

## CRIMINOLOGICAL ASPECTS OF WAR

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**Abstract.** *The paper deals with criminological analysis of war as a negative social phenomenon, from the earliest communities up to the New Age, by using historical and comparative methods. Being an armed conflict between people and groups, war is an act of force and coercion aimed at imposing one's will on the enemy. The paper aims to describe the evolution of warfares through three major historical epochs: the Old Age, the Middle Ages, and the New Age. The author analyzes each major historical period in terms of the prevailing causes, motives, justifications and consequences of war in the specific period. The author points out that the use of force in warfare progressively expanded in every subsequent historical epoch, particularly as a result of the development of destructive tools and technologies. Although international customary law imposes limitations on the use of force in warfare, it does not necessarily reduce the scope and the impact of its application.*

**Key words:** war, battle, army, religion, Church

### INTRODUCTION

War, as a negative social phenomenon, dates back to the earliest human communities. Being an armed conflict between people and groups, war is an act of force and coercion aimed at imposing one's will on the enemy. Even in the earliest communities, war was seen as a necessary social phenomenon for achieving a wide range of political and social goals. Various deity cults in polytheistic religions testify about the significance of war for those societies. One widely accepted interpretation is that warfare occurred at the time of transition from the wandering hunter-gatherer lifestyle to the new rural-agricultural lifestyle that certain groups opted for. Violence was a common feature of the medieval world, frequently combined with the traditional slaughter in battle. The history of Europe and of the World in general is largely a history of religious wars. The church accepted

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and blessed the warrior class from the very beginning. In the New Age, endemic warfare generated a proliferation of diseases and epidemics (typhoid, malaria, black plague, variola vera, scurvy, dysentery, etc.), which progressively reduced people's resistance to diseases and caused death among soldiers and civilians alike, both in war zones and beyond. War is a very common phenomenon in the Modern Age. With the development of technology and its misuse, we bear witness to the devastating power of weapons used in warfare and the horrible consequences of using them. International customary law imposes limitations on the use of force in warfare but it does not necessarily reduce the scope and the impact of its application (Von Clausewitz, 1951: 41).

There are numerous conceptual definitions of war. It is generally perceived as an armed conflict between opposed political groups involved in "hostilities of considerable duration and magnitude"; in military theory, it primarily entails hostilities among groups of more or less equal power; in social sciences, it has additional socio-political, economic, anthropological and other features.<sup>1</sup>

#### WAR IN THE MYTHOLOGY OF POLITEHISTIC RELIGIONS

Even in the earliest communities, war was seen as a necessary social phenomenon for accomplishing a wide range of political and social goals. In polytheistic religions, members of various cults worshiped and offered sacrifices to different deities in order to indulge their idol and pray for victory in battle; these practices testify about the significance of war in the archaic human societies.

Ares was the god of war in the polytheistic religion of the ancient Greeks. He was not very popular among the followers of the Greek Pantheon, or among other gods, because he was associated with the most brutal aspects of war and bloodshed. Although the cult of Ares lacked the theological, moral, and social lessons peculiar for all the great deities, it gave birth to many local customs; for example, in Sparta, prisoners of war were sacrificed to Ares.<sup>2</sup>

Odin or Watan was the god of war and the supreme deity of the Scandinavians. He ruled in Valhalla, the mythical sacred place for warriors killed in combat, while men who did not die in battle ended up in the underworld. He was always portrayed sitting on a white horse, with a spear a sword in his hands, and surrounded by Valkyras, warlike maidens chosen to escort warriors to Valhalla (Udaljcov, Kosminski, Weinstein, 1950: 99).

