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***State and its Defence as Historical Constellation –
Thoughts on the Historical Improvement of Modern
States' Armed Defence with Regards to Carl
Schmitt's Tropes of Total State and Total War***

1. INTRODUCTION

The – more and more intervening – state of nowadays is in a strong constraint of institutionalization, especially in the field of defence. During the last one and a half – two decades states' defence has undergone significant changes and especially intense differentiation. Of course, one cannot forget that utilizing the above mentioned ones, threat and danger-types have significantly changed compared to earlier times. All these have to be treated in a way that solutions have to correspond to the condition system of the rule of law, and modern states and societies with their defence reaction shall not violate those principles and criteria which protection they shall perform.

This institutionalization constraint concerns every state. It concerns those who previously had sophisticated, or at least well-structured defence system, and those who previously did not really

¹ The study exclusively presents the writer's point of view; those cannot be regarded as standpoints of the institution where the writer is employed.

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have differentiated defence system. In the case of Hungary, the differentiation of the state's armed defence became stronger at the end of the 19th century, and together with shorter or longer periods of silence, it went on until the end of the 20th century,² and was strengthened by a newer transformational, re-imaginational tendency³ during the last few years.

However, these changes happened and have been happening in such a way that first at the turn of the 19-20th century, then at the turn of the 20-21st century it could again be said that states' defence and their intervening nature caused serious counter-feelings with regards to principles and budget, too. On the one hand, their bases are given by the extremes of the 20th century; on the other hand, people – and legal science – only deal with the importance of defence when it is already too late. Armed defence institutions become important when not preparation and prevention, but reaction is needed because the attack against the state and society has already happened.

This tendency was strengthened by the endeavours of the market-centred neoliberal age which intended to lay off the state and – besides great powers – its interfering ability. We can say that this neoliberal ethos has already failed by now, and unfortunately besides

² Were formed in this period: (1) Besides the Austro-Hungarian Monarchy's common army, the Imperial and Royal army as military and police force; (2) gendarmerie, as half-military protection of law and order. Individual (3) (state) police, (4) custom service, (5) border police then border service and (6) various exploratory and preventive bodies started to develop these times. Besides, existing institutions also started to reorganize or differentiate, especially in the 20th century. Such were (7) guards, (8) directly elected chamber guards, and (9) slowly organizing political polices, then institutionalized secret services.

³ Besides renaming and restructuring various secret services, the Counter Terrorism Centre, and the independent National Protective Service of the Police was formed in the previous years in order to accomplish anti-corruption tasks. Besides these, regarding historical traditions as priority, Guard of the National Assembly of Hungary was set up to protect legislation.

economic events its failure was accompanied by such attacks as the terror attacks and cyber-crimes at the beginning of the 21st century.

In spite of these, I still believe that the re-imagination of defence and intervention has only started in an ambivalent way and the fact that the historical and theoretical analysis of defence shows insufficiencies plays a significant part in it. Hence, in this study I intend to review the improvement of states' armed defence from historical and theoretical point of view, referring to Carl Schmitt's topos on total state and total war. I trust that the analysis of historical improvement can shed light on new ideas and findings, and these will be able to support the actual reform and strengthening of states' defence apparatus.

2. STATE MODELS AND HISTORICAL DYNAMICS

Our historical experiences show that significant historical changes and turning points rewrote our picture and concepts of state from time to time. This change is followed by political and legal sciences via working out state models.

The focal point of model change is the change in power. Change in the method of practising the power and among those who possess power, gradually alters the structure of politics and state, and together with this legal regulation, which has significant structural and functional impacts on states' defence system, too.

Studying this is significant from multiple points of view. On the one hand, power shifts are of cyclic nature and did not cease together with the end of the cold war, which is well presented by the liberal power change which caught privatisation revolution to life and its failure.⁴ On the other hand, adequate historical interpretation is by all

⁴ This also defines our present for instance via making it possible to outsource certain national functions of violence to the private sector. I believe that this is such a change in a state's armed defence which partly

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means necessary to properly interpret, and for the future, to rethink these processes and the main problems of the question of armed defence in general. However, as a starting point we also have to rethink the relation between state and violence, and the historical improvement of national violence.

