(4), 895-921.
- Dinçer, M. (2018). Uluslararası ilişkilerde adil savaş teorisi: st. thomas aquinas’ın adil savaş modelinin dördüncü haçlı seferi’ne uygulanması. *Balkan Sosyal Bilimler Dergisi*, 7(14), 109-120.
- Ereker, F. A. (2004). İlkçağlardan günümüze haklı savaş kavramı. *Uluslararası İlişkiler Dergisi*, 1(3), 1-36.
- Erkiner, H. H. (2012). Grotius öncesinde ilk modern uluslararası hukuk düşüncesinin oluştuğu tarihsel koşullar ve erken klâsik dönemdeki öğreti. *Marmara Üniversitesi Hukuk Fakültesi Hukuk Araştırmaları Dergisi*, 18(1), 51-146.
- Fixdal M. and Smith D. (1998). Humanitarian intervention and just war. *Mershon International Studies Review*, 42(2), 283-312.
- Göztepe, E. (2004). amerika'nın ikinci irak müdahalesinin uluslararası hukuk ve türkiye'nin bu savaşa katılımının türk anayasa hukuku açısından bir değerlendirmesi ya da "haklı savaş"ın haksızlığı üzerine”. *Ankara Üniversitesi SBF Dergisi*, 59(3), 79-103.
- Grotius, H. (2005). *On the law of war and peace in three books (1625) (de jure belli ac pacis libris tres)*. (F. W. Kelsey, Trans.). Electronic edition: Lonang Institute.
- Harrer, G. A. (1918). Cicero on peace and war. *The Classical Journal*, 14(1), 26-38.

- İren, A. A. and Gürkaynak, M. (2015). Batı medeniyeti ve hıristiyanlıkta haklı savaş geleneği. *Süleyman Demirel Üniversitesi İlahiyat Fakültesi Dergisi*, 2(35), 147-178.
- Johnson, J. T. (2000). Just war. D. Miller (Ed.). *the blackwell encyclopedia of political thought* içinde Oxford: Blackwell Publishers.
- Johnson, J. T. (2008). The idea of defense in historical and contemporary thinking about just war. *Journal of Religious Ethics*, 36(4), pp. 543-556
- Johnson, J. T. (2011), *Ethics and the use of force: just war in historical perspective*, New York: Routledge.
- Keller. A. (2012). Cicero: just war in classical antiquity. H. G. Justenhoven and W. A. Barbieri, Jr. (Ed.). *just war to modern peace ethics* içinde, Berlin, Boston: De Gruyter. <https://doi.org/10.1515/9783110291926.9>
- Meron, T. (1991). Common rights of mankind in gentili, grotious and suarez. *The American Journal of International Law*, 85(1), 110-116.
- Miller, D. (Ed.) (2000). *The blackwell encyclopedia of political thought*. Oxford: Blackwell Publishers.
- Miller, R. B. (2012). Aquinas and the presumption against killing and war. *The Journal of Religion*, 82(2), 173-204.
- Reader, J. (2006), *Cities*, New York: Grove Atlantic.
- Scott, J. B. (2000). *The spanish origin of international law: francisco de vitoria and his law of nations*. New Jersey: The Lawbook Exchange Corp.
- Sönmez S. (2019). *Walzer ve haklı savaş problemi*. Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü, Felsefe Anabilim Dalı (yayınlanmamış yüksek lisans tezi).
- Swift, L. J. (1983). *The early fathers of war and military service*. Wilmington, Delaware: Michael Glazier Inc.
- Taslaman, F. K. (2011). *Geçmişten günümüze haklı savaş kavramının yorumu*. (Doktora Tezi), İstanbul Üniversitesi Sosyal Bilimler Enstitüsü.
- Uzun, E. and Uzun, E. (2009). Uluslararası hukukun temelleri ve francisco de vitoria. *Uluslararası Hukuk ve Politika*, 5(18), 39-60.
- Walzer, M. (2002). The triumph of just war theory. *Social Research*, 69(4), 925-944.

Van Neste, B. (2006). *Cicero and st. augustine's just war theory: classical influences on a christian idea*. Graduate Theses and Dissertations, University of South Florida.

Vitoria, F. (1991). On the law of war. A. Pagden and J. Lawrence (Ed.). *vitoria: political writings* içinde, Cambridge: Cambridge University Press.  
<https://doi.org/10.1017/CBO9780511840944>