In ancient Rome, Mars was the counterpart to the Greek god Ares but, unlike Ares, was highly revered and worshiped. Festivals that were completely or partly dedicated to him took place during the month of March (which was named after him). Until the reign of Augustus<sup>3</sup>, only two temples in Rome were dedicated to Mars but, during his reign, the worship of this cult gained a new momentum. He was not only a traditional guardian of the Roman military affairs but also *Mars Ultor* (Mars the Avenger); given his role of the avenger, he became the personal guardian of Emperor Julius Caesar<sup>4</sup> and the protector of Rome.<sup>5</sup>

<sup>1</sup> See: Encyclopædia Britannica, <https://www.britannica.com/topic/war>, accessed 25.02.2019.

<sup>2</sup> See: Encyclopædia Britannica, <https://www.britannica.com/topic/Ares-Greek-mythology> (27.02.2019).

<sup>3</sup> Octavian Augustus (Lat. *Gaius Julius Caesar Octavianus Augustus*-Rome, 23/09/63 63 BC-Nola, 19/08/14 AD) was the founder of the Roman Empire and the first Roman emperor who ruled from 27 BC to his death in 14AD.

<sup>4</sup> Gaius Julius Caesar (Lat. *Gaius Iulius Caesar*-Rome, July 13, 100 BC-Rome, March 15, 44 BC), was a Roman leader, politician and ruler.

<sup>5</sup> See: ENCYCLOPÆDIA BRITANICA, <https://www.britannica.com/topic/Mars-Roman-god> (27.02.2019).

Huitzilopochtli was the Aztec god of war. In order to please him, the Aztecs offered prisoners of war as human sacrifices (“by opening the victim’s chests and ripping out their still beating hearts”), which were *inter alia* made to ensure success in battles.<sup>6</sup>

Gods were a sublimated collective expression of every community and epoch. In that context, Dragojlović poses a question: “Has war, as a way of solving problems among groups of people and communities in the distant period of creating Israel and other human communities, been introduced by the god of each of these communities, or has the life of the people on earth encouraged violence and war as part of their everyday lifestyle? God has no other moral principles than those given to him by men themselves” (Dragojlović, 1994: 32).

#### WARS IN THE OLD AGE

The history of warfares dates back to the Stone Age. Although the origin of warfare is largely “shrouded in mystery”, relevant literature does provide some insight into the early developments in the field of warfare.

In the Old Stone Age (Paleolithic period), nomadic groups used spears and flint arrows for hunting; in the Neolithic period, hunters were armed with slingshots, bows and arrows, and daggers, which were most likely used in individual or group conflicts. However, it seems that organized aggression was not “biologically programmed” in human beings of the Stone Age, and that people engaged in wars for very specific reasons. One widely accepted interpretation is that warfare occurred at the time of the transition from the wandering hunter-gatherer lifestyle to the new rural-agricultural lifestyle that particular groups opted for. The reason for the outbreak of war at that time was the accumulation of supplies, i.e. the surplus of food and other goods in rural settlements, which wandering hunter-gatherer gangs considered worth stealing. An alternative argument proposed in relevant literature is that organized warfare began much later, in very specific circumstances, when the dispossession of territory began due to population growth. For example, the Neolithic farmers who settled in the territory of the present-day Europe (about four or five thousand years ago) occasionally clashed with wandering Mesolithic groups and dug defensive trenches around their settlements to prevent gang raids (Archer, Ferris, Herving, Travers, 2006: 11-12).

The backbone of the political and economic expansion of ancient Greece was the specific state structure: the city-state (*polis*). The most well-known among the city-states were Athens in central Greece and Sparta in the Peloponnese, which gradually came to the fore of political life and whose history reflected the entire Greek history (Rostovtsev, 1974: 56, 57).

Sparta held a special position among these city-states. It was essentially a military state, with very rigid social organization which was designed so that every individual was subordinate to the state. All adult *Spartiates*<sup>7</sup> were soldiers, subjected to very rigorous training from early age. The entire ruling class constituted a standing army, ready for battle at any time (Rostovtsev, 1974: 58, 60). “Spartiates were trained since the early childhood to live for the state. If declared to be healthy by a special committee of elders, boys born into a

<sup>6</sup> See: Ancient Facts, <https://www.ancientfacts.net/gods-war-7-deities-propagated-violent-bloodthirsty-rituals/2/>, (05.04.2019).