Defining the concept of state is an especially diverse and polemic question. Still, I personally believe that the concept of the state has such an element, which stands beyond all disputes. This is being the legalized and institutionalized violence. This was the most plastically portrayed by Max Weber as the monopoly of legitimate physical violence. However, it can be seen that political-military fight and together with it violence is a historically immanent part of the state,⁵ hence, the state is unimaginable without violence and processes of threat via constraint. It would be ideal and necessary that states' basis was not violence, but everyday reality requires this base, which has been justified by philosophical views on humans and human society from ancient times until present day.

Hence, from institutional and anthropological point of view, violence is a basic conceptual element of states. The state maintains society's order with its threatening authorities that apply violence, hence, with justified and legal violence. We could also say that states use qualified violence in order to fight against illegal violence attacking their society. Hence, states' situation is paradox: violence is at the same time, reason and consequence of their existence, of course, not in identical quality, nature and extent.

On the basis of this, we can justify the following statement: armed bodies are the national existence's most basic self-maintained

sacrificed legal improvement's certain innovations on the altar of unsure budget advantages and political aims.

⁵ This is partly justified Braudel's thought: It is indeed a wonderful history which is strongly connected to people's work, and to the really slow advancement achieved in connection with outer atmosphere and fight against themselves. See BRAUDEL, FERNAND: *A kapitalizmus dinamikája* [The Dynamics of Capitalism], 2008, Európa Könyvkiadó, Budapest.

and defence institutions; with which states are able to stop unlimited and arbitrary violence, let it be external or internal nature.

Qualified national violence practised by those armed institutions that became fundamental via this way changes through the course of history, especially regarding states' power analysis. In inglorious historical times states' bodies of violence overstep their original tasks and become arbitrary. Its reason is that national bodies of violence are closely related to the respective power constellation and in many historical changes they transmit the replaced old system's practice simply with altered indication, to the command of the new order.⁶ It also comes from this that the state, more exactly the state model's change always goes hand in hand with the changes of national violence apparatus and qualified violence. We could also say that without the change of national bodies of violence and qualified violence historical change of an era cannot be imaginable.

This statement is supported by the fact that modern states and war also became total. States' armed bodies first were nothing else but armies used to maintain inner order, mainly carrying out offensive violence. With time, institutional dimension of national violence differentiated, and besides armies purely protective bodies were formed. However, emphasis was for a long time laid on offensive characteristics. The great change was brought about in the 19-20th century, when nations' offensive nature turned towards defensive behaviour, then, by the end of the 20th century defence became the primary function. For the great change, two significant elements were needed in the context of historical improvement,

⁶ Quoting Francois Furet – Quinet's thoughts – referring to the French revolution he emphasizes that violence has accompanied transformation all the way through and it is only by whom and how violence is used that changes ...revolution in the phase of terror, uses absolutism's authoritarian practice with the well-tries excuse, which also made good service at times of absolute monarchy. Heirs automatically step in the place of ancestors: in the person of Robespierre Richelieu reborn. See FURET, FRANCOIS: *A forradalomról* [About the Revolution], 2006, Európa Kiadó, Budapest.

which Schmitt's political theory described with the formula of states' becoming total and the tot war. Their combined effect was what rewrote states' armed defence, and upon which we ought to ask the following question: is defence total?

3. ARMED DEFENCE AS HISTORICAL CONSTELLATION

Armed defence bodies of a state and their ability can be regarded as a sensitive question in politics and political and legal sciences, as numerous historical examples are known regarding powerful national armed bodies' degradation. However, we must not forget: defence apparatus – in many cases – became dangerous when politics and via it national decision-making and operation failed, as well.

With regards to states' armed defence system, the oldest institution is undoubtedly the army, which most stronger and stabile form was a well-trained, optimal number 'professional' force even in the early centuries of history.⁷ This variant's early, most improved version was given by the Roman army who followed the Mariam reforms. This model was formed with the crisis of the republic, when those processes already became visible which led to the total transformation of states. The reform of the army originated from the intensification of social problems and the erosion of the political system's processes that strengthened each other, which, with the growing need for expansion, lead the Roman state to civil war, then to the monopoly of power and imperial existence.

