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A Situated Just War Theory: Time, People and Space

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A thesis submitted for the degree of Doctor of Philosophy

School of Government and International Affairs

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Abstract

Just War Theory remains a central framework for assessing and guiding the morality of war. Its language and principles have become widely used, extending beyond academic circles to politicians, international law and ordinary citizens. However, its application to contemporary conflicts reveals several types of shortcomings that undermine its normative force: in some areas, JWT is over-reliant on unexamined assumptions, while in others it under-specifies significant concepts and fails to provide adequate normative justification, and in certain areas it exhibits both these tendencies simultaneously. This thesis identifies these three central shortcomings as: 1) *a temporal deficit*, concerning when wars begin and end; 2) *the demoï problem*, involving who constitutes ‘the people’ on whose behalf war is waged and how this shapes claims to just cause and legitimate authority; and 3) the under-conceptualisation of territory, which neglects how territorial attachments come about and are invoked in justifications for waging war.

Rather than abandoning JWT, the thesis supplements contemporary JWT by moving it away from a restricted ethics of war and towards insights from political theory and international relations that can better address the realities of contemporary war. This move reconnects JWT with wider literature by engaging with rival conceptions of peace and violence, communitarian thought and the political theory of territory. Many of these accounts are reviewed and found wanting in important respects, particularly in their treatment of the normative and practical dimensions of war. By supplementing JWT in this way, the thesis works to correct limitations within JWT as well as within political theory itself, insofar as both have marginalised or neglected key aspects of war and political violence. Ultimately, I revise and integrate Danielle Lupton and Valerie Morkevičius’s peace–vim–war continuum, communitarian theories of collectives and their value and Margaret Moore’s theory of territorial rights. This supplementation allows for an informed ethical engagement with the wars in Yemen and Ukraine, showing how a situated just war theory can retain its moral clarity, thus reinforcing its use. The thesis argues that the continued relevance of JWT depends on its capacity to address the inherent complexity and political entanglements that constitute the experience of war. Moral reflection on conflict must resist the temptation of neat binaries and universal certainties, instead cultivating a mode of judgement that is attuned to the realities of war.

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Introduction

1. Just War Theory's Grapple with Dichotomies

Just war theory (JWT) is founded on the belief that war should be restricted, yet it also recognises that war can be morally justified (Coates, 1997). Over time, it has developed principles to determine when engaging in war is justified (*jus ad bellum*) and how war should be conducted ethically (*jus in bello*). JWT serves both as a framework for moral judgment and as a guide for practical action (Evans, 2020). Its language and principles have become widely accessible, extending beyond academic circles to influence politicians, international law and ordinary citizens (Johnson, 2001; Walzer, 2015). While there is broad agreement, including among pacifists, on the inherent evil of war, many accept that a moral code is necessary to justify certain wars (Finlay, 2018).

The reach of JWT is illustrated by the way it has been cited in relation to the current Ukraine conflict. Its principles of *jus ad bellum* have been applied to evaluate the legitimacy and causes of the conflict, and the principles of *jus in bello* to judge the actions of key actors, such as President Zelensky and the mobilisation of citizens (Walzer, 2022; Fabre, 2023; Braun, 2024; McMahan, 2024). A month after Russia's invasion in February 2022, an instalment of *Philosophers On* saw philosophers from a range of theoretical camps, such as Saba Bazargan-Forward, Jovana Davidovic, Christopher J. Finlay and Helen Frowe, turn their attention to examining the attack on Ukraine (Weinberg, 2022). Using the language of JWT, they explored questions concerning Ukraine's chance of success, the equality of combatants, the authorisation of Ukrainian citizens to participate in the conflict and the just causes presented. Frowe goes as far as arguing that it does not take a just war theorist to see how unjust the

invasion is. It appears Ukraine is an 'easier' case to theorise about for just war theorists and ordinary citizens.

Yet this applicability is not as self-evident in other contemporary wars, a problem which tends to vindicate criticisms that JWT struggles to address the realities of modern warfare (Peperkamp, 2016; Reiner, 2018). When attention turns to the war in Yemen, a noticeable absence becomes clear: no comparable analyses, no formal ethical checklists and no legitimacy debates appear among these notable academics. The disparity raises a critical question: Why does JWT struggle to engage with Yemen? Is this a symptom of a Western-centric bias that privileges conflicts of Western interests, or does it stem from a reluctance to grapple with conflicts that challenge the Weberian ideal of sovereign authority? Or, more fundamentally, does the war in Yemen expose an inherent limitation within JWT, one that makes it difficult to apply to 'complex' and multi-actor conflicts?

It would seem that JWT faces a charge of uneven application to 'easier' and 'complex' cases of conflict. This is worrying given the tradition is widely developed, as exemplified by the rich body of literature, from Augustine's assertion of war as a means to achieve peace, to recent developments by scholars such as Jonathan Parry (2017a), who examine the role of the demos in authorising force. What began as a tradition rooted in Christian theology and canon law has continued to evolve into a framework that addresses not only the responsibilities of princes or states, but also the rights of individuals and the values that collectives uphold as just causes (Johnson, 1984). Yet, I say 'continued to evolve' with some hesitation. The tradition's development today seems stifled by a second dichotomy: the polarisation of current academic debates into traditionalist and revisionist camps (Pattison, 2018).

Over the last two decades, there has been a surge in contemporary literature by revisionists who have criticised the separation of *jus ad bellum* and *jus in bello* and the moral equality of combatants (O'Driscoll, 2023). They unite in their contestation of the traditionalist camp of JWT presented in the work of Walzer. In contrast to traditional accounts by Walzer and Henry Shue, revisionist scholars such as Jeff McMahan (2009) and Cécile Fabre (2012) argue that the principles of *jus in bello* should be grounded in individual liability. This challenges the doctrine of the moral equality of combatants by asserting that some combatants may not be liable to attack, while certain non-combatants might be. These claims reflect the revisionist position that war is morally continuous with everyday ethical life and therefore should not be governed by exceptional rules that suspend ordinary moral standards (Parry, 2017b).

The disagreement has overshadowed wider contributions to JWT and the teaching of the ethics of war, as the tradition is often reduced to this binary debate between traditionalists and revisionists. Engaging with JWT in academia often appears to be about resolving whether revisionists are correct in their critiques of traditionalist teachings. This focus inevitably leads the discussion to specific cases to theorise about the core assumption of the camps rather than engage with the demanding details of contemporary cases. The invasion of Ukraine offers a case that accommodates both perspectives, allowing theorists to examine the justifiability of interstate conflict based on legalist readings or on individual rights. It appears to be a case where the existing tools can be applied. In contrast, Yemen is a nation with a weak central state and multiple internal groups with conflicting claims to representation and territory, an array of unfavourable circumstances, as James Pattison (2018) would call them. Applying JWT to the conflict in Yemen would require a tradition that is equipped and willing to examine the circumstances, an effort that would challenge scholars to move beyond their established

principles and assumptions, whether based on deep morality or the legalist reading of war. This is a demand the contemporary tradition has largely sidestepped, given that the polarisation of debates and attachment to abstract methods have turned JWT inward rather than outward.

Some theorists have managed to escape this polarisation. Scholars such as Oliver O'Donovan (2003), Cian O'Driscoll (2008, 2020b) and Eric Patterson (2009) exemplify alternative trajectories. Their work draws on history, theology and practical cases, offering grounded and interdisciplinary approaches to ethics of war. Their appeal to wider disciplines touches upon another dichotomy evident in JWT: Is JWT best understood as a form of political theory, focused on real-life dilemmas, or as a moral theory rooted in the close analysis of abstract hypotheticals? This tension is central to the revisionist critique. Revisionists accuse traditionalists of lacking rigorous philosophical grounding (Lazar, 2017). Rather than the traditionalist 'commitment to studying the world as they find it' or addressing war's ethical scope via its tradition, revisionists provide a 'deep morality of war' generated from a move towards an 'objective general theory of the morality of war' (O'Driscoll, 2023, 877-878). An approach that traditionalists argue is in 'tone-deaf ignorance of the realities of war' (Lazar, 2017, 39).

The divide between revisionists and traditionalists also reflects a differing understanding of JWT's origins and essence. It is worth noting that the tradition did not emerge as a cohesive ethical framework, it evolved organically in response to practical and theological challenges. Augustine's early contributions were shaped by his rejection of what Jean Bethke Elshtain describes as the 'pridefulness of philosophy' (cited in O'Driscoll, 2023, 875). Influenced by Cicero and the Platonic tradition, Augustine's rejection stemmed from his belief in the

ultimate truth revealed in Christian scripture (Kelly, 2022). He argued theology transcended philosophy, not as one more branch of inquiry, but as the ‘master science of truth’ (Kelly, 2022, 69). Indeed, Christian revelation was central to Augustine’s thought, yet his approach also reflected an ‘attunement to the here and now with its very real limitations’ (Elshtain, 2018, 91). He focused on addressing the pastoral needs of a community grappling with Donatist schismatics and Pelagian heretics (Kelly, 2022). Augustine’s contribution presents a distinct relationship between theology and politics and an apparent ‘negation of positive philosophy’ of his time (Elshtain, 2018, 91).

Over time, JWT has been situated across various disciplines. We now see figures like James Turner Johnson located within theology, Walzer in a form of political theory informed by history, and revisionists like McMahan and Fabre in analytic philosophy. How we theorise and apply JWT to cases is attached to this situating. Yet, there appears to be less of an attachment to the here and now, and the contemporary tradition has mostly resorted to engaging in debates amongst one another, applying JWT to develop moral or political standards abstracted from the actualities of war. The shift toward moralising about war from a position of deep morality has limited the tradition’s ability to evolve alongside the changing nature of warfare.

This thesis attempts to escape these polarising debates. Instead, I argue that these dichotomies between straightforward and complex cases, traditionalists and revisionists, and moral versus political theory have turned JWT inward, narrowing its focus to internal debates. Alongside the pridefulness of defining and situating JWT too rigidly, this has polarised our understanding of the tradition and limited its ability to respond effectively to the complexities of modern conflict. Historically, JWT was developed through context-sensitive judgements,

as seen in the works of Cicero, Aquinas and Grotius. These thinkers grounded their arguments in theology and law, while also attending to the moral implications of real-world conflict (Kelly, 2022). Drawing inspiration from this tradition of adaptability, I step away from the revisionist and traditionalist divide. I will argue that, despite their differences, both camps suffer from essential limitations when confronted with the complexity of modern warfare. Instead, I begin with the here and now, interrogating how contemporary JWT falls short in its application to the cases of Yemen and Ukraine, before going on to supplement it with insights from wider disciplines, including political theory and international relations (IR). This approach may seem like an unrestrained mix of disciplines, principles and perspectives. But I would hope that a tradition shaped by its evolution through reflections on past and present and across a range of disciplines and cases would find space to call what I am presenting a ‘situated just war theory’, one that adapts JWT with insights from wider disciplines while grounding it in the specific contexts of the wars themselves.

2. The Tradition’s Foundations and Evolution

JWT is not a static body of moral thought, but rather a dynamic morality born from Christian thought and continuously developed according to the concept of justice and practice (Johnson, 2017). It is described as both a moral and practical guide for deploying force (Patterson, 2009; Evans, 2020). However, Anthony Coates (2003) writes that JWT is more about the restraint of war than its justification. The starting point of the theory is against war, an intrinsic moral evil (Coates, 2003). Due to its nature, a moral theory is important in ensuring that when war must be practised, it is done so in moral terms. Coates writes, ‘War is justified in such a way as to strengthen moral inhibitions over the use of force and to reinforce the moral containment of

war' (2003: 212). The tradition highlights that a just cause is not a justified war. A justified war is characterised by the criteria of *jus ad bellum* and *jus in bello*.

JWT is standardly divided into the set of principles of *jus ad bellum* and *jus in bello*. As accounts of JWT have evolved, the exact principles vary, yet there is a relatively canonical agreement on the following:

Jus ad bellum

1. The war must have a just cause.
2. It must be waged by a legitimate authority.
3. It must be waged with the right intentions.
4. It must be the option of last resort.
5. It must stand a reasonable chance of success.
6. The good which it brings about must outweigh the harms which it causes.

Jus in bello

1. Combatants must only carry out missions which are necessary to the achievement of military objectives.
2. They may kill enemy combatants but must not target non-combatants.
3. The harms which combatants cause to other agents must not be out of proportion relative to the good which they produce (Fabre, 2012, 4-5).

The resort to war is tied to a just cause, legitimate authority, right intentions, last resort, reasonable chance of success and proportionality. The conduct in war is tied to necessity, discrimination and proportionality. Thus, the use of violence is subject to the accountability of decisions and action as we are 'ethically responsible for how we choose to respond' (Patterson, 2009: 40).

However, it is important to note that early accounts of JWT were not presented as a fixed set of principles but rather as moral reflections relevant to their time. Most contemporary accounts of JWT happen to focus on these principles, which suggests it has become an ethical exercise that introduces a form of 'pragmatic cost/benefit analysis' (Patterson, 2007, 2). As argued by Patterson, this checklist of principles does not reflect what JWT was. Instead, earlier accounts of Augustine and Victoria took on the 'real world exigencies, and when novel situations developed they expanded or relaxed the "theory" as necessary' (Patterson, 2009, 10). In providing these explorations and critiques, judgments were introduced, but as moral concerns and responses rather than principles. This is not to say that the principles are not necessary; they are, in guiding some important judgments, yet accounts should still leave room for taking into consideration other factors and issues that may arise in the context of war.

This is done well by O'Donovan (2003) and Patterson (2009), who develop their accounts of JWT by asking key questions about when we should resort to war, how we should wage war and what to do once violence ceases. They exemplify that JWT is about questioning and refining judgments on 'justice in the theatre of war', instead of merely a rigid application or reformulation of the principles (O'Donovan, 2003, VIII). O'Donovan is right in outlining that JWT:

Is a misnomer, since it is not, in the first place, a 'theory', but a proposal of practical reason; and it is not... about 'just wars', but about how we may enact just judgment even in the theatre of war (O'Donovan, 2003, 5-6).

Yet, as I began by outlining, most accounts of contemporary JWT have tended to move away from this. Instead, contemporary discussions are often framed within polarising debates between the traditionalist and revisionist camps. The disagreements focus on ideal moral principles within contexts of compliance and a deep morality that overlooks unfavourable circumstances to justify war and its conduct (Pattison, 2018). In overlooking the wider methods and contributions of JWT, these accounts struggle to apply to cases that challenge the assumed principles and assumptions of deep morality.

3. Contextualising and Supplementing Just War Theory

This thesis concerns itself with a contextual understanding of the dilemmas and means of contemporary wars and how they demand refinement and answers to key claims and principles of JWT. The aim is not to construct a new theory, but to engage with selected cases and literature to highlight the core areas where contemporary JWT faces limitations due to an over-reliance on assumptions and normative under-specification, and then propose solutions that inform a situated just war theory. I intend to supplement contemporary JWT, pulling it away from an ethics of war that has turned the moral scrutiny of war inward to disagreement over theorising, driving accounts towards restricted and canonised conditions.

My approach is not a new attempt at 'doing' JWT. As highlighted above, the tradition came about through context-sensitive judgements and less stringently defined principles. Also, while I argue that contemporary JWT has moved away from exploring the practical arena in which war unravels, there has been some movement in outlining this limitation and remedying it. Patterson (2009), Allen Buchanan (2018) and Pattison (2018) highlight the need for JWT to escape its confinement to a criterion of war-making that ignores the epistemic,

circumstances and the international system. They begin to look towards IR to do this. David Rubin (2023) highlights that Yitzhak Benbaji and Daniel Statman explicitly turn to IR's bargaining theory of war, whereas contemporary theorists such as Fabre and Rodin appear to consider some quasi-structural variables, though without leveraging the language of IR theory. However, the concern is that these variables are mostly used to ground normative arguments without a comprehensive morality of the specific war, instead theorising and correcting accounts of JWT.

I believe producing judgments on war should appeal to a morality that aligns with how those engaging in war function in society. Thus, I propose looking to IR to guide judgments on the cases and also wider political theory to guide theorising on normative assumptions. I outline how the cases expose shortcomings within contemporary JWT and then look towards IR to understand the temporal dimensions of war and wider political theory to help theorise justifications of war tied to the current practical reality of the value of collectives and their attachment to territory. This approach involves correcting contemporary JWT, but also engaging with rival conceptions within political theory to correct how they too marginalise or neglect key considerations. In doing so, I aim to make JWT more empirically situated without removing its normative role. Here, applying JWT becomes a vehicle in which the circumstances of cases are incorporated, and this reality is used to guide the judgments and actions we moralise about when considering the justification of war.

4. The Wars in Yemen and Ukraine

This thesis begins by examining the two contemporary cases of war in Yemen and Ukraine. These cases were deliberately chosen to highlight and critique the limitations of JWT when

confronted with the complexities of real-world conflicts. The two wars are often perceived as embodying different levels of moral clarity, with Yemen as a 'complex' case and Ukraine as an 'easier' one in terms of justifying war. Yemen's conflict stems from an enduring struggle under conditions of a weak central government, entrenched poverty, illegitimate governance and localised protracted violence (Lackner, 2019; Salisbury, 2023). These factors pose challenges to JWT's traditional principles that often appear insurmountable. In contrast, Ukraine initially appeared to offer a clearer, more straightforward application of JWT, with a defined act of aggression and an apparent legitimate right to self-defence. This assumption reflected my initial understanding of the Ukrainian conflict and mirrored a broader scholarly eagerness to oversimplify the war. As this thesis will demonstrate, both cases, despite their surface differences, reveal critical shortcomings of JWT. These shortcomings arise partly from failures to justify the normative significance of key concepts, and partly from an over-reliance on background assumptions that are left unexplained.

a. Yemen

Yemen exemplifies a conflict where the principles of JWT are tested. The ongoing war, triggered by the Houthi takeover in 2014 and sustained by fragmented authority, competing interests and devastating humanitarian consequences, presents a complex web of moral and ethical dilemmas that resist simplistic categorisation (Robinson, 2023).

I initially found myself torn between empathy for Yemenis fighting for dignity and a better future, and scepticism about whether the immense human cost of the ongoing struggles can ever be justified. This captures the complex moral terrain of Yemen's war, where aspirations for justice and freedom are entangled with harsh realities of poverty, illegitimate governance

and internal divisions (Lackner, 2022). From a safe distance, as a British Yemeni, I wrestle with the boldness of questioning the motivations and justifications for a conflict I observe rather than live. Yet, I question whether my initial challenge mirrors the difficulty theorists may encounter, perceiving Yemen's conflict predominantly through its humanitarian catastrophe rather than awarding it attention as a war. My early engagement with Yemen was framed by the overwhelming images and narratives of famine, displacement and suffering. This humanitarian lens, while vital for understanding the human cost of war, risks obscuring the conflict's nature as a war with political, military and ethical dimensions that demand analysis.

However, Yemen's war happens to challenge several core assumptions of JWT. Firstly, the absence of a cohesive, legitimate authority undermines JWT's reliance on a clear actor who can justly wage war. Yemen's fragmented state, influenced by tribal politics and external regional interventions, defies the statist framework on which JWT is traditionally based (Jones, 2011). Secondly, the multiplicity of actors (local factions, regional powers and international interests) complicates the identification of a just cause and for which strand of violence in the conflict (Al Dosari and George, 2020). The conflict is driven by some overlapping and other separate grievances, personal and collectivist, including political marginalisation, economic inequality and sectarian divides. Many of these grievances and tensions existed before the Arab Spring. With these overlapping and separate strands of violence, it appears challenging to apply JWT principles equally or in the same manner to all aspects of the conflict.

b. Ukraine

Ukraine's war appeared to be a straightforward case for the application of various accounts of JWT. The international condemnation of Russia's unprovoked invasion and Ukraine's defence of its sovereignty and human rights seemed to align neatly with JWT's principles of just cause and legitimate authority (Nordenstreng *et al.*, 2023; Roth, 2024). I initially viewed Ukraine as an 'easier' case with a clear justification of self-defence (Weinberg, 2022). However, this perspective oversimplifies the ethical challenges embedded in the conflict. A deeper analysis reveals significant complexities in determining who holds the right to self-defence and how this is justified within a nation characterised by overlapping interests, diverse identities and historical tensions. Ukraine is not a unified nation; its internal divisions and contested narratives complicate the notion of a singular people defending a single just cause (Toal and Korostelina, 2023).

Similar to Yemen, Ukraine exposes JWT's inability to address the reality of war, particularly around questions of authority to employ force in the name of the demos, a justified cause and contested territorial claims. First, it does not appear to have one national identity, with Ukrainians beyond the Donbas holding distinct identities influenced by religious, ethnic or cultural groups (Constantin, 2022). Secondly, when viewing the war as a conflict solely between Ukraine and Russia, we risk overlooking the separatist movements in the Donbas. It is not merely a war between one aggressor and one defender, but also an internal conflict with an internationalised dimension due to foreign support (Mills, 2025). These tensions amongst these different actors existed before Russia's full-scale invasion in 2022. By engaging sufficiently with Ukraine's evolving dynamics, this thesis highlights the importance of moving beyond simplistic assumptions. It stresses the need to align JWT with the realities of conflict to avoid both oversimplification and neglect.

5. The Shortcomings of Just War Theory

In exploring the two cases, the thesis begins by arguing that contemporary accounts of JWT entail three key shortcomings. Throughout this thesis, when I refer to shortcomings (or limitations), I mean the following: first, JWT's over-reliance on unexamined assumptions that undermine its temporal reading of war; second, its under-specification of significant concepts such as 'the people' and the common good; and third, in the domain of territory, its reliance on statist borders, which fuels an under-conceptualisation of territorial rights. These shortcomings are presented as follows:

- a. *Temporal Deficit*: a difficulty in clearly marking when a war begins and ends.

For JWT to fulfil its evaluative and guiding purposes in justifying war and governing its conduct, it relies on a clear understanding of when a war begins, is ongoing and ends. These temporal markers are crucial as they frame the application of JWT, determining the legitimacy of resorting to war, the ethical conduct within war and the justice of post-war resolutions. Thus, it is reasonable to expect JWT to engage explicitly with the temporal boundaries of war. I argue that the tradition struggles to address these temporal considerations. It does not pinpoint moments of initiation or cessation due to its inadequate attention to what constitutes the realms of war and peace. Theorists are often over-reliant on a simplistic war/peace binary that overlooks the complexity of transitional or borderline cases of war. This challenge is particularly evident during the transition from peace to war and war to peace, where ambiguity arises as low-level violence disrupts peace or as war de-escalates into lower-intensity conflict. Both Yemen and Ukraine challenge this simplistic framework, as they

exhibit extended periods of tension and conflict short of outright war. This blurring compels us to ask when a war truly starts and ends.

- b. *The Demoi Problem*: The lack of clarity and justification regarding a) who gets a say in authorising war and how this legitimates an authority, thus, the means by which war is initiated and overseen; and (b) how ‘the people’ are defined, and how their ‘common good’ constitutes the end or ethical aim of war, that is, the justification for what war is ultimately fought for.

The conflicts in Yemen and Ukraine involve a range of actors. The actors consist of both state and non-state entities with varying causes and capabilities. Each actor asserts their aim to provide representation and better conditions for ‘the people’, for some actors, this means the whole nation and for others, particular groups within a demarcated space (Plokhly, 2023; Robinson, 2023). There is little dispute within JWT on the belief that war is justifiable only insofar as it pursues or protects the legitimate interest of a group of persons, whether under the traditionalist beliefs of war fought on behalf of people within statist or state-like political collectives or the reductivist emphasis on war as an extension of individual self-defence (Orend, 2006; Fabre, 2012; Walzer, 2015). Nonetheless, the tradition is ambiguous when referring to who ‘the people’ are, what warrants them a stake in war, how this relates to a legitimate actor waging war and whose preferences are due consideration when authorising war. I term the combination of these ambiguities and justificatory gaps *the demoi problem*.

- c. *Under-Conceptualising Territory*: an under-theorisation of what territory is, the relationship of people with territory (*the attachment problem*) and the legitimacy of actors over a demarcated territory (*the particularity problem*).

Territorial rights and the claim to wage war to secure them are cited by actors in both selected conflicts. Ukraine asserts its military actions defend its territorial integrity, viewing Russian operations in the Donbas and the 2014 annexation of Crimea as violations of its sovereignty. In Yemen, the internationally recognised government of Hadi, and now the Presidential Leadership Council (PLC), claims to employ force to secure Yemen's territory. Accounts of JWT often cite territorial integrity as a central just cause, but they lack clarity on how territorial claims are awarded and justify force. In *A Political Theory of Territory*, Margaret Moore (2015) critiques the under-theorisation of territory in political theory. I argue that this critique extends to JWT. Despite a growing focus on the relationship between citizens' rights and the state during war, the relationship between people, the state and territory remains neglected. The tradition neglects the intrinsic value, definition and justification of territory, leaving unresolved the legitimacy of people over a demarcated space, how this attachment comes about and why it guides justification for defence: *the attachment problem*. Coupled with this is *the particularity problem*: JWT's limitations in theorising who possesses legitimacy over a specific territory, particularly when explaining why a state can wield power over that territory.

6. A Situated Just War Theory

The charge against contemporary JWT is solidified as I showcase how a range of accounts fail to fully clarify the three areas of identified above. Consequently, I turn to broader political theory and IR to develop a situated just war theory. This move reconnects JWT with political theory by engaging with rival conceptions of peace and violence, communitarian thought, and the political theory of territory. The thesis highlights that the failure of some accounts of

political theory to fill gaps in the moral theory of JWT until now is due to the insufficient engagement with issues such as territory and violence. In aiming to develop supplements in this way, the thesis works to correct limitations within contemporary JWT and within political theory itself, insofar as both have marginalised or neglected key aspects of war and political violence.

I develop Johan Galtung's (1964; 1969) understanding of positive and negative peace into a peace, vim and war continuum, as presented by Danielle Lupton and Valerie Morkevičius (2019), which challenges the clear-cut dichotomy traditionally drawn between war and peace. This continuum reveals that the transition from peace to war is often gradual, with 'vim' encapsulating the ambiguous zone between the two states. By recognising that not all violence constitutes or escalates to war, the period of vim highlights that war exists as a distinct and extreme state on the continuum. I then employ Daniel Brunstetter and Megan Braun's (2013) argument that the period of vim should be linked to the ethical concept of *jus ad vim*, which provides clearer normative distinctions between force short of war and war itself. Accounting for vim highlights the intention, scale, intensity and unpredictability of violence that distinguish it from war. I argue that war begins when there is a shift in scale, intensity and unpredictability of violence, driven by the intentions of those engaged in it. These characteristics are not separate from intent but emerge as its extension, as a deliberate attempt to achieve a goal that requires more than acts of vim. War ends when these defining characteristics subside and the intent narrows, transitioning violence back into vim.

In addressing the *demoi problem*, I draw on communitarian political theory to clarify who 'the people' are and how their conception of the common good may justify war. I argue that collectives, and the interpersonal relations that sustain them, hold intrinsic value stemming

from the common good (MacIntyre, 1978; Taylor, 1979; Sandel, 1984). A collective, which I take as a guiding conception of 'the people', consists of individuals connected by affect-laden relationships that reinforce one another and a shared commitment to values, norms and a collective identity forming a particularistic conception of a common good (Etzioni, 2004). This common good is not abstract or universal; it defines what liberty and justice mean for a particular collective. It is a communal formulation of the good that serves the group, influenced by generations before them and serving a generation yet to be born. As a person exists within and is a part of a community, their identity is partially constituted and embedded in their social context. Thus, their conception of the common good provides the ground for collective flourishing (Sandel, 1984). When this common good is under threat or attack, especially in a way that risks a community's way of life, defending it constitutes a just cause for war.

However, the complexity arising from the existence of what I call *partial communities*, collectives that are constituted by individuals with multiple goods and (some) secessionist movements, poses a challenge to accepting generic notions of a single conception of a common good within a community (Kukathas, 2003). I employ the concept of partial communities and argue that communitarian theory can accommodate this variety through the notion of a *community of communities* (Etzioni, 1996). This approach acknowledges the coexistence of multiple collectives with distinct common goods and provides a framework for going on to address who can exercise the legitimacy to wage war for this community or a community within the communities. I argue that an authority can play a role in overseeing the conception of the common good (or goods), and that its legitimacy to wage war in defence of this good depends on its connection to overseeing the collective's common good and its role in

protecting it. A state is not merely awarded the status of legitimate authority, and any actor can take up this function if they satisfy this connection and role.

Finally, the problem of conceptualising territory is addressed through insights from wider political theory. I develop Moore's (2015) theory of territorial rights and argue that demarcating the land and defining who can wield power over it, *the particularity problem*, can be satisfied once the attachment of a collective is evident through their just occupancy of a territory. The collective wields power over that territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory that preserves and creates their common good. This connection evolves through temporal extension, rooted in a commitment to a shared good and informed by mutual roles and duties that foster cooperation. Territorial integrity is a vital good for collectives. It is a space which they collectively occupy to live according to their good, a good which is based on the land and off the land (Kolers, 2009). Defending it against threat or attack protects the collective's exercise of the common good. Consistent with the communitarian emphasis on the value of a collective's conception of the common good, I argue that territory holds normative significance, better situating JWT's principle of defending territorial integrity as a just cause.

7. Applying the Revisions to Cases of Yemen and Ukraine

In supplementing contemporary JWT by addressing both its over-reliance on assumptions and its under-specification of core concepts, the final part of the thesis returns to the cases of Ukraine and Yemen to better account for the temporal scope of the conflict, their just causes in the name of 'the people' and their claims to territorial rights. The development is fruitful in enabling more informed and precise judgments on both wars.

First, I present that the developed peace, vim and war continuum better captures the evolving nature of conflict in Yemen and Ukraine. In both cases, war emerges not as a sudden break from peace but as the culmination of prolonged historical grievances and exclusions, challenging the traditional peace-to-war paradigm and underscoring the importance of recognising the intermediary period of vim. In exploring the change of intention, scale, intensity and unpredictability of violence in both conflicts, I better mark the beginning of the wars. In Ukraine, the Donbas crisis of 2014, marked by Russian-backed separatism and increased violence, constitutes the inception of war, contradicting the widely accepted date of 2022. The Donbas crisis marked a shift from political pressure to the formation and militarisation of separatists intended to employ force for secession. This intention was marked by an exchange of intense, scalable and unpredictable violence that resulted in deaths, destruction of infrastructure and displacement. The full-scale invasion in 2022 has intensified this, marking a heightened continuation of the conflict instead of the beginning of the war.

In Yemen, the 2014 Houthi coup represents the shift to war, as it sought to destabilise the political order through intense, scalable and unpredictable violence. Whilst the Houthis engaged in war against the government from 2004-2011, this conflict is not a continuation. I argue that between 2011 and the beginning of the coup, Yemen was in a period of vim without the characteristics of violence of war. Yet, the coup saw a clear intention to destabilise the political order. This was matched by the use of force that broke out over various locations in Yemen, with the next attack or its location unpredictable, but it was clear that it would not be measured and could continue to cause mass deaths and destruction.

The end is not in sight for both conflicts as the intention and characteristics of force continue to exhibit war, showcasing they are far from vim, and even further away from peace.

Second, the developed communitarian response to the *demoi problem* proves useful when applied to the cases. Widening our ability to view some collectives as a *community of communities* allows us to recognise Yemen and Ukraine as comprising diverse, overlapping and sometimes competing goods. This situated approach reveals how certain actors, such as the Southern Transitional Council (STC) in Yemen and the Ukrainian government (post-2022 invasion), successfully align their just cause with identifiable collectives and claims to secure their values. Whereas the development reveals actors such as the Houthis, Yemeni governments and Donbas separatists face challenges demonstrating they have a just cause aligned with securing the conception of the good of the collective they claim to wage war on behalf of. These actors' claims lack broad legitimacy and do not align with the communities they purport to represent. Some actors can align their just causes with defending their collectives' good, and others cannot present a convincing just cause due to a disconnect between their claims and their legitimacy or governance responsibilities. The developed view supports how Ukraine's government has gained legitimacy since 2022 by galvanising a political community through resistance to external aggression despite internal ethnic and cultural diversity. In contrast, actors in Yemen, such as the Houthis and the competing governments, as well as the Donbas separatists, face significant hurdles in upholding a just cause for war on behalf of the broader *community of communities* they claim to represent.

Finally, the supplemented theorisation of territorial rights reveals the difficulty in awarding actors a territorial claim over the entirety of the internationally recognised territory in either Yemen or Ukraine. Different groups appear to have varying and conflicting historical and relational connections to the land in which goods are defined and continuously redefined. In Yemen, the developed theory of territorial rights highlights the fragmented and localised

nature of collective attachments to land. While actors like the Houthis and the internationally recognised government rely on assumptions tied to existing state borders, they fail to demonstrate a national temporal extension, shared good/s and cooperative relationships required to justify territorial claims across Yemen's entirety. In contrast, the STC presents a stronger, more specific claim grounded in historical and cultural ties to South Yemen, reinforced by governance efforts that reflect southern goods. I argue that the STC's territorial rights justify defending against encroachment, yet they do not establish a right to secession due to internal disagreements over the future of the South. In Ukraine, the theory of territorial rights exposes challenges related to the Donbas region, where historical neglect and weak ties to local goods undermine the legitimacy of claims by the Ukrainian state and separatists. The separatists rely heavily on external support from Russia and fail to establish an organic attachment to the land. In contrast to their claims, separatists have failed to support that a collective with a distinct conception of the good occupies the space; instead, it appears collectives with different goods co-exist, thus, residency rather than occupancy rights can be awarded to those within the Donbas. Meanwhile, Ukraine's broad and unified defence against Russian aggression strengthens its territorial claims over Ukraine, though not as easily the space of the Donbas.

The complexities of these two cases initially appeared insurmountable or risked oversimplification. However, the refinements I developed examine the practical dimensions of each conflict and supplement normative considerations with broader political theory and IR. I clarify how we can understand when the wars are taking place, who 'the people' are, and how waging war to defend their conception of the common good and territorial integrity is more justifiable for some actors than others. This approach better enables ethical judgments

about the wars and reinforces how JWT can be applied to contemporary conflicts. It enables more contextually grounded ethical judgments about war, drawing on the lived realities of the cases and the conceptual resources of political theory. Thus, I call my approach a situated just war theory.

8. Outline of the Chapters

The thesis is structured into five main chapters, each building on the preceding discussion to address the identified limitations of JWT and develop a situated framework that works to correct both JWT as a moral theory, whilst responding to some of political theory's own limitations. This development is then applied to the conflicts in Yemen and Ukraine.

Chapter 1 introduces the shortcomings of JWT that guide this thesis. It begins with a review of the evolving camps within JWT literature, examining how the framework has adapted to address contemporary challenges. Despite these efforts, I argue that JWT remains undeveloped when applied to modern conflicts, particularly the wars in Yemen and Ukraine. The chapter identifies three primary types of shortcoming in JWT: areas where it is over-reliant on assumptions; areas where it under-specifies significant concepts; and areas where both tendencies appear together. These are: 1) the *temporal deficit*, JWT's inability to define the beginning and end of war; 2) the *demos problem*, concerning the unclear definition of 'the people' and their role in authorising war; and 3) the *attachment and particularity problems*, or the lack of clarity on the relationship between collectives, territory and the justification for claims to defend a particular space. These shortcomings highlight the need for supplementing contemporary JWT, which the subsequent three chapters address.