<sup>7</sup> *Spartiates* were Spartan citizens who enjoyed full rights and ruled over the larger population.

*Spartiate* family would immediately fall under public custody. Deformed or frail infants, both boys and girls, were exposed in a public place, and they would die there unless some compassionate helot<sup>8</sup> took them. By the age of seven, they were nurtured by mothers and special state nannies. As they turned seven, they abandoned their families and joined military units, under the command of some *Spartiate*. There, they were taught to march, do physical exercises, use weapons, and engage in reading and music. They ate simple self-prepared food and slept on reeds, which they would collect along the coast of Eurota” (Rostovtsev, 1974: 61).

The Ancient Rome is also renowned for its long-standing military campaigns, conquests and warfares in Europe and beyond. Their fierce opponents were different Germanic tribes which frequently raided the Gaul territories occupied by Julius Caesar (Udaljcov, Kosminski, Weinstein, 1950: 27). This period was also marked by the onslaught of the Huns, the nomadic people from Central Asia whose aggressive raids and physical appearance caused fear among the Europeans. They were described as “deformed, extremely ugly creatures, not much like human beings”. They were horsemen, who lived in tribal groups and spent all their lives on horseback. They used very peculiar attack strategy: first, riding-archers would attack by firing arrows to disorganize the opponents, and then the infantry would give the final blow by using swords (Archer, Ferris, Herving, Travers, 2006: 203).

#### WARS IN THE MIDDLE AGES

The slaughter in battle continued in the Middle Ages. On the battlefield, it was a common practice to kill a deadly wounded soldier, who was not rich enough to pay ransom. After the battle, a large number of soldiers were simply left on the battlefield to be scavenged by vultures or robbed by villagers (Archer, Ferris, Herving, Travers, 2006: 172).

At the end of the 8th century, there was an expansion of the Scandinavians. The first Vikings (Danes and Norwegians) raided England and Ireland, the Frankish countries of Western Europe, the Mediterranean and Byzantine territories, and some areas of the present-day Ukraine and Russia. The “Northerners” sailed in search for new territories in order to settle, conquest, plunder and exchange goods (Archer, Ferris, Herving, Travers, 2006: 159). In order to facilitate their conquest and achieve their goals without a fight, they spread horrifying stories about their ruthlessness in order to intimidate their opponents, which were sometimes quite effective. For example, they forced the English to pay *danegeld* (tribute to the Danes) in silverware. The cruel story of “eagle sacrifice” was associated with the Vikings, although there is no direct evidence that it had been performed. It was an extremely cruel manner of killing, where the victim’s chest was cut open “and both lungs were pulled outward, to the left and to the right, to resemble eagle wings”. However, the Vikings favoured such reputation because their fleets “were actually small, sometimes less than two thousand soldiers” (Archer, Ferris, Herving, Travers, 2006: 163).

In the Middle Ages, the most common cause or justification for war was religion. Religious intolerance was at its peak in the Middle Ages, and wars were often fought both within one state and between states, with the aim of destroying non-believers, infidels, and members of a particular religion which was considered heretical. Apart from numerous conflicts within the same religion (e.g. within Christianity, between the Protestants and the

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<sup>8</sup> *Helots* were state slaves in Sparta.

Catholics, the Catholic and the Orthodox Church) (Dragojlovic, 1994: 33), the fiercest war of that kind was fought between Christians and Muslims.

The First Crusade was called by Pope Urban II at the Council of Clermont in the 1095, in order to liberate Jerusalem from the Muslim infidels. However, apart from the religious zeal, the motives for waging this “holy” war were far more lucrative ambitions and appetites for new territories, money, trade, but also escape from poverty, famine and plague that stormed Europe at that time (Archer, Ferris, Herving, Travers, 2006: 194). The siege of heavily fortified Jerusalem began in 1099, under the leadership of Godfrey of Bouillon. Jerusalem was conquered on the 13/14 July 1099. The conquest was followed by the desecration of Al-Aqsa mosque and the massacre of Muslim men, women and children. The Jews also suffered a terrible fate; as the Christians believed that the Jews were trying to save Muslims from persecution, they were locked in the largest synagogue and burnt alive (Archer, Ferris, Herving, Travers, 2006: 199).