At this point, with regards to 'professional' Roman legions, political philosophies' significance must be emphasized. One example is Plato's theory described in his work, entitled *State*. In this work condition of stability, professional nature and adequate number

⁷ Peter Harclerode regards the Assyrian army dated back to 1250 BC., then following those Greek continental groups as one of the first ones. See HARCLERODE, PETER: *A háború eszközei* [The Instruments of War], 2002, Magyar Könyvklub, Budapest, 9-10.

can be found.⁸ I believe that Plato's thoughts, as soon as with Grecian mediation were partly realized in the Roman army, vivified history's most well-known and most significant army, giving new meaning to imperial conception and to the age of empires.

Together with the fall of the Roman Empire this knowledge became overshadowed⁹ for a long time. Avoiding the expression of the "Dark Ages" it can surely be said that well-organized, permanent, regular forces were overshadowed for a while. The time of military democracies¹⁰ was followed by the age of warrior nobles¹¹ known as

⁸ The concept of permanent defence forces can be shown in his views regarding guards and the exact expectations referring to them. Regarding "professional" nature, he writes that everyone shall have one profession, then thinks it further under title "Defence of states' area: professional armies". Here, he emphasizes that guards have soldiering as their profession, their only profession. We can find assistance on these forces' adequate size under title "What size should a state be?" and under title "war". In these commentaries he says that a state's size is determined by its ability to maintain unity: it can only be that size with which it is still unite. Nevertheless, the state – taking all possibilities into consideration – must possess a ready-to-fight, permanent army, which pre-condition besides adequate preparation are: worked-out training, education and organization. PLATON: *Az állam* [The State], 2008, Cartaphilus Kiadó, Budapest, 65-78., 92-93., 103-107., 132-141., 201-209., 249-254.

⁹ For Europe, the most well-known and feared exception from this tendency was the Turkish Empire's army with janissaries.

¹⁰ On the institution of military democracy Morgan H. Lewis's views can be regarded as decisive, which is also regarded as significant according to domestic history of law. Its essential is that – not only regarding nomad peoples – it is based on the majority principle of actual power, most of which consists of armed, soldiering men who ensure their people's existence through various great military ventures. See LEWIS, MORGAN H.: *Ancient society*, 1877, Charles H. Kerr & Company, Chicago.

¹¹ As this is also explained in connection with Hungary in Werbőczy's Tripartitium in thoughts on nobility's origin. See *Werbőczy István hármaskönyve* [Tripartitum], 2006, Farkas Lőrincz Imre Kiadó, Budapest, 73-74.

the nation's offspring, then noble armies,¹² but mostly the periodically employed mercenaries' age. Then the institution of mercenaries – together with the cerebral rediscovering of Renaissance – extorted the re-imagination of the state and its defence system.

Niccolo Machiavelli can be regarded as a significant thinker in this period, who, besides modern political philosophy, wrote numerous significant writings in connection with protection of states – in a perhaps derogatory forgotten way. Machiavelli wrote disapprovingly about mercenaries¹³ in his work, entitled *The Prince*, and emphasized that “*no principality is secure without having its own forces; it is entirely dependent on good fortune, not having the valour which in adversity would defend it.*”¹⁴ Additionally, a unique and again

¹² If we also look at the political transformations that stand behind the change of army-model, change is clearly understandable. After the fall of the Roman Empire Europe became wandering people's road and battlefield, in which state-social system armed men as political nation form the army. After settling down, this model cannot be held onto with the lack of movement and threat, and because of the urge to produce. Together with the material and political differentiation of society armed nobility became the base of armies, which status interest was to maintain its influence that is status quo through soldiering. And when the improvement of production and technology, and population increase made it necessary and reasonable, direct nobility soldiering was replaced by armies. Mercenaries made them stop because of two reasons. On the one hand, the strengthening of the ruler's power opened way to professional mercenaries against nobility armies that undermined power, on the other hand, noble's power endeavors raised the significance of rentable army-knowledge.