Chapter 2 focuses on the temporal deficit identified in Chapter 1, critiquing JWT's reliance on a simplistic peace/war binary. To address this, I propose the concept of vim, a middle ground on the continuum between peace and war. By examining the intent, scale, intensity and unpredictability of violence, this chapter provides an understanding of when a conflict transitions from vim into war and then from war back into vim. This continuum allows for ethical consideration of transitional or borderline cases, such as in Yemen and Ukraine, where long periods of tension and intermittent violence challenge clear temporal boundaries.

Chapter 3 explores the ambiguity surrounding the concept of 'the people'. Drawing on wider political theory, I propose a communitarian account of 'the people', grounded in the intrinsic value of their conception of the common good, shaped by thick, interpersonal and communal relations. The chapter also addresses the complexities posed by partial communities and secessionist movements, introducing the idea of a *community of communities* to account for overlapping and diverse goods usually evident within states. I argue that actors may be justified in waging war to secure these goods or secede, insofar as they hold legitimate authority to oversee and protect them.

Chapter 4 addresses the ambiguity surrounding territorial rights and their role in justifying force in the name of territorial integrity. Drawing on wider political theory, particularly Moore's theory of territorial rights, I develop a response to the *attachment and particularity problems*. I argue that territorial rights can be awarded where there is a relationship between a collective and its land, a rooted conception of the common good that is tied to a temporal extension and cooperative roles and duties within the land. Given the value of the land in housing the common good whilst also allowing it to flourish in that particular way, the

collective possesses territorial rights over that demarcated space, which serves as a just cause for waging war.

Chapter 5 synthesises the revisions developed in Chapters 2, 3 and 4, applying a situated just war theory to the conflicts in Yemen and Ukraine. This chapter revisits the three key shortcomings identified in Chapter 1, demonstrating how the revised framework addresses them in practice. Using the peace-vim-war continuum, I analyse when each conflict transitioned into war and assess the ethical implications of these transitions. The communitarian framework is applied to evaluate the legitimacy of actors claiming to represent 'the people' and their common good. Finally, the normative considerations of territorial attachment and particularity inform the evaluation of territorial claims and the justification for defensive force.

Taken together, the arguments advanced across these chapters contribute to a situated just war theory that is more grounded and responsive to the realities of modern conflict. Rather than proposing a new tradition or rejecting JWT, the thesis highlights how a situated approach can respond directly to the three primary areas of limitations. Its contribution extends beyond abstract theorisation of the selected cases by engaging directly with them, demonstrating how JWT must interact with the here and now. By drawing on broader political theory and IR, this thesis also reinforces that JWT can and should engage with the wider literature to inform its theorising of contemporary war. In doing so, I have shown how such engagement can help address the insufficiencies of JWT and also identify and correct limitations in wider political theory.

Chapter 1: The Shortcomings of Just War Theory

This chapter provides a brief introduction to the foundations and evolution of JWT, along with the key literature I engage with throughout the thesis. I also introduce two contemporary conflicts and outline the limitations of JWT concerning 'time', 'people' and 'space' when addressing these conflicts. The chapter is divided into four sections. Section 1 examines how JWT has evolved to address contemporary challenges. However, as I argue in the final section, these developments remain insufficient when applied to modern cases of war. To illustrate this, Sections 2 and 3 focus on two contemporary conflicts: the war in Yemen and the war in Ukraine. I provide empirical insight into the cases before exploring how the conflicts challenge contemporary assumptions of JWT.

In Section 4, I return to JWT to argue that despite the broad range of perspectives discussed in Section 1, the tradition falls short of explaining and evaluating contemporary conflicts. Applying JWT to the wars in Yemen and Ukraine exposes critical areas of limitations that undermine a thorough examination of the justice of war and the evaluation of its conduct. These shortcomings are reflected in the rise of revisionist critiques, which question issues such as the legalist and institutionalist legitimisation of war, the causes of war and combatant symmetry within *jus in bello* (Lazar, 2017). While I acknowledge that revisionists highlight significant limitations in the tradition, I argue that their responses also lack the necessary tools to address the conflicts in Yemen and Ukraine.

The chapter concludes by identifying three key areas where JWT's over-reliance on assumptions, and in other cases its under-specification, create significant shortcomings in analysing the two selected wars. First, JWT fails to specify when a war begins and ends.

Historical grievances and events leading to full-scale warfare often blur these boundaries, making it unclear at what point war starts or concludes. However, if JWT is to provide rulings on the justification for waging war and grant *jus in bello* rights permitting the use of violence, it depends on clearly defining when a state of war exists. Current accounts of JWT do not resolve this ambiguity. Second, it remains unclear who holds the legitimacy to wage war and how this right derives from 'the people' in whose name war is waged. Both traditionalists and revisionists ground the right to wage war in 'the people', whether through the political community for the former or the individual for the latter. However, neither provides a convincing definition of what constitutes a collective, what rights they hold and how these rights are transferred to an authority. Third, contemporary conflicts frequently involve waging war in defence of territorial integrity, yet JWT does not adequately justify the relationship between the state, the demos and a specific territory. The reliance on a statist interpretation of fixed borders fails to address how conflicting territorial claims intersect with partial communities shaped by historical grievances, a key driver of modern warfare.

Rather than dismissing JWT, I argue for its reconfiguration. Despite its limitations, JWT remains essential for restraining the frequency and destructiveness of war. However, the context of modern warfare has evolved and JWT must evolve with it. The subsequent chapters of this thesis propose solutions to these shortcomings and apply a situated just war theory to the conflicts in Yemen and Ukraine.

1. Situating Just War Theory

JWT is a longstanding moral framework that has developed over centuries to address when and how war can be justified. Rooted in early Christian theology and canon law, it has evolved

through medieval, early modern and modern contributions, shaping various principles and approaches to legitimising and conducting war (Cox, 2023). In the contemporary era, JWT continues to adapt, reflecting new ethical debates and some challenges posed by modern conflicts. The section below will first explore the historical foundations of JWT before examining its current theoretical developments and the ongoing debates shaping its application today.

1.1. Foundations of the tradition

The origin of the JWT is often associated with the Christian moral theory of St Augustine. However, commentators have highlighted Augustine's influence (and notable prior reflections on just war) from the work of Senator Marcus Cicero, Aristotle and Bishop of Milan Ambrose (Orend, 2006; Cox, 2023). In the early sixth century, St Augustine witnessed the decline of the Roman Empire and growing internal and external violent threats (Patterson, 2009). In response, he pondered the just conditions for deploying violence. St Augustine stated that a just war is to be waged by the supreme authority, permitted by God, with the intention to restore an ordered society for the well-being of mankind (Patterson, 2009; Eckert, 2020). It was not until the thirteenth century that Thomas Aquinas began to formulate a clear enunciation of the judgments of just war (Schwartz, 2018). In *Summa Theologica*, Aquinas stated war is sinful without the following three conditions: sovereign authority, just cause and the right intention (Braun, 2018). He permitted war as a form of defence, with an offender and a dispenser of justice (Reichberg, 2008).

By the sixteenth century, the rise of state sovereignty influenced the ability of 'higher authority' to 'rule upon the justice of particular wars' (Miller, 1964: 255). Francisco de Vitoria

recognised this shift and began to explore just cause on both sides. He introduced a distinction between the *objective* justice of the natural order and the *subjective* innocence of those who, in good faith, believe they are fighting for a just cause. Whilst objective justice cannot exist on both sides, Vitoria recognised the invincible ignorance of those who wage war in good faith (Miller, 1964). The invincible ignorance applies to subordinates acting under command they presume in favour of a just cause. Consequently, Vitoria argues the just adversary should refrain from exercising the full rights of war and the unjust adversary may defend itself. In contrast, those acting in bad faith or *affected* innocence may not legitimately deploy force. Vitoria also outlined actions permitted and restricted to just belligerents. This included the acceptable harms to civilians and combatants, property handling and the legitimacy of regime change (Reichberg, 2008).

Hugo Grotius developed the work of Vitoria and reinterpreted the tradition in line with natural law (Johnson, 2017). First, he redefined the role of the sovereign away from princely rule and towards 'the people' of the political community. Johnson (2017) notes in the context of war, this meant armed force or threats that violated borders also violated the rights of the community. Second, Grotius considered the possibility of both sides possessing a just cause. He suggested the positive laws of nations can grant equal rights to both belligerents (Reichberg, 2008). Gregory Reichberg (2008) states Grotius' bilateral regime was an appeal to lesser evil as it intended to prevent other states from taking a stake in the conflict and determining who had violated the laws of war. However, Grotius was careful to distinguish legal permissions from moral endorsement. He indicated the belligerent rights were 'only lawful externally', providing public enforcement and not morally approving the acts of unjust belligerents (Koskeniemi, 2019).

In the 18th century, the split between *jus ad bellum* and *jus in bello* became evident in the work of Christian Wolff and Emmerich de Vattel. This division has led some theorists to describe this shift as 'Regular War Theory' (Haggenmacher, 1992; Reichberg, 2008; Kalmanovitz, 2018). Reichberg (2008) writes that this came about as just war collapsed due to internal inconsistencies in defining just cause. The first key feature of regular war is the recognition that both sides can have a just cause. Peter Haggenmacher writes that regular war moved from:

Focusing attention on the lawfulness of the war, on the wrongs committed by one party and the rights conferred thereby on the other, one simply notes the formal existence of a state of war, which in turn presupposes a clash between sovereign entities (1992: 435).

Wolff claimed the determinacy of just cause lies outside positive law, and that the cause of war is instead relegated to the judgment of each sovereign (Kalmanovitz, 2018). Under natural law, states are not to resort to war; however, the voluntary law of nations permits them to act on their own perception of justice, since no higher authority exists above them (Reichberg, 2008).

Second, influenced by Raphael Fulgosius, Wolff advocated for a set of rules for norms and obligations governing battlefield conduct, diverging from the previous accounts of JWT. Wolff's work was later popularised in Vattel's book 'On the Law of Nations'. Together, they subverted the aggressor-defender paradigm and provided a bilateral account of the rules of war for belligerents (Kalmanovitz, 2018). These principles, governing combatants, civilians and property, later informed the Hague and Geneva Conventions (Coates, 2008). A third key

distinction between regular war and just war, as presented by Arthur Ripstein, is the former's central question is 'whether a war is conducted in accordance with the procedure' (2016: 183). In contrast to just war, questions of who is in the right do not enter into the moral analysis of regular war, rather the procedure of war resolves the dispute of right.

Nonetheless, other theorists do not draw a sharp distinction between the paradigms of just war and regular war or associate them with distinct schools of thought with key thinkers. In the JWT accounts of Orend (2006), Johnson (2006) and Walzer (2015), the idea of regular war is neither named nor presented as a separate entity. Instead, it appears as part of an overview of the evolution of the tradition. Johnson (2006) goes as far as claiming that a systematic form of the just war tradition only developed in the Middle Ages. Yet earlier contributions continued to exert influence and invite heuristic reinterpretation (O'Donovan, 2003). O'Driscoll questions the separation of the traditions and questions if regular war is 'exogenous or endogenous to the just war tradition?' (2021: 317). He states the former seems to be part of the latter, among its tributary streams. This is evident in this section, even from the brief overview of the tradition, we can begin to observe influence, overlap and responses that trace back to the work of predecessors as the tradition developed.

The divisions between regular war and just war resemble key debates in the work of traditionalists and revisionists within the contemporary JWT. However, there has been no attempt to divide the current tradition or to compare such with the regular war and just war split. Instead, we refer to the development of a single tradition that contains internal tensions and growing disagreements.

1.2. Contemporary Just War Theory

Following World War II and its aftermath, questions on war ethics reappeared. Orend (2006) writes that there began to be a ready application of some historic just war principles. For example, Grotius' work on proper punishment was embedded into the war crimes tribunals of Nuremberg and Tokyo; *jus ad bellum* principles were addressed in the 1945 Charter of the United Nations; and *jus in bello* principles were echoed in the 1948 Convention Banning Genocide and the 1949 Geneva Conventions, which focused on 'benevolent quarantine for prisoners of war' (Orend, 2006, 22). Orend also writes that the 1948 Universal Declaration of Human Rights was a significant moment for JWT as it became a new basis for theorists to understand the tradition in light of human rights. Scores of articles began to appear, yet it was not until the work of Walzer in 1977 that a contemporary awakening of JWT took place.

Walzer's (2015) *Just and Unjust Wars*, originally published in 1977, put forward a defence of the key tenets of the laws of war. In doing so, he intended to address both realists and pacifists and provide a framework for waging war and morally assessing its legitimacy. Walzer (2015) challenges the realist notion that war is beyond the scope of moral scrutiny and puts forward ethical standards to mitigate immoral suffering. He argues based on the rights of individuals to life and liberty, war can be justified in defence of the rights of their political community. Walzer presents a statist account and asserts that states are morally valuable. He writes that within states, citizens build their political community where freedom is formed, fought for and occasionally won. This right is attached to the international law principle that armed conflicts can only be carried out by states in the case of national defence, the defence of another state's nation, or to avert grave crimes against humanity. For Walzer, conduct in war must also satisfy the conditions of discrimination, proportionality and necessity in order to protect

innocents. He argues that civilians should not be targeted; however, all combatants possess the right to fight and may target one another, even with some form of collateral damage to civilians (so long as it is not excessive) (Lazar, 2017).

This has led many to identify Walzer as introducing the contemporary 'traditionalist' camp. The traditionalist stance draws on the work of the leading contributors, Walzer and Shue (Pattison, 2018). They tend to focus on institutions, exploring the long-term effect of the laws of war and 'see them as the basis of an actual and hypothetical contract between states and their citizens' (Lazar, 2017: 38). There is an emphasis on states (and some non-state actors) waging war for national defence, averting humanitarian disasters or defending other states. Traditionalists maintain that it is permitted for combatants to target one another, in line with the medieval distinction between *jus ad bellum* and *jus in bello* (Reichberg, 2018). While their views align closely with international law, they also propose theoretical considerations such as the notions of community and responsibility, though cautiously within a legalist framework.

Traditionalists have faced criticism over the past two decades from 'revisionists'. McMahan (2009) laid the groundwork for the revisionist position, aiming to morally correct the just war reasoning. In contrast to the traditionalist emphasis on political community, McMahan proposes an individualist justification, in which war is morally analogous to self-defence. Fabre (2008) supports the central claims of McMahan's Continuation Thesis, arguing war is morally justified based on the right to self-defence and securing basic rights. They suggest war is 'morally continuous with all other domains and governed by precisely the same moral norms' (Parry, 2017b: 170). Fabre argues this justification is grounded in the natural rights people possess by virtue of being persons. She incorporates this individualistic orientation

with egalitarian and universal principles (2012). Fabre's (2012) claims are based on cosmopolitan tradition, in which individuals are the fundamental units of moral concern and the privileges of the state exist to serve the individuals' interests. The defence of communal goods, then, is merely an extension of individual rights. These rights are entitlements that transcend borders, and states should respect and promote them (Fabre, 2008). Given this individualist basis of rights and the justifications for resort to war, Fabre challenges the traditionalist emphasis on the state's legitimacy and the just cause of national defence.

Revisionists aim to expose the shortcomings of traditionalist views. First, they reject what Lazar calls the 'pragmatic fiction' of international law and focus instead on individual rights, rather than states, as the moral basis for justifying the use of force (Lazar, 2017: 37). Parry states that a key difference put forward by revisionists is the Continuation Claim, that suggests war is 'morally continuous with all other domains and governed by precisely the same moral norms' (Parry, 2017a, 170). Second, revisionists reject the equal rights of belligerents, arguing that it appears false to claim combatants fighting in a justified war possess the same rights as those fighting in an unjustified war (Parry, 2015). Reichberg (2008) notes revisionists such as McMahan happen to assess *jus in bello* in line with *jus ad bellum* principles. These differences are not new and highlight the salience of the historical just war debates on the status of unjust combatants.

The two camps accuse each other of philosophical, practical and legal failings. Revisionists accuse traditionalists of lacking philosophical rigour, while traditionalists accuse revisionists of stipulating a dangerous abstract crusade for justice (Statman, 2014; Pattison, 2018). Christian Braun (2018) writes that underlying methodological disagreements continue to fuel their split. However, Seth Lazar (2017) suggests it is incorrect to assume revisionists tend to

use abstract cases that avoid disputes over details and political passions in real cases. He writes that this is an in-house divide as revisionists such as Fabre draw on military history and some traditionalists use abstract hypotheticals (Lazar, 2017).

Theoretically, the split between the camps is clear, yet I agree with Pattison (2018) who argues that once we begin to explore an applied, non-ideal account of JWT, the split between revisionists and traditionalists is narrower than it initially appears. He defines the non-ideal account as concerning circumstances without a) 'full compliance with the ideal moral principles' and b) 'the existence of favourable circumstances in order to realise the ideal (such as historical, economic, and social conditions)' (Pattison, 2018: 245). Pattison writes revisionists reject traditionalism based on their 'strong form of collectivism and strong rejection of the Continuation Claim' (2018: 263). However, the applied revisionist accounts of McMahan (2009) and Fabre (2012) have used collectivism as a heuristic tool when exploring group cases of conflict. Furthermore, traditionalists such as Shue and Walzer have acknowledged cases in which just war appears as an adaptation of daily moral rules (Pattison, 2018). When the camps apply non-ideal circumstances, what emerges is a less sharp division and more of a difference in the form of theorising.

Despite their methodological and philosophical differences, both traditionalist and revisionist accounts of JWT are committed to war being morally scrutinised. They converge on the idea that war, as a morally exceptional act, must be subject to constraints. These constraints reflect the view that killing is morally serious and must be justified within a permissible framework. The aim, as Whitman notes, is not to legitimise the horrors of war, but to pursue an overall goal 'to limit both the frequency of war and the destruction caused by war' (2013, 28).

As demonstrated in this section and the one before it, the tradition is not static and its strength lies in its development and application over centuries. However, these developments are not sufficient and the question of whether JWT is obsolete in today's changing world has emerged. The remainder of this chapter will outline the limitations it faces, especially when applied to the conflicts in Yemen and Ukraine. Whilst the two cases have received contrasting attention in academic research, possibly due to perceived understanding or the ability to theorise the nature of the conflicts, they both highlight the very same limitations of JWT.

2. The Yemen Conflict

To properly identify the limitations of JWT in addressing contemporary cases of war, I will examine the conflicts in Yemen and Ukraine. Before setting out the theory's limitations in the final section, this part will provide an overview of the conflict in Yemen. The conflict, which escalated following the Houthi takeover of Sanaa in 2014 and the Saudi-led intervention in 2015, presents a landscape of intersecting causes, actors and forms of violence. Yemen's conflict is rooted in deep-seated political instability following the Arab Spring, as well as historical cycles of poverty, repression and economic crises. These factors have created a war involving not only the Yemeni government and Houthi rebels but also internal non-state actors and external states with varying agendas.

I will first trace the noted origins of the current conflict, beginning with the fall of the long-standing regime of former President Ali Abdullah Saleh and the fragmented political landscape that followed. I will then map the key internal actors involved, including the Yemeni government, the Houthis, the Southern Transitional Council (STC) and external forces such as the Saudi-led coalition. I will highlight overlapping yet distinct goals and methods of

actors, which add layers of complexity to the war. Finally, I will discuss how the conflict has been framed by international media, often falling into narratives of 'new wars' where conventional legal and ethical frameworks, such as JWT, struggle to capture the realities of modern warfare. The targeting of civilians, use of guerrilla tactics and foreign intervention in Yemen exemplify the challenges of contemporary conflicts.

2.1. The conflict to date

The conflict in Yemen, a country with a population of almost 30 million, is often noted as beginning in 2014 when Houthi insurgents captured the capital, Sanaa. Fighting has mostly subsided since the reduction of Saudi-led coalition airstrikes in 2022, following their intervention in 2015 to support the internationally recognised government (Robinson, 2023). Yet, clashes between the Houthis, the newly appointed Presidential Leadership Council (PLC), separatists in the south and local resistance groups continue (Al-Deen, 2023). It is not apparent how contemporary or previous developments of JWT can help identify whether the clashes that persist warrant the label 'war'.

However, another concern is whether the conflict itself is a war or many wars within a war as the case appears to present. Some analysts describe the conflict as a proxy war fuelled by sectarian challenges between the Iranian-backed Houthis and the Saudi Arabia-supported Yemeni government (Robinson, 2023). However, a closer examination of the conflict reveals the involvement of additional groups, such as southern separatists, civil resistance and independent movements. These factions are not new and highlight the historically rooted actors involved in Yemeni politics that precede the 2014 coup. In 2011, Clive Jones wrote that 'Yemen appears the antithesis of the 'Weberian state model' with a political field that is

‘dominated by powerful tribes and conditioned by patrimonial networks’ (2011, 902). This dynamic remains evident today, as an increasing number of tribes and political groups fight to maintain control over their territories, while others seek political representation and a share of state power. It is unclear how accounts of JWT can address these dynamics. Can we assume that the groups possess state-like features granting them warring rights under traditionalist conceptions, or can they satisfy the revisionist claim of securing goods necessary for the flourishing of individual rights? A suitable account of JWT would need to consider the complexity of actors and their capacities. Given that Yemen’s state does not align with a Weberian understanding of the state, it is unclear how to evaluate the state-like features of internal non-state actors. Nor do these actors appear to justify their actions in the reductionist terms proposed by revisionists.

Since the two renewed truces in 2022, there have not been what Human Rights Watch calls ‘significant airstrikes or major military offences’, however, some clashes continue among militants and against civilians (HRW, 2024, 1). Currently, the government controls or holds influence over around half of the country, including critical provinces like Hadhramaut and Al Mahra, which are rich in oil and gas resources (Cohen and Deitch, 2025). Meanwhile, the Houthis control most of the Northern highlands, governing significant population centres, including the capital, Sanaa, where essential state institutions are located (Sameai, 2023; Cohen and Deitch, 2025). Mohammed Sameai (2023) notes that the STC, backed by the UAE, controls around 20% of the territory, primarily in the south, including the economic capital of Aden and the strategic island of Socotra. Clashes persist in cities such as Marib and Taiz, where control is contested between the Houthis and the Yemeni government. This is also the case in Dhale and Taiz, where local forces continue to contest control against the Houthis

(Sana'a Center, 2022; Cohen and Deitch, 2025). In Taiz, the Houthis have continued to enforce road blockades that limit access to resources and force travel via dangerous routes (Jafarnia, 2024). They have also continued to clash with the STC on the Lahij-Taiz border, with the Houthis carrying out an attack on troops at the border in March 2024, killing 12 STC-affiliated soldiers (ACLED, 2024a). The Houthis continue to attack the border, yet the STC has been persistent in its defence.

Recent tensions and clashes have also escalated between the armies under the Presidential Leadership Council (PLC), established in 2022 to replace Hadi's government (Nasser, 2024). Afrah Nasser (2024) writes that the PLC lacks a unified army as each member controls their military unit. In particular, the STC led by Aidarous Al-Zubeidi, a member of the council, has continued to clash with the PLC leader. There have been attempts to build a political alliance to counter the Houthi threat. However, the STC has continued to reject this alliance and maintains its separatist demands, establishing its own House of Commons in 2024 (ACLED, 2024b).

Recent clashes have resulted in 1675 civilian deaths in 2023 and 254 civilian deaths in 2024 (ACLED, 2024a). The organisation Armed Conflict Location and Event Data (ACLED) reports that the casualties in 2024 alone include 2664 events that targeted civilians. As of 2024, over 18 million people need humanitarian assistance, worsened by the Saudi sea, land and air blockade on Yemen since 2015, a population that relies on the importation of almost 90% of its food and fuel (Oxfam, 2025). A UNICEF (2025) report notes that 4.5 million people, half of whom are children, are internally displaced.

2.2. Historical and contemporary divisions in Yemen

The divisions within Yemen today are not new. The country has long struggled with religious, cultural and regional differences, as well as the legacy of colonialism (Robinson, 2023). Yemeni identity varies according to location, tribe, beliefs and distinct historical experiences. To apply JWT to the case, an account must address the collective nature and justifications for war among non-state actors, alongside the weak role of the state. This includes examining how entities can, or cannot, claim legitimacy or warring rights in a context where the state and nation deviate from conventional definitions.

Strong distinctions exist between the North and South, with longstanding recognition that central governments in the North have failed to adequately serve the interests of the South (Salisbury, 2023). Although the North and South were unified in 1990, they had not been united for centuries before that (Hill, 2017). The country's diverse geographic terrain has contributed to the development of distinct identities, often in isolation. Ginny Hill (2017) writes that the segregation of Yemen's lands took place under the Ottoman and British empires, each controlling separate areas. Despite Ottoman interference, the Zaydi Imams continued to rule the North, while the South was governed by 'separate sultanates, emirates and shaykhdoms', and later partially by the British in the early 1800s (Day, 2012: 59). The Imams maintained power in the North for over a thousand years, expanding their influence into the lowlands and coastal regions with the support of the two large confederations of Hashid and Bakil (King, 2020). In the 1960s, Pan-Arabism rose in the region and the revival of Qahtani ancestry posed a challenge to Zaydi rule (Brandt, 2017). Marieke Brandt (2017) notes that this movement offered an alternative to the Zaydi practices, which traced their lineage to

scholars descending from the Prophet Muhammad. The rise of secular Arab ideology resonated with the Qahtani tribes, who made up the majority of Yemen's population.

The imamate was toppled in 1962 after a bloody war between the Egyptian-backed Republicans and the Saudi-backed Zaydis (Al-Deen, 2021). In the South, resentment toward the British soon grew, influenced by the rise of Pan-Arabism. In the early 1960s, the National Liberation Front (a Marxist nationalist group) was founded and led the struggle for liberation in the South (Day, 2012). Even after liberation, sporadic clashes over power continued in the South, as they did in the North, where two consecutive presidents were assassinated before President Ali Abdullah Saleh took power in 1978 (Day, 2012). Under Saleh's rule, disagreements and clashes largely subsided, owing to his tough stance on opponents. Once again, divisions in Yemen resurfaced, with protests erupting over Hadi's presidency. Hadi had replaced Saleh without a representative process and his administration failed to address Yemen's poor civil policies (Robinson, 2023).

The conflict has heightened multiple divisions in Yemen as local tribes attempt to secure their territories from external interference. With the conflict in its tenth year, there is still no end in sight. In April 2022, President Abdrabbuh Mansur Hadi's government was replaced by an eight-member Presidential Council and talks with the Houthis began. This has resulted in two renewed truces and a reduction in casualties (Nasser, 2024). However, clashes continue between state forces and the Houthis, between secessionists and the government and amongst local resistance and the Houthis (ACLED, 2024a).

2.3. The beginning of the current conflict

The beginning of the military conflict in Yemen is often tied to the Houthi takeover of Sanaa in 2014, followed by the Saudi-led intervention in 2015 (Wintour, 2019; Orkaby, 2021; Robinson, 2023). Nonetheless, the conflict has been brewing since 2011 due to clashes and divisions arising from the Arab Spring. Inspired by the Arab Spring uprisings in the region, some Yemenis took to the streets to call for the toppling of the Saleh regime, the serving president from 1978 to 2012 (Finn, 2011). Saleh ruled by building a network of patronage and employing the tactic of divide and rule (Knights, 2024). He selectively employed tribal power brokers across regions and clansmen in the army and economy. This system was beginning to collapse by the time the Arab Spring hit Yemen, with growing friction between Saleh and the Al-Islah party (the branch of the Muslim Brotherhood, many of whom Saleh had initially selected as his allies) (Lackner, 2019). Protests on the streets continued with little movement from Saleh until he was attacked in the 2011 Sanaa Mosque bombing. Saleh escaped to Saudi Arabia for treatment and later resigned due to GCC intervention.

The GCC intervention prompted the introduction of an agreement that set out the following four points: Saleh's resignation with immunity from prosecution; the transfer of the transitional presidency to Saleh's deputy, Hadi; the formation of a national unity government; and military reconstruction to ensure loyalty to the government (Robinson, 2023). The Houthis disagreed with their exclusion from the national unity government. In response, the Houthis and other Yemenis took to the streets to protest the agreement. In the revolutionary squares of Sanaa and Taiz, there was a consensus amongst the youth, Houthis and separatists that justice against the Saleh regime, proper civil change and a democratic election of a president was necessary (Lackner, 2019). Sporadic protests continued for multiple years without a response from the government.

In 2014, Hadi's government lifted fuel subsidies due to pressure to comply with the International Monetary Fund's economic reforms (Robinson, 2023). This resulted in the price of petrol rising by 60% and diesel by 90% (Salisbury, 2014). With millions already struggling to feed their families, the Houthis capitalised on the dissent and organised a mass protest against the rising fuel prices, calling for the removal of the transitional government (Salisbury, 2016). Hadi and the Al-Islah party held counter rallies, and violent clashes soon began (Robinson, 2023). The clashes continued and the Houthis worked towards overthrowing the government in Sanaa. Saleh and his loyal military units aligned themselves with the Houthis, supporting their takeover of Sanaa. The Houthis soon seized Sanaa as they looted residential homes, secured equipment from military warehouses and killed and displaced civilians (Zohar, 2023). In response, President Hadi fled Sanaa to the south of Yemen and then to Riyadh following a retracted forced resignation.

With Hadi in exile, Saudi Arabia led the Gulf Cooperation Council (GCC) into a military campaign against the Houthis, aiming to restore Hadi's government (Robinson, 2023). Since the air campaign began in 2015, clashes have continued, with the Houthis advancing into northern cities and assassinating Saleh in 2017. The Southern separatists have continued to defend territory from the Houthis while working with the Saudi-led coalition, all the while preserving their underlying goal of secession.

Thus, numerous events preceded the Houthi coup in 2014, yet it remains unclear whether these events, individually or collectively, marked the cause (or the start) of the war. Did the war begin with the sporadic clashes during the Arab Spring, the coup itself, or the Saudi coalition's air campaign? A theory of JWT should provide clarity on this temporal question,

as identifying the start of the war is crucial for determining the just cause and permissions that justify acts of killing.

2.4. The actors involved and their means employed

The actors involved in the conflict in Yemen are numerous, moving us away from the traditional framework of theorising two belligerent sides, one just and the other unjust. To apply JWT to Yemen, we would expect it to provide sufficient tools to generate judgments on these complex strands, some distinct and others interrelated. This would include mechanisms for identifying, or justifiably excluding, the roles of a weak state, non-state actors, and localised resistance groups, encompassing the diverse range of armed entities that are the primary actors in the war in Yemen. These include the recognised government, the Houthis, external states such as the Saudi coalition and Iran, the STC, independent and localised armed actors and a coalition of militias such as the Giants Brigades, the Tihama Resistance and the National Resistance. This section will briefly outline the roles of these actors and their means employed.

i. The Yemeni government

The Houthis captured the capital city from the then-president of Yemen, Hadi. Hadi was elected for a two-year term in an election where he stood unopposed. He held the role of overseeing the National Dialogue Conference, aiming to bring together factions and formulate a new constitution (Robinson, 2023). Hadi's term was extended for a year and then assumed indefinitely after the Houthis captured the capital. Kali Robinson (2023) writes that he continued to hold his title until April 2022 while residing in Riyadh and having Saudi Arabia wage a coalition campaign to restore his government. The Yemeni government led the

resistance against the Houthis coup and their expansion into Yemen. Hadi, alongside international support, vowed to defend the legitimate government from invasion and the Yemeni people from the illegitimate rule of the Houthis. However, his support on the ground decreased as he remained safely in Saudi Arabia, with citizens viewing him as a Saudi stooge (Riedel, 2017).

The capability of the government varied throughout the war. Under Hadi, the Yemeni government lacked a unified army and their military capability was stretched across different units with loyal alliances rather than central goals. Hadi's loyalist units included the Yemeni National Army, the Taiz Resistance, the Republican Guard, national resistance forces and members of the Al-Islah political party (Salisbury, 2023). The capacity of the Yemeni government was further weakened by the looting of government weaponry by the Houthis and the loss of key military units that sided with them (Robinson, 2023). Such events forced the Hadi government to turn to international calls for assistance and the intervention of the Saudi Coalition. Along with the support of the Saudi coalition, local forces have led a defence against the Houthis.

Hadi was replaced in April 2022 by the Presidential Leadership Council (PLC), an executive body consisting of eight members and headed by Rashad Muhammad Al-Alimi (Ardemagni, 2022). The council was set up in Riyadh, Saudi Arabia, to find a political solution to the ongoing conflict. The PLC is made up of members with differing ideologies, interests and connections to various parts of Yemen. Friction among the PLC members has become evident and infighting has emerged. This includes forces from the Abyan governorate and other forces affiliated with the Giants Brigades fighting against the Second Brigade (Ali-Khan, 2023). While talks with the Houthis have continued, agreements have repeatedly failed.

Despite the support of Saudi Arabia and local factions, the government has been unable to secure much of northern Yemen. They have employed conventional methods such as battlefield exchanges led by loyalist units, tribal militias and southern resistance fighters (Salisbury, 2023). Urban warfare has been prominent in areas like Taiz and Aden, where coalition airstrikes were used to maintain and regain control from the Houthis. However, tribal alliances were recognised as useful by the Hadi government in mobilising local militias against the Houthis. In many cases, this support was driven by opposition to the Houthis, rather than by a desire to secure the central government. This defence effort lacked organisation and training, complicating performance and adherence to the laws of war.

ACLED (2024) highlights that over 15,000 battle events have occurred between the Yemeni government and the Houthis since 2015. This has resulted in 11,000 Houthis being killed by December 2017. Like other actors, Amnesty International (2015) writes the Hadi government has been charged with violations in its conduct of the war. It is accused of arbitrary arrests of medical workers, STC members and women human rights defenders (Amnesty International, 2015). In its battle against the Houthis, the government has launched indiscriminate attacks in heavily populated areas, destroyed civilian infrastructure and restricted free movement (Amnesty International, 2023).

ii. The Houthis

The Houthis, also known as Ansar Allah, are the main non-state actors involved in the conflict. They emerged in the late 1980s, led by Hussein Al-Houthi, a Zaydi revivalist. Zaydi Shias, a minority in Yemen, originate from the northern highlands (Riedel, 2017). The Houthis gained significant attention during the US intervention in Iraq, after opposing Saleh's support for the

war (Robinson, 2023). Tensions escalated in 2004 when Al-Houthi launched a rebellion against the Yemeni government, which led to his death. Sporadic clashes between the Houthis and the Yemeni government and Saudi forces along the border persisted until 2010 (Montgomery, 2022). Since the Arab Spring, the group has garnered broader support, with membership expanding beyond the Zaydi Shia religious identity.

The Houthis have grown more capable and organised since the start of the war, increasing their membership and access to weaponry. Their fighters include military units loyal to former President Saleh, recruits drawn by ideological motives, financial incentives and the recruitment of child soldiers (Knights, 2018; International Crisis Group, 2022; HRW, 2024). They have also co-opted specialist personnel and command staff (Knights, 2018). The expansion of their weaponry has been fuelled by looting government reserves, acquiring stockpiles provided by Saleh, smuggling arms through the port of Hodeida and receiving weapons from Iran (Robinson, 2023; Zohar, 2023). Their arsenal includes small arms, rifles, cruise missiles, loitering munitions, ballistic missiles, land mines and UAVs (Zimmerman, 2022). According to ACLED (2023), the Houthis have carried out nearly 1000 rocket and missile attacks, along with 350 drone attacks in Yemen.