#### THE CHURCH IN THE MIDDLE AGES

The church played a significant role in medieval warfare. The church supported the soldier class, which defended Christians against the assault of non-Christians. The clergy often directly participated in the war, but they were forbidden to kill. They also received possessions from the rulers for their participation in the war. In the war against non-Christians, nothing was forbidden, and the knights easily received forgiveness for their sins, due to the fact that they participated in such a “holy” war (Howard, 1999: 189).

Although the Church did not approve of the wars between Christians themselves, such wars did occur. But still, there were opinions among Christian theologians that “some wars were just; generally speaking, they were fought for a just cause, respecting the law of the stronger” (Howard, 1999: 19). Howard further notes that “Struggles of this kind were understood as appealing to the judgment of God, and almost throughout the Middle Ages every honorable man had the right to fight for what he considered righteous”. Over time, a distinction was made between “a private war” (*guerre couverte* fought on individual level) and “a public war” (led by the ruling nobility). It was considered that the private war had to be managed in such a way as not to cause substantial damage to the community; thus, “a man can kill his opponent in a fight, but not to burn or damage his property”. On the other hand, restrictions in the public war were minor; so, it was allowed to enslave people, often with the aim of demanding ransom, to take the adversaries’ property, to impose taxes, etc. In general, the clergy and their property were protected from war crime (Howard, 1999: 19, 20).

#### WARS IN THE EAST

Unlike the warfare strategies and techniques in Europe, which included the use of cavalry, infantry (archers), and siege as needed, the eastern-style warfare practiced by the Mongols, the Chinese and the Japanese was quite different. The most striking difference was the use of “light cavalry armed with composite arches”, especially in Central Asia. This eastern-style tactic was extensively used by the Mongols, who thus created “the most expansive land empire in human history” (Archer, Ferris, Herving, Travers, 2006: 199).

Temujin, later Genghis Khan, was the first Mongolian emperor to succeed in unifying the Mongol tribes and leading them to a great conquest. He believed that God determined that the fate of the Mongols was to conquer all the countries of the world. The empire he created, at the time of his death in 1227, occupied the territory from the Caspian Sea as far as the Pacific, including northern China (Archer, Ferris, Herving, Travers, 2006: 204). The Mongols' war strategy is described as follows: "In the battle, the Mongol army performed by letting the light cavalry enter the battlefield first, as its first strike, with its center and its two wings. Behind it, two rows of heavy cavalry, and behind them, three rows of light cavalry again. The first blow is to rivet the enemy to one place, to make them hold. Then, through the rows of heavy cavalry, the light cavalry shoots the arrows from behind, in an effort to break the enemy's front. If it does, the light cavalry rushes to the left and right, and then a huge drum, carried on a camel, is heard; at that sign, the heavy cavalry rushes and overtakes the enemy. If this fails, another tactic, called *tulug*, is applied, which means lateral attack - all light cavalry rushes to attack from the side, on only one wing" (Archer, Ferris, Herving, Travers, 2006: 209). Another commonly used war tactic was "*mangudai*", which entailed a "false escape of a large group of horsemen", aimed at making the enemy go after them, but during the chase they were actually ambushed and trapped between two groups of shooters, and finally finished off by heavy cavalry (Archer, Ferris, Herving, Travers, 2006: 209).