¹³ “*Mercenaries and auxiliaries are useless and dangerous; and if one holds his state based on these arms, he will stand neither firm nor safe; for they are disunited, ambitious and without discipline, unfaithful, valiant before friends, cowardly before enemies; they have neither the fear of God nor fidelity to men, and destruction is deferred only so long as attack is; for in peace one is robbed by them, and in war by the enemy.*” See MACHIAVELLI, NICCOLO: *A fejedelem* [The Prince], 2006, Cartaphilus Kiadó, Budapest, 61.

¹⁴ MACHIAVELLI: *op. cit.* (2006) 71.

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misunderstood thinker in his work written to Lorenzo de' Medici carefully described that he can only regard an army recruited from his own people, citizens, subject as his strength, and everything else is just army of mercenaries or assistant army,¹⁵ which significant application shall be avoided. In his work written on the art of war he overstepped the analysis of defence force on the part of building power. He wrote down basic – superior to his age – views on the importance and regulation of armies,¹⁶ and also on their employment in wars. Of course, these were not fully realized for centuries; still, they signalled the innovation that replaced mercenaries.

The turning point started in the 17-18th century, when the Europe of absolute monarchies started to replace mercenaries with permanent armies. Maybe in this context as well we can say that the year of 1648, the Peace of Westphalia is a key element – though, not without antecedents.¹⁷ Besides the age of nation states, it opened the

¹⁵ Ibid. 71.

¹⁶ Its example can be found in the introductory thoughts written in his work, entitled *The Art of War* as he writes down his specific, even today advisable and suitable for reception thoughts on the relation between civil and military life, and on the importance of rules. As he says: “But if they should consider the ancient institutions, they would not find matter more united, more in conformity, and which, of necessity, should be like to each other as much as these (civilian and military); for in all the arts that are established in a society for the sake of the common good of men, all those institutions created to (make people) live in fear of the laws and of God would be in vain, if their defense had not been provided for and which, if well arranged, will maintain not only these, but also those that are not well established. And so (on the contrary), good institutions without the help of the military are not much differently disordered than the habitation of a superb and regal palace, which, even though adorned with jewels and gold, if it is not roofed over will not have anything to protect it from the rain.” MACHIAVELLI, NICCOLO: *A háború művészete* [The Art of War], 2001, Szukits Kiadó, Szeged, 6.

¹⁷ For instance in Hungarian relation – just like in various European states – transformation of armies had already been considered at the end of the 16th

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first era of the new organization of armies finishing with the Great French Revolution. *“In order to protect political power it became necessary and was sufficient to have an army which was kept armed even at times of peace, which was greater in number, much more armed and supplied, providing primary support for the central power. Hence, its presence characterized European defence in the given one and a half centuries.”*¹⁸

That time, Great European nations started to reorganize their armies following the model of French absolutism. *“Regarding Habsburg rulers' politics, the end of the XVII. and the beginning of the XVIII. century meant the transition from an army used according to momentarily needs to an army formed according to coherent basis.”*¹⁹ However, it did not happen otherwise among great powers and empires defining that certain age, either. For instance, Prussia, Europe's soldier state put on its “new clothes” at that time,²⁰ as defence revolution appeared in Sweden and slowly in Russia, too.

century. *“The country's desperate state made legislative bodies finally think and act. And really, parliaments' activities between the ages of 1593-1604 did left results and traces. The thought of national permanent army was formed then, and after a century a new army was formed from the seed.”*
BORS, JÁNOS: Az állandó hadsereg kérdése Magyarországon 1593-tól 1715-ig [The Questions of a Regular Army in Hungary between 1593 and 1715], in *Hadtörténelmi Közlemények*, No. 8. (1895) 98.

¹⁸ ZACHAR, JÓZSEF: *Habsburg-uralom, állandó hadsereg és magyarság 1683-1792* [Habsburg Domination, Regular Army and Hungarians 1683-1792], 2004, Zrínyi Kiadó, Budapest, 9.