Their tactics include conventional, urban, guerrilla and siege warfare. These strategies have enabled them to defeat opponents with superior forces, particularly in northern regions where they have captured significant territory. The Houthis have effectively employed guerrilla tactics throughout the war, particularly in Yemen's mountainous terrain. They have conducted hit-and-run attacks and ambushes on coalition forces and Yemeni government troops (Orkaby, 2021). Guerrilla warfare has allowed them to avoid confrontations with superior military forces while causing significant damage to their enemies. In urban areas, the

Houthis have demonstrated proficiency in urban warfare, defending key cities such as Sanaa, Taiz and Aden. They have turned civilian infrastructure into fortified positions, utilising snipers, mortar fire and small arms to repel advancing forces (Al Jazeera, 2015). Their ability to hold urban centres has been a critical factor in maintaining control over northern Yemen, including the capital, Sanaa.

International Crisis Group (2022) reports the Houthis have also employed siege warfare, most notably in Taiz, where they surrounded the city for several years, cutting off essential supplies such as food and medicine. These blockades caused severe humanitarian crises, with civilians bearing the brunt of the deprivation. The Houthis have used similar tactics around Marib and other contested regions, restricting the flow of supplies to weaken government forces (International Crisis Group, 2022). The Houthis have been widely condemned for recruiting child soldiers. Human rights organisations estimate that the Houthis have recruited thousands of children, some as young as 10, to fight on the front lines (HRW, 2024; Amnesty International, 2017). These children have been used as soldiers, guards and logistical support, often suffering injuries or death in combat.

Since 2015, the Houthis have launched hundreds of ballistic missiles, targeting Yemeni government areas and Saudi Arabia, including major cities like Riyadh and Abha (Reuters, 2020). Many of these are modified Scud-type missiles, such as the Burkan-2H, capable of reaching deep into Saudi territory (Samaan, 2020). These attacks, which have caused significant damage and civilian casualties, highlight the Houthis' growing missile capabilities, likely supplied by Iran (Nadimi, 2023). Their increasing use of drones has also had a significant impact both within Yemen and abroad. The Yemeni government's biggest challenge has been the use of Houthi drones on the front lines. These drone attacks have

extended to targets in Saudi Arabia and the UAE, including civil infrastructure (Reuters, 2020). Reuters reports that 'Houthis have fired 430 missiles, 851 drones at Saudi Arabia since 2015' (2021, 01). Targets include airports and Aramco oil facilities, with Saudi authorities reporting the deaths of 59 civilians (Al Jazeera, 2022). Houthi officials have declared these attacks as retaliation against Saudi Arabia's escalation in Yemen. The UAE has also been targeted, with the Houthis carrying out two airstrikes in January 2022 at an air base located 10km from Abu Dhabi International Airport, which were shot down (Fahim and O'Grady, 2022).

In March 2015, the Houthis showcased their internal capabilities by carrying out a 180 mile offensive in Aden (Knights, 2018). This coincided with other offensives in the cities of Marib, Hodeida, Taiz, Ibb, Bayda and Shabwah. As the war continues, the Houthis have carried out attacks in various parts of the country using ballistic missiles and shells in heavily populated areas, particularly in Taiz and Marib. Over 20 ballistic attacks have been carried out in Marib since March 2021 (ACLED, 2024a). In addition, Houthis have carried out attacks on medical facilities and oil terminals, resulting in civilian deaths, the forced migration of entire villages, the execution of political actors and the destruction of infrastructure (ACLED, 2024a). Other methods employed by the Houthis include arbitrary detentions and enforced disappearances (Amnesty International, 2024).

iii. Saudi-led coalition

In March 2015, President Hadi appealed for international assistance in his fight against the Houthi aggression (Robinson, 2023). He invoked the right of self-defence under Article 51 of the UN Charter, emphasising the international nature of the war by stating: 'the threat is

therefore not only to the security of Yemen but also to that of the entire region and to international peace and security' (UN, 2015). In response to Hadi's request, the Saudi-led coalition intervened in Yemen in March 2015, launching the air campaign Operation Decisive Storm. Saudi Arabia formed a coalition with Egypt, Morocco, Jordan, Sudan, the United Arab Emirates, Kuwait, Qatar and Bahrain. Their goal was to halt the Houthis' expansion and bring the war to an end within three weeks. The growing power of the Houthis posed a threat to Saudi Arabia's southern border and was part of their ongoing contest with Tehran (Robinson, 2022). As of today, the coalition has not officially withdrawn from Yemen, though it has significantly scaled down its military operations.

The coalition has mostly relied on airstrikes, with some initial deployment of ground troops. The Saudi-led coalition is linked to a significant number of civilian deaths in Yemen, with almost 15,000 civilians killed as a result of their strikes (CAAT, 2023). Campaign against Arms Trade (CAAT) (2023) found that Airstrikes have frequently targeted gatherings in densely populated areas, including weddings, marketplaces, schools, hospitals and mosques. Their methods have been indiscriminate and largely unsuccessful in halting the spread of the Houthis. Consequently, the coalition shifted its focus towards a naval blockade rather than ground operations, due to the increasing difficulties of urban warfare. Over 60% of the 377,000 deaths in Yemen are a result of indirect causes of the war (Robinson, 2023). Central to this is the Saudi-backed blockade by air and sea, which has impeded the delivery of food, medicines and water. Yemen imports 90% of its essential supplies, and the blockade has severely restricted the entry of humanitarian aid at a time when over half of the population is in need (Oxfam, 2025).

iv. Southern Transitional Council (STC)

The STC, a political movement established in Aden in 2017, led by Aidarous Al-Zubaidi, is another significant actor in the Yemen conflict. Al-Zubaidi was previously Aden's governor under the Hadi government. In April 2017, Hadi dismissed the governor and accused him of disloyalty. After a mass protest against his removal, the transitional council was formed and declared the intention to reinstate the Southern State as it existed from 1967 – 1990 (Salisbury, 2018). The STC has continued to defend the south against Houthi forces. The Saudi-led coalition identifies them as a key partner to Hadi's government, but there are apparent splits on the ground as clashes between them persist. Mediation has helped to decrease conflict, with the STC publicly declaring support for Hadi and now making up a seat in the PLC, yet lobbying for secession (Alsaafin, 2019). In areas under STC control, the council has established its own administrative structures. This includes managing local security, public services and governance, often in opposition to the Yemeni government's authority. The STC have garnered support among some segments of the southern population by addressing local grievances and presenting itself as a protector of southern interests.

The STC's armed wing, the Security Belt Forces, has played a central role in its military operations. These forces have been involved in key battles, including those against Yemeni government forces in Aden and other southern regions (Salisbury, 2018). Peter Salisbury (2018) writes that the Elite Forces are also an aligned military unit. The STC and these supporting military forces have received significant military support from the UAE, including training, arms and logistical support (ACLED, 2024b). This backing has enabled the STC to maintain a strong military presence in the south.

A report by Mwatana (2023) outlines that the STC has committed significant human rights violations, including 46 cases of arbitrary detention, 42 enforced disappearances and 14 instances of torture or ill-treatment. The STC is also implicated in incidents of damage to civilian infrastructure, imposing roadblocks and checkpoints restricting movement, and harassing and intimidating journalists and activists (Mwatana, 2023).

v. Al-Qaeda in the Arabian Peninsula (AQAP)

The growth of the Houthis in 2015 had initially benefitted AQAP, as some Sunni individuals began to align with them, viewing the Houthis as Zaydi Shias as a common enemy (Kendall, 2021). AQAP managed to capture the city of Mukalla in April 2015 but later withdrew in April 2016 following UAE-led ground operations and negotiations with tribesmen to limit civilian casualties (Salisbury, 2017). The AQAP continue to grow weaker as the war has continued, with the UAE's presence disrupting their recruitment and retention of fighters (Kendall, 2021).

vi. Other non-state actors

Independent resistance forces are also involved in the conflict. While these groups oppose the Houthis' expansion, they do not align themselves with the Yemeni government. They typically include groups of local tribesmen from various regions, such as the Tihama Resistance Brigades and the Guardians of the Republic. The Tihama Resistance Brigades consist of local tribesmen who have led frontline fighting in Yemen's south (ACLED, 2023). The Guardians of the Republic are led by former president Saleh's nephew and are backed by the Saudi-led coalition (Browne, 2018). The use of force by these groups is sporadic and largely reactive, typically in response to Houthi threats or aggression.

vii. Iran

Iran is another actor involved in the conflict in Yemen. During the 2004-2010 wars, then-President Saleh exaggerated Iran's influence in Yemen to secure Saudi support in fighting the Houthis along the southern border (Feierstein, 2018). Similar claims were made during the Houthis' initial uprising during the Arab Spring. However, since the 2014 coup, Iran's involvement has grown significantly, with reports of training, financial support and weapons being provided to the Houthis (Feierstein, 2018).

viii. Other state actors

Several other countries are also involved in supporting the Saudi-led coalition. The United States has provided logistical and intelligence support to Saudi Arabia and was the coalition's largest arms supplier (Blanchard, 2025). The support for the military operation waned under President Joe Biden (CFR, 2025). In addition, Russia, France, Germany and the United Kingdom have also supplied arms to Saudi Arabia. The United Nations and organisations such as CAAT have documented the use of these weapons against civilian populations.

2.5. Reporting on the conflict in Yemen

The war in Yemen has been reported globally, with a focus on its regional and international dimensions, the humanitarian disaster it has caused and the ongoing violence. Despite its ongoing impact, many argue that the conflict has not received sufficient attention (Kerins, 2020; Lackner, 2020; Lederman and Lederman, 2024). The complexity of the actors involved and restricted access to journalists have made reporting challenging, alongside various disinformation campaigns led by internal actors (Porter, 2022). Yet, coverage of the conflict

tends to focus on the humanitarian crisis or particular events by the 'Houthi rebels' and the roles of external actors (Sultan, 2019; Ruiz and Bachman, 2023). Certain aspects of the war, such as political demands, internal political struggles and historical factors, have been underreported. In applying JWT to the case, we should be able to gauge a better understanding of whether the current events are considered a war and account for the actors beyond the Houthis and the state, thus awarding the case appropriate theoretical inquiry.

The humanitarian disaster due to the conflict has received much attention. News outlets such as BBC, The Guardian and Al Jazeera and organisations such as Save the Children, the United Nations (UN) and Oxfam have documented the suffering of the civilian population in Yemen. Oxfam (2025) has characterised Yemen as the world's worst humanitarian crisis, with over half of the population requiring humanitarian assistance to survive. Reports have also drawn attention to the blockades and sieges imposed by various warring parties, particularly the Saudi-led coalition's blockade, which has exacerbated food and fuel shortages and worsened the humanitarian situation (Human Rights Watch, 2019; World Organisation Against Torture, 2022). Coverage has also focused on the difficulties faced by humanitarian organisations in reaching severely impacted areas and individuals (Simpson, 2020; UN, 2021). Such factors are tied to the blockade and the dangers posed by airstrikes, shelling and landmines. They are indeed markers of a humanitarian disaster, but one fuelled by conflict and particularly violations of *jus in bello*.

Yet even with the severity of the humanitarian crisis, many argue that the war in Yemen has been largely underreported (Kerins, 2020; Lackner, 2020; Lederman and Lederman, 2024). This has led some to describe it as the 'forgotten war' (Kerins, 2020; Lederman and Lederman, 2024). According to Helen Lackner (2020) and Triumph Kerins (2020), the war was forgotten

further as the conditions in Afghanistan worsened in 2018 and Russia's invasion of Ukraine in 2022. Kerins (2020) reports that a media watchdog found that the Yemen conflict, which had been ongoing for four years by then, had received only 92 cumulative minutes of coverage on American television networks ABC, CBS and NBC. Whereas 'there have been 666 minutes of coverage in Syria since 2015, more than seven times that of Yemen' (Kerins, 2020, 1). The onset of the invasion of Ukraine led to an even further decline in the coverage of Yemen. Meltwater, a media analysis firm, found that between January and September 2022, Ukraine received five times more media coverage than all ten of the worst conflict affected countries combined (Save the Children, 2022). A report by Save the Children (2022) found that Yemen accounted for only 2.3% of the media attention compared to Ukraine during the period between January and September 2022.

Another focus, alongside the humanitarian impact of the conflict in Yemen, is the coverage of the military operations of the Saudi-led coalition's air campaign and the Houthis. Outlets such as CNN, The New York Times and Reuters have provided detailed accounts of the coalition's extensive airstrikes, documenting their impact on civilian areas. The reports have frequently highlighted the coalition's use of airstrikes on non-military targets such as schools, hospitals, markets and residential areas, raising serious questions about the coalition's adherence to international humanitarian law. Investigative journalists have uncovered evidence linking US and UK-supplied weaponry to many of these airstrikes, leading to growing scrutiny of the role of Western governments in enabling the coalition's actions (Amnesty International, 2022; Karlshoej-Pedersen, 2024).

US officials, including former President Barack Obama, initially called for an end to the war, but the US played a significant role in providing logistical and intelligence support to the

Saudi-led coalition during the early years of the conflict (Roberts and Shaheen, 2015). However, US policy has shifted over time. Upon taking office, the then-President Joe Biden announced an end to US support for the Saudi-led offensive operation in Yemen and removed the Houthis from the US terrorism list (Harb, 2021). The shift reflected broader calls for involving the Houthis in peace negotiations, particularly as the Houthis gained more control over the northern part of Yemen.

Media coverage has also focused on the military tactics employed by the Houthis. Their use of ballistic missiles and drones to target Saudi Arabia and the UAE has been widely reported, especially covering high-profile incidents, such as missile strikes on Riyadh and the drone attack on Saudi oil facilities in Abqaiq in 2019, which temporarily disrupted half of Saudi Arabia's oil production (Al Jazeera, 2019; Reuters, 2021). Additionally, the Houthis' extensive use of landmines has been well documented in the media, as these mines have caused widespread civilian casualties and hampered military operations in contested areas.

Despite calls from the international community to halt the violence, the Houthis have continued to expand their military capabilities, allegedly with the support of Iran. Reports by the United Nations have accused Iran of smuggling weapons to the Houthis, further complicating the conflict and raising concerns about the Houthis' growing military strength (Nicols and Irish, 2024). The links between Iran and the Houthis have led to many reports suggesting the conflict is a proxy war between Saudi Arabia and Iran (Karssen, 2015). It is claimed that Saudi intervention to restore Hadi's government is due to the threat of the Houthis' ties with Iran. This is fuelled further by the sectarian framing of the war that highlights the Shia-aligned Houthis against the Sunni-aligned majority (Karssen, 2015). The sectarian narrative is found alongside reports that initially focused on the resurgence of

AQAP. Reports cite the threat of AQAP taking advantage of the political instability (Raghavan, 2020; Robinson, 2023).

Many of these media reports fail to highlight the historical nature of the conflict with recurring clashes between the Houthis and the central state, the fragmented nature of Yemen, which consists of many actors on the ground (including secessionists in the South) and the longstanding political exclusion and financial conditions that exacerbated initial clashes in 2014. Coverage has failed to understand the complex nature of the conflict that does not fit into the Western focus on sectarianism or terrorism. Attention to the local insurgents or even the STC's struggle has not been awarded sufficient attention, despite their growing importance in shaping the conflict on the ground. It is these limitations in coverage that a sufficient application of JWT should account for, as it is these details that guide insights into *jus ad bellum* justifications and the acts of *jus in bello*.

2.6. Towards a JWT Analysis of Yemen's War

The conflict in Yemen remains an ongoing struggle, shaped by historical, political and internal divisions. Although the current conflict is marked by the Houthi coup in 2014, clashes and disagreements had been simmering for many years before. Recent truces and a reduction in coalition airstrikes have lessened the intensity of fighting, yet the country remains far from achieving lasting peace. Clashes persist between the Houthis and the government in contested cities such as Marib and Taiz, as well as in the south between the STC and the government. An effective application of JWT to Yemen must determine whether the violence constitutes war and, if so, whether it is justified or unjustified. This requires a framework with the appropriate tools to theorise about the range of actors involved.

The conflict is far more complex than a binary struggle between the Houthis and the government, as the involvement of various local, regional and international actors has exacerbated the situation. Reports frequently highlight Yemen's political fragmentation and the ambitions of external powers like Saudi Arabia and Iran, framing the conflict within the narrative of a proxy war. However, this perspective often neglects the diverse actors involved, including the Southern Transitional Council, local tribes and independent resistance movements, each with their own stakes in the conflict. JWT must assess the justifiability of war by considering the diverse perspectives and causes championed by these groups, offering compelling reasons if certain actors are to be excluded from legitimate warfare. It should examine multiple claims, such as political representation, territorial rights and secession, made by competing actors and offer a framework to judge which claims are defensible.

Rightly, reports outline that the war has resulted in severe humanitarian consequences, with millions of Yemenis suffering from food insecurity, displacement and lack of access to essential services due to the ongoing impacts of the blockades and continued clashes. Yet, reporting often fails to identify Yemen's historical divisions and the complex web of internal and external factors shaping the conflict, along with the economic and social deprivation endured by its citizens before 2014. Although JWT addresses the consequences of war and disproportionate means, it can only do so effectively with a thorough exploration of the justifications presented by the involved parties.

3. The Russian Invasion of Ukraine

The second conflict I will explore, to demonstrate the limitations of JWT in addressing contemporary cases, is the invasion of Ukraine. The invasion has frequently been framed as

an act of legitimate defence and is widely regarded as a clear violation of national sovereignty, one of the fundamental tenets of just cause (Walzer, 2015). Unlike the war in Yemen, often characterised as a complex intrastate conflict, the intrastate dimensions of the conflict in Ukraine have not received sufficient attention, despite the internal complexities surrounding the aspirations of 'the people' in the Donbas region (Grygiel, 2022; Howlett, 2023).

This section will provide an overview of the ongoing conflict. I begin by exploring the historical roots of the conflict, including Ukraine's national formation, regional desires for secession, Russia's reaction to Western influence and the enduring post-Soviet legacy (Pikulicka-Wilczewska and Sakwa, 2016). I then provide an overview of the various actors involved in the conflict, challenging oversimplified statist interpretations. A sufficient application of JWT should address the causes and legitimacies put forward by non-state actors as well as state actors. Finally, I critique prevailing narratives in media reporting, which often fail to acknowledge the intricate internal dynamics within Ukraine due to an overreliance on a state-centric lens. These narratives overlook the presence of non-state actors and their competing claims to territorial integrity, which can only be understood through an informed consideration of the historical tensions, questions of national identity and geopolitical interests.

3.1. The invasion to date

On 24th February 2022, Russia began what Vladimir Putin termed a 'special military operation' to 'demilitarise and de-Nazify Ukraine' (cited in Ortiz, 2022, 11). The operation escalated into a full-scale invasion, following the earlier stationing of Russian troops and equipment near Ukraine's border, home to 40 million citizens (Khromeychuk, 2022). Putin

justified the invasion by citing alleged crimes and genocide against citizens in the two breakaway regions of Donbas, Donetsk and Luhansk (Kirby, 2022). To date, Russia has made gains in securing Ukrainian territories, partially occupying Luhansk and Donetsk in the Donbas region, along with areas of Kherson, Zaporizhzhia, Kharkiv and Mykolaiv (Malyarenko and Kormych, 2024). Ukraine continues its counteroffensive, launching drone and missile strikes targeting military infrastructure in Russia (Tobin, 2024). Data from the Centre for Preventive Action (2025) indicates that Ukraine's efforts have resulted in the recapture of 54% of its occupied territory, yet 18% remains under Russian control.

In eastern Ukraine, Russian forces have continued their offensive operations, making incremental advances (Glantz, 2024). The conflict in this region has been ongoing since 2014, when Russian-backed fighters seized substantial portions of Donetsk and Luhansk (Lawrence, 2024). Thus, Russia, alongside the separatists in the Donbas, had been engaged in clashes with the Ukrainian government before the 2022 invasion. It seems reasonable to expect JWT to offer insight into how this earlier phase of conflict relates to the current invasion, including whether it constituted a war or another form of conflict.

While Ukraine has maintained its counteroffensive, Russia continues to open new fronts. In early May 2024, a Russian offensive north of Kharkiv saw forces cross the international border, capturing several villages and displacing thousands of civilians (Beale and Astier, 2024). This operation marked a notable expansion of the conflict beyond the eastern Donetsk region. Russian gains also include the capture of Niu York and advancements towards Pokrovsk, prompting Ukrainian evacuations and adjustments in defensive strategies (Cotovio *et al.*, 2022; Pelley, 2022; Kofman and Lee, 2024). Reports from May and June 2024 indicate that

approximately 1200 Russian soldiers were killed or wounded daily, marking one of the highest casualty rates since the start of the conflict (Corera, 2024).

A significant development occurred in early August 2024 when Ukrainian forces launched a surprise counteroffensive into Russia, penetrating up to 30 km into the Kursk region (Murphy, 2024b). The attack prompted the Russian government to evacuate nearly 200,000 residents (Deliso *et al.*, 2024). President Putin condemned the offensive as a ‘major provocation’, and the regions of Kursk and Belgorod subsequently declared states of emergency (Murphy, 2024b). Within two weeks, Ukraine claimed to have seized over 1200 square kilometres of Russian territory and 93 villages (Kullab and Arhirova, 2024). While accounts of JWT have identified Ukraine’s defence as justified, we would still expect judgments and guidance regarding the scope of legitimate defensive actions. Does legitimate defence include actions strictly within Ukrainian territory, or does it also extend to targets within the aggressor state’s territory?

The Centre for Preventive Action (2025) reports that the invasion has resulted in severe humanitarian consequences, with approximately 40,000 casualties and the internal displacement of 3.7 million individuals, alongside 6.9 million fleeing to other countries. In 2024, the UN Refugee Agency (2024) stated that 14.6 million people require humanitarian assistance. The conflict has caused extensive damage to infrastructure, including homes, businesses and energy systems, disrupting access to essential services such as water, heating, electricity, health and education (Herbst, Khakova and Lichfield, 2024; Hryhorczuk *et al.*, 2024).

Before addressing the causes and justifications of the current conflict, it will be helpful to briefly outline the history of the two nations. The remaining sections will summarise the involvement of actors and the impact of the war.

3.2. The history of Russia and Ukraine

The history of Russia and Ukraine is deeply intertwined, beginning with the formation of Kyivan Rus in the 9th century, a medieval state-centred in modern-day Kyiv (Magocsi, 2010). Historian Paul R. Magocsi (2010) writes that over time, the state fragmented and Ukraine came under the influence of Poland-Lithuania, while Moscow grew as the centre of what would become Russia. By the 18th century, much of Ukraine had been absorbed into the Russian Empire, where it remained until the early 20th century (Magocsi, 2010). After a brief period of independence following the Russian Revolution of 1917, Ukraine was subsumed into the Soviet Union as the Ukrainian Soviet Socialist Republic (SSR) (Plokhyy, 2023). Ukraine endured immense suffering during Soviet rule, particularly under Stalin's Holodomor, a man-made famine in the 1930s that killed millions of Ukrainians (Conquest, 1986). During WWII, Ukraine was a battleground between Nazi Germany and Soviet forces, with both occupying parts of the country at different times (Steinhart, 2015). Ukrainian nationalist groups, such as the Ukrainian Insurgent Army (UPA), fought for independence, resisting both Nazi and Soviet forces (Snyder, 2011). Other Ukrainian fighters aligned with the Nazis against Soviet oppression (Rudling, 2011).

After WWII, in 1944, the Supreme Soviet amended the USSR's constitution, allowing each Union Republic to:

Enter into direct relations with foreign states, to conclude agreements, and exchange diplomatic and consular representatives with them; each Union Republic has its own Republican military formations (Sawczuk, 1971, 377).

Ukraine thus became a separate subject of international law to a degree, while remaining part of the Soviet Union (Sawczuk, 1971). Konstantyn Sawczuk (1971) notes that the amendments granted Ukraine certain international rights, such as holding membership in the United Nations. However, it wasn't until the collapse of the Soviet Union in 1991 that Ukraine declared full independence (Yekelchuk, 2023). Ukraine's identity, though, is not as young as its official independence, with a rich history of resistance and nationalism dating back centuries.

Following independence, Ukraine solidified its sovereignty through the 1994 Budapest Memorandum. In this agreement, Ukraine surrendered its substantial nuclear arsenal, once the third largest in the world, in exchange for security assurances from the US, UK and Russia, who pledged to respect its 'territorial integrity' and 'existing borders' (Yost, 2015, 505). However, this commitment was not honoured by Russia, which began influencing Ukrainian politics through pro-Russian leaders like Leonid Kuchma and Viktor Yanukovich (Yekelchuk, 2023). Yanukovich returned to power in 2010, after being ousted following the 2004 Orange Revolution, with intensified pro-Russian sentiment. In 2013, he decided to withdraw from a trade agreement with the European Union in favour of closer ties with Russia (Ash et al, 2013). This decision sparked mass protests, known as the Euromaidan movement, leading to Yanukovich fleeing to Russia in early 2014 (Yekelchuk, 2023).

During the mass protests, Russia annexed Crimea in March 2014 (Wynnyckyj, 2019). At the same time, Russia supported separatist movements in Ukraine's eastern regions of Donetsk and Luhansk, leading to the protracted and ongoing Donbas war. Russian-backed forces established the Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR) (Baghel, 2022). Despite numerous ceasefires, the conflict remains unresolved, with several violations over the years (Åtland, 2022). On 21st February 2022, Russia officially recognised the independence of the DPR and LPR, and three days later launched a full-scale invasion of Ukraine (Mills, 2025).

The war appears rooted in historical tensions and Russia's refusal to fully recognise Ukraine's sovereignty. These tensions have included phases of sporadic clashes alongside periods of non-violent conflict. As outlined above, a comprehensive theory of war should account for such events, or exclude them as temporally part of war, to provide a framework for understanding the current violence and granting warring rights.

3.3. The beginning of the conflict

The current conflict in Ukraine is often understood to have begun with the full-scale invasion that began in 2022. While media and government reports highlight the immediate justifications and causes of the war, other commentators outline deeper historical causes and an even earlier beginning (Baghel, 2022). This conflict is shaped by complex historical, geopolitical and ideological tensions between Russia and Ukraine. Ukraine's independence in 1991, following the dissolution of the Soviet Union, marked a turning point in its relations with Russia. For many Ukrainians, independence symbolised an opportunity to align more closely with Western Europe. However, for Russia, Ukraine's movement away from it and

towards institutions like the European Union and NATO was seen as a direct threat to its influence in the region (Mearsheimer, 2014).

Tensions began to simmer in 2013, when then Ukrainian President Viktor Yanukovych abandoned a proposed association agreement with the European Union in favour of closer ties with Russia (Yekelchik, 2023). This decision set off the Euromaidan protests, with many Ukrainians demanding integration with Europe. The protests escalated, leading to Yanukovych's ousting in early 2014. Russia viewed these events as a Western-backed coup and soon after annexed Crimea, citing the need to protect ethnic Russians and safeguard Russia's strategic interests (Wynnyckyj, 2019). While Crimea's annexation was relatively bloodless, the situation in eastern Ukraine quickly spiralled into conflict. Pro-Russian separatists in the Donetsk and Luhansk regions declared independence, sparking a violent struggle between Ukrainian forces and the separatists, with Russia providing covert support to the latter (Katchanovski, 2016). The war in the Donbas continued in a semi-frozen state for years, despite various international attempts to broker peace, including the Minsk agreements (Marples, 2021). Since the full-scale invasion in 2022, fighting has reignited at an intense level, raising the need for a theory of war capable of determining whether this conflict constitutes a continued phase of earlier fighting or a new war. Such a theory must address separate justifications, intentions and the recognition of evolving actors.

The beginning of the full-scale invasion was marked by accusations that Ukraine was committing genocide against residents in the Donetsk and Luhansk regions (Kirby, 2022). This rhetoric has been a central part of Russia's justification for the invasion. While the conflict in eastern Ukraine has indeed been deadly, with around 14,000 people killed between 2014 and early 2022, data from the International Crisis Group (2022) indicates that the situation had

calmed significantly in the years leading up to 2022. The International Court of Justice (2022) reported that there is no substantive evidence of genocide against Russian speakers in Ukraine and continues to investigate these claims. Instead, concerns have been raised that Russia is using the accusation of genocide to rally domestic support and attempt to legitimise its actions on the international stage.

Russia asserts that Ukraine's policies, including its language laws, discriminate against Russian speakers (Polityuk, 2019). This grievance is part of a broader narrative that Russia has cultivated, portraying itself as the protector of Russian speaking populations, particularly in the Donbas region (Marple, 2021). However, analysts argue that claims of 'Russophobia' are being exploited as a desperate justification for war crimes. In contrast, Iryna Matviyishyn (2020) and Nadia Gergało-Dąbek (2023) argue that Ukraine's promotion of the Ukrainian language is a tool of resistance and part of its struggle for statehood. Ukraine aims to establish a distinct national identity following centuries of domination by outside powers (Matviyishyn, 2020; Gergało-Dąbek, 2023). Accounts of JWT have evolved to address humanitarian interventions by third-party actors aimed at securing the collective and individual rights of people (Tesón, 2011; Fabre, 2012; Walzer, 2015). However, to fully justify such actions, JWT must critically engage with the specific context of the case, examining the feasibility and validity of these claims.

We would also expect JWT to consider growing geopolitical justifications that are increasingly used to explain contemporary tensions leading to the use of force. For example, another justification for Russia's military aggression is NATO's expansion. Russia claims that NATO broke a promise made at the end of the Cold War to refrain from expanding into former Eastern Bloc countries (Wintour, 2022). Although no formal agreement can be traced, Russia

views NATO's presence in countries like Poland and the Baltic states as a breach of the informal agreement and a direct threat to its security (Wintour, 2022). Putin has repeatedly expressed concerns about Ukraine's aspirations to join NATO (Person and McFaul, 2022). Though Ukraine's membership was not imminent, as key NATO member states, such as the United States, had not committed to Ukraine's admission, the possibility was unacceptable to Russia (Masters, 2023).

Ukraine has consistently denied posing any threat to Russia, arguing that its demands for security guarantees from NATO are no different from Russia's (Shynkaruk, 2023). Ukraine seeks international recognition and support in securing its borders, which have been violated by Russia's annexation of Crimea and its support for separatists in the Donbas. In the face of Russia's full-scale aggression, Ukraine has mounted a determined defence (Fedorchak, 2024). Ukrainian President Volodymyr Zelensky, who has become a symbol of resistance, emphasised that Ukraine's goal is not to attack but to protect its sovereignty.

3.4. Actors and means employed in the Ukrainian invasion

The primary actors engaged in the invasion of Ukraine are the governments of Ukraine and Russia. However, viewing the war solely as an interstate conflict overlooks the role of separatist groups in the Donbas region, adding an intrastate dimension to the conflict. While the JWT tradition has evolved to account for warring actors beyond the state, its application to Ukraine requires addressing contested claims to territory and the representation of groups of diverse actors. These dynamics are evident in Ukraine's conflict, where various actors with conflicting claims are involved, some supported by third parties and possessing differing levels of capability and access to military means.

i. Russia

The Russian invasion is led by the Russian Armed Forces, with support from the military of the Donetsk People's Republic and Luhansk, Russian separatist forces in the Donbas. The invasion has garnered domestic support, stemming from a nationalist narrative deeply embedded within segments of Russian society (Ortmann, 2023). For many Russian nationalists, the invasion is seen as justifiable, rooted in the belief that Ukraine has never been truly independent (Dodds *et al.*, 2023). Dodds *et al.* (2023) write that Russian nationalists view Ukraine as historically part of 'Greater Russia' and dismiss its sovereignty since 1991 as merely a brief, quasi-independent period.

Jack Watling and Nick Reynolds note that, as of the beginning of 2023, the Russian military was a 'highly disorganised force in Ukraine', comprised of approximately 360,000 troops (2024, 1). However, following the Ukrainian offensive in June 2023, Russian troop numbers rose to 410,000 and the organisation improved (Watling and Reynolds, 2024). During the summer of that year, Russia introduced training regiments within the occupied Ukrainian territories and along the border. This reorganisation was partly in response to the mutiny involving the Wagner forces, a private mercenary group led by Putin ally Yevgeny Prigozhin (James and Sommerlad, 2023). Liam James and Joe Sommerlad (2023) report that the Wagner group played a role in the 2014 conflict that led to the annexation of Crimea and was involved in the 2022 invasion of Ukraine. However, Putin has since moved to standardise units, distancing himself from private armies (Watling and Reynolds, 2024). The Wagner forces were ordered to 'join the Ministry of Defence or go away' (Murphy, 2024a). UK intelligence highlights that the Wagner group's infantry has now been subsumed into the National Guard

(Murphy, 2024a). As of September 2024, Russia is estimated to have over 700,000 troops in Ukraine, with a substantial increase following Ukraine's counteroffensive.

Russia has used numerous means and strategies in its invasion of Ukraine. Its initial strategy involved a conventional invasion by the military on three fronts, along with airstrikes and missile attacks. Ukraine was initially attacked via Belarus, the Donbas region and Crimea (BBC, 2022b). Airstrikes and missiles have continued to target Ukrainian military bases, infrastructure and cities (Ochab, 2024). Russia is accused of indiscriminately shelling civilian areas and employing siege tactics in cities like Mariupol and Bakhmut, resulting in massive civilian casualties and widespread destruction (Amnesty, 2022; Ochab, 2024). Data verified by OHCHR outlines that 13,883 Ukrainian civilians have been killed since the beginning of the war, including 726 children, while 35,548 have been injured, 2234 of them children (Statista, 2025). There are also reports of forced deportations of Ukrainian civilians, including children, from occupied regions to Russia, along with 'crimes of torture, rape, and other sexual violence' (UN, 2023, 2).

Russia has also engaged in a naval blockade of the Black Sea and the port of Mariupol, impacting exports (particularly grain) before Ukraine established new routes (Berman et al., 2024). These combined military and economic tactics have disrupted civilian life and had a crippling impact on Ukraine's economic infrastructure. In addition to military and economic measures, Russia has engaged in psychological and humanitarian warfare. In June 2023, Russian forces destroyed part of the Kakhovka dam and hydroelectric power plant (Beaumont et al., 2023). The dam crosses the Dnipro River and the damage caused flooding in a large area of southeastern Ukraine, affecting territories controlled by both Ukraine and Russia (Beaumont et al., 2023). The BBC (2023) reported that approximately 40,000 people on either

side of the river were likely to be displaced, with dire implications for settlements, infrastructure, access to drinking water and agricultural capacity.

Russia has employed hybrid tactics, including cyberattacks and disinformation (Ionita, 2023). These attacks have targeted Ukrainian infrastructure, such as power grids and financial systems. Russia has also relied heavily on disinformation strategies. For example, Putin's official justification for intervention in Ukraine cited escalating conflicts in the separatist Donbas region, beginning on February 17, 2022, which he attributed to Kyiv's efforts to suppress separatist resistance (Ionita, 2023). Craisor-Constantin Ionita (2023) writes that these events, including cyberattacks and information warfare, were manipulated by Russia, amplifying and instigating energy, humanitarian and food crises. These diverse tactics reflect the extent of Russia's approach to achieving its goals in Ukraine, combining brute force with subtle forms of pressure and influence.

ii. Ukraine

Ukraine's defence against the Russian invasion has been led by the Ukrainian Armed Forces (UAF), supported by regional defence units, civilian volunteers and international fighters. A report by Democratic Initiatives (2023) found that 68% of Ukrainians had contributed physically or financially to the conflict since the full-scale invasion began. A recent article highlighted that most Ukrainians 'strongly opposed reducing Ukrainian military capabilities as a condition for ending the war' and supported the continued defence of Ukraine (Gonik and Ciaramella, 2024, 25).