The other great empire in the east was China. The Mongol rule in China ended between 1350-1360 AD. The leader of the rebellion was Chu Yuanchang, a former monk who founded the Ming Dynasty in Beijing in 1368 and became emperor Hung-vu. During his reign, he introduced strict military discipline. Thus, he ordered "the tongues to be cut off to all those officers who allowed their sons to spend time singing, instead of riding on horseback and training with bow and arrow. Those who played chess had their hands cut, and who played football had their feet cut off" (Archer, Ferris, Herving, Travers, 2006: 230). After the rebellion against the Ming Dynasty, the Manchu people (forest nomadic people from Manchuria) occupied the northern part of China in 1644, but in a couple of years they managed to occupy the rest of China. Like the Mongols, the Manchus used intimidation to make the enemy surrender without resistance. In 1645, during the siege of the city of Yang-chu, after they had destroyed the walls with cannons, they entered the city and carried out a massacre (Archer, Ferris, Herving, Travers, 2006: 235, 236).

Given that Japan was an isolated country, military skills and tactics developed in internal conditions, within the framework of Japanese traditions, until the moment when the Portuguese brought firearms around 1540 (Archer, Ferris, Herving, Travers, 2006: 240). In Japan, the *samurai*<sup>9</sup> were the counterpart of knights in Europe. The *samurai* had to abide by a host of formal rules of war, including the rules on one-to-one combat, pre-battle formalities (a samurai had to present himself to the enemy, to challenge another to a duel), the rules of honorable conduct in battle and, ultimately, to cut off the opponent's head after defeating him (as part of the warriors' code of honour). The *samurai* code of conduct and fighting was called the Bushido-the Warrior Way. Yet, the most famous Japanese tradition is certainly *hara-kiri*, a ritual suicide committed by the *samurai* who lost a battle; as he could not continue to fight and provide military services, the warrior code obliged him to save face by ending his life in an honorable way by stabbing himself in the stomach (Archer, Ferris, Herving, Travers, 2006: 241, 242).

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<sup>9</sup> The word *samurai* comes from the verb *samurau* or *saburau*, which means "to serve", but the concept mostly referred to military service. (Archer, Ferris, Herving, Travers, 2006: 241).

## WARS IN THE NEW AGE

In the New Age, Europe was constantly in in turmoil, divided by religious wars (between Catholics and Protestants), various rebellions, uprisings, wars over territories, etc. Constant warfare brought about poverty, famine, and proliferation of diseases (typhoid, malaria, black plague, variola vera, scurvy, dysentery, etc.), which affected not only soldiers on the battlefields but also civilians (Archer, Ferris, Herving, Travers, 2006: 322).

After the Civil War in England (1642-1648), the Commonwealth Republic was formed, under the leadership of Oliver Cromwell, and Scotland and Ireland lost their independence. In Northern Ireland, the Irish Catholics killed Protestants, and Cromwell raised an army against them. As the Catholics refused to surrender, a siege ensued in the area of Lenster, after which the Irish soldiers were massacred by the English army. Similarly, the siege of Wexford and Manster in the south was followed by the massacre of both Irish soldiers and civilians. Cromwell justified such horrors “as the justly judgment of God to the deplorable barbarians, who dipped their hands in much innocent blood only to prevent such bloodshed in the future” (Archer, Ferris, Herving, Travers, 2006: 322, 323).

The eastern parts of Europe were burdened by long-standing conflicts between the Habsburg Empire and the Turks. The largest religious conflict in the 17th century took place in 1683, when Vienna was at stake. The siege of Vienna, led by Grand Vizier Kara Mustafa, ended in favor of Austria as the Ottomans failed to occupy Vienna (Archer, Ferris, Herving, Travers, 2006: 324). “The red tent of the Grand Vizier was destroyed, but he escaped while thousands of his soldiers were slaughtered or captured. The reports state that it took the army and the people of Vienna a week to collect the loot left in the Turkish camp.”<sup>10</sup>

The 18th century was the time of absolute monarchism (absolutism), which was marked by ideas of rationalism and enlightenment. In Western Europe, the age of Enlightenment triggered scientific and other interests, leading to reduced religious hatred and war barbarism. However, in the Balkans, bloody battles between Christians and Ottoman Mislms continued. In the European colonies overseas, colonists were also involved in conflicts with the colonized Native Americans (Archer, Ferris, Herving, Travers, 2006: 371).