¹⁹ SZABÓ, DEZSÓ: Az állandó hadsereg becikkelyezésének története III. Károly korában [The History of the Regulation of the Regular Army III. In the Age of Charles], in *Hadtörténelmi Közlemények*, No. 11. (1910) 23.

²⁰ Regiments' >>nationalization<< – as we can call previous mercenary paradises' cease – were done during the time of the first Prussian king...” writes Ottokeinz on the formation of Prussian military state and Prussian defense. ROCHOL, OTTOHEINZ: Az állandó hadsereg mint a feudális reakció támasza [The Regular Army as the Support of the Feudal Reaction], in *Hadtörénelmi Közlemények*, No. 3-4., (1954) 134.

Together with the formation of permanent armies, their technical and military training brought about a new revolution in the age. Empires' armies underwent other significant changes. Training, discipline, mechanic tactics and making artillery as an art brought such changes that warfare of the 18th century did not remind to the chaos of war, to the age of experimentation in the 16th and 17th centuries.²¹ These times gave the opening of an era in which Clausewitz's views on war became fundamental, and which was only parted from the age of total war's era with the lack of extreme emotional badinage.

The 18th century's permanent armies – maybe we can say that after Rome, again – vivified a new social layer and a new profession which were not less or not more than the elements with special status of absolute monarchies' centralized state apparatus. These armies were the nature of empires, mostly mixed nationalities, and their functioning was only the interest of the empire.

After the organizational replacement of mercenaries, then the inner restructuring of forces it was another turning point that the pay-centred old ... was replaced with something else. And this new was nothing else but the ideal of national armies. It came the era of national armies, revealing together with the French Revolution then with Napoleon's armies, moving towards general national service. In this, soldiers were taken over not only by pay, discipline and existential opportunities, but also by emotional feelings towards their own nation and by the dedication coming from this.²²

²¹ KEEGAN, JOHN: *A hadviselés története* [The History of Belligerency], 2004, Corvina Kiadó, Budapest, 338.

²² The model's base was laid down by Napoleon, when besides permanent and professional army he called French people to war on the principles of volunteering then compulsory military service for the cause of the nation and accomplished "regular army and National Guard's unites' merge into one brigade in two to one proportion in order to increase volunteers' number with professional soldiers. Hence, a completely new army was formed." See KEEGAN: *op. cit.* 343. From this type of army a permanent

Afterwards, by the end of the 19th century, nationalism became integrated in Europe's nation states, and even great powers operating as empires – like the English Crown or the Austro-Hungarian Monarchy – within imperial defence became open towards the partly national-principled organisation of armies,²³ and towards the partial acceptance of nations' endeavours to do so. Concerning our topic, to this temporal picture covering the whole of Europe we must add that European states growing nationalism naturally fed militarism, successes of imperialist politics fed nationalism.²⁴

Hence, the (nation) state of the beginning of the 20th century, from military point of view rose as the result of a long improvement, and showed something new: national army and defence monopoly based on the civil era's general national service. However, by that time it was not only the warfare that had been transformed but the state itself, too. As nodes of the national defence's improvements that I have previously presented all coincided with the key-points of the nation's improvement and change. Its 20th century culmination is what brought new in quality in the whole of the nation's phenomenon system; those two phenomena which were marked by Carl Schmitt as total state and total war.

4. TOTAL STATE AND TOTAL WAR ON THE PAGES OF HISTORY

Hence, total state is implicitly the result of historical improvement. This model is the state which was formed by the end of the 19th and

national armies' need and age and the nation and war's total transformation was only one step away – an episode rich in revolutions and neoabsolutist endeavors.

²³ Besides mutual army, Hungarian Royal Army and Landwehr's formation exemplified this in the Monarchy, while in the case of the British Monarchy it is worth commemorating on the organization of national and colonial formations.

²⁴ KEEGAN: *op. cit.* 349.