Among Ukraine's forces, the participation of far right elements, particularly the Azov Regiment, has garnered international attention and controversy. The Azov Regiment, initially

formed as a volunteer militia in May 2014, has been accused of harbouring far right, ultra nationalist and neo-Nazi ideologies (Walker, 2014). Though Azov began as an independent force during the early stages of the conflict in Donbas, it was officially integrated into Ukraine's National Guard later that year (Karagiannis, 2016).

In addition to domestic volunteers, Ukraine has seen the rise of the Ukrainian International Legion (UIL), a group of foreign volunteers from various countries whom Ukraine called upon to join its fight against Russia (Zafra and McClure, 2023). The UIL has drawn volunteers from a wide range of countries, including the United States, Canada, Japan and European nations like the UK (Ditrichová and Bílková, 2022). Petra Ditrichová and Veronika Bílková (2022) write that following a decree issued in June 2016, non-Ukrainian citizens could join the forces of Ukraine, ensuring they are not listed as military contractors or mercenaries under international law. An influx of foreign fighters since the invasion has bolstered Ukraine's military capacity, but there are concerns about their limited skills and additional issues, such as language barriers (Byman, 2022). Nevertheless, the presence of international volunteers has had a symbolic impact, demonstrating broad global solidarity with Ukraine's cause and further internationalising the conflict (Greenwood, 2024).

By early 2023, Ukraine's military force were comprised of approximately 700,000 personnel, including regular soldiers, reservists and volunteers (Watling & Reynolds, 2024). Ukraine's ability to mobilise such a large and diverse defence force has been crucial in fighting off Russian advances. Following the successful defence of Kyiv and other key cities, Ukrainian forces launched major counteroffensives in June 2023, reclaiming territories in the east and south (Zafra and McClure, 2023). Despite initial setbacks, Ukraine's forces adapted quickly, using drones and advanced Western supplied weaponry, such as HIMARS missile systems

and anti-tank rockets (Kagan et al, 2024). These counterattacks targeted Russian supply lines and logistical hubs, disrupting Moscow's war effort. Ukraine's military efforts have not been without challenges. Zelensky stated in February 2024 that 31,000 soldiers were killed, though another estimate suggests as many as 80,000 Ukrainian troops may have died (Pancevski, 2024).

In addition to conventional warfare, Ukraine has had to contend with Russia's hybrid warfare tactics. Ukraine has bolstered its cyber defences and launched information campaigns to counter Russian propaganda (Kvartsiana, 2023). President Zelenskyy has played a key role in rallying both domestic and international support for Ukraine's defence, frequently addressing global audiences through the United Nations, the European Union and international media outlets. His leadership has not only maintained high morale within Ukraine but also secured critical military aid from NATO countries (Sánchez-Castillo, Galán-Cubillo and Drylie-Carey, 2023; Sherzer and Boumendil, 2024). Ukrainian officials have emphasised the need for ongoing support, particularly in the form of advanced weaponry, to sustain their efforts in reclaiming occupied territories and preventing further Russian advances (Philips, 2024).

However, Ukraine has also been found to have committed violations of humanitarian law during its defence. A report by Amnesty International (2022) found that Ukrainian military tactics put civilians in danger due to military bases being set up in residential areas and buildings such as hospitals and schools, and launching attacks from highly populated civilian areas.

iii. Actors in the Donbas

While reports on the Ukraine conflict often focus on state actors like Ukraine and Russia, non-state actors also play a role. Among them are the separatist groups in Donetsk and Luhansk, collectively known as the Donbas. Before Russia's full-scale invasion, President Putin officially recognised the independence of these self-declared republics and used their defence as a justification for military intervention.

The separatist forces in Donbas consist mainly of the Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR), both of which emerged following 'the Euromaidan protests in 2013-2014' (Risch, 2022, 7). William J. Risch writes that the Donbas region is where grassroots protests began, fuelled by local grievances over corruption (Risch, 2022). These groups were formed when pro-Russian factions in the region declared independence from Ukraine. Since then, the DPR and LPR have been heavily supported by Russia, receiving military equipment, financial resources and logistical aid (Gricius, 2019). Although primarily made up of local separatists, reports suggest the presence of Russian nationals, including military personnel, within their ranks (Peshkov, 2016; Vorobyov, 2022).

The separatists have established administrative control over parts of Donetsk and Luhansk, functioning as quasi-governments (Fischer, 2019). Sabine Fischer (2019) writes that these administrations have established governance structures, law enforcement, security forces and media, often under Moscow's influence and dependent on Russian support.

Since 2014, the DPR and LPR have employed a range of military strategies. The groups conducted ambushes, urban combat and skirmishes against Ukrainian forces throughout the Donbas region (Galeotti, 2019). Their tactics also included the use of landmines, artillery and sniper fire to maintain continuous pressure on Ukrainian forces (Hug, 2024). Since the

escalation of the conflict in 2022, the DPR and LPR have become even more entrenched, acting as key local allies in Russia's broader military campaign. The flow of Russian military supplies has been critical in supporting their operations (Hug, 2024).

With the invasion in 2022, the DPR and LPR ramped up recruitment efforts, sometimes forcibly conscripting local men (Zwanenburg, 2022). They also played a role in facilitating the arrival of Russian volunteers and mercenaries to strengthen their ranks. The separatist groups are intertwined in territorial battles, often collaborating with Russian military units. Their involvement has been especially pronounced in siege warfare, including key battles such as the siege of Mariupol, where separatist and Russian forces worked together to capture strategic positions (Bryjka, 2022).

iv. External actors

While international and external actors have avoided direct fighting, they have provided support to Ukraine, imposed 'unprecedented costs on Russia' and bolstered 'allied deterrence and defence' (NATO, 2024). NATO has also committed to strengthening Ukraine's defence and increasing aid. The support provided to date includes anti-tank missiles, artillery systems, drones, defensive equipment such as armour and helmets, training programmes by NATO members, financial aid, humanitarian assistance and medical equipment (Mills, 2025).

In a House of Commons research briefing, Claire Mills (2025) states that military equipment has been supplied by Belgium, Canada, the Czech Republic, Estonia, France, Germany, Greece, Latvia, Lithuania, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, the United Kingdom and the United States. Financial assistance has been provided by Albania, Bulgaria, Croatia, Denmark, Hungary, Iceland, North Macedonia, Norway, Poland,

Portugal, Romania, Slovakia, Slovenia, Spain, the United Kingdom and the United States (Mills, 2024). Most of these countries have already welcomed Ukrainian refugees.

3.5. Reporting on the invasion of Ukraine

The reporting on Russia's invasion of Ukraine dominated global media attention, especially in its early stages, but the intensity of this coverage has fluctuated over time. Maria Perrotta Berlin and Jonathan Lehne (2024) reported that at the start of the invasion in February 2022, Ukraine related topics trended on X (formerly Twitter) in 62 countries, demonstrating overwhelming global interest. However, this attention was short lived in social media, with a sharp decline just weeks later, as other global events (such as the Hamas-Israel conflict in late 2023) began to take precedence (Berlin and Lehne, 2024). However, outlets (such as the BBC, CNN, The New York Times, The Guardian, Al Jazeera, Reuters and the Associated Press) have consistently covered the invasion of Ukraine. Media outlets have frequently used maps and analysis to showcase troop movements, key battles and the shifting frontlines of the conflict (Zafra and McClure, 2023; BBC, 2025; Financial Times, 2025). The focus has often been on the resilience and tactical skill of Ukrainian forces in defending their homeland against a larger Russian military.

Much of the focus has been on the conflict as an interstate war, with Russia's invasion violating Ukraine's territorial integrity and political sovereignty. Russia has received condemnation from countries globally and international organisations such as the UN, EU and NATO. Countries supporting Russia, such as Iran, Belarus, North Korea and China have also faced condemnation (Mills, 2024). The stance has been clear that neither Russia's invasion nor support for it is acceptable and sanctions were swiftly introduced. News outlets have

extensively covered the sanctions imposed on Russia, diplomatic condemnations from organisations like the United Nations and the bolstering of NATO's eastern flank (*BBC*, 2022c; Berman et al., 2024; *Financial Times*, 2025). Western media have largely framed the conflict as a critical moment for the defence of democracy, while Russia's actions are widely condemned as acts of aggression (Grzegorzcyk, 2024; Mohamed, 2024; Bloomberg, 2024).

The focus on states in the conflict has overshadowed the role of non-state actors, such as the separatists in the Donbas and private military groups. Private military contractors, foreign fighters and volunteer groups are involved in significant capacities, yet their presence is underreported in comparison to state-led military actions. Mercenaries like the Wagner Group played a notable role on the Russian side during both the current invasion and the 2014 protests (James and Sommerlad, 2023). This omission shapes the narrative, presenting the war primarily as a confrontation between two state actors. Rather than sustaining the media's narrow interstate focus, JWT should be sufficiently developed to offer judgments on the intrastate dimension and the impact of third-party support.

As seen with the conflict in Yemen, at the forefront of reporting is the humanitarian crisis caused by the conflict. Many outlets have focused on the suffering of Ukrainian civilians, highlighting the human cost of the war through stories of displacement, destruction and death (Glantz, 2024; Kofman and Lee, 2024; *BBC*, 2025). Cities such as Mariupol, Kharkiv and Kyiv have become synonymous with devastation, as images of bombed buildings and mass evacuations dominate reporting. Reports from these areas often emphasise the tragic plight of refugees fleeing violence, as well as international efforts to provide aid to those affected (Reuters, 2022b; Holmes, 2024; Wordsworth, 2024).

Coverage of the conflict also focuses on war crimes and human rights violations. Investigations into alleged atrocities committed by Russian forces, such as the attacks on civilians in Bucha and the discovery of mass graves, have been widely reported (Al Jazeera, 2022b; Cotovio *et al.*, 2022; Pelley, 2022). Journalists such as Oksana Tsoli, Iryna Koval and photographer Felipe Dana have worked alongside international organisations to document these abuses, emphasising the need for accountability and justice for the victims. These reports have spurred outrage and calls for war crime tribunals, further intensifying the moral dimension of the portrayal of the conflict.

Rising inflation, food insecurity and economic instability are frequently tied to the ongoing conflict, with media reports highlighting a world economy under strain as a result of the invasion. The EU reported slower economic recovery following Covid-19, partly due to the Russian invasion. As part of the Autumn Forecast, the European Commission 'predicted 4.3% growth in gross domestic product (GDP) for the EU for 2022 and 2.5% for 2023, but growth finally registered at 3.5 % for 2022 and an estimated 0.5 % for 2023' (Papunen, 2024, 1). Russia's control over gas supplies to Europe has led to soaring energy prices, with many European nations facing the prospect of energy shortages (Sun *et al.*, 2024). Reporting emphasises the connection between the war and the energy crisis, highlighting how European countries have struggled to find alternatives to Russian gas (Reuters, 2022a; BBC, 2022a). Additionally, the war temporarily disrupted global food supplies (Al Jazeera, 2022a; BBC, 2022a). This is due to Ukraine being a major exporter and producer of 'key food supplies, notably wheat, maize and oilseeds', therefore, the 'global food supply chains faced major disruption as a result of Russia's war on Ukraine' (Papunen, 2024, 6).

Insights into the actions of actors and the consequences of the war are important. However, consequences can only be properly assessed when we understand the causes of actors and the permissible proportion of impact. Thus, the value of JWT extends beyond mere reporting. Its strength lies in its ability to judge the complex dimensions at play, dimensions that are often oversimplified or missing entirely from media coverage.

Both Ukraine and Russia are waging battles over narratives, with Russian state media framing the invasion as a 'special military operation' to protect Russian-speaking populations in Ukraine (Plokhyy, 2023; Belton, 2024; Perez and Nair, 2024). This narrative contrasts sharply with the reporting in the West, where the invasion is seen as an unjustified act of aggression. The role of disinformation has been particularly scrutinised, with media coverage often exploring how Russia has employed propaganda, cyberattacks and manipulation of information to influence domestic and international audiences (Gardener, 2023; Perez and Nair, 2024). Ukrainian officials and reporters have worked to counter these narratives and the struggle over truth has become a central component of the coverage (Overton, 2023). News reports highlight key development, consequences and turning points in the conflict. Yet, what is reported, and how, depends on who is reporting. JWT, as a tool for providing judgments on war and guidance for actors, should avoid one-sided theorising. Instead, it should address the questions of who may legitimately wage war, why, and how, by taking a comprehensive overview of the conflict.

3.6. Towards a JWT Analysis of Ukraine's War

The current conflict in Ukraine is tied to historical tensions, national identity and geopolitical interests. Territorial control has shifted as the war persists, with casualties continuing to rise.

The involvement of diverse actors, ranging from local militias to state actors, complicate the landscape, transforming the conflict from straightforward aggression into a multifaceted struggle with elements beyond state sovereignty and influence. Internal dimensions of secessionism exist alongside external influences and aid from other states.

Reporting on the invasion underscores the humanitarian crisis, with millions of Ukrainians facing displacement, loss of livelihoods and widespread destruction of infrastructure. Some coverage also touches on non-state actors such as the DPR and LPR and private military organisations such as Wagner, though these receive less consistent attention than state-led actions. Geopolitical reactions are extensively reported, particularly Western sanctions on Russia, NATO support and the framing of the conflict as a critical defence of democracy against Russian aggression. Despite the media's focus on state level engagements, non-state actors like the separatists in Donetsk and Luhansk have played a significant role in shaping the conflict. The DPR and LPR, heavily supported by Russia through military and logistical aid, have been key players in territorial battles. Given the makeup of the non-state actors involved, we face a contemporary issue in determining their status as legitimate participants with a justified cause.

To apply JWT to the war in Ukraine, the tradition must be equipped to clarify the status of both state and non-state actors, determining whether they hold legitimate authority to wage war and if their causes are justifiable. JWT must also engage with claims of self-determination by separatist regions such as Donetsk and Luhansk, evaluating the legitimacy of their aspirations in relation to the broader principles of territorial integrity and sovereignty. In doing so, JWT must consider the early clashes in the Donbas region prior to the full-scale invasion in 2022, examining the origins and escalation of the conflict. By addressing these

complexities, JWT can provide a framework to assess the moral standing of the various participants and the broader justifications for the actions taken during the conflict.

4. The Underdevelopment of Just War Theory

When applying JWT to evaluate contemporary conflicts, its ambiguities and challenges become apparent. These stem from areas that JWT struggles to address, both in determining the justice of war and evaluating its conduct. Some challenges are highlighted by the emergence of revisionist critique, which tackles issues such as the legalist and institutionalist legitimisation of war, causes for war and symmetry in the conduct of war (Lazar, 2017). However, while revisionist reforms of JWT offer valuable insights, they fall short of providing adequate tools to address the complexities of conflicts. This final section will outline the three main areas of concern in JWT, as revealed through examining the conflicts discussed above in Sections 2 and 3.

First, I argue that JWT's over reliance on the peace/war dichotomy fails to address when a war begins and ends. Given the historical background of these conflicts and the events leading up to full-scale warfare, it is unclear at what point war has officially begun and when it ends. JWT also faces a second issue in specifying the legitimacy of the actors waging war. If we rely on traditional notions of state actors, the rise of irregular actors and their access to means of warfare introduces a complex range of participants. Traditional JWT is insufficient because it does not adequately acknowledge this growing diversity, due to its emphasis on state actors. Revisionist accounts, however, are also incomplete in addressing how these actors define the role of the demos and their place in the right to wage war. This produces an underspecified exploration of war, as the demos influence the very understanding of 'whose war?', 'with

what resources?’ and the ultimate ‘just cause’ in their name. A final problem, evident from the cases examined, concerns under conceptualisation of the relationship between actors, the demos and territory. Different actors in the conflicts in Yemen and Ukraine claim rights over the same territory. Yet, the statist focus on territory within JWT does not adequately address the relationship between citizens and territory, or how this relationship might legitimise warfare. Contemporary conflicts demonstrate that this relationship is disputed and remains a key cause of war.

After outlining the limitations of JWT, I will conclude by explaining why these identified areas necessitate a re-examination of JWT and not its abandonment. I will argue that, despite its limitations, JWT’s central claim to restrain the frequency and destructiveness of war, rather than to justify it, remains relevant. Due to the nature of war, an ethical theory is necessary to ensure that, when war occurs, it does so under moral terms. JWT is grounded in a rich body of academic literature on war, adaptations within International Humanitarian Law and terminology employed by both actors waging war and citizens responding to it. Given its importance and familiarity, I see value in addressing its shortcomings. This approach is consistent with a tradition that has both the history and capacity to evolve and adapt to the changing nature of warfare.

4.1. When does war start and end?

When exploring the cases of Yemen and Ukraine, it is not clear that JWT can help mark the start of these conflicts. The full-scale use of force in both cases is connected to a history of clashes between groups, events of annexation (as seen in Crimea) and provocations such as troop movements along borders. These conflicts do not begin with formal declarations or clear

acts of aggression but evolve from low-level skirmishes, political tensions or historical grievances. In such situations, it is difficult to pinpoint when these conflicts cross the threshold into full-scale war. JWT does not help to identify the starting point, as it relies on principles such as declaration, legitimate authority or just cause, which are absent or interpreted differently in conflicts.

JWT is premised on a clear demarcation between war and peace (Peperkamp, 2016). The temporal question of when war begins and ends is fundamental, as it shapes how we define aggressors and victims, assign moral responsibility and justify the resort to force. It is also vital because, according to the combatant symmetry within *jus in bello*, and as established in international law and traditionalist views, it determines when soldiers are granted permission to fight and grants protection from persecution. Therefore, if JWT permits actions that are morally impermissible in peacetime, we must be able to identify when these permissions begin and end.

However, the character of war has changed, as seen in the literature that identifies the distinction between old and new wars (Münkler, 2005; Fabre, 2012; Kaldor, 2013). Many modern conflicts are not neatly bounded by formal declarations or clear acts of aggression but develop from low-level clashes and tensions. This is evident in both Ukraine and Yemen. The roots of the conflict in Ukraine stretch back to 2014, amid revolutionary sentiments, followed by the buildup of Russian troops along Ukraine's border in late 2021 (Ellison *et al.*, 2023). Similarly, the Yemeni Civil War, said to have begun in 2014, is tied to clashes following the 2011 Arab Uprising, alongside a history of conflicts between the Houthis and the central government (Robinson, 2023). It is not always straightforward to separate war from peace, as clashes existed before the dates commonly associated with the outbreak of full-scale conflict.

This is even more apparent in cases where the causes of conflict have developed over long periods and the consequences have become part of everyday life. It is unclear how JWT accounts for the impact of these periods and how blurred the peace paradigm can become before it transitions into the war paradigm.

JWT typically relies on principles such as legitimate authority and just cause to decide when a state or actor is morally justified in going to war. However, the ambiguity of these principles often complicates the process of determining the exact moment when war begins. Traditionalists emphasise the principle of legitimate authority, which holds that only states or state-like entities have the right to declare war (Coates, 1997; Walzer, 2015). Yet this criterion presents a dilemma: does war begin when the legitimate authority declares it, or does it begin when hostilities commence? If a state declares war but no shots are fired, is the state already 'at war'? Similarly, if hostilities occur without an official declaration, as is often the case in modern conflicts, when did the war truly begin?

The principle of just cause, another key component of *jus ad bellum*, further complicates determining the beginning of war. According to Walzer (2015), a war is just if waged in response to aggression. However, aggression itself can be difficult to pinpoint. For example, if a state lines up its soldiers along the border of a neighbouring country or issues verbal threats, is that an act of aggression justifying war? Or does aggression begin only when the first soldier crosses the border? This ambiguity reflects the broader issue of how JWT struggles to identify the precise moment at which a state's actions justify a defensive war. In this respect, Fabre's development of just cause adds another layer of complexity.

Fabre (2012) argues that just cause includes events beyond mere physical aggression and encompasses self-defence to secure basic human rights necessary for a minimally decent life.

This is based on the revisionist argument that war is 'morally continuous with all other domains and governed by precisely the same moral norms' (Parry, 2017a: 170). This extends the notion of self-defence beyond its traditional meaning. However, whether aggression is interpreted through a state-centred lens or an individualist perspective of self-defence, JWT remains dependent on the interpretation of aggression. This interpretation is inherently subjective, as what one state considers a defensive act may be seen by another as an unprovoked attack. The ambiguity surrounding just cause, therefore, presents challenges in determining when a war has begun.

JWT faces even greater challenges in addressing the end of war. Traditionally, JWT has linked the end of war to the achievement of the war's objectives, with the assumption that a just war concludes once the just cause has been satisfied (O'Driscoll, 2020a). However, modern conflicts often lack clear, winnable objectives and wars frequently continue long after their initial aims have been achieved or abandoned. One of the primary challenges of determining the end of war is the increasingly unwinnable nature of modern conflicts. As Darrel Mollendorf (2015) observes, many wars today are tied to objectives that are inherently difficult, if not impossible, to achieve. For example, wars on abstract concepts like terrorism or drugs lack clear endpoints, as the enemy is often elusive and not tied to a specific geographic location. Or wars in Syria and Yemen that are tied to establishing a just regime for citizens, yet what citizens want is often conflicting or difficult to discern (especially in times of war). This makes it difficult to define what victory would look like, let alone determine when the war should be considered over.

As conflicts evolve, their objectives often shift in response to changing political, social or military conditions. Theorists like Rodin (2015) and Fabre (2015) have sought to address these challenges by arguing that JWT must account for the evolving nature of war. Rodin (2015) suggests that the initial *jus ad bellum* principles, such as just cause, proportionality and last resort, cannot continually guide a conflict as it progresses. Over time, the circumstances of war change and the principles that justified its initiation may no longer apply. This calls for a re-evaluation of the moral grounds for continuing or ending the conflict. Fabre (2015) further develops this idea by contending that the ethics of war termination should be separated from the ethics of war initiation. In her view, a belligerent who begins a just war might have a moral duty to sue for peace before achieving its initial aims, while a belligerent who begins an unjust war might acquire justification for continuing the conflict as it evolves. This phase-based approach recognises that wars are not static events but dynamic processes requiring ongoing moral reassessment.

However, both Rodin's and Fabre's approaches face significant challenges in providing a clear framework for determining the end of war. While they emphasise the need for recalculating *jus ad bellum* principles as conflicts progress, it is unclear whether these recalculations signify the end of the original conflict or the beginning of a new phase of war. This raises the question of whether the end of war is truly a conclusion or simply a transition into a new, perhaps morally distinct, conflict. Rodin and Fabre also fail to provide insight into the empirical difficulty of determining the end of war.

Empirically, the end of war is often hard to determine. Even when hostilities officially cease, violence and instability frequently persist. The US withdrawal from Afghanistan in 2021 marked the 'end' of the war, yet violence continued, raising questions about whether it truly

ended (CFR, 2024). Similarly, the invasion of Ukraine followed years of clashes in the Donbas, where separatists have fought since 2014. Does the invasion mark the conflict's end or a new phase? In Yemen, the Houthis have clashed with the government since 2004. Does the 2014 coup signify a new war or continuation? Despite ceasefires and pauses, sporadic violence often persists, blurring the line between war and peace. These examples show the end of conflict is rarely a clear cessation but a gradual, often incomplete, reduction in hostilities.

4.2. Waging war for whom and by whom?

The conflicts in Yemen and Ukraine involve a range of actors. In Yemen, the actors consist of both state and non-state entities with varying causes and capabilities. The invasion of Ukraine is predominantly tied to state actors, yet separatist groups exist in the Donbas. These actors justify their involvement by claiming to secure territory and act for the benefit of 'the people' within (Lackner, 2019; Plokhly, 2023). The Houthis assert that they aim to provide representation and better conditions for 'the people' of Yemen, while the internationally recognised PLC and localised actors defend their land and people from the Houthi coup (Ardemagni, 2022). Ukraine asserts its defence of its territorial integrity from Russia's invasion, while separatists in the Donbas claim to be securing their territory for their people (Fischer, 2019). These assertions of territorial integrity are not new, nor is the fragility of borders surrounding a group of people. Yet, JWT does not offer a clear understanding of who holds legitimacy in such cases and over which people. The framework must address how and by whom war is authorised, how this authority is legitimised, and how this relates to the very people whose rights the war seeks to defend.

JWT faces significant challenges in both these cases, particularly in complex situations like Yemen, which lacks a strong, centralised state. Traditionalist accounts of JWT, such as those by Walzer (2015) and his followers, endorse nationalist and territorial components that demarcate the boundaries of territory and define the public as those residing within them (Benbaji, 2008; Statman, 2014). Walzer maintains that within this demarcated territory, 'the people' generate their conception of a common good, which the state is responsible for overseeing by protecting the rights and liberties of its citizens (2015). Violations of national sovereignty and territorial integrity are violations of citizens' rights and these justify war. As states oversee these rights, according to traditionalist accounts, armed conflict takes place between two states, the legitimate actors to wage war. The traditional emphasis on state sovereignty and the role of states in protecting a political community assumes that states naturally represent a unified common good (Walzer, 2015). But this assumption does not always hold, particularly in cases where states are fractured or possess diverse communities, undermining the assumed clear legitimacy of the state. This presents the following shortcomings within JWT when applied to contemporary conflicts:

Firstly, JWT is unable to fully grasp the complexities of state structures and political roles in contemporary conflicts. By emphasising a homogeneous understanding of the state, JWT overlooks the existence of multiple collectives with separate conceptions of good, localised power dynamics and various forms of exclusion that prompt internal groups to take up arms or seek secession. This simplistic view of the state as a cohesive entity often marginalises groups whose just causes are rooted in their unique political or social contexts. Internal groups may wage war in pursuit of justice, including potential secession, to address local communal needs that may conflict with the state's overarching goals or territorial boundaries.

Consequently, JWT's state-centric model of legitimacy overlooks the diversity of political and social actors advocating just causes for war.

Secondly, JWT's traditional emphasis on state actors does not adequately address the rising power and influence of non-state actors, which are central to the conflicts in Yemen and Ukraine. In Yemen, the Houthis have demonstrated significant military capabilities, rivalling that of the internationally recognised government. Similarly, in Ukraine, the separatists in the Donbas, backed by Russia, challenge the notion that nation-states have a monopoly on the right to wage war. These non-state actors blur the line between traditional warfare and other forms of conflict, as they are often as capable, if not more so, than state actors. Eric Smith (2020) argues that irregular groups, whether insurgents, militias or terrorist organisations, raise important questions about who holds legitimate authority to wage war. The increasing power of non-state actors like the Houthis or the Donbas separatists complicates the distinctions that JWT tries to maintain, challenging the idea that only nation-states can claim the right to wage war.

In both conflicts, it is unclear how well the state preserves the nation's common good, or whether non-state actors such as the Houthis in Yemen or the Donbas separatists in Ukraine have stronger claims to legitimacy over a particular collective or the nation. Traditionalists assume that the state derives its right to wage war from its duty to preserve the good of the political community. Yet, it is not always evident how well the state upholds this duty. This leaves us with the question of whether any actor that can demonstrate the preservation of the common good, or possesses the capability and political relationship with 'the people', is thereby justified in waging war.

Thirdly, traditionalist JWT focuses on the protection of people and their common good, yet it is ambiguous in defining what this constitutes. As addressed in the first two points, understanding the common good of 'the people' becomes difficult when various groups exist with contested legitimacy over particularised territory and needs. This pulls towards asking, who are 'the people'? It is often assumed they are the citizens of a whole nation or a particular collective within an internal demarcated space. Yet, it is not clear how they are defined or who they constitute. This is evident in the case of the Southern Transitional Council (STC) in Yemen, who present a separate attachment to the South of Yemen (Salisbury, 2018). It is also evident in the Donbas, with separatists arguing for distinct political institutions and domestic policies (Åtland, 2022). Yet, it is not clear whether the STC or 'the people' in the Donbas make up a separate people. Furthermore, even if we identify that various collectives do exist, JWT must still inform us of what the common good entails. Instead, traditionalist accounts avoid these considerations by relying on drawn borders and 'the people' within as a homogenous unit with a unifying conception of the good. However, the separatist demands of 'the people' in Donbas and the south of Yemen call into question what it means to be a collective and exercise a common good.

The role of individuals has become more prominent in contemporary conflict, with less emphasis on abstract sovereignty and more focus on citizens and their causes for war (McMahan, 2009; Fabre, 2012). This is reflected in the growing contemporary JWT literature. Traditionalists no longer dominate the field, as revisionist reformulations attempt to position individual rights at the core of war. Over the last two decades, revisionists have challenged the collectivist approach taken by Walzer, instead arguing for individual rights as the basis for waging war (Fabre, 2012; Steinhoff, 2020). They contend that acts of war are an extension

of the individual right of self-defence, not a defence of the political community as a whole (Lazar, 2017). Rather than define war as a conflict between communities, they see it as ‘a complex set of relations among individuals acting in coordination to protect their rights and the rights of others against a common threat’ (McMahan, 2007, 672). While acknowledging the role of political communities, revisionists deny that these communities have an intrinsic right to wage war. Fabre (2012), for instance, views the defence of communal goods as an accumulation of individual goods.

Yet in both Ukraine and Yemen, it is precisely the collective aspects of territorial integrity, justice and representation that people and actors voice when taking up arms. It remains unclear how, or if, revisionist arguments can fully address these collective goods or rights, which are inherently communal. To understand these concepts properly, a clear understanding of what constitutes a community and its common good is necessary. We must also have a better understanding of the value of the communities and their common good if this is to be upheld as a just cause for waging war. When answers to such are provided, we can turn to properly account for the legitimacy of an actor and the justice they seek to establish for a people.

4.3. Territorial integrity of what territory?

The defence of territorial integrity and political sovereignty remains a central just cause for resorting to war. Most approaches begin with the idea of ‘states as units with legitimate territorial dimensions,’ yet they overlook the critical question of how the right to a specific territory is established or acquired (Simmons, 2001, 302). This is evident across different camps within JWT, which identify a justified defence against territorial aggression but neglect

the intrinsic value, definition or justification of the territory (McMahan, 2014; Walzer, 2015; Benbaji and Statman, 2019). Given that territorial aggression is often the core justification for defensive force, it is concerning that JWT is incomplete when outlining how territory is established and why it holds such intrinsic value that force may be used in its defence. This justification is particularly relevant to the conflicts in Ukraine and Yemen, where actors argue they have taken up arms in defence of territorial integrity.

Ukraine asserts that its military actions are in defence of its territorial integrity. Ukraine views Russian military actions in the Donbas and the annexation of Crimea in 2014 as illegal violations of its sovereignty, employing force to defend its territory and reclaim control within its borders (Masters, 2023). However, Russia claims to be waging war in defence of the rights of Russian speaking populations in eastern Ukraine, asserting that it is defending the territorial integrity of these populations and, in effect, a newly expanded Russia that includes Crimea (Kirby, 2022). In Yemen, the Houthis and the government do not explicitly present territorial claims for taking up arms. For them, the war is a fight over capturing the state and reinforcing a government that oversees 'the people' of Yemen. In such claims, they implicitly imply that their cause concerns 'the people' within Yemen's internationally recognised borders. By contrast, the STC directly claims to be fighting for the secession of the South, calling for a return to the pre-1990 borders that divided them from the North (Salisbury, 2018).

These territorial claims in Yemen and Ukraine highlight several ambiguities within JWT. Firstly, most accounts of JWT identify territorial integrity as a core justification for waging war, but fail to explain why the defence of territory is tied to the state and how this relates to the conflicting claims of some citizens and actors within that territory. Thus, the concept of territorial integrity over a particular space is undertheorised. Traditionalist and contractarian

accounts argue that a state is a legitimate actor over a demarcated territory (Walzer, 2015; Benbaji and Statman, 2019). For Walzer, the state is seen as better placed to protect people from external threats and secure the common life shaped within the particular territory. Contractarians like Benbaji and Statman (2019) uphold that the contracts of the UN Charter and the Laws of Armed Conflicts bind decent states. These states waive the right to use force to achieve particular aims and can only resort to force if aggressed, to defend their territorial integrity. Whilst these accounts highlight the role of the state according to recognised borders, they do not explain how the state or people are tied to that specific territory, nor do they clarify how this relationship warrants the defence of territorial integrity as the core *casus belli*. This is particularly problematic in cases like Yemen and Ukraine, where groups within the state claim particular territories and call for secession. JWT fails to address how, or if, the state's right to territory is undermined when groups argue that they are being violated or simply wish to secede. Without a better understanding of what territory constitutes and how a particular space is tied to a state and 'the people' within it, we cannot fully comprehend the basis of territorial integrity.

In addition to JWT's under conceptualisation of what territorial integrity covers, it also fails to justify the value of territory. Given that territorial integrity is a key cause in the conflicts in Yemen and Ukraine, JWT must provide reasoning as to why the claim of defence is warranted. This justification is necessary as revisionist literature has highlighted that mere territory acquisition or national self-interest no longer adequately justifies war (Lazar, 2014; McMahan, 2014a). Instead, the focus on individual self-defence and human rights is presented as a just cause, whereas acts of territorial violations or controlling resources are deemed lesser aggression. This lesser aggression is tied to instances where the aggressor is

motivated by means that do not necessarily require killing (McMahan, 2014a). For example, Russia or the Houthis' aim may be to capture territory rather than to inflict direct harm on individuals. We may assume such acts can be considered lesser aggression. This raises the question of whether using force to defend territorial integrity is viewed as less justified than using force in response to a greater aggression that is aimed at creating conditions that impose a more direct threat to the lives and rights of individuals (Lazar, 2014; McMahan, 2014).

In response, McMahan (2014) argues responses to lesser aggression must be calculated according to necessity and proportionality to determine the justified use of force. Such an argument challenges the unqualified right of self-defence based on territorial integrity and instead shifts the focus to the value of human life and its defence. However, it remains unclear how territorial integrity relates to individual rights and goods. We see citizens in support of the conflicts in Yemen and Ukraine defend the use of force to secure their territorial integrity. This raises questions about how territory relates to their self-defence. Again, an ambiguity is evident, which stems from an underdeveloped understanding of the relationship between people and territory. Only when this is clarified can we begin to understand the value of territorial integrity as a central just cause for waging war.

Finally, JWT does not sufficiently address conflicting territorial claims. Traditionalists, who argue for the state's right to defend its territory from aggression or invasion, do not offer enough insight into contested or ambiguous borders. By favouring internationally recognised borders, they overlook the claims of secessionists who dispute those borders. Walzer (2015) and Brian Orend (2006) have made some adaptations for secessionists who exercise state-like authority and are under attack by the state. Yet without both of these conditions, secessionists

cannot legitimately wage war. Moreover, it is unclear how secessionists who meet these conditions can secede when some people within the same territory identify with the central state. This is evident in the Donbas and the South of Yemen, where some people align with separatists while others support the state. Unsurprisingly, JWT fails to provide insight into these contested cases, as it lacks an initial understanding of the relationship between how people are attached to territory, the value territory holds for them and the state's role over a particular demarcated territory.

5. Conclusion: In Defence of Just War Theory

The challenges outlined in the previous sections indicate that JWT faces difficulties in addressing modern conflicts such as those in Yemen and Ukraine. Specifically, the theory suffers from a *temporal deficit*, failing to clearly define when a war begins or ends. This ambiguity is especially problematic given that JWT is intended to guide both the justification for waging war and the conduct of war. For JWT to effectively apply its ethical constraints, it must first establish when we are in a state of war. Yet the theory struggles to address this in an era where conflicts often evolve gradually, blurring the boundaries between peace and war.

