

## **The Historical Form of the Right to War from the Perspective of Selected Medieval and Early Modern Philosophers**

### **Abstract**

The thesis discusses the concept of just war with a focus on the right to initiate war (*ius ad bellum*) in medieval and early modern Europe and compares the concept depicted in philosophical works with legal documents of the time and with sources of legal knowledge. The concept of just war is an important legal and philosophical institution that underlies the emergence of the contemporary concept of the law of war and has made a significant contribution to the development of public international law.

This thesis provides a detailed analysis and interpretation of relevant passages in the works of Thomas Aquinas and Hugo Grotius that relate to the institution of the right to war. Here the distinctive elements of each conception are also highlighted, in particular by means of identifying the criteria for judging the justness of the commencement of war. Emphasis is also placed on individual conceptions of sovereign power and the integration of passages into the broader context of the works of both authors. The next part of the work, which examines historical legal sources and sources of legal knowledge, is based on the analysis and interpretation of six chronicles covering the period from the 6<sup>th</sup> to the 15<sup>th</sup> century, as well as 50 international treaties or other documents from the 13<sup>th</sup> to the 15<sup>th</sup> centuries and six war manifestoes from the 15<sup>th</sup> to the 17<sup>th</sup> centuries. For the legal and historical sources, the typical elements and patterns that were characteristic of the source with regard to the law of war are traced, as well as the tools that the individual source provided for the regulation of the law of war.

The thesis focuses on the assessment of the different concepts through five criteria that have been present in the discourse on the right to initiate war in different variations since Augustine of Hippo. These are just cause, right intention, legitimate authority, necessity and proportionality. Attention is also focused on the transformations of law of war in relation to issues of social stratification and the influences brought about by the religious reformation of the 16th century. From a systematic point of view, the work is divided into six parts, the first of which provides the context for the development of the concept of the law of war and explains some related institutions (e.g. the concept of holy war), the next two parts deal with philosophical sources, and the following three parts examine legal or historical sources.

**Key words: just war - right to initiate war - just cause of war**