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the beginning of the 20th century, which has its roots in centralizing and professionalizing absolutist state, and also which replaced previous census, classifying liberal schemes that restricted social subsystems. In this new model *“The equation state = politics becomes erroneous and deceptive at exactly the moment when state and society penetrate each other. What had been up to that point affairs of state became thereby social matters, and, vice versa, what had been purely social matters become affairs of state-as must necessarily occur in a democratically organized unit.”*²⁵

Hence, total states' base is the democratizing modern nation state, which has to live together with the empires and the empirical thought, and which is at the same time also a living opposition to empires. I personally believe that this democratizing nation state model was a necessary consequence of all those historical improvements which undermined empires on the level of society. However, we also have to see that this kind of state's totality lies in that *“A definition of the political can be obtained only by discovering and defining the specifically political categories. In contrast to the various relatively independent endeavours of human thought and The Concept of the Political action, particularly the moral, aesthetic, and economic, the political has its own criteria which express themselves in a characteristic way. The political must therefore rest on its own ultimate distinctions, to which all action with a specifically political meaning can be traced.”*²⁶

Hence, the state with its own power and model change – as action – necessarily went through the same path as protection and defence – as reaction. Their modern improvement really started with the centralization of absolutism, then gained real followings with nationalization and decentralization, and finally, by the beginning of the 20th century a new, comprehensive, so to say covering everything, hence, total model was realized.

²⁵ SCHMITT, CARL: *A politikai fogalma* [The Concept of the Political], 2002, Osiris – Pallas Studio – Attraktor, Budapest, 16.

²⁶ Ibid. 16.

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In total states – where a completely new, trained, permanent, loyal, professional armed violence apparatus is given – nearly all questions are of political nature with which national intervention's area is also significantly widened. Schmitt also highlights that it is the state's competency – in order to protect itself – to determine who is considered as friend and enemy, and how to proceed with the latter one. However, this competency's realization requires inevitable increase in one's defence system when most questions become of political nature, and dangerous behaviours belonging to the enemy can appear in most social subsystem. This can lead to the functional and structural differentiation of the armed violence's apparatus, as different proceedings shall be applied with inner and outer enemies, hence, differently trained and equipped bodies are necessary.

As Schmitt says: *“The endeavour of a normal state consists above all in assuring total peace within the state and its territory. To create tranquillity, security, and order and thereby establish the normal situation is the prerequisite for legal norms to be valid.”*²⁷ However, a total state has to create such a structure for this which is suitable for fulfilling all these requirements. This also goes together not only with the above mentioned differentiation but also with the re-imagination of tools, which already became enabled to outgrow the total state itself with decisions made in the political zone. In this view, we must mention internment which started as protectional isolation, parallel partisan methods of fighting and war that became total.

Armed activities' omnipresent nature and asymmetric warfare's new age as direct preview of the total war appeared at the end of the 19th century, together with total – English, Spanish, German, French, etc. – states. In this age warfare happened between those countries whose armies could not be compared to each other. Its classic example was the colonial wars, described in Schmitt's classify-

²⁷ SCHMITT: *op. cit.* (2002) 31.

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cation.²⁸ Here, irregular partisans staying away from classic war scenes, supported by civil citizens fought against colonial armies in order to obstruct and democratize colonial armies.

However, the support of civil citizens necessarily expands war to civil citizens themselves, which, in the early times was realized in "safety" measures and called the institution of internal camps to life.²⁹ Hence, with this, war leaves behind its former classic nature and expands to the previously militarily directly not involved atmosphere, the civil citizens, which means nothing else than the first step towards total war.³⁰

However, at this point I must highlight the fact that they strengthened unknown – and by nowadays diverse and strengthened – forms in the asymmetric warfare of nations and armies, one of which is partisan³¹ warfare. This is nothing else but counter-effect on the warfare expanded to civil citizens.

²⁸ In Schmitt's work written on partisan theory he differentiated classic European – as today we would say symmetric – interstate war; civil war; and colonial war. See SCHMITT: *op. cit.* (2002) 109-110.

²⁹ Regarding these, referring to Joël Kotek and Pierre Rigoulot's work we have to note that internal camps were formed well after real totalitarian war and totalitarianisms, and even well after these – today – they exist. See KOTEK, JOEL – RIGOULOT, PIERRE: *A táborok évszázada. Fogva tartás, koncentráció, megsemmisítés a radikális bűn száz éve* [The Century of the Camps], 2005, Nagyvilág Kiadó, Budapest.