In addition to this temporal problem, JWT also faces challenges in determining the legitimacy of actors waging war. The traditional statist approach assumes a clear relationship between the state and its citizens, but this becomes complicated in contemporary conflicts where multiple groups with distinct goals and identities may have competing claims. While revisionist theories have attempted to move away from state-based legitimacy, they raise new

questions about how wars fought for collective values (such as national identity or territorial integrity) should be understood.

Finally, the concept of territorial integrity as a just cause remains undertheorised. It is not sufficiently clear how territory is connected to people or how this connection relates to the legitimacy of the state. Relying on state drawn borders is inadequate, as it does not resolve disputes over territory when groups have conflicting claims or wish to secede. There is a need to explore what such groups owe to the state, how this undermines the state's territorial claims and how it reinforces the notion of territorial integrity.

Having set out these limitations, it is apparent that JWT faces difficulty in speaking to these two contemporary conflicts. Yet rather than abandoning the tradition, I am inclined to argue that its shortcomings highlight its need to evolve and accommodate changing warfare. I base this argument on the following three defences.

Firstly, the central aim of JWT is not only to justify war, but to restrain its frequency and limit its destructiveness. In a world where the human and environmental costs of war are staggering, having a moral framework that encourages war to be led by principles is crucial. JWT's focus on just cause, proportionality and the protection of civilians ensures that war is not entered into lightly. It emphasises the need to minimise harm, prevent unnecessary violence and only resort to war if necessary. These principles still provide moral significance even with the shortcomings outlined. JWT as an ethical framework remains important in ensuring that war, when it occurs, is conducted under moral terms and aims to minimise its harmful consequences. While modern conflicts like those in Yemen and Ukraine expose weaknesses in JWT's current formulations, abandoning the theory overlooks its continued

role in our practical examination of war as seen in its employment in international law and the way we, as citizens, speak about war. Its embeddedness already indicates that some of us, in some sense, have committed to JWT as we share the underlying belief that war should be constrained. Rather than assuming we must discard the framework, we should seek to reform and adapt it to contemporary realities, recognising that the cost of war necessitates ethical consideration.

Secondly, JWT is embedded in the language employed when speaking about war and the practices of international law. Concepts such as proportionality, legitimate authority and noncombatant immunity are not just abstract ideals found in academic discussions about war. The concepts are principles enshrined in International Humanitarian Law and the Geneva Conventions. These legal frameworks have been shaped by JWT and they continue to guide the behaviour of states and international actors in times of war. JWT also provides a common language for discussing the ethics of war, both within academic discourse and in public debates. Policymakers, military leaders, international organisations and citizens invoke the terminology of JWT when justifying military actions or assessing the moral legitimacy of employing force. A clear example of this is during the war in Iraq. Politicians such as Tony Blair and George Bush invoked the principles of just cause right intention and last resort to justify the need to wage war in Iraq. Yet, millions of citizens took to the streets in cities all over the US and 1.5 million people in London (Thakur and Sidhu, 2007). They questioned the authenticity of the just cause and the wrongness of the intention. Citizens exclaim, 'Not in our name', questioning the very legitimacy of the leaders and their relationship to the nation (Williams, 2013). JWT's entrenchment in legality and public use helps present the case for reforming JWT rather than abandoning it. By addressing its current shortcomings, we can aim

for JWT to remain a practical and morally sound tool for guiding decisions about war and peace.

Lastly, if we treat JWT as a checklist tool in which its principles merely apply to waging and analysing war, we undermine the scope of its relevance. A checklist approach fails to speak to cases such as the Yemen and Ukraine conflicts that entail features that fall short or are outside of the principles of the theory. Patterson (2009) writes that adaptations of the theory today happen to employ a checklist style, however, the origins of JWT were not so canonical. He writes:

Augustine, Aquinas, Victoria, and other theorists applied their normative concerns to real-world exigencies, and when novel situations developed they expanded or relaxed the 'theory' as necessary (Patterson, 2009, 10).

Returning to this standard, which incorporates real-world events, helps highlight the flexibility and evolving heuristic nature of JWT. It need not be a checklist exercise of principles or a set theory ready to apply. The evolving literature is a testament to this. The theory's strength lies in its capacity for adaptation and has evolved in response to new ethical challenges. This is exemplified by the work of revisionists who have critiqued and built upon traditional JWT. Led by McMahan, revisionists have provided credible reasons to deny statist readings of war and have placed human rights at the forefront of waging war. In doing so, they have led a fierce stance in actually becoming the dominant camp of JWT. This is further evidenced by the growing literature on humanitarian intervention, where the work of scholars such as Fabre (2012) has developed arguments on waging war that better address

contemporary moral dilemmas. Such adaptations exemplify JWT as a tool that can evolve to guide reflections on changing conflict and incorporate normative considerations.

The ongoing developments of JWT support the notion that it is not a singular and outdated framework but a tradition capable of incorporating change and responding to the complexities of modern warfare. The next three chapters in this thesis will explore how contemporary JWT can be supplemented through an engagement with broader political thought and IR, to account for the areas of concern identified surrounding time, people and space.

Chapter 2: Time

JWT rests on the belief that war is distinct from other forms of conflict (Walzer, 2015; Benbaji and Statman, 2019). War takes us from the peace paradigm into the paradigm of war. Entering the war paradigm establishes permissions distinct from those of peacetime, licensing a greater degree of violence. These permissions rest on knowing what a war is and when it starts. However, as argued in the previous chapter, JWT fails to provide sufficient temporal insight into when a war begins and ends. I argue that the reliance on the dichotomy between peace and war is problematic, as the distinction is not always clear-cut. This is especially true for borderline cases, where some characteristics are deemed too peaceful to constitute war and others too violent to qualify as peace.

To understand the beginning and end of war, we must pay attention to the period of *vim*, a middle ground on the continuum between peace and war. By doing so, I critique JWT for failing to account for cases of war with ambiguous temporal boundaries. JWT theorists often postulate, without much thought, a simplistic war/peace binary that overlooks the complexity of transitional or borderline cases. In putting forward *vim*, I argue that war is part of a continuum of political violence, with the transition from peace to war often gradual. *Vim* represents the ambiguous space between peace and war, demanding ethical consideration to properly understand whether war has begun or ended. Accounting for *vim* highlights the way in which the intention, scale, intensity and unpredictability of violence define the start and end of war. I argue that war begins when there is a shift in scale, intensity and unpredictability of violence, driven by the intentions of those engaged in it. These characteristics are not separate from intent but emerge as its extension, a deliberate attempt

to achieve a goal that requires more than acts of vim. War ends when these defining characteristics subside and the intent narrows, transitioning violence back into vim.

The first section of this chapter discusses what I term the *temporal deficit* in JWT, a struggle to define the initiation and cessation of war. The declaration of war and its causes fail to pinpoint a precise moment that triggers the use of force. Similarly, the end of war is unclear, as remnants of violence and the aftereffects of conflict persist beyond the cessation of active battle. I outline how this shortcoming arises from the difficulty in distinguishing between the paradigms of peace and war, a distinction that JWT tends to assume rather than adequately define in temporal terms.

Next, I critique existing conceptualisations of peace and war: the quantifiable thresholds presented by the Correlates of War (COW) and Uppsala Conflict Data Program (UCDP), the Hobbesian view of war and Galtung's (1964) concept of positive peace. I argue that the COW and UCDP's attempt to set up a relatively uncontroversial measure of war fails as they do not provide a basis for understanding what peace and war entail, neglecting the impact of low-level violence and non-violent disruptions. The exploration of alternative philosophical work also proves limited. While Thomas Hobbes' work highlights the importance of non-violent impacts on peace, his emphasis on peace being tied to the obedience of subjects under a common power also succumbs to an incomplete peace/war dichotomy. I finally explore Galtung's model of positive peace, arguing it offers a more compelling alternative but leaves many questions unanswered, particularly in distinguishing between indirect violence, force short of war and total war.

The third section responds to these unanswered questions by turning to IR. I agree with Lupton and Morkevičius's (2019) challenge to the clear dichotomy between war and peace. I highlight the transition from peace to war is gradual, and within this transition, *vim* encapsulates the ambiguous space between war and peace. I then employ the argument of Brunstetter and Braun (2013), asserting the period of *vim* should be tied to the ethical consideration of *jus ad vim*, which provides a more appropriate ethical framework for the differences between force short of war and war. I argue the intention, scale, intensity and predictability of force within *vim* sets it apart from war. Recognising that not all violence constitutes war or escalates to it, *jus ad vim* emphasises that war exists as a specific and extreme state on a continuum of conflict. Just war theorists and those declaring war must consider where the particular case of violence lies on the continuum before granting or exercising warring rights.

1. The Temporal Deficit

For JWT to fulfil its evaluative and guiding purposes in morally scrutinising war, it relies on a clear understanding of when a war begins, is ongoing and ends. These temporal markers are crucial as they frame the application of JWT principles, determining the legitimacy of resorting to war (*jus ad bellum*), the ethical conduct within war (*jus in bello*), and the justice of post-war resolutions (*jus post bellum*). Thus, it is reasonable to expect JWT to engage explicitly with the temporal boundaries of war, as identifying its beginning establishes the aggressor, victims and the causes of the conflict. This clarity is essential as it underpins moral calculations concerning proportionality and necessity, cornerstones of JWT's justification for war.

JWT's *jus in bello* requirements grant warring parties unique rights and permissions, such as combatant immunity and the targeting of liable actors, actions that would typically be deemed criminal or immoral outside the war paradigm (Walzer, 2015). These permissions are fundamentally tied to the state of war, emphasising the importance of knowing when a war begins and ends. The transition from a peace paradigm to a war paradigm carries significant ethical and practical consequences, as it legitimises actions that result in collateral damage and human suffering on a scale otherwise impermissible. Given the gravity of these permissions and their consequences, this first section argues that JWT's insufficient attention to the temporal boundaries of war is concerning.

1.1. Entering wartime

Explicit reference to defining the onset of wartime is notably absent across the various developments of JWT. Most accounts focus on revised lists of *jus ad bellum* and *jus in bello* principles, reformulating the reasons for waging war and establishing guidelines for its conduct. Implicit in these principles is the notion that actors engage in a procedural judgment to evaluate the justification for employing force, followed by the decision to go to war, which marks the beginning of wartime. This section will argue that such a calculation is neither as clear-cut as it appears nor sufficient to determine when war begins.

Traditionalist accounts of JWT focus on the principle of legitimate authority in determining the resort to war. They typically hold that states, as legitimate actors, must authorise war (Lazar, 2017). This raises a few concerns for understanding the beginning of war. First, if we accept that the principle of legitimate authority is a necessary criterion for waging war, ambiguity arises regarding when a war begins. Does it commence when the authority grants

authorisation or only upon a formal declaration of war? Second, uncertainty surrounds whether war begins at the point of authorisation or if it has already commenced due to a preceding act of aggression or credible threat that prompts the decision to respond.

On the first point, the role of legitimate authority in marking the beginning of a war remains unclear. Pattison (2008) writes that the moral significance of the principle of legitimate authority lies in its capacity to regulate war. He writes that the legitimate authority initiates, oversees and concludes the process, facilitating 'control over the use of force' (Pattison, 2008, 150). Contemporary traditionalists share this sentiment and argue that war can only be authorised by a legitimate authority (Coates, 1997; Orend, 2006). However, it is ambiguous whether they imply a war being authorised justly is the same as a war beginning. It is not unreasonable to suggest that an authority can authorise a war, yet it does not always follow that war commences straight after this, or at all. Take for example, the Swedish declaration of war against the British in 1810 under French pressure; it was not followed up with any use of force (Lucas, 1990). Similarly, Costa Rica's declaration of war on the Axis powers during World War II did not result in military involvement (Mora and Hey, 2003). In such instances, political leaders authorised war, invoking the conditions of *jus ad bellum*, yet these declarations did not mark the beginning of war.

Other accounts exploring the principle of legitimate authority tie it to the declaration of war (Orend, 2006). Orend writes that 'war must be declared publicly by a proper authority' (2006, 50). This declaration serves to inform the enemy that they face war and its hazards, providing them with a final chance to 'cease aggression and begin a process of atonement' (Orend, 2006, 50). Historically, the declaration of war is presented as a requirement for waging war in the work of Cicero, Grotius, Ambrose and Augustine. These accounts identify that, alongside

substantive justification for waging war, war should commence with a public declaration. An early reference to this principle is noted in the work of Cicero, where he states: 'No war is considered just unless it has been declared, unless it has been announced, unless reparation has been demanded' (cited in Atkins, 2023, 174). This echoes the Roman fetial law, where priests presented grievances to an offending state, demanding reparation and allowing time for a response. If the issue remained unresolved, they reported back to Rome, and the senate decided on war, followed by a formal declaration of war (Russell, 1975).

Later interpretations of the requirement shifted focus from the procedural aspects of law to the acts of declaration itself. Hugo Grotius argued that war between two nations is deemed a 'perfect' war if declared and 'imperfect' if undeclared (Boisen, 2020). Only public wars, he contended, carry the legal implications deriving from the voluntary law of nations. A declaration of war is necessary to secure the benefits and regulations of a state of war. Nonetheless, these accounts leave room for exceptions, suggesting that war might legitimately begin without a formal declaration under defensible procedures that warrant 'rapid-fire responses' that are followed up by executive actions (Orend, 2006, 50). Grotius also identified punitive and defensive wars amongst parties as circumstances that do not necessarily require a formal declaration.

This leads to the argument that legitimate authorities have the role of declaring war, which may provide insight into when force may commence. However, it also raises theoretical and practical difficulties in defining when a war begins. As outlined above, declaring war does not always immediately lead to combat, just as it is evident that many wars commence without a formal declaration. For example, consider the Falkland War between Argentina and the United Kingdom. Although undeclared, it was overseen by legitimate state authorities.

The war lasted ten weeks and resulted in just under 1000 casualties. Despite its lack of formal declaration, the Falkland War satisfied a political aim related to territorial independence, had large-scale impacts and involved militia movements on both sides. This raises a critical question: when did the Falkland War begin? Was it when Argentina invaded the island, when the UK dispatched a naval force in response, or when the subsequent combat occurred? Or did it begin even earlier, a month before the invasion in April 1982, when Argentinian Marines raised the Argentine flag on the Island? These ambiguities highlight the inadequacy of relying solely on a declaration of war to mark its commencement. Even if a legitimate authority had declared the war at any of these points, it remains unclear what practical purpose this declaration would serve in definitively marking the war's beginning. This complexity outlines the challenges of pinpointing the start of a war, challenging the straightforward narratives often implied by the principles of legitimate authority and declaration of war.

On the second point, it is worth discussing the role of the often cited 'events' that mark the beginning of a war and how this relates to the JWT's emphasis on threats and aggression. While contemporary accounts rarely focus solely on the public declaration of war, they do often centre around the just cause of waging war. The just cause to wage a war is usually attached to a response to an event or series of events that legitimise taking up arms. JWT stresses war is permitted when a just cause is present, but it is not clear if the war begins once the just cause is embarked on or whether an event or even a threshold of events creates wartime. According to Walzer (2015), the primary justification for war is self-defence against aggression, which undermines a nation's political sovereignty and territorial integrity. Here, war is a response aimed at restoring peace and order. Revisionists, such as Fabre (2012), also identify self-defence as a just cause of war but diverge from Walzer by offering an

individualised justification that is not tied to the rights of a nation or state. Revisionists argue war is 'morally continuous with all other domains and governed by precisely the same moral norms' (Parry, 2017a: 170). This shifts the focus from state sovereignty to the defence of individual rights.

Both interpretations of just cause have implications for understanding when a war begins. At first glance, Walzer's emphasis on aggression may appear to provide a clearer benchmark for determining when war can be waged. Nonetheless, this is not entirely true. Given the ambiguity in interpreting an event as a threat or aggression, there is still a process of rendering an act a just cause. It may seem clear that a state invading another state is a form of aggression according to Walzer, yet pinpointing when that aggression begins is far from simple. Does it occur the moment the first soldier steps into enemy soil, when sufficient troops have amassed to constitute an occupation, when troops are stationed at the border or when verbal threats are issued? Similarly, Fabre's (2012) interpretation of just cause raises comparable questions. Whether aggression is assessed from the perspective of the state or through an individualist lens of self-defence, the need to interpret the scale and immediacy of the threat remains. While revisionist approaches appear to offer a broader array of just causes by emphasising the continuity claim, the right to self-defence still hinges on interpreting events, or a series of events, as sufficient to justify the use of force. Whether just cause is interpreted in a wider or narrower sense, both camps still grapple with the ambiguity of determining the specific event or threshold of aggression that constitutes the just cause that prompts the beginning of a war.

The ambiguity in interpreting the precise just cause of war is evident when exploring World War II (WWII). This has been explored by the historians A. J. P. Taylor (1961, 1996), Mary Dudziak (2012) and Richard Overly (2021). Taylor's (1961, 1996) *Origins of the Second World*

War argues against the conventional narrative that WWII began following Germany's invasion of Poland on 1st September 1939. He argues that the war's origins can be traced back to the earlier events comprising a combination of tensions and failures of diplomatic efforts. These include the fear of the Soviet's Red Army, which caused European powers to engage in a rearmament race in 1936, the remilitarisation of the Rhineland in 1936, the Spanish Civil War and the annexation of Austria and Czechoslovakia in 1938 (Taylor, 1996). The combination of events contributed to the onset of the broader conflict. Taylor argues it was part of a series of missteps and miscalculations by European powers that created uncertainty and anarchy.

Overy (2021) also argues that the noted start date of the war is ambiguous. In contrast to Taylor, he notes that the causes of the war were triggered by a broader global context of conflicts. Overy writes the war had its origins in the decline of the empires of France and Britain that undermined the balance of power. This included the rise of other powers, such as Italy, Japan, the United States and Germany, alongside Europe's growing industrialisation. This prompted global conflicts such as the Japanese invasion of Manchuria in 1931, the Italian invasion of Ethiopia in 1935 and the Spanish Civil War (Overy, 2021). Overy argues these events created an international environment ripe for global conflict. Fuelled by a background of clashes between major powers in Africa and Asia and wider global conflict, a single starting date of WWII is difficult to determine.

The controversy over the start of WWII indicates the difficulty in identifying the event that provides a just cause to wage war and marks the beginning of the war. This is particularly challenging due to the different forms of aggression and threats identified as the event triggering the war or merely as one item in a series of events that created the conditions in which there was a just cause for some states to declare war and engage in active hostilities.

These events blur the peace and war paradigms. Dudziak (2012) identifies this difficulty in separating what we call 'wartime' and 'peacetime', challenging conventional markers of the beginning of war. She suggests that events like the invasion of Poland in 1939, which are often seen as a clear starting point for WWII, were part of a continuum of conflicts and tensions rooted in the lingering impacts of the First World War. Dudziak argues that, particularly in the case of the United States, there have been no dividing lines between peace and war, resulting in what she describes as a 'permanent' state of conflict since the end of WWII. Dudziak (2012) argues that the blurring is a result of the fusion of the domestic and international, in which the US attached itself to the cause of world freedom and security. This has resulted in wars far away becoming the frontline of American defence. The involvement often begins without a clear declaration or a noted endpoint. This ongoing state of war calls into question what is meant by the peace paradigm, especially as Dudziak argues it has normalised military action as ordinary and inevitable for domestic security. For Dudziak, war is perpetual. Her perspective introduces another challenge to understanding the temporal dimensions of war and the conditions under which warring principles and permissions apply. If war is ever present, what does this mean for the rights and permissions of war?

1.2. Marking the end of war

The problems present when determining the beginning of war are just as pronounced when determining war's endings. JWT attaches the end of war to the achievement of the war's stated objectives (Walzer, 2015). This framing ties the cessation of hostilities directly to the success or failure of the war's purpose, making the endpoint dependent on whether the intended outcomes have been realised. This framing is complicated as wars rarely end with a victory or provide winnable objectives (O'Driscoll, 2020a). The clashes that persist, the troops that

remain stationed and the lingering aftereffects raise questions about whether and when a war ends. Theorists such as David Rodin (2015) and Fabre (2015) have attempted to address the lingering elements and changing objectives of war by accounting for 'phases' or recalculations of ad bellum principles. However, their contributions provide normative guidance on when war should end, without paying attention to the practical realities when identifying an actual endpoint.

Some accounts of JWT, including Walzer's (2015), traditionally link the end of a war to its victory or the achievement of its objectives (Bellamy, 2022). O'Driscoll writes that 'victory is integral to how we understand war' and traces this concept back to the work of Aristotle and Cicero, who 'called it the telos of military science' (2020b, 4). O'Driscoll states that victory appears to represent a decisive and conclusive state tied to 'the termination of hostilities... the end of 'wartime', and the resumption of peacetime' (2020b, 5). But it is not clear what this means in practical terms, and JWT does little to clarify this. For instance, Walzer critiques the conventional military view that war must be fought to the point of destruction or the complete overthrow of the enemy, arguing instead for a more prudent and realistic victory. He suggests that the legitimate end of a just war should be tied to achieving 'a better state of peace' rather than total annihilation. Walzer writes:

On the conventional military view, the only true aim in war is 'the destruction of the enemy's main forces on the battlefield'... But many wars end without any such dramatic ending, and many war aims can be achieved well short of destruction and overthrow (2015, 110).

He challenges the idea that war should continue until the enemy is defeated. Instead, Walzer proposes that wars should be limited by principles of prudence and realism. In this view, a just war does not seek the destruction of the enemy but aims to establish a 'better state of peace', a peace that is more secure than the status quo ante bellum, less vulnerable to future aggression and safer for ordinary people and their self-determination (Walzer, 2015, 110).

Yet it is not clear how Walzer's argument addresses when a war has ended. Victory or prudent cessation may be declared, but the lingering effects of war (such as casualties, the stationing of troops and ongoing instability) complicate the notion of a definitive end. For example in WWII, victory in Europe was marked on the 8th May 1945, after Nazi Germany's unconditional surrender. However, pockets of resistance continued for a short period afterwards (Grandi, 2013). Some German units resisted for weeks after surrender (Kershaw, 2012), and Japanese guerrilla warfare persisted, with some holdouts surrendering as late as 1974 (Rees, 2007). Actors may announce victory or prudently surrender, reducing the bulk of the fighting, yet a complete cessation of direct violence often remains elusive.

Rodin (2015) and Fabre (2015) move away from attaching victory to the end of war and argue for a separate ethical framework for terminating war, given the unique challenges that arise as wars progress. Rodin (2015) proposes the concept of *jus terminatio*, which Darrel Mollendorf (2008) calls *jus ex bello*, as the moral considerations relevant to ending a war. He posits that *jus terminatio* bears the same relationship to *jus post bellum* (justice after war) that *jus ad bellum* bears to *jus in bello* (justice in war). *Jus ad bellum* governs the transition from peace to war, while *jus in bello* governs conduct during the war. Similarly, *jus terminatio* would govern the transition from war back to peace, with *jus post bellum* addressing the moral principles governing the subsequent post-war state. Rodin (2015) highlights the distinct moral

challenges of ending a war, arguing that the circumstances of a conflict evolve, and thus the initial *jus ad bellum* calculations cannot continually guide the conflict. He suggests that the changing circumstances of war can affect how *jus ad bellum* principles are interpreted. These temporal changes often result in situations where the initial *jus ad bellum* principles no longer apply, necessitating *jus terminatio*; a re-evaluation of the moral grounds for continuing or ending the conflict.

Fabre (2015) closely follows Rodin's approach and argues that war termination should be severed from the ethics of war initiation. She writes that the justifications for starting a war may not align with the justifications for ending or continuing it. For instance, a just war might need to be ended before its objectives are achieved, while an unjust war could, under changed circumstances, become just and require continued engagement. Fabre contends that the particular principles of just causes and reasonable chances of success, which justify the initiation of a war, must be reassessed independently when determining whether to end it. Thus, these principles should not be bound to the initial conditions but should reflect the evolving context of the conflict. Fabre writes:

We must sever the ethics of war termination from the ethics of war initiation: a belligerent who embarks on a just war at time t_1 might be under a duty to sue for peace at t_2 before it has achieved its just war aims; conversely, a belligerent who embarks on an unjust war at t_1 might acquire a justification for continuing at t_2 (2015, 631).

It seems the initial *jus ad bellum* principles do not hold a definitive role in outlining what victory or the end of war looks like. Adopting a forward-looking interpretation of *jus ad*

bellum, akin to Rodin's *jus terminatio* account, Fabre argues for ending war to be paired with assessing the cost, impacts and success of new claims to war or continuing war.

Rodin and Fabre do well in outlining the rigid use of initial calculation of *jus ad bellum* and highlight their limitations within the different phases or changes of war. Yet, they face two main shortcomings in determining the end of war. Firstly, it is not clear how a 'jus terminatio' or an 'ethics of war termination' is distinct from *jus ad bellum*. It appears both theorists invoke *jus ad bellum* principles. Rodin focuses on proportionality, and Fabre emphasises just cause and reasonable chance of success. Whilst there may be a disconnect from the initial *jus ad bellum* conditions at a phase like t1, it is still another *jus ad bellum* application at t2. Rodin and Fabre do not appear to present a different ethics or framework for termination. It is not clear how this is different to Walzer's prudent or realistic move to end war. Secondly, when considering the *ad bellum* recalculation, it is not clear whether this approach leads to initiating a new war, especially in conflicts with evolving dynamics that evolve into new strands of violence and different actors. Does t2 terminate t1's war, or is t2 a renewal of *jus ad bellum* that now merely accounts for the emerging causes and actors at t1? As these forward-looking approaches suggest war is composed of phases, are these phases marked by distinct beginnings and ends? The forward-looking application of *jus ad bellum* challenges Walzer's backward-looking focus on initial *jus ad bellum* principles, but similarly leaves unresolved questions about when a war ends *de facto*, whether at t1 or t2.

The developments of Walzer (2015), Rodin (2015) and Fabre (2015) highlight the contrast between the normative question of when a party ought to end its participation in war and the empirical judgment on whether the concept of war continues to apply. However, the accounts do not provide sufficient answers to when a war ends, i.e. when the concept of war ceases to

apply. An actor may declare an end after satisfying their objectives at t1 or t2, yet empirically, it is not clear when war has ended de facto. This is due to the continuing violence, impacts of war and instability that persist after most battles have subsided or been declared officially over.

The war in Afghanistan exemplifies these challenges. The US declared an end to its involvement in Afghanistan on 31st August 2021, marked by the last US flights leaving Kabul airport (Yousaf and Jabarkhail, 2021). The images and videos captured of these final airlifts depict the reality of a nation left in turmoil. The withdrawal process began whilst Kabul fell to the Taliban, and unprovoked attacks took place against civilians fleeing and those aiding them. Between August 2021 and June 2023, ACLED recorded 'over 1000 incidents of violence targeting civilians... accounting for 62% of all attacks on civilians in the country' (Bynum and Karacalti, 2023, 1). The remaining attacks are tied to clashes amongst rival factions, militant groups and anti-Taliban forces. Such events were the reality that many anticipated as they ran alongside those final flights in August 2021. While internal violence persists, international military action has not fully ceased in Afghanistan. The US launched a drone strike in July 2022, killing the leader of al-Qaeda, Ayman al-Zawahiri (Abraksia, 2024). The event highlights whilst the end of the war has officially been declared, Afghanistan continues to be a site of interest for the War on Terror.

Alex J. Bellamy highlights that JWT does not speak to some cases (such as Afghanistan) where 'we stare defeat in the face' (2022, 36). Defeat in the sense that there is no clear vanquished or victor, and we seem to have an *endless war* (Bellamy, 2020). The US waged war in self-defence after the attacks of 11 September 2001, aiming to dismantle the safe haven that the Taliban provided terrorists. Yet, their departure marked the revival of the Taliban, alongside

continued clashes among internal groups and against civilians (Bynum and Karacalti, 2023). The case 'ruptures the neat distinction between war and peace upon which the ethics of war depend' (Bellamy, 2023, 36).

This ambiguity over the end of war returns us to the difficulty in identifying the difference between the paradigms of peace and war. Just as the declaration of war or the causes of war are insufficient for capturing when a war begins, the declaration of its end or a cessation of full-scale battle is similarly problematic in marking when a war *de facto* ends. JWT's focus on victory, prudent and realist decisions or the recalculation of *jus ad bellum* principles may provide insight into theorising about when war should end, but it does not tell us when war does end. Just as we have a blurring between peace and war at the start of war, a blur is present as the war is ending. To better understand the temporal markers of war, JWT's reliance on the dichotomy of war and peace must set out what these paradigms entail and how they determine the start and end of war.

2. Understanding the Paradigms of Peace and War

Peace and war are often presented as two distinct matters of time. War arises when peace is disrupted and peace returns once war has ended. In the section above, I highlighted that the transition between peace and war, and vice versa, is not straightforward, as a temporal ambiguity often exists between them. This ambiguity arises when peace is disrupted by violence or when full-scale war de-escalates into low-level conflict, making it unclear whether we are in a state of peace or war. This pulls us towards asking when a war *truly* starts and ends. Answering this relies on knowing what we mean when we talk about living in a time of peace or, at least, not a time of war. How do we conceptualise peace as something present and

tangible? Conversely, how does a time of war modify the condition of peace? The first question explores how peace is an identifiable state, while the second focuses on the disruption of peace, whether war or other grey zones. Answers to these considerations will give us a better understanding of peace and what this means for determining the beginning and end of war.

This subsection will begin by exploring the attempt to set up a relatively uncontroversial and simple empirical measure of war. I will argue that a focus on quantitative thresholds, as presented in projects like the COW and UCDP, fails to provide the basis for fully understanding what the presence of peace and war entails. These approaches overlook the impact of low-level violence and non-violent high-level impacts that can undermine peace. I will then address two philosophical alternatives: Hobbes and Galtung, who redefine concepts of peace and war. I argue that Hobbes's notion of war begins to highlight the importance of non-violent impacts on peace. Yet, he fails to provide a convincing understanding of peace and war, as the scope of peace is tied to coercive stability under a common power. Finally, I present Galtung's (1964; 1969) contribution to understanding peace as a strong alternative. Incorporating the concepts of positive and negative peace broadens the understanding of what it means to be at peace and how this is undermined by indirect and direct violence. This approach provides compelling insights into abandoning the neat binary categorisation of time as either peace or war. Yet, ultimately, Galtung's contribution leaves us with many unanswered questions about when war begins or ends, as it compels us to consider the distinctions between indirect violence, force short of war and total war.

2.1. Thresholds of peace and war

Quantitative thresholds provide a retrospective tool, enabling researchers to better understand past conflicts. However, in their application in this subsection, the thresholds are being explored as a forward-looking measure to help determine when war is occurring. This will be brief as I argue that while such thresholds may provide a practical measurement for data collection and standardisation, ultimately they do not sufficiently account for the blurred transition between low-level conflict and full-scale war. Nor do they help address what constitutes the paradigm of peace. Before the violence meets the identified threshold, is violence taking place in a state of peace or pre-war? How and why does a precise numerical figure determine the transition into the war paradigm? I argue that the use of thresholds overlooks the need to conceptualise peace and war (particularly the period in between) and fails to include contextual or qualitative aspects of what war constitutes. The quantitative thresholds do not provide an answer to what the presence of peace or war constitutes beyond highlighting the rate of casualties.

For many empirical researchers and political scientists, especially those involved in conflict data projects like the COW, a threshold of 1,000 deaths within 12 months serves as a practical criterion for classifying war (Singer and Small, 1982; Gleditsch et al, 2002). Established by J. David Singer and Melvin Small (1972), COW has put forward the numerical threshold alongside typologies of war. The traditional typology included international wars that cover inter-state wars, wars between a state and an unrecognised member of the interstate system known as extra-systemic wars (colonial and imperial) and civil wars occurring between groups in the same state (Sarkees, 2007). Yet, since 1994, an expanded typology has been introduced. This includes inter-state wars, extra-state wars, intrastate wars (civil wars,

regional internal and intercommunal) and non-state wars (within non-state territory and across state borders) (Sarkees, 2007). Whilst the typologies vary, a consistent element of the definition that remains is that war takes place when there have been 1000 battle-related deaths. Singer and Small (1982) decided that this numerical threshold of hostility differentiates war from other types of conflict. Alongside the threshold, they highlight that the definition of war is tied to participants' capacity to exercise the organisational ability to conduct combat. The demarcation of war from other violence relies on the threshold of battle-related fatalities and the organisational capacity of the belligerent sides.

Responses to the classification of war put forward by COW have highlighted notable shortcomings. Amongst these is the issue of excluding civilian casualties. Martin Shaw (2005) and Mary Kaldor (2013) argue that contemporary warfare's often targeting of civilians makes a focus on battle-related deaths insufficient, as it overlooks the changing nature of war. This is a notable shortcoming, as whilst the typologies of war have developed to capture different actors, they have not evolved to account for their strategies. The COW definition also fails to identify the capacity of these various actors who may employ tactics that cause considerable impacts that are not reflected in battle-related fatalities. Scholars such as Nils Petter Gleditsch and his peers associated with the UCDP highlight that the high threshold excludes smaller and emerging conflicts that have local and regional impacts (Gleditsch et al, 2002). Instead, they call for lowering the threshold to introduce a tiered approach, classifying conflicts involving under 1000 but above 25 deaths over a 12-month period as armed conflicts.

There is some truth to this criticism, yet by focusing on the numerical thresholds and who is included in the figures, the critics overlook deeper issues with the quantified definition of war. The intent behind such a threshold is to avoid endless debates about the definition of war.

However, the numerical threshold introduces its own problem: the threshold appears arbitrary, as it lacks any grounding in a widely shared or substantive conceptualisation of what war truly is or how it disrupts peace, and offers no justification for why a specific number of deaths should alter the normative framework applied to a given situation. This arbitrariness leaves us dissatisfied, returning us to the need to understand the core concepts of war, peace and violence.

Furthermore, by focusing on the figure of 1000 battle-related deaths within a 12 month period, the approach overlooks the period of violence that may take place before the threshold is met. This raises significant questions: if these periods of violence are excluded from the classification of war, should they instead be considered periods of peace? Does war only formally begin or become acknowledged once this threshold is crossed? Alternatively, do we retrospectively designate the start of the war from the first recorded death that contributes to the eventual crossing of the threshold? These ambiguities illustrate how the quantitative standard introduces temporal confusion, failing to address instances of gradual escalation or incipient conflict that may ultimately cross into full-scale war. Moreover, there is a failure to consider whether this period falls within the peace paradigm or represents a separate paradigm that is 'short of war'. These questions are ignored by the thresholds put forward, as the approach opts to quantify as a substitute for conceptualising intermediate phases and degrees of violence.

Issues with the threshold also arise when considering the end of war, as a reduction in battle-related deaths below the threshold implies that a war is no longer ongoing. Once again, we are left to ask about the classification of these low-level clashes that persist after large-scale force has subsided. Are these residual skirmishes part of a continued conflict, or are they

separate, lesser acts of violence? We are also left to wonder about the destabilising impacts of war when most of the violence has subsided. Post-conflict environments frequently experience fragmented violence, political power struggles and economic instability, none of which are adequately captured by a simple reduction in battle-related deaths. The thresholds' focus on the battlefield overlooks wider societal impacts, failing to account for wider actions of actors which create 'large and destabilising' factors (Raleigh, Kishi and Linke, 2023).