In central Europe, wars were commonly waged by France, Austria, the German states and Russia, and battles occurred in the strategically important territories of the Netherlands, Flanders, Germany, central Europe and northern Italy. These wars were largely waged for territories which contained a wealth of natural resources or had strategic geopolitical benefits. In line with the stronger force rule, territories were conquered by whoever who had a stronger interest in the specific territory. These territories were often used as negotiating instruments in international peace negotiations. (Archer, Ferris, Herving, Travers, 2006: 377).

## CONCLUSION

In his work “the Law of Nations” (1758), Emmerich de Vattel wrote about war: “The right to wage war belongs to nations only as a remedy against injustice. It is the offspring of an unhappy necessity. This remedy is so dreadful in its effects, so destructive to humanity, so severe even to the party resorting to it, that unambiguously the law of nature permits it only to the last extreme—that is, when every other expedient mean proves

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<sup>10</sup> See: Encyclopædia Britannica, <https://www.britannica.com/event/Siege-of-Vienna-1683>, (10.05.2019).

ineffective in maintaining justice”.<sup>11</sup> However, we can easily conclude that war is a very common phenomenon even in the Modern Age, and a means for achieving the goals pursued.

Unlike the earlier epochs of human history, wars today are more perfidious because the real reasons for the outbreak of war are hidden under the veil of democracy, which appears to be the reason for waging almost every armed conflict. With the development of technology and its misuse, the devastating power of weapons used in war and the consequences of using them became dire, which speaks in favour of the observation that modern society is far more barbaric than civilized, as we tend to call it. Before World War II, the concept of war crime did not exist. The horrors of war were perceived as an integral part of warfare and a necessary consequence. There was no systematic approach to dealing with war crimes, nor was there international awareness that political and military leaders should be held accountable or criminally liable for the actions of their states or their troops. These attitudes were changed during World War II when the killing of several million people, mostly Jews, by Nazi Germany and the mistreatment of civilians and prisoners of war by the Japanese, prompted the Allied forces to prosecute the perpetrators of these war crimes, genocide, and crimes against humanity.<sup>12</sup>

However, at the international level, there is no systematic approach to prosecuting war crimes, nor does the international community show the necessary willingness to suppress this negative trend. It seems that the economic and other interests of the powerful minority have become by far more important than the interests of the huge majority worldwide, whose lives are not perceived as invaluable but merely as casual statistics on the way to achieving their goals.

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<sup>11</sup> See: Duhaime's Encyclopedia of Law: War-definition, <http://www.duhaime.org/LegalDictionary/W/War.aspx>, (accessed 15.11.2019).

<sup>12</sup> See: BBC.com: War crimes; [http://www.bbc.co.uk/ethics/war/overview/crimes\\_1.shtml](http://www.bbc.co.uk/ethics/war/overview/crimes_1.shtml), (access 15.10.2019).



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## KRIMINOLOŠKI ASPEKT RATA

*U radu je izvršena kriminološka analiza rata, kao negativne društvene pojave od najstarijih socijalnih zajednica pa do Novog veka, upotrebom istorijskog i uporednog metoda. Cilj rada je da ukaže da rat, kao oružani sukob naroda i grupa, u svakoj narednoj istorijskoj epohi doživljavao sve veću ekspanziju, upravo sa razvojem oruđa, odnosno tehnologije, koji imaju destruktivnu namenu. U radu je opisano ratovanje kroz tri velike istorijske epohe- Stari, Srednji i Novi vek. Izvršena je pojedinačna analiza svakog razdoblja: kako je došlo do rata, motivi i pobude za rat, izgovori i povodi, kao i posledice rata.*

Ključne reči: *rat, bitka, vojska, religija, Crkva*