³⁰ Of course, we cannot negate that it had already been occurred that civil society suffered wars in the form of looting and other insults, however, the tendency appearing together with the end of the 19th century - what are realized as internal camps the most plastically – strongly differ from these phenomena, as on the one hand it means systematic interfere, on the other, hand armies realize these as part of military strategy.

³¹ Carl Schmitt fully discusses this question in this work entitled *Theory of Partisan*, in which he historically introduces then compares theoretical approach of war positions this to phenomenon, presenting its notional origin and theoretical improvement.

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One of the most well-known manifestations of partisan warfare in history was the Spanish resistance against Napoleon's armies. Schmitt as well starts his investigation from here, which is especially understandable if we take those notes into consideration according to which less than fifty thousand guerrillas could tie down more than twenty-five thousand regular soldiers on that area.

What characterized this form? Most simply it was being outside of the law as classic international law did not recognize partisans as warfare parties, hence, in their relations institutions restricting modern wars did not prevail. It therefore follows what Schmitt correctly noted: "*The modern partisan expects neither justice nor mercy from his enemy. He has turned away from the conventional enmity of the contained war and given himself up to another – the real – enmity that rises through terror and counter-terror, up to annihilation.*"³²

Together with the existence and especially with the spread of partisans two things must be noted. On the one hand, to the fact that they stood outside of the law and to that the actual feud heightening until annulment as Schmitt clearly described resulted in total resistance which did not know limits and conventions, only efficiency and reaching the wished result. On the other hand, we also have to pay attention to that in historical examples nations could not efficiently act against partisans, which gave area to that view which referring to Napoleon's command to Lefèvre general in September 1813 states that: "*you have to fight like a partisan wherever there are partisans*".³³

This latter one, as a base of reference, with no doubt means that against partisans wars leave their previous processes, that is, with the gradual totalization of wars nations' system of tools was widened in a way that with this a nation's armed character was necessarily strengthened as specially trained forces were needed in this armies, in defence and in political advert, as well.

³² SCHMITT: *op. cit.* (2002) 109.

³³ *Ibid.* 111.

However, the situation is different in the case of total war. As long as total states stepped out as a result of a few centuries' historical improvement – we could also say that as a result of democratization – total war was nothing else but the result of a series of decisions made in the area of politics formed in a few decades, of which only partial historical pre-improvement can be discovered.³⁴ The picture of total war appears in places where in order to tackle armed resistance civil citizens are also involved in direct martial operations.³⁵ It therefore explicitly comes that:

1. the meaning of differentiation between hinterland and battlefield ceases to exist;
2. and wars are fought on the ground, in the air and on water at the same time, forgetting about civil participants and using every resource in order to annihilate the enemy.

Of course, total war necessarily arose from the revolution of defence, from the improvement of technology and also partly from the state becoming total. However, we must not forget that their exploitation was defined by decisions in the power area of politics, hence, by human nature. People of the 20th century threw out a whole range of law improvements' results of the previous centuries for the throne of power. Realizations of total war – that is world wars – threw away the value of rationality, sophisticated rules of law and created wars as games of zero value.

The realization of total war is a tragedy because of its limitations, while from the point of view of law, it is an inductive effect. Totalitarianism, which twisted total state and realized total war, pointed out numerous guarantee absences in the area of law. During the cold war these were slowly – in a lopsided way –

³⁴ Theoretical and practical modes of war' improvement against partisans from the end of the 18th until the 20th century can be listed here. See SCHMITT: *op. cit.* (2002) 124-162.

³⁵ This period, as I have already mentioned it in connection with camps, starts with the end of the 19th century. Previously, example can only be found in tools of terror against wars with partisans.

supplied by the states. By nowadays these are improved legal guarantees and the whole spectrum of rule of law what grew out of disgraceful historical experiences. However, history produces newer and newer open questions, among which there are the anticipation of an outbreak of a new total war and the strengthening of strange forms coming from asymmetric warfare (partisanism, guerrilla activity, terrorism, etc...) as factors forcing defence's continuous renewal and re-imagination.