This challenge leads us to the second issue. The threshold may not be met (at least initially) in many conflicts, yet there may still be a compelling indication that a war is intended. This is what some theorists, such as Walzer (2015) and Benbaji and Statman (2019), associate with a clear *casus belli*, such as an invasion of territory or acts of aggression against a nation's political sovereignty. For instance, consider the invasion of Ukraine. If we applied the 1000 death threshold, the conflict would not technically qualify as a 'war' upon Russia's declared invasion, but only once the threshold was reached. On the first day of the invasion, casualty reports varied, with hundreds of civilians and soldiers reported killed. Yet, uncertainty remains regarding whether this met the threshold and, if so, exactly when it did. As the war progressed, the death toll continued to rise, well beyond the 1000 threshold. However, before this figure was available, the intentions of both sides were clear. Russia's full-scale assault and Ukraine's mobilisation of defence bore the hallmarks of war.

As it stands, a numerical threshold for defining war holds shortcomings. This limitation becomes more apparent when considering what the threshold's definition of war means for granting warring rights to soldiers, such as combatant immunity and the lawful right to engage in hostilities (Meisels, 2007). It is unclear what warring rights soldiers possess in the phase of 1 to 999 deaths. If this phase is categorised as 'low-intensity conflict' or 'armed

conflict', what specific rights does it grant to soldiers, and how, if at all, do these rights differ from those in a recognised state of war? Alternatively, if a case is not considered a war due to not meeting the threshold, does this mean that soldiers lack warring rights altogether, with their conduct instead restricted to laws governing peacetime? The numerical threshold does little to clarify the nature of the blurred phase between violence and full-scale war, nor does it help us determine what peacetime constitutes. This creates worrying implications for denying warring rights to parties, even when clear acts of aggression are present.

2.2. The Hobbesian state of nature

I have argued above that we cannot rely on numerical quantifications of war, as they wrongly overlook the need to conceptualise different phases and degrees of violence that blur the distinction between peace and war. However, the distinction between peace and war may appear less significant in light of Hobbes' understanding of the concepts. Hobbes writes that war is a natural human condition, a 'warre... of every man against every man' (2004, 91). He suggests that all time, when 'there is no assurance to the contrary', constitutes a state of war (2004, 91). According to Hobbes, assurance to the contrary exists only when a state is governed by a sovereign ruler whom 'the people' obey. This perspective prompts us to consider whether the appropriate background against which to evaluate the outbreak of war is not one of normal peace but rather a condition of perpetual conflict, a continual state of war.

In this subsection, I argue Hobbes offers valuable insight into a state of insecurity without overt violence, characterised by indirect fear and latent threat. However, his concept of war has significant limitations. Hobbes identifies a condition in which fear and violence remain implicit in human relations as a state of war, describing a natural state as one rooted in societal

breakdown and an ongoing fear of violent death. This fear is presented as a core feature of war, yet Hobbes fails to differentiate this primal violence from structured or overt violence that occurs during wartime. His account leaves ambiguous how overt violence differs from the underlying disposition of violence in the natural state. Furthermore, Hobbes offers an unconvincing notion of peace, which he defines as existing under a 'common power'. He fails to explain how the individual egoism that characterises the natural state is dissolved under authority, leaving his conceptualisation of peace lacking depth.

In *Leviathan*, Hobbes writes:

Warre, consisteth not in Battell onely, or the act of fighting, but in a tract of time, wherein the Will to contend by Battell is sufficiently known... so the nature of war, consisteth not in actuall fighting, but in the known disposition thereto, during all the time there is no assurance to the contrary. All other time is peace (2004, 91).

For Hobbes, war is not confined to particular duels or carried out by particular actors. He provides a descriptive definition of war consistent with his notion of a state of nature. Onuma Yasuaki (1993) notes that Hobbes's inclusive definition of war reflects seventeenth-century political complexities, marked by intricate political structures and feudal networks. War, for Hobbes, is a de facto condition of human nature. War, akin to bad weather, exists as a continual disposition without battle. Hobbes highlights war as a state of ongoing instability. Unlike peace, this state of war entails a 'known disposition' of insecurity, where 'there is no assurance to the contrary' (2004, 91). The distinctive feature of war is not the presence of battle or violence that reaches a certain threshold. In fact, in Hobbes' natural state, war exists due to fear, which impacts societal functioning, much like the likelihood or conditions for bad

weather create fear of bad weather. It is the enduring disposition that defines the state of war. As identified by Delphine Thivet, 'Like weather, war refers to a stretch of time which is characterised by an inclination to certain acts that nevertheless do not necessarily occur continuously' (2008, 702).

To avoid this state of war, Hobbes suggests that peace can and should arise when a common power imposes order, mitigating the three main causes of quarrel, competition, diffidence and glory amongst individuals. He writes 'the first makes men invade for gain; the second, for safety; and third, for reputation' (Hobbes, 2004, 91). Without such a common power over them, Hobbes argues people live in a 'warre... of every man against every man' (2004, 91). A condition of war is present.

Hobbes does not directly apply his concept of war to the international community. Nevertheless, his ideas have inspired theorists to extend the analogy between people under a common power to the international order. Hedley Bull writes:

The argument from the experience of individual men in domestic society to the experience of states, according to which states, like individuals, are capable of orderly social life only if, as in Hobbes's phrase, they stand in awe of a common power (cited in Grewal, 2016: 625).

The absence of a global sovereign to enforce peace has led to the interpretation of an anarchic system where the risk of war is ever-present (Bull, 1981). Hobbes's view underpins the realist argument that conflict arises as competition, diffidence and glory fuel economic and territorial coercion, mutual fear of aggression and pursuit of national prestige (Grewal, 2016). Since there is no common power in the international system, Hobbesian theory suggests a structural

predisposition to instability and war, a perpetual state of war. States attempt to manage this instability through a balance of power, forming alliances or resorting to war to ensure their security. Hobbes writes that states exist in a perpetual state of war, much like individuals in the natural condition. However, he does not draw a parallel conclusion about states exiting this state of war by means of a covenant, as individuals can. Bull highlights this, noting that Hobbes did not propose an international social contract 'either should or can take place' (Grewal, 2016, 626). Consequently, it is difficult to apply Hobbes's development to interstate war, particularly as he 'took civil war as his paradigm for war' (Grewal, 2016, 629).

Hobbes's contribution can be understood as follows: a state of nature is a state of war when individuals live without a common power, under a perpetual disposition to war. This disposition extends to the relations among states. However, Hobbes's theory does not address how peace can be established, leading some to argue that the international order is always in a state of war. Nonetheless, whether war exists at the interstate or intrastate level, Hobbes conceptualises it as a disposition rather than a constant state of active conflict.

Examining Hobbes's description of war further, Kavka (1983) rightly observes that this disposition alone is not the only feature of war. Hobbes writes:

In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, ... no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short (2004, 92).

This definition of war provides insight into a domestic state of nature, where a 'war of all against all' arises when there is no power over individuals to protect them from the state of a willingness to fight. This disposition of fear creates a state of war. Yet, Hobbes's depiction of fear seems to have a source or cause, a reason tied to conditions that result in 'no account of time; no arts; no letters; no society' (Hobbes, 2004, 92). It is not necessarily the case that a lack of common power leads to a completely dysfunctional society. People living under weak or absent authority can still function within a limited or fragile infrastructure. The description set out by Hobbes seems to imply that a lack of authority results in a non-functioning society, where people fear one another.

I agree with Kavka (1983) that Hobbes's natural state does not fully justify why individuals 'in the state of nature must fear violence from others' and how 'anticipation is the most reasonable way for such persons to attempt to protect themselves' (1983, 298). It would seem that, in Hobbes's definition, the inclination to protect oneself is attached to the conditions of a failed society and ultimately an indication that a 'danger of violent death' is apparent (Hobbes, 2004, 92). This fear requires reasoning to justify it, reasoning that would point to a source or cause. A more inclusive explanation of this fear and a clearer account of Hobbes's conditions might reveal that this disposition is not merely an ever-present feature of human nature but is instead tied to actions or events that create instability and provoke fear. Just as we would require a shower or two to create the inclination of foul weather, we would require something to create the inclination of war.

Alongside Hobbes's limited insight into a state of war, he provides only a limited understanding of what constitutes peace. Hobbes proposes that, due to human nature, peace is achieved through a departure from the natural state by establishing a common power. The

common power is realised via a social contract in which people transfer their natural rights to an absolute sovereign. The sovereign becomes the all-powerful, the sole agent to determine governance and sanctions on subjects. According to Hobbes, this eliminates physical conflicts, requiring individuals to obey the sovereign's order. By relinquishing their egoistic rights, individuals grant the sovereign the responsibility of acting in their collective interest and arbitrating disagreements on security and governance (Hobbes, 2004). An issue with this is that peace is tied to the internal pacification of individuals. If Hobbes suggests individuals live in fear of one another, why would they not extend this fear to an absolute sovereign, who wields such power over them and could also act violently? Hobbes's theory does not convincingly explain why individuals would willingly establish such a contract. There appears to be a tension between Hobbes's portrayal of the nature of people toward one another and the dynamic between individuals and the sovereign. This idealisation of peace, therefore, is not convincing.

It is not uncommon for violence to break out between individuals in society. For Hobbes, civil war signifies the breakdown of sovereign authority and a return to the state of nature. However, this perspective overlooks the role a state continues to play in times of civil unrest. If the majority of individuals remain subject to the rule of the sovereign, does this still constitute a return to the state of nature? Hobbes does not clarify how much rebellion or disorder is required to revert society to a state of nature. In some cases, it is not a 'war of all against all', but rather a conflict of some against others. This raises questions about how Hobbes's theory applies to contemporary cases of conflict where state authority is contested by non-state actors and segments of the population, leaving the sovereign's authority intact over a portion of the citizens. Thus, the understanding of a state of nature as war and society

under a common power as peace creates a binary that does not reflect how violence and disagreements manifest in society. How, then, do we distinguish such conflicts within a functioning society from those of the natural state, particularly when society has not fully regressed to a natural state?

Even if we are to return to the natural state in instances of civil unrest, is the overt use of force the same type of war that Hobbes's disposition defines? Hobbes writes that the condition of war includes 'worst of all, continual fear, and danger of violent death' (2004, 91). It seems that overt violence signifies a distinct form of war, a more serious one. Yet, it is not clear how we should apply the Hobbesian thought here to determine whether there exists a state of heightened war within the broader state of war or whether the disposition and the action are equally defined as war. The latter would seem less convincing, yet Hobbes's account leaves this distinction ambiguous.

Hobbes's understanding of peace and war challenges the thresholds and characteristics that define these paradigms. Rather than distinguishing peace from war through specific thresholds of violence or explicit political aims, Hobbes argues that the state of nature itself is a perpetual state of war. While this perspective offers insights into the broader dynamics of peace and war beyond physical conflict, it lacks clarity on the concrete conditions of either state. In particular, the distinction between overt war and perpetual insecurity remains unclear, in both the cases of interstate and intrastate conflict.

Hobbes ties peace to the obedience of subjects under a common power, creating a binary where the absence of authority equates to war. However, this overlooks situations where states manage conflict and negotiations without descending into total war or undermining

authority. His framework struggles to account for functioning societies where individuals may transgress without triggering widespread fear or systemic collapse. Hobbes's approach does not address the ways that societies can function and maintain relative peace even without absolute authority or how authority coexists with dissent and unrest. In such cases, do we revert to the natural state or does peace persist? This question seems to be more straightforward to answer when violence is present, as we return to a more evident case of Hobbes's civil war. Yet, does this imply that overt war possesses unique characteristics that distinctly affect peace?

2.3. Positive and negative peace

Unlike the COW threshold, which avoids engaging in conceptual analysis, Hobbes provides a philosophical account of violence, war and peace. But ultimately, Hobbes's *Leviathan* fails to offer a clear distinction of what peace and war entail. He does not clarify whether the use of violence marks something distinct, despite describing the state of nature as a breakdown ultimately associated with the 'worst of all... violent death' (Hobbes, 2004, 92). Amongst the critics who do not find Hobbes' work convincing are proponents of positive peace (Gerwin, 1991; Jaede, 2018). Theorists of positive peace argue that stable peace requires addressing the social, economic and political needs of people within a system of mutual respect and ensuring equitable access to resources and freedom (Fry and Miklikowska, 2012). This section will demonstrate how positive peace broadens our understanding of peace and war by outlining conditions leading to war. However, it ultimately fails to consider how we define the presence of war and identify when it begins.

Galtung (1964) introduced the concepts of positive and negative peace in an editorial piece for the *Journal of Peace Research*. In doing so, he sought to clarify the philosophy of peace research and the divide between negative and positive peace, which stems from a focus on direct violence. Galtung expanded the understanding of peace to include structural violence, arguing that peace entails more than the absence of direct violence. In contrast, positive peace involves fostering cooperation and integration among people. Galtung writes positive peace 'is the integration of human society' and negative peace 'is the absence of violence, absence of war' (1964, 2). This perspective shifts the focus of peace away from ending or reducing violence to considering the conditions necessary to prevent violence. Galtung drew inspiration from health science, where health is defined not only as the absence of disease but also as positive 'making the body capable of resisting disease' (Grewal, 2003).

Although the terms 'positive' and 'negative' peace originate with Galtung, earlier thinkers presented a similar distinction. Coady (2007) reads Augustine's writings as presenting three levels: a thin peace (mere absence of war), a rich peace (the eternal peace of the City of God) and a medium peace, drawn from Augustine's idea of 'ordered harmony'. Augustine's thin peace parallels Galtung's negative peace, while the medium conception anticipates aspects of positive peace, emphasising order, compromise and stability that respect interests and avoid domination. Yet, as Coady notes, this medium peace stops short of full justice or liberation; it is a 'compromise peace', not the transformative positive peace Galtung envisions, which aims to address structural violence.

We see this explicit focus on structural violence in Galtung's work following his 1964 piece. He broadened the concept to emphasise the causes and effects of violence. Instead of focusing on negative violence in actor-oriented terms, Galtung (1969) introduced structure-oriented

explanations, arguing that violence is rooted in structures that actors merely enact. He contended that peace has two dimensions: 'absence of personal violence, and absence of structural violence' (Galtung, 1969, 183). Galtung explains:

For brevity, the formulation 'absence of violence' and 'social justice' may perhaps be preferred.... The reason for the use of the terms 'negative' and 'positive' is easily seen: the absence of personal violence does not lead to a positively defined condition, whereas the absence of structural violence is what we have referred to as social justice, which is a positively defined condition (equalitarian distribution of power and resources) (Galtung, 1969, 183-4).

Thus, violence represents an unactualised aspect of human potential, closely connected to social injustices and inequality. Structural violence occurs when resources and the power to access them are unevenly distributed (Galtung, 1969). Galtung argues that this 'is built into the structure and shows up as unequal power and consequently as unequal life chances' (1969, 171). Examples include disparities in life expectancy amongst social classes or preventable starvation in disadvantaged populations. Instead of viewing peace as an imposed order, Galtung emphasises addressing social injustice. Here, peace is not a 'matter of control and the reduction of the overt use of violence' (Galtung, 1968, 183). Rather, peace is achieved through the eradication of structural inequalities that perpetuate violence.

Within Galtung's developed approach, peace is defined more positively as the absence of structural injustice or inequalities. Positive peace is characterised as a lasting and sustainable peace that stems from justice for all. Whereas Galtung argues a focus on negative peace assumes a superficial sense of peace, achieved at the expense of true justice. His account

highlights that the demarcation between peace and war is not merely tied to the absence of violence. According to the concept of positive peace, a condition of peace demands a high standard of justice that most societies, in their present state, lack. This raises several considerations. First, if this paradigm of positive peace is never fully realised in practice, we cannot argue that violence (whether limited or full-scale) represents a shift from peace to war. Second, even if positive peace is absent, it may remain unclear whether this satisfies the conditions of a state of war. Galtung's conception of peace suggests that we are not bound to a strict binary of peace and war.

Although Galtung does not suggest that the absence of positive peace equates to a state of war, he discusses examples of war in his work without defining them as a separate paradigm. For Galtung, acts of direct violence stem from a deep-seated structural problem within society. Violence is 'present when human beings are being influenced so that their actual somatic and mental realizations are below their potential realization' (Galtung, 1969, 168). This implies that war embodies the social conditions that prevent individuals from meeting their basic needs, signifying a breakdown in positive peace. For Galtung, war is a possible outcome of conflict escalation. Wars often result from unresolved conflicts rooted in issues such as poverty and discrimination (Galtung, 1968). From this, we can assume that war is driven by both the direct use of violence and the long-term failure to establish positive peace. Galtung's framework suggests that war or direct violence transitions a society into a new paradigm. I interpret these different paradigms as follows: peace (with the satisfaction of positive peace), negative peace (without the satisfaction of positive peace, yet without direct violence), low-level violence (without positive peace and with direct conflict that falls short of war) and war (without positive peace and with direct conflict).

Galtung's approach effectively implies that the cause or start of war is not merely tied to the outbreak of mass violence. The introduction of positive peace alongside negative peace helps identify the causes of conflict, providing insights into why wars begin. By focusing on the measures taken before war breaks out, proponents of positive peace correctly highlight that war rarely begins due to a single isolated incident. We see this in multiple cases where the onset of war is tied to historical tensions and disputes involving multiple interrelated incidents. Some are explicitly attached to an event of violence, whereas others stem from non-violent actions or causes, which lead back to the structural problems Galtung identifies.

In understanding the beginning of war, incorporating the concepts of positive and negative conceptions of peace indicates the gradual progression or series of events that precede the outbreak of war. This challenges the notion that war arises simply when peace is disrupted, as positive peace may not have existed to begin with. Galtung identifies the need for just war theorists to broaden their understanding of the peace paradigm by demonstrating that a state of peace is not always present because a state of full-scale conflict is absent.

He presents a strong alternative by highlighting that the blur does not just exist at the stage between peace and war but within separate phases in between the two that encompass indirect violence or limited force. The events within this paradigm are often tied to a marker and cause designated as the start of a war. This is usually where war's temporal ambiguity arises. But where Galtung falls short is in outlining how this state differs from war and when it begins. This omission is understandable, as Galtung's focus was on anti-war and peace rather than the nature of the timing of war. Yet, I think this oversight misses a point: a move towards establishing positive peace may require force. This force could involve establishing a collective conception of a common good and potential cooperation (which I will explore in the

next chapter) or defending against aggression that obstructs progress toward positive peace. I believe such credible arguments can support the use of force. However, this is not the focus of this chapter.

In terms of the *temporal deficit*, Galtung's contribution allows us to critique the understanding of peace and war as two sides of a coin. Instead, we can see that different shades of peace and violence exist. This reframing challenges traditional distinctions and encourages us to better differentiate negative peace and force short of war from war. I turn to the possibility of linking the developments of positive peace, negative peace and war with a wider theory of vim to identify the difference between violence short of war and violence of war.

3. Addressing the Temporal Deficit

The section above highlighted the flaws in the binary between peace and war. I argued that the realm of peace is not entirely peaceful, particularly when considering Galtung's (1964) distinction between positive and negative peace. While I sympathise with Galtung's critical approach to peace, I contend that his approach cannot help sufficiently define what war is or when it begins.

This section will begin by briefly examining the realm of peace, proposing that not all direct force transcending this realm constitutes war, even if it can be identified as a contributing cause leading to full-scale conflict. Drawing on Lupton and Morkevičius's work, I argue 'that war is not a binary category, but rather a space along a continuum marked by war and peace at its extremes' (2019, 37). Between positive peace and war lies the period of vim, which, I argue, transitions into war when coercion and violence become so intense that an intent to

escalate to war emerges. Once the fog of coercion and violence clears, and the intent to end war is apparent, the situation transitions back into the vim period.

Building on Brunstetter and Braun's (2013) argument, I propose that the period of vim should be linked to the ethical concept of *jus ad vim*, which clarifies the difference between force short of war and actual war. I argue that force, intention and scope within the vim period distinguish it from war. In providing ethical principles that recognise that not all violence constitutes war or escalates to it, *jus ad vim* emphasises that war is a specific and extreme state within a continuum of conflict. War is best understood as a phenomenon defined by the characteristics of intensity, scope and scale of violence, alongside the intentions of those who engage in it. These characteristics are not separate from intent but rather extensions of it, representing a deliberate attempt to achieve a goal that requires more than acts of vim.

3.1. Peace and war continuum

In challenging JWT's limited understanding of violence, war and peace, Lupton and Morkevičius (2019) highlight that international relations offer a broader understanding of variations of violence and coercion. They argue that, while these actions do not constitute war, they have destabilising impacts on peace and are contrary to it. Drawing on broader international security studies, Lupton and Morkevičius argue that war is not merely a distinguishable category, but a location on a continuum that ranges from 'non-violent, non-coercive peace to violent, coercive war' (2019, 44). This subsection will present their argument and examine how it intersects with Galtung's concepts of positive and negative peace, particularly in relation to the fog of war, which emerges at the continuum's midpoint.

Lupton and Morkevičius (2019) convincingly outline that, rather than viewing peace and war as a binary when conceptualising time, these states occupy the two ends of the spectrum. They write:

On the left hand side is peace, where states do not engage in violent coercive acts with each other. On the right hand side is war, where states participate in large-scale sustained violent coercion against each other. There is no bright line dividing the two. Instead, we might imagine that tendrils of the fog of war reach out along the continuum. At some points the fog is so thick – the coercion and violence so intense – that we know it must be war. But as we move back along the continuum towards peace, the fog lifts gradually (Lupton and Morkevičius, 2019, 44).

At the far left of the spectrum, actions are the furthest away from the state of war, encompassing conceptions of peace. Lupton and Morkevičius (2019) write these concepts of peace can include Emmanuel Kant's perpetual peace, where states no longer interfere with each other and abolish standing armies. Alternatively, peace could entail the constructivist conception, where states work together to achieve common goals and construct identities that render the use of violence unthinkable or highly unlikely. Or the realist approach, such as balancing power to render the use of violent coercion unnecessary. Lupton and Morkevičius's range of peace is appealing as it echoes Galtung's (1964) conception of positive peace, where a lack of interference and creating a conception of peace rest on systems of cooperation and ultimately justice, which promote peace and eradicate the root causes of conflict. They write, 'Peace is not always the absence of politics', emphasising how states use diplomacy and cooperation to further strategic goals in their pursuit of peace (Lupton and Morkevičius, 2019, 45).

As we shift away from the far left of the spectrum, actions become more complex, with states engaging in 'non-violent and non-coercive actions to further their political interests' (Lupton and Morkevičius, 2019, 45). Within this part of the continuum, we see measures that fall short of war. The fog of war begins to creep in, where actions range from non-violent yet coercive, including sanctions, political pressure or covert operations. These measures align with negative peace, where violence is not overt, but coercion creates a precarious situation that hints at the possibility of war. Lupton and Morkevičius rightfully note that such measures are usually 'glossed over', occurring before the principle of last resort is invoked (2019, 45).

Moving further along the spectrum, we encounter short-term acts of violence such as targeted airstrikes, isolated attacks or cyberattacks. These actions represent violence that falls short of sustained conflict and are often used as coercive tools to achieve political goals. Although these acts may later be cited as causes for war, they do not inherently signify its onset, as they lack the intention to 'induce long-term sustained violence' (Lupton and Morkevičius, 2019, 47). For example, the Tunisian revolution in 2010 and 2011 began after Mohamed Bouazizi's self-immolation, sparking nationwide protests against corruption, unemployment and authoritarian governance. Despite the state's intense response, the violence was not described as war. This case exemplifies the foggy middle ground where violence and political causes coexist without escalating into full-scale war.

When the fog of war thickens, short-term acts of violence escalate into sustained conflicts and their scope and impact increase. This leads us to the far right of the spectrum, where war resides, characterised by sustained, large-scale violence and coercion. I will clarify the criteria below. Lupton and Morkevičius argue that the breakdown of diplomacy and the intensification of violence mark the transition to war.

Lupton and Morkevičius challenge the clear dichotomy between war and peace, presenting a persuasive continuum of political violence where the transition from peace to war is gradual. They emphasise the gap between war and peace, calling it 'vim', arguing that this space requires ethical attention. I will build on Lupton and Morkevičius's approach by examining how the beginning and end of war can be understood through the concepts of means, scope and ends of violent acts, which distinguish them as either vim or war.

3.2. The difference between vim and bellum

It appears the blur exists within this period of vim transitioning into war, rather than peace transitioning into war. To understand this, we need to explore what vim consists of. Daniel Brunstetter and Megan Braun (2013) highlight that the difference between measures that fall short of war and actual war was addressed by Walzer in the preface of his 2006 edition of *Just and Unjust Wars*. Vim refers to acts that fall short of war, which according to international law, 'it is common sense to recognize that they are very different to war' (Walzer, 2006, xiv). The difference between vim and war lies in the level of force used (Walzer, 2006). Vim is limited in scope and lacks the 'unpredictable and often catastrophic consequences' of war (Walzer, 2006, xv). Its actions involve less risk to a nation's troops and are tied to more predictable and smaller-scale destruction (Brunstetter and Braun, 2013). This curtails the risk of civilian casualties and imposes fewer economic and military impacts. It appears from Walzer's (2006) and Brunstetter and Braun's (2013) developments, the difference between vim and war stems from the intensity, predictability and scope of the impact of force.

Brunstetter and Braun highlight that the existing definitions of war and armed conflict fail to capture the full spectrum of force, particularly the range between vim and full-scale war. They

note that Orend defines war 'as an actual, intentional and widespread armed conflict between political communities' (cited in Brunstetter and Braun, 2013, 92). For Orend, war involves a deliberate commitment to widespread and intentional fighting alongside significant mobilisation. Thus, war occurs when 'fighters intend to go to war' and 'they do so with a heavy quantum of force' (Brunstetter and Braun, 2013, 92). Brunstetter and Braun argue that Orend's definition of war aligns with the legal definition of armed conflict offered by the International Law Association (ILA) report in 2010. The reports define armed conflict as 'the existence of organised armed groups' and 'engaged fighting in some intensity' (Brunstetter and Braun, 2013, 93). However, both Orend's and the ILA's definitions fall short in addressing the realities of contemporary conflict. Orend's focus on political communities presumes a state-like structure of aggression and defence, while the ILA's emphasis on organised groups and intensity includes more diffused forms of violence. As Brunstetter and Braun note, lower intensity or non-traditional threats such as 'terrorism, humanitarian catastrophe... weapons of mass destruction' and 'the potential for significant human rights violations' exist (Brunstetter and Braun, 2013, 93). These threats are often linked to fragmented actors, decentralised violence and uneven applications of force. As such, they may warrant some form of response, but not one that rises to the level of full-scale war.

To navigate the ethical challenge in understanding these acts that fall short of war, Brunstetter and Braun propose principles of *jus ad vim*. These include just cause, last resort, proportionality, the probability of escalation, right intention and legitimate authority. Brunstetter and Braun write that 'understanding the distinctiveness of *jus ad vim* begins with a definition of just cause' (2013, 95). *Jus ad vim* permits the use of force for self-defence, however, it is more permissive than *jus ad bellum* as it broadens the defence of force to more

situations. Brunstetter and Braun write that within the context of *jus ad vim*, 'a state has just cause to use measures short of war when responding to injuria against its interests or citizens' (2013, 96). Its scope includes responses to acts of aggression such as terrorist attacks, attacks on political or military targets and the kidnapping of citizens.

This has meant that *jus ad vim* faces criticism for lowering the threshold of the use of force and for failing to sufficiently impose strict limitations to prevent unnecessary or unjust force (Coady, 2007). Brunstetter and Braun respond by clarifying that *jus ad vim* does not prescribe when force should be used, it simply establishes a right to act under specific conditions. The principle of just cause within *jus ad vim* is tied to the principle of last resort. The criterion of last resort stresses that before force is employed, other non-violent measures must be pursued. Following Walzer's argument, Brunstetter and Braun emphasise that non-lethal actions should take precedence, yet they alone may be insufficient in addressing imminent threats. Therefore, there are situations where the harm or injuries do not justify the force found in war, but still, it necessitates a limited *jus ad vim* response.

Brunstetter and Braun develop the principles of proportionality and probability of escalation within *jus ad vim*. They state that once 'the threshold of *jus ad vim* is breached', proportionality within *jus ad vim* regulates the use of force and requires it to be consistent with the just outcome, and must not exceed what is necessary (Brunstetter and Braun, 2013, 97). Here, the calculation of proportionality is tied to the just level of violence that can be employed in a specific situation. Proportionality within *ad vim* is not as vague as it is in *ad bellum* and in *bello*, as *vim* demands a more precise calculation that excludes discussions of 'what level to begin with and potentially escalate from' (Brunstetter and Braun, 2013, 98). The issues with proportionality, as highlighted by Thomas Hurka (2005), include the impossibility of making

precise calculations. Yet, *jus ad vim* can better gauge this appropriate force as the response is tied to a specific use of force, but most importantly aims to avoid the escalation of a full-blown war. As outlined in the former section, *vim* is not outright war, thus, to remain in this area, the use of force is attached to actions that have a low probability of leading to war. This principle requires that acts of limited force must not carry a significant risk of escalating into full-scale war, which introduces greater destruction and unpredictability. If the use of force carries a high probability of escalating into war, then the actions fall under the principles of *jus ad bellum*, not *jus ad vim*.

The final principles of *jus ad vim* are right intention and legitimate authority. The principle of right intention is tied to the limited scope of force. Brunstetter and Braun write:

While in a *jus ad vim* context the ability to act on just cause is expanded in the sense that a more favorable proportionality calculus makes it more likely that ethical restraints will be satisfied, the curtailed tactics of *jus ad vim* restrict the goals that can be pursued (2013, 100).

Within *ad vim*, the right intention is circumscribed by the limited force that can be employed. The restrained use of drone attacks or sporadic use of violence is unlikely to remake a world order or facilitate democracy, but it can serve to neutralise specific threats or cripple those undermining peace. Here, the right intention serves to quell 'a specific threat, while causing the least amount of damage possible' (Brunstetter and Braun, 2013, 100). Because of the provocation that may merit a response short of war, *jus ad vim* holds a narrower moral latitude for inflicting unintended harm. This constraint, combined with the emphasis on avoiding escalation, presents the need to avoid collateral costs that can exacerbate the dangers of war.

Legitimate authority within *jus ad vim* plays the role of ensuring measures short of war, preventing escalation, minimising risk and maximising the rights of the Other. Brunstetter and Braun (2013) write under the legitimate authority of a state, such measures risk devolving into unilateralism with miscalculations against the Other that could lead to violations of human rights. They argue that, within an international order, *jus ad vim* can be subjected to greater scrutiny through collective decision-making, which is intended to safeguard and provide final justification for actions. Brunstetter and Braun write that support from several states for a measured and limited use of force can indicate the scale of force respects the rights of the Other and adheres to the principle of minimising the probability of escalation. In contrast, a lack of broad international support indicates that such actions are unjustified.

I find this aspect of their argument unconvincing, as it risks prioritising the moral considerations of an international order over the rights of people, thereby shifting focus away from ‘the people’ most affected by these actions. While this order may be able to account for universal values for pursuing force, it falls short in addressing the thick, particularistic, values that political communities uphold when waging war or employing force short of war. I will return to this in the next chapter, where I address the role of the demos when waging war. I will not spend time exploring the ethical considerations of legitimate authority and will move on to develop how Brunstetter and Braun’s remaining principles of *jus ad vim* provide us with the key differences distinguishing vim from war.

Such principles indicate that the primary areas of divergence between vim and war include the intensity, scale, predictability and intention behind the use of force:

1. The **intensity of force** is one of the most apparent differences between vim and bellum. Actions under *jus ad vim* involve significantly lower levels of force compared to war. Measures such as drone strikes, no-fly zones, targeted operations or low-level clashes are designed to address specific threats without escalating into sustained military campaigns. In contrast, war requires the extensive mobilisation of resources, large-scale troop deployments and a commitment to widespread and prolonged combat. This distinction in intensity reflects the foundational aim of *jus ad vim*: achieving precise and limited objectives without crossing the threshold into full-scale warfare.
2. The **scale of force** also distinguishes vim from war. The actions of vim are restrained in scope, targeting specific threats rather than engaging in expansive operations. Conversely, war encompasses large-scale armed conflict that affects entire nations or regions, often involving significant numbers of combatants and causing widespread societal disruption. By maintaining a smaller scale, *jus ad vim* aims to minimise the risk of widespread harm and avoid the broader societal and economic impacts typically associated with war.
3. **Predictability** is another defining factor. Force within the realm of vim tends to be more controlled and calculated, with outcomes and impacts that are relatively easier to anticipate. Advances in technology and the limited scope of operations make the consequences more predictable, helping reduce the likelihood of unintended escalation or widespread conflict. In contrast, war is inherently unpredictable, often leading to unforeseen consequences that escalate violence and destabilise regions.
4. **The intention** behind the use of force further separates vim from war. Actions in the former are narrowly focused on addressing specific threats. Although these operations may have political or ideological goals, their primary intention is to neutralise threats

or send a warning. Within *vim*, the use of force is not designed to achieve broad political or ideological goals. As a result, adversaries' responses may resolve immediate dangers with minimal harm. In contrast, war often pursues expansive objectives and broader intentions, which justify higher levels of destruction and collateral damage. Here, broader political goals paired with the intention to employ greater intensity and scale of force pull us into the war paradigm.

These characteristics of intensity, scale, predictability and intention underlie Brunstetter's general rule of *vim*, 'the presumption against escalation and the predisposition towards maximal restraint' (2021, 17). The presumption against escalation highlights that the intentions, scale and intensity of force within *vim* are tied to acts that set it apart from total war. The restraints that govern *vim* are more restrictive. They are connected to what Brunstetter calls a predisposition towards maximal restraint *maxim*. There is a 'reduced scope of necessity in *vim*', where the view of necessity is constrained by the proportionality calculations that are tied to the intention of using force (Brunstetter, 2021, 21). The targeting of combatants is limited because of how the principles of necessity, proportionality and discrimination function in such cases. When these principles expand, the intention, scale, intensity and unpredictability of force grow and take us into the realm of war.

The theory of *jus ad vim* faces an obvious criticism: it seems to merely replicate what *jus ad bellum* already does. Whilst it appears to be a reformulation of *ad bellum* principles, *jus ad vim* holds a distinct role in applying to the gap identified earlier, the blur between force short of war and war. As noted in the earlier section, some acts of force are distinct from war. It seems compelling that the repurposed principles of *ad bellum* play a different role in evaluating

force short of war. I now turn to addressing how *jus ad vim* also plays an additional role in better clarifying the temporal boundaries of war.

3.3. The temporal reading of war

Incorporating *vim* into the theorising on the use of force provides a better-informed understanding of the temporal boundaries of war. By recognising that not all acts of violence are war or escalate to war, *jus ad vim* introduces a middle ground where ethical and legal permissions of war do not yet, or no longer, apply. The view developed in this section highlights that war exists as a specific and extreme state on a continuum of conflict, with *vim* occupying the space before and after full-scale war.

This perspective reshapes our understanding of when war begins by focusing on the transition from *vim* to war. The beginning of war is not tied to a singular moment in which peace ceases, but is instead an accumulation of conditions that make policing measures and limited forces insufficient to address the scope of violence. The onset of war is marked by a shift in intensity, scope and intention behind the use of force, coupled with a thickening of the fog of war. This fog, characterised by significant violence, unpredictability and societal disruption, signals the point at which conflict transcends the limited and targeted notion of *vim* and escalates into war. This fog thickens as an intention to pursue expansive objectives, manifested through the exercise of intense violence, reaches a scope and scale that indicates a transition into war. It becomes evident that the actor employing force intends not to address a specific threat but a broader political and/or ideological goal via its use of expansive methods. It is important to note that war occurs when the intention is accompanied by the

characteristics of intensity, scale and unpredictability. Without these, violence remains within the foggy realm of vim.

Similarly, *jus ad vim* can better clarify when war ends by identifying the point at which the defining characteristics of war dissipate. At this end, we see that sustained intensity, large-scale destruction and expansive objectives are no longer widespread. The conflict begins to de-escalate, the fog of war begins to clear, and what remains falls within the realm of vim. The reduction in the intensity and scope of violence, coupled with a return to conditions where policing measures and low-level force become viable, signals that the conflict is no longer a war. At such a point, it becomes concerning to continue to award belligerents the unique permissions of war, as deliberate targeting and large-scale use of force is no longer ethically necessary or a discriminate means.

By situating vim and war within a continuum, the approach provides a temporal framework that avoids the risk of overextending the moral permissions of war. It ensures that war's grave moral and physical costs are reserved for situations that meet its unmistakable criteria, while vim allows for limited responses that fall short of the extreme conditions of war. However, the question of at which point in practice these boundaries of vim and war take place is not completely dispelled by the incorporation of the continuum of peace, vim and war. The unclear marker between when vim crosses over into war may seem to echo the challenges I presented against JWT in the first subsection.

The accusation of a *temporal deficit* may be presented against my argument, as there may still be difficulty in determining when the laws and permissions of war should apply and cease. This is both true and false. The arguments I put forward provide clarity by emphasising that

not all violence constitutes war, just as not all contexts with infrequent outright violence are necessarily at peace. It does so by providing a temporal basis to JWT by incorporating the peace, vim and war continuum. Importantly, it distinguishes between vim and war, underscoring that the rights and permissions granted under the framework of war should only apply in the most extreme circumstances. These extreme cases are tied to the intention of full-scale war paired with unpredictable large-scale destruction. Thus, in agreement with Brunstetter and Braun (2013), the start of war is not a precise science, but there should be an imminent threat of full-scale force that rules out a response by policing measures and sets war as the alternative realm of enforcement.

The developed approach also accounts for the means, scope and intensity of conflicts, acknowledging that these factors manifest differently across contexts. They are terms measurable by the context and a threshold will be arbitrary in speaking to these contexts. However, the combination of these characteristics of war when paired with the actor's intent to pursue a goal that triggers intense violence of a disruptive scale and intensity, signifies war. Within these contexts, the fog of war becomes so opaque that it is unmistakably war for those enduring the consequences. Without such fog, the case remains vim, indicating a lower level of unpredictability intensity and scale of force. The approach highlights that the fog of war must be thick enough, its intent, violence, intensity and scale so significant, that it is unmistakably war. Only in such circumstances can warring rights be granted, marking the beginning of war. This distinction between vim and war applies equally at the other end of the spectrum. As the intent, intensity, scale and uncertainty of force diminish and the fog dissipates, what remains is no longer war but vim. As soon as *jus ad vim* or policing becomes

viable due to the lack of characteristics identified in this section, we cannot morally apply the permissions of war.

Yet, the approach does not provide a precise marker because the understanding of the start and end of war is tied to the deduced intensity, scale and intention within the context of force. The argument I have presented places a critical burden on those waging war, those applying JWT to cases and those developing it within the literature to carefully assess whether a given situation genuinely constitutes war in the first place. A temporal understanding of whether the situation is a time of war or vim avoids the risk of expanding the definition of war needlessly, inadvertently bringing with it killing and destruction. The argument also calls upon examining the means of actors when using force, as vim does not grant full warring permissions and can indicate the illegitimacy of means.

4. Conclusion

I began this chapter by demonstrating the insufficiency of JWT in outlining when war begins and ends, revealing a *temporal deficit* in its framework. JWT struggles to pinpoint moments of initiation or cessation due to its inadequate attention to what constitutes the realms of war and peace. This challenge is particularly evident during the transition from peace to war and war to peace, where ambiguity arises as low-level violence disrupts peace or as war de-escalates into lower-intensity conflict. This blurring compels us to ask when a war truly starts and ends. This is an important consideration for a framework such as the JWT, which provides a moral framework for evaluating and guiding war. Determining the temporal boundaries of war is essential for justifying moral calculations and delineating the significant shift from the peace or vim paradigms, which entails profound ethical and practical consequences.

To address this ambiguity, I introduced the concept of vim, a middle ground between peace and war, as a more effective framework for understanding the continuum of conflict. Vim captures the ambiguous space between peace and war, emphasising that not all violence constitutes war and that the transition to war occurs gradually as the intensity, scale, unpredictability and intent behind the use of force escalate. Drawing on the work of Brunstetter and Braun (2013), I argued that *jus ad vim* offers a more refined approach, recognising the difference between force short of war and full-scale war.

While *jus ad vim* provides valuable ethical and temporal insights into this transition, challenges remain in determining the precise markers for when war begins and ends. Despite these challenges, the recognition of vim offers a framework for navigating the continuum of peace and war. It better grounds the start and end of war by understanding the distinct force, intention and scale that theorists and actors must account for before considering or exercising warring rights. The beginning of war is marked by the characteristics of the intensity, scale and unpredictability of violence, driven by the intention to pursue expansive objectives. Conversely, war ends when these characteristics - intensity, scale and uncertainty- diminish and conflict transitions back into the realm of vim. By situating peace, vim and war within a continuum, JWT can better consider the application of moral and practical permissions associated with the different paradigms.

Chapter 3: People

This chapter addresses the second ambiguity identified surrounding the concept of ‘the people’ and the ‘common good’ within JWT. JWT’s lack of clarity on who constitutes ‘the people’ and what their common good entails undermines its applicability to contemporary conflicts claimed to be waged “for ‘the people’”. To address this issue, the chapter completes three key tasks.

First, it examines the problems surrounding ‘the people’ and their common good within JWT. I term this the *demoi problem*, which encompass two related underspecified notions a) who gets a say in authorising war and how this legitimates an authority, thus, the means by which war is initiated and overseen; and b) how ‘the people’ are defined, and how their ‘common good’ constitutes the end or ethical aim of war, that is, the justification for what war is ultimately fought for. While the former has recently received some attention in the JWT literature, the latter remains under-theorised, particularly regarding the ends of war, that is, the ultimate purpose for which war is waged, grounded in the conception of the people and their common good. Resolving the *demoi problem* requires a deeper understanding of who counts as ‘the people’, what constitutes their good, and why that good justifies the pursuit of war.

Second, the chapter draws on communitarian political theory to propose a compelling framework for resolving the *demoi problem*. Communitarianism emphasises the intrinsic value of collectives and interpersonal relationships as foundational to defining the common good. Here, the common good is aligned with established values shaped by encumbered selves, individuals deeply influenced by the communities to which they belong. A community, which I argue can guide what we mean by ‘the people’, consists of individuals connected by affect-

laden relationships that reinforce one another and a shared commitment to values, norms and a collective identity, forming a particularistic conception of a common good.

However, the complexity arising from the existence of what I call *partial communities*, collectives that are constituted by individuals aligned with multiple communal goods, leading some to secessionist desires, poses a challenge to accepting generic notions of a single conception of the common good within a community. I introduce the concept of partial communities and argue that communitarianism can accommodate these complexities through the notion of a *community of communities*. This approach acknowledges the coexistence of multiple collectives with distinct conceptions of common goods.

Third, the chapter applies the communitarian understanding of 'the people' and their common good to JWT, specifically to questions of just cause and the legitimacy of waging war. The inherent value of collectives and the thick values embedded in a community underpin the just cause for war. The common good encompasses the rights and values essential for a community's flourishing. An attack on the common good represents an assault on the community's way of life and its ability to flourish, thereby justifying a claim to a just cause. However, the legitimacy to wage war need not be confined to the state. Any actor recognising and protecting the collective's common good may fulfil this role, provided they meet the remaining *jus ad bellum* principles. Different collectives meet these demands to varying degrees, highlighting tensions between the deontological value of collectives and consequentialist principles. I argue that purely deontological approaches to war are inadequate and may undermine the flourishing of collectives. As the common good holds inherent value, justifications for waging war to defend it are as important as consequentialist justifications for avoiding wars that threaten it.

1. The Demoi Problem

There is little dispute within JWT on the belief that war is justifiable only insofar as it pursues or protects the legitimate interest of a group of persons, whether under the traditionalist beliefs of war fought on behalf of people within statist or state-like collectives or the reductionist emphasis on war as an extension of individual self-defence (Orend, 2006; Fabre, 2012; Walzer, 2015). Nonetheless, the tradition pays insufficient attention to specifying who these people are, what warrants them a stake, how this relates to a legitimate actor waging war, and whose preferences are due consideration when authorising war. While these questions may not appear to be direct issues for revisionists, as they emphasise individual self-defence, the fact that they engage with the rights of groups of persons means the concerns remain relevant. I term the combination of these insufficiencies *the demoi problem* (plural).

Before introducing the insufficiencies, it is important to specify how the *demoi problem* differs from the argument put forward by Parry (2017b) and more generally in democratic theory (Song, 2012; Beckman, 2019). Parry writes that the demos problem (rather than the *demoi problem*) is a gap in understanding whose preferences should count towards the decision to wage war. He rightly outlines that whilst collective decision procedures should approve judgements on waging war, this does not tell us who to include in the decision-making procedure. Parry's demos problem focuses on determining who to include in authorising war and how their preferences should be weighted. While this is a valid concern, I argue that Parry's approach overlooks a broader and related issue due to his individualised method of measuring the demos' authorisation. Parry's work misses out on understanding the demos as the ends of war. Within JWT, the demos are frequently presented as the ends of war, with

terms such as the 'good', 'common' or 'public' invoked as a just cause for the ends of war (Aquinas, 1981; Coates, 1997; Walzer, 2015). Yet, these terms remain insufficiently defined.

Parry's (2017a) aggregation principle does not aim to account for the preferences of the demos when these are understood as constituting the ends of war, but I argue this reflects an unduly narrow view of the extent of the *demoi* problem and of what an adequate account requires. The approaches of just war theorists, including revisionists, who employ terms of defending a group of people, must grapple with the question of who 'the people' are and why and how they hold justificatory weight.

The *demoi problem*, therefore, extends beyond Parry's demos problem to encompass the lack of clarity about what constitutes the common good and who the 'common' includes. Only by addressing these questions can we begin to consider whether there is a role for authorisation. The following section will first summarise Parry's stance before developing the wider scope of insufficiencies.

1.1. Demos as authorisation

According to Parry (2017b), the demos problem concerns whose preference should count when justifying the use of force. He writes that we may agree that a collective procedure, such as the majority rule, is necessary, but this does not clarify who to include in making the decision. Understanding who this includes is important as it can significantly impact the collective decision procedure (Parry, 2017b). Different outcomes on decisions to wage war can depend on how the 'people' are specified and included. Nonetheless, it is not clear 'how to determine whose preferences are relevant' to the scope of the decision-making (Parry, 2017b,

178). This has important implications for authorising war if we assume the majority must consent for the use of force to be permissible.

Parry considers various ways of overcoming the demos problem. He begins by outlining the possibility that we could assume that all citizens of a country subject to a threat have relevant preferences. For example, Parry writes that if a state were to intervene against the Assad regime in Syria, then the consent of the majority of Syrians may be relevant. However, this may be too broad since it would include the preferences of wrongdoers whose actions the intervention aims to remedy. This presents an issue as it could permit consent by the majority to potentially reinforce oppression in cases where minorities are under threat. In agreement with Parry, this is counterintuitive and it would be wise to suggest that the preferences of wrongdoers do not count.

A second possibility is to adopt a restrictive view in which only members of the victim group have their preferences considered, but this, too, is problematic. Parry writes that this means excluding bystanders directly impacted and those indirectly impacted if the use of force is deployed. For example, this may include 'risks of collateral harm and the potential impact of refugee flows' (Parry, 2017b, 179). This raises the question of whether members affected by force, such as bystanders, should also partake in the collective decision procedure. Parry writes that given the impacts of wars often exceed borders or a particular target, a restrictive view would be, again, counterintuitive. Parry writes that another group impacted is those whose resources fund the war. He states that, as wars are extremely costly, it would seem plausible to think the individuals whose resources will be impacted will have a say over how their state uses them. Parry's claim appears convincing when discussing individuals' resources within the state pursuing defence, as this is not adequately addressed under the

restrictive view, where only the members of the victim group's preferences are considered. However, if the resources come from another state (an intervening party), it is clear that individuals in that state should have a say in how their resources are used.

Parry's demos problem includes the issue of determining which group of people should be included and goes beyond identifying the direct victim group. This is not a straightforward task. Determining how much of a say these different groups or members should get is also a central issue. Are we to award bystanders or those impacted by the cost of war less of a say than the victims? If so, how much of a say? Should we award some members of the victim group who are highly impacted a higher stake in determining the resort to war?

Parry responds to issues of authorisation by arguing that the victim groups and innocent bystanders should be considered when approving the use of force. However, he notes that different interpretations of the consent requirement produce opposing distributions when considering differences in agreement. The 'Majority Consent Requirement' holds that the majority of the victims must consent, or not validly refuse, for war to be waged (Parry, 2017a). In contrast, the 'Minimal Consent Requirement' justifies the defence if some members of the victims consent, or do not validly refuse. Both these requirements face issues, as focusing solely on victims overlooks the role of bystanders, wider societal impacts and the resources involved in the war. Moreover, focusing only on how many people consent detaches authorisation from considerations of the just cause put forward and the liability of the aggressor.

Instead, Parry proposes an alternative approach to 'move from the consent and refusal of individual victims' towards 'an all-things-considered judgement about whether or not the

requirement has been met' (2017a, 05). This is the 'Proportionate Consent Requirement', which justifies the use of force only if a sufficient number of the victims consent to intervention (Parry, 2017a). The number of consenting members is sufficient only if their defence is enough to justify the 'total amount of morally-weighted harm that defending the group will cause' (Parry, 2017a, 27). This moral weight includes the extent to which innocents will be killed while defending the subset that consents. The amount of consent needed varies depending on the size of the group, the number of victims refusing and the impact on innocents the conflict will cause. If the number of victims exceeds the harm to the number of bystanders, a smaller proportion of consent is required from the victim group. Or if the number of victims is lower, a higher proportion of consent is required to meet the threshold against the number of bystanders impacted.

Joseph Bowen (2021) and David J. Clark (2023) also identify the limitations of the Majority and Minimal Consent Requirements. Like Parry (2017), they respond to the conflicting consent distributions by putting forward an aggregation principle. Clark's principle introduces an aggregation calculation of proportionality as 'demandingness'. This includes considering duties to those consenting, those refusing and bystanders. Clark argues these considerations involve calculating whether the refusing parties' decision can be overturned by calculating 'a liability justification for the harm to the Attacker, and a lesser-evil justification for the harm to the bystander' (Clark, 2023, 56). He argues that the refusal of some individuals does not take away from the reasons for which the attacker is liable. Thus, whether the attack is permissible ultimately relies on their liability and the impacts on bystanders. This is supported by the lesser-evil justification, which allows for decisions to be overturned if there is a 'disparity between the harm that one will inflict on an agent, and the harm that one will prevent' (Frowe,

2018, 460). Parry's aggregation principle differs from Clark's, in that Parry argues that the interests of those who refuse consent cannot be used to justify defensive harm.

The difference becomes evident in cases where the number of people refusing protection renders the number of those consenting equal to the number of bystanders who will be killed.

Clark's example helps us consider this:

Grenade Defense: Attacker launches an attack. If successful, each of one hundred people will be killed. Only Defender can stop Attacker, and he can do so only by throwing a grenade at him. The blast will kill Attacker, but it will also kill an innocent bystander. Ninety-nine members of the target group refuse protection (2023, 55).

According to Parry's (2017a) account, only the interest of the one person consenting contributes to the justification for killing Attacker, while the refusal of the ninety-nine is excluded from this justification. As part of our normative power, the individuals' refusal means that the decision to intervene or kill Attacker for their benefit is excluded as a valid reason. Parry terms this the 'Power of Prudential Exclusion'. Defender faces a choice here of deciding whether one innocent person is *killed* if they do not intervene or *killing* an innocent person by intervening. Under Parry's principle, in the case of Grenade Defense, it is not permissible to cause harm to avert equivalent or lesser harm, Defender should not intervene. Bowen (2021) supports the 'Power of Prudential Exclusion'. He argues Defender's response is attached to justifications for saving the victims, thus, 'liability is the removal of a weighty reason against using defensive force' (Bowen, 2021, 251). Here, Defender may hold a reason to intervene and harm Attacker, but this 'is outweighed by their reason to not harm Bystander, given that ninety-nine of the target group refuse the defence (Bowen, 2021, 251).

Bowen and Parry assert that the aggregation principle should not only consider the consent and impact on bystanders but also the reasons that may impact calculations of necessity and liability. Clark (2023) takes issue with this and argues that Defender should intervene as the interests of the one hundred people should be considered. In cases of equivalent harm, Clark appeals to a lesser evil justification to harm the bystander and highlights Attacker is liable to harm. He does not exclude the interests of the ninety-nine refusers, thus under a lesser evil justification, killing Bystander invokes the benefit of saving the one hundred lives at the expense of killing a bystander and a liable Attacker.

The aggregation principle begins to partially solve the issue of consent amongst victims and bystanders, and Bowen and Parry provide persuasive insights into how we should calculate liability in relation to the refusal of defence. However, the aggregation principle cannot account for the real scope of the *demos problem*, which goes beyond discerning authorisation. Parry's (2017b) demos problem provides insight into understanding the demos as a means to authorise war, yet within JWT the demos have a role in justifying the ends of war. For example, traditionalists argue that the demos' territorial integrity and common good are just causes for the ends of war (Coates, 1997; Walzer, 2015). Parry's account may highlight that individuals can refuse and consent to this defence, however, how do we measure which way this tips the scale when the ends presented are collective in nature? It is not a case of the Grenade Defence, in which we can measure how many of the one hundred people consent or refuse to be defended, as their right to life will be impeded. The defence of territorial integrity and a common good is collective. It is not an aggregation of individual rights but collectively created, shaped and exercised. Instead, we need a better understanding of what the demos as

ends mean for justifying war. Parry's principle, like most accounts of JWT, faces shortcomings in defining the demos in this light. This is what I term the *demoi problem*.

1.2. Demos as ends

The *demoi problem* is wider than JWT's insufficiencies surrounding authorisation and also encompasses lacks conceptual clarity and normative justification in how we define 'the people' as the just cause for the ends of wars. Within JWT, waging war is conventionally framed as the deployment of force to protect and defend the public or the common good of people against aggression (Aquinas, 1981; Coates, 1997; Johnson, 2006; Walzer, 2015). Orthodox accounts of JWT, such as those of Walzer and his followers, endorse nationalist and territorial components that delineate the boundaries of peoplehood and identify the public as those residing within these boundaries (Benbaji, 2008; Statman, 2014; Walzer, 2015). This perspective is prominently reflected in Walzer's book *Just and Unjust Wars*, which has dominated academic and practical considerations of war since it was first published in the 1970s (Lazar, 2017). Walzer (2015) argues that within this demarcated territory, 'the people' generate a common good, which the state is responsible for overseeing by upholding the rights and liberties of the citizens. However, the precise nature of this common good and the proper scope of who it encompasses remain ambiguous. Resolving these uncertainties is essential for determining which groups are impacted, how this warrants a just cause for war and potentially their authorisation for war, if morally required.

To illustrate the problem of the traditionalist view, we can apply it to the scenario below.

Intervention: State A has been a functioning state since the mid-1900s, established over time through an organic social contract. Citizens have coexisted and created a shared

experience, forming a political community that tacitly consents to a state protecting their rights. State A comes under attack from a neighbouring State B, which claims to wage war against the regime due to its repression of an internal minority group, the Oppressed Minority.

We may agree that State A has the right to defend itself from aggression. For example, it can claim to protect the common good of the majority of its people, which a regime change or war may impact. However, as addressed above, it would be counterintuitive and morally unjustifiable to license the majority to determine the permissibility of action against the minority's oppression. Yet, a bigger issue at play here is (according to traditionalist accounts) that a common good is present and protected by State A, which provides an authority with the ability to deploy force to protect it.

Firstly, it is unclear what this common good entails. Is this the 'sum-total of individual goods', the 'goods of the social order that exist when available in common' or the Aristotelian access to happiness, property and civic obligation to a common interest (Koterski, 2012, 1034)? Whilst JWT theorists such as Augustine, Aquinas, Walzer, Coates and Johnson focus on the term of the common good (or common weal) to characterise war as a public matter overseen by an authority, no settled definition of the term exists.

Secondly, it is unclear how co-existence and shared experience over time equate to a common good. We might assume State A is a political community that provides generic goods such as security, health or education, but it is not understood how these goods translate into a unified good of the people. This issue becomes more pronounced in states with diverse identities and conflicting goods. Chandran Kukathas (2003) notes that political communities are unstable.

They face changes in geographical boundaries, secessions, unifications and renaming of states (Kukathas, 2003). Thus, people usually belong to more than one community, and the political community, like the others, is a partial community. The changing commitment to these communities and circumstances is often the very reason for the unstable nature of political communities. These partial elements and identities make it difficult to understand what the common good entails and how widely it is shared. It also raises questions about how many common goods exist within a space where multiple communities coexist. This calls into question how the elements of partial communities speak to a common good and whether some goods, more than others, are public and distinct enough to warrant causes for war.

Additionally, should the authority to oversee and protect this good or goods rest with the political community or another collective? Ambiguity also surrounds the relationship between the common good and the role of an authority to defend it. Orthodox JWT grants State A the right to defend itself against intervention through its satisfaction of the criterion of legitimate authority and its cause to minimise external interference to sustain territorial integrity (Coates, 1997). However, even if these justifications are sufficient and a conception of the common good is present and morally permissible as an end, the role or acquisition of authority remains unaddressed. Traditionalist accounts of JWT attribute legitimate authority to states and limited entities (Coates, 1997; Walzer, 2015). Yet, the proposed explanation of this status of authority as ‘deriving ultimately from the rights of individuals’ is either weak or absent due to a conflation between the nation and state (Walzer, 2015, 53). This conflation awards both a nation and a state the right against aggression, without clarifying how the state possesses this right. Intuitively, people have rights against aggression, but it is less clear that the state itself inherently possesses these rights. I will return to this point below.

Finally, determining *whose* and *what* good becomes more complex in the context of secessionist movements. In the scenario provided, it is unclear on what grounds the Oppressed Minority may take up force for self-determination or resistance to aggression. The literature can attempt to address their claims when tied to a common good, although ambiguous, but struggles to comfortably speak to the claims of groups without identifiable territory or a recognisable frontier. This issue of territory is closely linked to the *demoi problem*, as traditionalist accounts of JWT assume that a common good is exercised within a specified space, thereby granting the right of territorial integrity over it (Coates, 1974; Walzer, 2015). These accounts overlook the relationship between a subset of people claiming a distinct common good within the space, often assuming instead the existence of a singular national common good. This assumption necessitates a deeper interrogation of the relationship between the common good and identifiable territory. While I will briefly touch on this within the chapter, a separate chapter on 'Space' will explore this further.

Furthermore, the case of secession underscores the complexity of the *demoi problem*. It is unclear how the principles of authorisation and legitimate authority apply to secessionist movements. How do these principles apply to premature (and even established) secessionist movements that lack a clear formation of the common good, authority over it or a defined territorial boundary? It seems unreasonable to suggest that the Oppressed Minority would not be justified in defending itself against State A's aggression due to the difficulty in meeting these demands. These considerations highlight the need for a deeper exploration of different communities and their legitimacy in employing force.

Accounts of JWT grapple with the *demoi problem*, as it remains unclear whose ‘common good’ defines the legitimate objective of war, who gets a say in authorising it and how this legitimates the authority to wage war.

2. Addressing the Demoi Problem

To properly account for the role of people in war, we need to answer questions about who they are, what constitutes a common good and what their preferences are. The second section of this chapter seeks to bring clarity to the *demoi problem* by exploring and developing wider reflections of communitarianism found in political theory. I will argue that the reference to ‘the people’ and their ‘common good’ can and should be understood in terms of their interpersonal relations and goods agreed upon and established within a community. Since these goods and their defence rarely fit into a centralised community, the final section will develop the notion of a *community of communities*, which suggests that states are not necessarily the sole legitimate authority for waging war. Instead, legitimacy arises from the relationship between ‘the people’ and actors and their protection of the common good(s).

2.1. JWT’s state, people and the common good

Justifications for waging war are often tied to the protection of the common good of ‘the people’. This is present in the traditionalist work of Walzer, which shares some similarities with the thought of one of the founders of the JWT tradition, Aquinas. Aquinas stated that the prince is responsible for the common good, which is the welfare of the whole community (Reichberg, 2016). He stated that ‘it is natural for man [*sic*], more than any other animal, to be a social and political animal, to live in a group’ (cited in Crofts, 1973, 156). Still, as human beings tend to look to promote their self-interest, there must be a governing body to direct

and judge the common good. Walzer adapts this argument and maintains that the common good is in place when 'substantive life is lived in a certain way – that is, in a way faithful to the shared understandings of the members' (1983, 313). This is formed via the history of association and change that shapes the relations of liberty and prioritises the shared goods defined and redefined in the community. The prince, or state, has the role of protecting the rights of this common good.

Walzer's establishment of the common good through an organic process, where people within a shared space set out their conception of the good, is generally quite persuasive. However, his theory is liable to criticism for its incomplete reference to how the common good relates to a state that oversees the good. Walzer (2015) claims that state authority is dependent on the political community that is formed via association and rights, which define the limits and practices of justice and peace. He argues that a state has the role of defending these particular rights when they come under attack by another state. Rather than satisfy the role of Aquinas's judge, Walzer's prince is a 'guard over the community of their citizens' (Walzer, 2015, 54).

At first glance, Aquinas's top-down focus on the role of the authority does not closely resemble the argument put forward by Walzer. Walzer's approach to state authority is dependent on the political community that is formed via association and rights. The authority then has the role of defending and protecting these particular rights. Nonetheless, as Walzer develops his theory, questions emerge concerning the relationship between the *state* and the *nation*. At times, the position of the state appears to be central and top-down. Firstly, Walzer conflates the state, nation and government when addressing their role in war. Secondly, remains unresolved how Walzer's state is created following the formation of the nation, who this includes, and what rights of the nation are transferred to the state. These items are not

addressed, and still, the state is awarded a favoured status as a defender of the political community throughout Walzer's book.

Gerald Doppelt (1978) and David Luban (1980) identify the first issue and state that Walzer's approach falls prey to the confusion between the nation and the state. In Walzer's view, the state represents the political community, formed through the consent of its members to exist as a nation. He derives this from the 'assumptions that people have rights and that those rights may be transferred through freely given consent' (Luban, 1980, 167). This corresponds to what John Locke identified as a horizontal contract, an agreement amongst people to bind themselves into a community prior to the establishment of a state. By contrast, a vertical contract refers to 'the people', already constituted as a nation, consenting to place a sovereign authority over themselves (Luban, 1980). Here, the sovereign rules over its nation, but the nation (as a political community) must already exist for the vertical contract to occur.

Walzer confuses the vertical and horizontal contracts. His 'theory seems to operate on two levels' where on the first, 'he implicitly identifies the state with the established government' (Doppelt cited in Luban, 1980, 169). And on the second, Walzer 'identifies the state with 'the people', nation, or political community-not its de facto government' (Doppelt cited in Luban, 1980, 169). This confusion poses issues for the legitimisation of war. On the first level, it is unclear what rights the state possesses to enable it to wage war. Whereas, on the second level, Walzer highlights that the state has the right to wage war based on the rights of a nation. As the state oversees the rights of the community, it is assumed that violations of these rights justify defence. Walzer argues these rights are possessed by a nation and can then be rendered to a state based on consent. This suggests the state itself does not have a right against aggression; it is the nation that possesses the right. In response to Doppelt's (1978) and

Luban's (1980) criticism, Walzer (1980) states that the horizontal contract is reinforced in times of war and that a vertical contract is not present. This may respond to the confusion between the two contracts, but it fails to provide sufficient insight into how the nation's rights come about and how they transfer to the state to warrant the defence of the common good.

To properly account for the role of 'the people' of the nation, their right to war and authority over them, I turn to communitarian thought.

2.2. Communitarianism

Amitai Etzioni (2014) writes that communitarianism is one of the smallest schools in philosophy, partially since few scholars openly refer to themselves as communitarians. Nonetheless, communitarian ideals are numerous and broad in scope and have a long history in the literature. Walzer, Michael Sandel and Charles Taylor reject the label, however, this thesis will draw on their distinctly communitarian conceptions to address JWT's demoiselle problem (Chang, 2022).

Walzer (2015) employs communitarian tones in his work, yet this is not always clear, as he also accepts the legitimacy of rulers based on the preservation of individual rights in *Just and Unjust Wars*. Communitarians such as Alasdair MacIntyre (1978) and Taylor (1985) argue that the beginning of a political enterprise cannot be based on abstract notions derived from the interpretations of human beliefs and practices. The moral and political judgment of people depends on their language of reason and interpretive framework. As argued in Walzer's (1983) book *Spheres of Justice*, this does not necessarily overlook the universal set of standards that provide notions of human good and value, but these standards alone provide very little without considering their participation, application and distribution. To account for this,

Walzer's ethics focuses on spaces in which members exist and build citizenship, creating a sense of belonging. Here, they determine their destiny via a process of participation, application and distribution.

A communitarian lens indicates that we cannot deal with the rights of individuals or, in turn, the just causes of war as abstract notions. Just causes cannot be formulated from a universal standard alone, nor behind John Rawls's veil of ignorance. After all, people are made up of particularistic attributes. The self is encumbered, and its rights and good can only be truly understood and awarded when this context is accounted for. One cannot be free from the encumbered self, as our social background renders us 'partially constituted' (Chang, 2022, 120). Sandel writes, 'as members of this family or community or nation or people, as bearers of that history, as citizens of this republic', we make up the 'understanding of ourselves as persons' (1984, 90). Such social features create meaning through attachment, fostering a sense of moral particularity. The degree of this encumbrance renders abstract justifications of rights or just causes for war flawed. The partially constituted self provides attachments and values that define what the principles of justice entail. The concept of the unencumbered self denies who we are and overlooks the 'personal identity, moral and political thinking, and judgements about our well-being' (Bell, 1993, 04).

These arguments highlight that the value of collectives is derived from their role as the primary context for shaping identity, fostering belonging and providing meaning, which determines the nature of commonality and how this sets out the meaning and justification of justice. This value does not come from an unencumbered self that chooses to place value in a community. Such a suggestion implies that the self exercises autonomously and acknowledges and selects a community. This is flawed on two counts. Firstly, the constitutive

community's value does not rely on choice (Sandel, 1984). Its value rests on its provision of meaning and principles of justice. Secondly, to suggest that the self selects a community and places value in it overlooks the usual operation of communities in the background. These meanings and interpretative formations may seem natural and progressive, yet they operate in the background. They operate in a way in which articulation of such is resisted until a significant event, such as an attack on the community or migrating away, brings awareness of its importance (Chang, 2022).

In developing these communitarian ideals for JWT, I will remedy the ambiguity around JWT's conception of the common good and outline how a collective's common good can set out who 'the people' are.

2.3. The communitarian common good

Communitarianism encompasses much work that defines and speaks to the politics of the common good. It is understood to be a communal formulation of the good. This does not entail merely an aggregation of the private and personal goods of individuals within society (Etzioni, 2004). Rather, it includes the goods that serve the group, while also serving a generation yet to be born. As a person exists within and is a part of a community, their identity is partially constituted and embedded in their social context. Building on the work of Aristotle and Georg Wilhelm Friedrich Hegel, communitarians argue that the conception of the good is formulated on the 'common' level, which is the social level. Such a formulation implies the community is not a normative-neutral realm (Etzioni, 2014). Thus, there is no use in attempting to form this good or related conception via a theory of justice based on abstract or removed normative principles. Only through the common formation of the good can a

normative foundation for negotiating and resolving 'conflicts of value between different individuals and groups' be established (Etzioni, 2014, 6).

This reading implies the common good is a shared moral framework formed and sustained by the collective values, history and practices of a collective. This embedded notion of the common good has been met with numerous criticisms. A central critique is that reinforcing a collective's common good ignores universal moral orders, potentially enabling violations in the name of community values (Bell, 1993). Whereas a universal moral standpoint identifies practices such as genocide, slavery and murder as universal ills, particularism does not always accept this. Critics, as early as Kant and Plato, have long argued for the existence of universal concepts (Bell, 1993). The literature covers this as a long-standing tradition of essentialist thinkers. Such thinkers may propose differing core moral judgments about rights, but the argument remains that truths exist which apply to all individuals. This argument is evident in the work of John Rawls' (2009) *A Theory of Justice*. Rawls provided a universal element of justice that derived from an abstract point, prioritising individual liberties and resources that allow persons to determine their own good. In fact, the communitarian camp gained its Western footing in academia from its response to Rawls' theory. They formed a critique of Rawls' individualism, accusing it of devaluing the community (Etzioni, 2004).

In response, communitarians rightly outline that essentialists fail to comprehend how collectives have a historical and contextualised understanding of good that is formed on a community basis and underlies their moral understanding (Sandel, 1984). These abstract rights to determine one's good or exercise a notion of justice or freedom do not yield actual results of what one is entitled to. To answer such, the limits and value of these rights need to be based on an actual reality. Despite the communitarian's response, a concern remains with

how a contextual moral framework addresses the risks of cross-culturally agreed ills such as slavery and genocide.

Walzer's (2019) *Thick and Thin* (originally published in 1994) attempts to resolve this dilemma. He posits that values can be understood in two ways, corresponding to two levels at which they occur. Minimally, they may be grasped in a thin sense. This is the level at which we can generalise about how they are shared and engaged with cross-culturally. Maximally, however, they occur in thicker, more fully articulated forms that are specific to particular contexts. Thick values are the moral codes that each collective exercises based on its way of life, while thin values are derived at an abstract level, understood cross-culturally. Both of these values can make up the common good formed and defined amongst collectives. Walzer argues that people begin with thick values, and through moral debate, thin values emerge without undermining the communitarian argument. He puts forward the examples of the protests in China's Tiananmen Square for freedom from dictatorship and the demonstration in Prague calling for democracy. In both cases, Walzer suggests that cross-culturally there is a common understanding of democratic terms like truth and justice, even though they have different meanings according to different collectives. Yet, there is a universal moralism that can be understood on an abstract basis.

However, Walzer complicates this relationship by arguing that thin and thick values are so abstract from one another that they are not part of a whole. For Walzer, thin values appear independently in times of crisis and confrontation, yet they also derive their value from maximalist values. It is unclear how thin values can appear independently if they must be understood through maximal morality. Walzer also argues that thin and thick values 'are differently formed and differently related' (2019, xi). Thus, if minimalism is so abstract from

maximalism, how is it embedded and understood in maximal morality? If thin values appear independently, is maximalism not the core morality?