5. TOTAL STATE – TOTAL DEFENCE?

When interpreting Schmitt's total state and total war, we have to investigate their relation to each other in order to find the answer to the following question: Does totalitarian state have total defence, too?

As I have previously highlighted, from political point of view there are no "neutral" questions in a total state, hence, the nation's political nature covers every relation. Besides, total war means nothing else but that war goes on in every possible area and coming from its nature, the hinterland-battlefield duality loses its importance, and every possible resource is needed to be used in order to win. Referring to the latest challenges we can say that resistance and attacks against states and societies have become total, hence, it uses every tool – civil and military as well – and expands to every conditions of life. The question is open: how can total state and total war be connected besides those wars are fought by the states.

It is Schmitt himself who provides answer to this question in relation to sovereignty when he notes that "*Sovereign is he who decides on the exception*".³⁶ The unique condition's institution is what connects total state with total war, and which also opens ways

³⁶ SCHMITT, CARL: *Politikai teológia* [Political Theology], 1992, Az ELTE Állam- és Jogtudományi Kar TEMPUS Összehasonlító Jogi Kultúrák projektumának kiadványa, Budapest, 1.

towards the question of total defence. From historical perspective, unique condition is nothing else but a period in a nation's life which goes together with interstate war, civil war or expanded confusion, suspends normal – peacetime – legal order's rules and makes the introduction of special legal order necessary in order to quickly and effectively neutralize threat.

Hence, total war itself is a unique condition, the majority and the origin of armed defensive organizations' that came to life as a result of long historical improvement are connected to this institution, and most of these are meant for carrying out attacks.³⁷ However, this period, as its name suggests, too, is unique, and it is foreseeable – especially in view of modern differentiation of a nation's armed organizations of violence – that institutions organized to handle these cannot function in normal conditions or only very restrictively.

Hence, states always need bodies guaranteeing the application of qualified violence, hence, such institutions' maintenance and operation is necessary under normal condition as well, however, with mostly protectional functions. Their task is to identify, anticipate, avert and neutralize attacks. Without these, guaranteeing a normal state's performance would be impossible, that is maintaining satisfaction, order, safety and peace.

However, determining what can be considered as attack in normal condition is a political question, and as we know, there are no politically neutral ones in a total state. Therefore, in a total state in case of normal condition total defence functions, which, regarding political identification of attacks, their anticipation, avert and neutralization is total, covers every aspect, as it can apply adequate activity in every possible relation adhering to legal order.

This preposition can be especially justified these days when historical improvement has completely modified the range of attacks. Nowadays, those are not classic, symmetric interstate wars that mean

³⁷ Which is even true if a war starts with an attack as very likely the indispensable counter-attack is by no doubt an attacking behavior.

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the most dangerous attack factor in state relations but international terrorism, arms trade, international organized crime, failed nations and cyber-threats. In their – many times interrelated – danger zone defence has to operate in a new way, which mode simultaneously ensures the best possible effect rate in the protection of citizens and the justice of legal nation.

These forms of threat – even if such tendency can be found in world politics – cannot be identified with times of war as their realizers usually cannot be substituted in the role scheme of interstate or civil war, moreover, these are mostly internal security questions which are realized not mainly as permanent, systematic and open hostility but as hardly localizable and identifiable, sparse attacks. New threats abuse guarantees and possibilities provided by normal condition, guaranteed legal institutions provided by the normal legal order and technical possibilities provided by civil life to the most extreme.

This can only be fought against if the sovereign determines action's way and mode – in a judicious way but with ensuring guarantees – in a wide circle and ensures adequate organizational, personal and material conditions for it that is, it totalizes defence.

All in all, I believe that a total state's defence is total, as all mentionable relations and circumstances may gain relevance regarding measures, and this tendency is not only justified by the nature and historical root of a total state but the age's challenges, as well. Besides, we must not forget that defence institutions have significant tasks at the time of special condition as well, and they always have to be ready to fulfil these, which needs innovation, preparation at times of peace, too. However, total defence does not mean that a defence system can be invested with over-power, as based on historical experiences it is not the characteristics of a total state but of totalitarian regimes.

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