Walzer's framework does not fully resolve the dilemma between particularist and universalistic values. Yet, his work on thin and thick values can be revised to account for this dilemma. This can be done by agreeing with Walzer that both values hold significance for a collective, yet they are not as separate as he assumes. First, when thin values appear, they work together with thick values to generate meaning within the common good of a collective. Second, thin values can also become integral to redefining and developing a collective's good. They are contingent and changeable, shaped by the collective's circumstances and the scope of their common good. Here, both are not independent of one another and go hand in hand to guide abstract ideals into the core maximal morality.

On the first point, Walzer begins to outline how thin values relate to and can derive meaning from maximal morality, but mistakenly suggests they are not part of a whole. But it is not convincing that they are separate and unrelated, instead, they are inherently interconnected. Take for example, the thin value of a right to justice. Different collectives can sympathise with calls for political justice, such as accountable governments or protection of civil goods, as seen during the Arab Spring when many citizens in the region demanded political reform and justice (Teti, Abbott, and Cavatorta, 2017). Citizens called for political change that addressed socio-economic issues and secured social justice (Fahmi, 2021). Yet it is unclear what this universal right encompasses, and it has developed differently within the region. In Egypt, Yemen, Syria and Tunisia, this meant bringing down the regimes (Teti, Abbott, and Cavatorta, 2017). In Algeria, the protestors put forward political, social and economic demands, but their level of uprising and mobilisation did not emulate that of their neighbours. Their conception

of justice was impacted by a history of violence and a fear of a return to disorder, as seen in the conflict of liberation from France and the 'red decade' in the 1990s that resulted in the deaths of hundreds of thousands of civilians (Zoubir, 2011). Algerians called for justice, yet it was confined to their collective understanding and parameters of what justice meant, tied to history, values and ongoing practices. The thin moral right to justice may provide collectives with the catalyst to consider change and include cross-culturally developed or influenced practices from other collectives, yet the maximal moral space shapes and limits the meaning and application of the assumed universal right to justice. Only the community can set out the valid parameters realised within their context (Forst, 2018). This may influence and negotiate what thin values mean, but this is according to the scope of maximal morality.

The above may appear to suggest that thick maximalist morality has a greater significance than thin values, but this is not entirely true. Thin values applied within collectives have a profound impact on preserving the goods of a collective and fostering communal flourishing. This moves us to the second point. The common good, while rooted in the maximalist meaning and values embedded within constituted selves, is not rigid in scope. Communities can decide and recognise a need to incorporate external values, to secure and define their collective flourishing. This is usually seen when communities take up 'dysfunctional forms, especially when their social bonds, culture, or political structure are oppressive' (Etzioni, 2009, 115). For example, in post-apartheid South Africa, thin values like human rights and democracy catalysed a transformation of the collective's values, triggering measures of reformed cultural practices around governance and inclusion. This shift underscores the ability of thin values to influence and enhance the common good. The culture was oppressive, and whilst challenges remain, the fall of apartheid in 1994 made room for the influence of thin

values such as constitutional democracy, human rights and inclusivity. Thus, the context plays a role in setting out the scope of morality, but also its circumstances can call for its redefinition.

Thus, a collective's conception of a common good can be redefined and influenced as thick and thin values are not always entirely separate. Thin values interact closely with thick values to redefine the practice of the common good. Such thin values can become essential in enabling thick values to flourish, forming an internal process of redefinition where the community actively negotiates its values, especially in times of dysfunction. This dynamic interplay highlights the flexibility and adaptability of the common good, via its capacity to integrate broader and universal principles without losing its contextual depth.

This understanding suggests that the common good is not merely a shared moral framework formed and sustained by the collective values, history and practices of a collective. The common good is the shared moral framework of members, rooted in thick values, with the capacity to incorporate or be redefined by thin values that enable the flourishing of collectives.

2.4. The role of individual rights

The developed ideal of thick and thin values reinforces the value of collectives and their common good. My ideal contrasts sharply with the revisionist literature, which dismisses the intrinsic value of collectives and instead argues that the common good is merely a product of individual rights. This contrast is also evident in the wider political theory literature on the relationship, or for some the conflict, between individual rights and the collective value. For instance, Robert Nozick denied the existence of a common good or collective value that could rival or override individual rights (Etzioni, 1996). He argued that individuals possess

inalienable rights, including liberty, life, justice and property, and 'there are things no person or group may do to them (without violating their rights)' (Nozick, 1974, ix). For Nozick, the common good is the good and value of the members combined. Similarly, revisionists like Fabre prioritise individual rights while allowing room for collective rights, but ultimately prioritise the former. Fabre states:

collective rights secure communal goods, to wit, goods which can only be enjoyed by several people, and whose worth for any one member of the group depends on their worth for other such members...At the same time, those rights can be human rights precisely because they protect interests which are fundamentally important to (most) human beings (2008, 966).

For Fabre, when we speak of the right to political self-determination, as an example of a communal good, its value is evident only if others also place value in it. However, Fabre argues that the value is crucial as political self-determination enables individuals to have a say in 'the way the social and political environment in which they live is shaped' (2008, 967). This suggests that rather than self-determination being valuable solely in relation to the values that other members place in it, it holds a value in ensuring human rights are represented and that they contribute to living a minimally flourishing life. For Fabre, the collective value is attached to individual human rights and can be included when it is compatible with cosmopolitan ideals of human rights.

Both Fabre's and Nozick's accounts rest on a flawed understanding of the self and individual rights as products existing outside or independent of a social context. They deny that, as individuals, we make decisions of good based on our moral space, which determines elements

of worth and value (Taylor, 1989). Our moral space, as well as the worth and value associated with it, is encumbered by our community, which has shaped our meaning of life. While individuals may claim or seem to exercise rights autonomously, these rights are often tied to unchosen routines and align with the meanings adopted as constituted selves. Exercising what may be deemed a universal right is not necessarily an autonomous choice but part of the goods to which we are committed. Thus, the invention of a moral outlook stemming from abstract individual rights is incompatible with both the meaning and the actual moral experience of people. The outlook rests on the flawed assumption that the unencumbered self is 'independent of purposes and ends' (Sandel, 1984, 86).

As encumbered selves, our moral space is not as autonomous as libertarians or revisionists assume. Yet, I am not arguing that recognising the importance of the community and the limitation of individualism means there is no room for human rights. The literature tends to highlight a rejection of or a departure from the politics of the common good in favour of the contemporary focus on human rights (Jaede, 2018; Deneen, 2018). Yet, this assumed departure overlooks that contemporary accounts can still make room for the role of the common good. This is evident with the use of terms like 'interests of all' or 'general welfare'. The terms suggest a category of people, whether it be a community, state or nation. Individuals may possess rights, yet these very individuals exist in relation and proximity to others, highlighting a collective functioning and interpersonalisation of rights. Indeed, it is by virtue of this collective nature that a claimed right, whether to territory, freedom, or justice, yields a determinate scope of what that right entails. Such a right is tied to what you and I can claim in relation to one another and the limits within which we produce meaning and value for these rights. There is a collective sense in defining what these rights may mean and how they

determine the scope of interpersonal rights. From this, it appears that thick morality can incorporate thin values, but there is an additional role of rights. First, thick values may provide a moral code according to tradition, practice and collective understanding that influences the understanding and adaptation of individual rights, yet they do not necessarily outline the duties, roles and cooperation among members, individual rights do. Second, in pluralistic communities, I believe individual rights are even more important in enabling members to exercise the duties and roles within their conception of the common good. I will elaborate on these two points below.

Firstly, constituted meaning and thick values within a society embody the common good of 'the people', but do not explicitly translate into clear instructions for how people should achieve and live according to these shared values. The common good serves as both a normative tool, providing 'deontic and telic commitments' and as a motivational tool, guiding the pursuit of human flourishing within collectives (Foran, 2022, 606). For these commitments to be realised and flourishing to occur, duties and the principle of right action are necessary. Since members of a community stand in a relationship with one another, they must establish and embody mutual arrangements to satisfy their collective values. These arrangements, which determine decisions on duties and right action, form individual rights, which are both personal and interpersonal. Because of the nature of individuals as collective beings, individual rights are grounded in moral rights. These rights translate into agreed conventions, institutions and laws that reinforce the roles and rights of members. Rights enable access and participation, while also serving as a tool for redefining values according to the constituted language. They are grounded in the interest of the collective to enable duties and decisions to further the common good (Raz, 1995). Through the exercise of right action and the

motivational pull of the common good, individuals contribute to both the preservation and transformation of societal values. This interplay ensures that shared meaning shapes individual rights while also leaving room for reinterpretation and redefinition to enable progress in the pursuit of collective flourishing and overcoming conflicts.

Secondly, setting the scope of duties and the right action is not a straightforward task in partial communities with multiple goods. As outlined by Kukathas (2003), we are usually part of partial communities and belong to more than one community. Belonging to more than one means aligning with various values, some compatible and others conflicting. Within these times of conflict between partial communities with multiple goods, favouring one good over the good of another group, and potentially marginalising minorities, is not a communitarian solution. To properly practice the politics of a common good is to establish a system that accounts for these goods. Dismissing partial goods fundamentally misunderstands the value of the common good and its motivational element to pursue human flourishing. It is evident here that the inherent value in practising a common good and enabling it to flourish is a right in itself. This right is based on the natural rights people possess in virtue of their nature. As communities are how we come to be and how we flourish, it is a moral right in virtue of our nature to possess the right to inclusion and participation in a collective. This right of inclusion and participation is not an abstract thin right but is universal in its conditionality. It is universally needed for communal living, yet the way it is understood and realised depends on a community's moral framework. This right is compelling in a pluralistic society in which threats or subjugation of minorities or groups are possible. Rather than consider this as a thin value, it forms part of the maintenance and achievement of the common good.

These two grounds highlight the compatibility of individual rights with the common good. Firstly, individual rights provide potential duties and actions amongst individuals in line with the maximal meaning of the common good. Secondly, the intrinsic value of collectives and their common good outlines a *prima facie* right against exclusion in collectives, awarding individuals a right to access and participate in the collectives.

The argument I have provided so far has outlined the values of collectives in virtue of their encompassing the common good of people. This common good is made up of thick values tied to a maximal morality and can be redefined and influenced by thin values within the scope of the maximal morality. I have then supported the role of human rights in serving as a vehicle for organising collectives, enabling access and participation, and redefining values to advance their common good. The relationship between the common good and rights suggests the latter is dependent on membership in a collective. A person can exercise and achieve their rights according to their conception of the common good, which the community and institutions are set up to form and oversee. As implied in the work of Hannah Arendt, this reading of rights excludes people outside of communities or those without collaborative relations with beings and institutions to clarify and establish rights. Arendt (1978) wrote that the Declaration of Rights conceives of humans as possessing inalienable rights, in which a person is the source of human law. However, she argued that the actual source of law is that of members of a particular territory, a nation, rather than the individuals. Arendt highlighted that the nation-state possesses a juridical authority that acknowledges and ensures human rights (to various degrees). The issue for Arendt is that this means the rights are alienable from beings once they lose their political membership. She evidences such issues by citing the cases of stateless persons following the First World War.

It is worth clarifying that Arendt's criticism is the denial of individual rights rather than the communitarian grounding of rights. In the essay *Karl Jaspers: Citizen of the World*, Arendt acknowledges that an individual in a practical sense is linked to the community and territory in which 'responsibilities, obligations, and rights' are possessed (cited in Parekh, 2011, 151). She writes that a universal notion of '*citizens of the world*' is ideal and dangerous. Communitarian sympathies are evident, yet Arendt outlines communities, once dominated by nationalism, expel and threaten the rights of those not part of the nation. Here, she argues that the right to have rights and belong to a meaningful community is a fundamental human right. This argument falls in line with the moral rights I outlined for individuals to possess rights of inclusion and participation. The intrinsic value of collectives means there is a prima facie right against exclusion in collectives. The right to participate in a collective accepts the right to have rights in which one lives 'in a framework where one is judged by one's actions and opinions, and the right to belong to some kind of organized community' (Arendt, 1978, 296-97). Such rights are not grounded in 'an expression of the sovereign will of individuals' but are based on satisfying human interest to achieve and flourish according to their natural relationship within collectives (Forst, 2017, 2). Within a community, rights can be formed, understood, protected and embedded to create the 'freedom to pursue common ends in a public sphere' (Parekh, 2011, 153).

2.5. What is the community?

So far, I have argued that the inherent value of the common good is derived from the constituted meaning and values of collectives. It encompasses the contextual definition of the thick values, setting out our moral space and leaving room for developing rights according to such, and incorporating thin values. However, this still does not neatly outline what

constitutes a collective or community. Just like Just War Theorists, communitarians talk about the good of the members (or people). They also face criticism regarding the vagueness of what the term *community* means, which makes identifying members difficult (Dagger, 2004).

However, Etzioni argues that communitarians clearly define the community as:

A group of individuals that possesses two characteristics. The first is a web of affect-laden relationships which often crisscross and reinforce one another (rather than merely one-on-one or chain-like individual relationships). The second characteristic shared by the individuals of a community is some commitment to a core of shared values, norms, and meanings, as well as a collective history and identity – in short, a particularistic moral culture (2004, 23).

The definition highlights that within a community, individuals hold relationships with one another. These relationships are dependent on their affect-laden connections, which go beyond securing ends in which they are mutually invested. Members of the community are tied by a shared understanding and commitment to values. They cannot properly value these alone because it is in virtue of their membership that the mutual particularistic moral culture is understood, created and developed. Such a moral culture is their common good.

Whilst Etzioni's definition refers to the community, I have highlighted that partial communities exist. His definition does not necessarily overlook this as members of partial communities can exercise the first characteristic of the definition and engage in affect-laden relationships with different members of the partial communities. This does not mean they have conflicting particularistic moral cultures. On the second characteristic, the community can account for a *community of communities*, in which inclusion reinforces an agreed and

negotiated set of particularistic moral cultures. However, there are occasions when this is not possible and calls for self-determination are justified. I will return to this below.

3. Applying Communitarianism to Just War Theory

If we accept the communitarian argument that the common good is defined by the shared life of members, constituted through both thick and thin values embedded in affect-laden relationships and particularistic moral cultures, what implications does this have for JWT?

As outlined earlier, various accounts of JWT place people, whether as collectives or individuals, as a central justification for employing force. For traditionalists, war defends the common good of a community, while for revisionists, it protects individual rights. The communitarian revision I have proposed better positions what is meant by ‘the people’ and the role of war in defending their common good, potentially alongside the human rights derived from this that are required for them to flourish within their collective.

The core claim that follows from my development is that the legitimate ends of war and the just causes are constituted by the community’s own thick commitments that define its common good, rather than by universalistic commitments. Thus, war is justified against an injustice defined by a community’s conception of the good, which varies across communities based on their thick values. Just as we saw different measures taken up to achieve justice during the Arab Spring, based on each collective’s history, impacts, and associated methods, they calculate how justice looks and at what cost in alignment with their good. What remains the same across these communities is their defence of this common good.

The common good encompasses the values and rights necessary for a community's good life and is inherently communal. This moves beyond mere claims that the good is based on interpersonal relations and highlights a deeper shared value, solidarity and the formation of this good. The inherent value of living according to this good and establishing it serves as a just cause and an end for waging war. A just cause is also present in claims to establish the common good. As I outlined above, it is within a collective that people form their good and exercise their rights. Self-determination to establish or further this common good is a just cause. This shifts JWT away from universal individual rights as just causes towards embedding the reasons for waging war within the community deploying the cause. As there are conflicting understandings of common goods and the thick values that constitute them within communities, a universal agreement on what exactly constitutes a just cause is impossible. Though, what is apparent is that the defence of the common good is a just cause. Here, ethical theorising takes place from within. However, as outlined above, a particularistic conception of the common good can leave room for thin values. One community can accept and exercise justification for a defensive war put forward by another community. However, this thin value, while potentially shared across communities, is derivative of the thick commitments that form the core of the community's moral identity and common good. Consequently, thin values alone cannot independently justify a just cause for war.

As argued above, human rights play a distinct role in organising collectives by enabling access, participation and the redefinition of values necessary to advance their common good. These rights are not external impositions but derive from the collective's thick values, setting out the roles, duties and participation required to realise its shared conception of the good life. When such rights, embedded in and shaped by the collective's agreements, are

undermined to a degree that threatens the collective's conception of the common good, a cause for war becomes evident. Thus, the protection of human rights is not independent but is derived from the thick values that form the foundation of the collective's common good.

The particularity of the thick values might seem to deepen the concern that critics have with the ambiguity of JWT. At first glance, to say just causes are to be determined by a collective's conception of the common good appears to widen causes and assumes greater danger of authorising war when the JWT attempts to restrain and limit it (Evans, 2005). This is not an entirely accurate critique of the communitarian argument developed. First, a focus on a thick morality reduces ambiguity as it removes the abstractness of minimal conceptions and supports the translation and definition of causes by the very collective that is waging war. It reinforces that the acceptance of thin values does not indicate a standalone morality, as these values form features and meaning derived from thick values. This thickens the thin values, embedding them within the richer moral fabric of the community. Yet, this does not mean that thin values can provide justifications for war. Due to the very nature of their thinness, a thick maximal morality needs to ground and justify them.

Secondly, the development does not suggest that collectives can propose and employ various reasons for taking up force. The determination of causes by collectives is attached to their common good. It is this common good and its defence that provides the core tenet of just cause for war. The common good is made up of thick values, differing in number within communities, some complementing others, and others holding smaller value. Together, these values make up the common good. To wage war for the common good is not the same as waging war to protect a singular thick value that forms it. The common good is not the sum of each thick value, but the combination of them.

Having said that, the weighted value of one thick value may be greater than the weight of others. The creation of the common good is not equally made up of each value. It is possible that a particular thick value constitutes a core feature of the collective's good, and threats against it may undermine the people's good and flourishing. A hypothetical scenario may help illustrate this.

Atomic attack 1: Following an atomic attack on a neighbouring state, Target, the nearby state Bystander is facing radiation-related implications. The radiation emitted is causing harm to the bodies of some members of Bystander's community. However, Bystander has refused to provide medical assistance due to the collective's religious belief against the use of medication. A third state, Intervener, accuses Bystander of negligence and threatens to intervene to medically treat the affected individuals.

From the case, we can identify the thickness of Bystander's religious values. Yet, Bystander's also holds other values, such as a distributive welfare policy that satisfies its thick value of ensuring a decent standard of living amongst members. These are two different values that make up elements of the common good. However, the religious value appears to carry greater weight in the structure and beliefs of the community. If this particular value is central, Bystander may have a more credible just cause to resist Intervener's proposed intervention. On the other hand, if Intervener can act without undermining that central value, Bystander may not have such a readily available justification for resisting. Consider the following variation of the scenario:

Atomic Attack 2: Following an atomic attack on a neighbouring state, Target, the nearby state Bystander is facing radiation-related implications. The radiation emitted

is causing harm to the bodies of some members of Bystander's community. Intervener has decided to intervene by installing advanced technology in Bystander's rainforest to mitigate the radiation. Bystander opposes this intervention, as the technology would consume rainforest resources that currently subsidise their community's distributive welfare policy.

In this second scenario, Intervener's action would reduce the effects of the radiation but at the expense of Bystander's resources. This will result in a reduction in distributive welfare amongst members within the current system, yet improve the health of some members. While some will benefit from better health, Bystander's distributive system, established through a collective agreement, would be affected. This provision makes up an element of the community's common good, yet it is not evident that its reduction, or possibly its redistribution, amounts to a violation as serious as imposing medical treatment, as seen in the case of Atomic Attack 1. It is not clear that the intervention will undermine the value of the distributive welfare policy, given that the radiation-related harm is already straining provisions that make up part of the common good. Here, Bystander's claim to wage war against Intervener, in defence of its common good, is less convincing. Not all appeals to thick values are sufficient to justify the use of force; some values are more compelling than others due to their centrality and substantive value of the community's conception of the common good..

With this in mind, the just cause to wage war is still subject to satisfying considerations of the remaining *jus ad bellum* principles of necessity, proportionality, last resort and chance of success. These principles ensure that the justifications for defending the common good are proportionate and morally calculated. As Steinhoff (2014) writes, the principle of just cause is

both defined by and dependent on the remaining principles of *jus ad bellum*. This includes proportionality in particular. He writes, 'It is *impossible* to say anything meaningful about just causes of the right 'type' *without* simultaneously saying something about scale and magnitude' (Steinhoff, 2014, 37). Steinhoff defends an account in which 'proportionality is a subcriterion of just cause' and then 'last resort and prospects of success are subcriteria of proportionality' (2014, 37). In this sense, a just cause depends on a proportionate war and a proportionate war depends on the means available and the ability to achieve the results.

For theorists such as Walzer, the principle of proportionality is often downplayed in cases involving aggression against a community. Walzer suggests that proportionality is difficult to apply because of a disconnect between the interests of individuals and the broader goal of victory. He argues that calculations of necessity and proportionality assume it is possible to measure the value of harm relative to the destruction caused. However, the actions taken during war are inherently tied to the pursuit of victory, which itself depends on a series of events that shape the means employed. Walzer further notes that separating the pursuit of victory from considerations of the means and the destruction involved disregards the complexity of determining a stable and coherent assessment of the values and methods at play. Alongside this difficulty in application, Walzer suggests that there are times in war when 'victory is so important or defeat so frightening that it is morally... necessary to override rules of war' (2015, 132).

Walzer's points raise key concerns. He identifies that in times of urgency, quick and disproportionate measures may be deemed moral. In cases of genocide or mass annihilation, such calculations may be easily overlooked. This arguably aligns with communitarian values in which there is an urgency to protect the common good from grave ills. Although in cases

lacking urgency, abandoning principles simply due to the difficulty of measuring them becomes harder to justify. If we accept the causes of war to protect and preserve the common good, we are likely to identify more collectives with potential rights to wage war. These collectives vary in their abilities and relationships with the central government and other collectives, raising concerns about the risks of reprisal and prolonged fighting. Calculating the value of the common good against acceptable wartime cost is undeniably challenging. Yet, it remains essential to consider feasible success and capability, as these shape the potential consequences of war.

This is particularly important as the common good holds such an inherent value, making the justification of waging war to defend it as important as the justification of avoiding war that will undermine it. While difficult to measure, the calculations of proportionality and victory, or a reasonable goal, are not as distinct as Walzer suggests. For example, the secessionist movement repressed by a central government may have a just cause to wage war against its aggressor. However, if they override the rules of war or attack all liable targets to achieve their aims, the resulting reprisal and prolonged conflict could ultimately undermine the very common good it seeks to protect. Thus, the complex task of balancing proportionality and victory is ultimately left to collectives and their legitimate authorities, who must assess these factors in light of the values and consequences integral to their common good.

3.1. Who can wage war?

Communitarianism outlines the values of members and provides insights into the role of the common good as a just cause for waging war. This sets out the values of a community and related war rights rather than the role of an authority. This leaves us with the question of how

and why the common good should inform the role of an authority deploying force on behalf of a community.

Whilst emphasising the collective good of 'the people', some communitarians note that collectives are often bound by legal national communities with institutions enforcing the collective good (Taylor, 1989; Sandel, 2006; Walzer, 2015). As outlined above, these very institutions may play a role in determining the roles and rights of individuals to enable the practice of the common good. This argument is evident in the work of Walzer, who upholds the modern nation-state as the overseer of this function. He claims that as the modern nation-state organises the nation and protects the common good of the collective, it is awarded the status of legitimate authority. This authority may also be interpreted from the work of Taylor (1989) and Sandel (2006), who ascribe the responsibility of overseeing the inclusion of good(s) to the national community. In this view, the national community holds a distinct role in ensuring inclusion and protecting the conception of the common good.

A legitimate state authority is justified if it satisfies the ability to practice the politics of the common good. For Taylor (1989), this includes creating a bond of solidarity amongst the members of the nation where the state is a common enterprise bound by patriotic identity, history and commitment to ideals. Sandel also accepts a statist authority when the state plays a role in enforcing civic virtue and providing full membership to citizens, including those once 'wrongly excluded from the common life' (2006, 153). Thus, communitarian work includes reference to authority, particularly attaching its role in ensuring the inclusion of 'the people' and the protection of the common good.

It is a forceful argument to award authority to an actor that protects the inclusion of people and their conception of the common good. This argument is conceivable when a national community includes a singular common good or a good that accounts for multiple goods with minimal conflicts. However, given the limitations and difficulty of some states meeting this standard, one is left to wonder who holds the authority. This is particularly important to consider when the nation-state is accused of violating the good of internal communities.

Walzer (2015) is lenient towards the state's shortcomings, viewing it as best suited to employ force unless accused of grave violations of the common good. This lenience is problematic. While grave violations are undeniably valid reasons to challenge a state's legitimacy, Walzer sets a high threshold for measuring the illegitimacy of the state. This fails to adequately account for the significance of an internal community's common good. In virtue of the value of the common good and its role in expressing members' true meaning in daily life, its protection is vital. Grave attacks of kinetic force are only one type of violation of the common good. A state may exercise exclusion or issue threats against a group that are not necessarily grave, yet they may impact the satisfaction of their common good. When such actions hinder the flourishing of the collective and encroach on central thick values of greater weight, the state loses its representative ability or legitimacy over that collective.

As I previously stated, the weighted importance of one thick value may be greater than the weight of others. Thus, the extent of the state's illegitimacy can be measured in response to its failure to protect and uphold the practice of these differently weighted values. This statement invites us to consider the role of authority and the legitimacy to wage war on behalf of internal communities, whether in response to their national community or external communities that threaten their common good. I will explore this in detail below.

3.2. Partial communities

Amongst the *demoi problem* is the difficulty in identifying a clear community to which people belong. As outlined by Sandel (1984) and Taylor (1989), communities of family, patriotic identification or religion exist and may constitute the stronger identity and values of individuals. Kukathas (2003) examines the complex relationship between identity and political community, noting that people usually belong to more than one community and the political community, like the others, is partial. For example, Person A may be part of a geographical community which determines the meaning of security or access to resources that is overseen by a political community. Simultaneously, they may also belong to a psychological community and a community of memory. The psychological community operates through common activities that foster trust and cooperation (Bell, 1993). For instance, Person A might be part of a trade union, which creates a sense of togetherness and shared goals. Additionally, Person A might be a member of a community of memory tied to a history of imagined communities with a shared history dating back to multiple generations, such as a religion (Bell, 1993). In this context, Person A can integrate the ideals of their past community into their contributions to the present common good they share within a local community, whilst reflecting their psychological communities within the broader framework of the separate political community. The partial and layered understanding of communities highlights the interplay between various forms of belonging.

The variety of communities and the fact that individuals often belong to more than one does not necessarily detract from the value of collectives. Communitarians address this variety through the concept of *community of communities* (Etzioni, 1996). However, these variations pose a difficult task of determining which collective or group may justifiably take up arms to

protect the common goods of 'the people'. We can assume the political community holds this claim due to its role and institutions designed to protect the common good, but this assumption becomes less convincing when the role of the political community is weak. As mentioned above, the political community must satisfy the inclusion of people and the protection of good(s). This includes ensuring that the political community exhibits the relevant roles and practices necessary for individuals to exercise their common goods via rights, expression and equal political participation (Etzioni, 1996).

An ideal *community of communities* encompasses members engaging as equals and flourishing in accordance with their thick values. In agreement with Amitai Etzioni (1996), the ideal notion of a state is one that oversees institutions that uphold the moral values of communities without absolutizing them. The state should act as a facilitator rather than an arbitrator of values. When there is high trust between the state and communities, conflict is minimised and representation is easily assumed (Etzioni, 2000). However, the legitimacy of a political community becomes questionable when inclusion, deliberation and reciprocity are infringed upon. In such cases, communities within the broader political community may rely on localised collectives to protect and develop their thick values. These often lack identifiable figures of authority.

However, the role of authority when waging war is considered redundant by revisionists. They assert that individuals, regardless of their attachment to the political community, can wage war for the defence of their rights (Fabre, 2008; McMahan, 2009). The defence of these rights is understandable in the context of one-to-one attacks or small group exchanges. Here, individualist justifications frame self-defence as a matter of personal security. Yet, when considering attacks on communities or collective rights, individualistic self-defence proves

insufficient. If community A is under threat and its common life faces disruption or elimination, this situation constitutes a collective war. The bearer of the war is not an individual but the collective itself. It follows that just as the authority of a national community is based on its ability to ensure the inclusion of goods and protect the common goods, an internal community must satisfy this criterion to justify waging war. This underscores the role of authority in relation to both the *beneficiaries* and *bearers* of acts of force when addressing collective threats or defence (Benbaji, 2015).

To illustrate the complexity of this relationship, let's consider a scenario.

Internal struggle: Community A within State A is facing an attack from another internal group, Community B. Both communities share a national identity within State A, yet have continued to operate with localised power and distinct practices of particular thick values that are not formally recognised by the state. Community A decides to wage war against Community B as Community B is threatening and restricting its access to key territory central to Community A's religious practices.

We can reasonably assume from the scenario that Community A possesses a just cause to defend its common good from Community B's interference. The access to the territory in question plays a key role in Community A's thick values, as they are a community of memory. This territory is not only tied to a history of an imagined community spanning multiple generations, but serves as a place of present practice, where rights, roles and duties according to the community's good and identity are situated and flourish. However, realising the just cause of Community A does not clarify who within or outside of this partial community, has the authority to wage war. The scenario suggests that Community A's thick values are

partially overseen by State A and its separate partial thick values by itself. What does this mean for authority?

Traditionalists argue that states possess the authority to wage war due to their institutions and adherence to *jus in bello* principles (Coates, 1997; Johnson, 1999). This perspective emphasises a functional role, the ability of an authority to satisfy the protection of the common good. This is an important point. However, aligning the ability to wage war with the role of authority favours stronger actors and overlooks the role that non-state actors may play in communities like A and B. These communities exercise localised power and protect practices that are central to their thick values. Whilst State A may provide the national identity and a partial connection to a common good, it does not encompass the partial good associated with Community A's community of memory. In this case, it is the latter that is under threat. To suggest that State A possesses the authority to wage war is problematic, as the state's common good is not under threat. Furthermore, focusing on the warring ability could imply that State A has a stronger claim to authority over either community. This is counterintuitive in the case of Community A, as the state fails to include the religious aspects vital to Community A, which are threatened by Community B. While the ability to wage war is a key feature of waging war and influencing the success of conflict, it pertains more to the remaining *jus ad bellum* principles, rather than the criterion of legitimate authority.

As State A fails to oversee the values of the internal communities and goes as far as excluding some, its legitimacy over the communities is weakened. Here, we can assume the role of authority is awarded to an actor who better oversees the good of Community A. This actor possesses a qualifying role if they protect and identify Community A's thick values. They must then satisfy the remaining *ad bellum* principles in order to wage war. The role of

authority is not indiscriminately broadened and awarded to any individual capable of pursuing the ends. Since the defence of the territory constitutes a common good of Community A, its protection is not solely a matter of individual rights. The collective bearers and beneficiaries exist, and the just cause is not separate from them. Satisfying the criterion of legitimate authority requires an actor who possesses sufficient recognition of the collective threat and the means to defend and protect it.

The proposed response to partial communities and their access to war could face three potential objections. Firstly, the suggestion that a political community should be responsive and inclusive to the common good of partial communities is ambitious and utopian. Secondly, the allowance of partial communities to wage war goes against the JWT's attempt to restrain war. Finally, and in contrast to the two other objections, the suggestion that a community must satisfy *jus ad bellum* principles to wage war to protect their common good is too demanding for communities that lack political and functional ability. I will respond to these briefly.

The idealised notion of a political community may indeed not align with the conduct of the political communities we know today. This is expressed by Rainer Forst (2002), who writes that individuals are members of communities, which are all different ones. He states there is no ideal of a fully recognised individual, as their differing communities result in different normative justifications for their actions. I will not flesh out Forst's argument here, but his view is that communitarians cannot accommodate this variation and instead reduce most to conflicting justifications to thin values. However, I have argued above that individuals can belong to partial communities, and this can be accounted for by considering a political community as a *community of communities*. We can agree with Forst's sentiments, as most states and individuals organise across or within partial communities. Thus, it is not implausible to

demand that a political community account for these values. The idealisation I present can serve as both a guide and aim, as well as an approximation for measuring the legitimacy of actors or communities that take up force. Legitimacy is not a static standard, one actor may be more legitimate than another actor, and in times of war, degrees of legitimacy can be measured based on the collective's demands and urgency. For example, a host state may fail to fully incorporate the good of an internal community, yet it might still be better placed than another state to wage a war on behalf of the internal community. Subject to the state not violating the internal community's common good or substantially weighty thick values, its legitimacy may be weak, but not weak enough not to intervene. Thus, a role of approximation and measurements against the idealised notion is acceptable.

The second objection concerns the aim of the JWT. The tradition seeks to restrain the frequency and destruction of war, which includes limiting access to waging war. The principle of legitimate authority is central here, ensuring that war is authorised by a prince, state or limited non-state actors (Coates, 1997; Orend, 2006). Critics might argue that associating authority with partial communities dangerously increases the number of actors who can potentially deploy force. This is not entirely true. Acknowledging partial communities and their common good aligns with the just cause principle, which ensures war is justified when it must be carried out. This is central to the reconstruction I propose. As partial communities exist and begin to form conflicts with one another, threats and aggression may occur. To suggest that these groups cannot protect or defend their common good due to their status prioritises the claims and power of recognised actors, usually states.

The approach set out aims to strengthen the principle of legitimate authority, rather than rule it out. It rejects a statist reading of authority for states that lack legitimacy over partial

communities and restricts the support of acting in their name. This limits declarations of war by authorities that cannot demonstrate a legitimate role in overseeing the common good. Furthermore, the outlined reconstruction calls into consideration the remaining ad bellum principles. This reinforces the need to wage a properly calculated conflict in which partial communities must satisfy their ability and justification for resorting to war. Arguably, the inclusion of partial communities and the questioning of the legitimacy of traditional actors deepens the understanding of legitimate authority rather than broadening it indiscriminately.

The final objection suggests that recognising partial communities and permitting their acts of war according to jus ad bellum principles is too demanding. This may exclude communities with weak war institutions or abilities. While a communitarian reading may widen the actors and scope for just causes, a collective's ability is still expected to fall in line with the remaining jus ad bellum principles. The consequentialist considerations regarding an actor's ability and chance of success may pose a barrier to pursuing the deontological principles determining war-making. The objection recognises that stronger states are more likely to satisfy consequentialist principles due to their capabilities, placing smaller or weaker actors at a disadvantage.

These principles are indeed demanding, and the incorporation of the common good of partial communities does not fully address this challenge. However, weakening jus ad bellum principles for actors whilst pedestalling the principle of just cause without fully accounting for the consequences is dangerous. Nonetheless, Rodin (2002, 2016) argues that consequentialist principles do not guarantee the achievement of war objectives. This is evident in the objectives of wars in Iraq and Afghanistan, where stronger actors failed to achieve their goals and opposing actors organised and responded on the ground (Lamb, 2013). It is

important to note that such outcomes are sometimes unpredictable and call for the reconsideration of deontological elements.

A final point worth raising is the need for collectives to demonstrate that authority, common good and ability do not preclude the possibility of humanitarian intervention. Whilst this is not the focus of this thesis, there remains a moral role for intervention when weaker parties are under attack. This requires a detailed approach to interrogate how a collective legitimises an external actor to protect their common good.

3.3. Secessionist movements

As outlined above, a collective is tied to the establishment of the common good, which is central to the exercise of thick and, when necessary, thin values. In times of war, a collective under attack may protect its common good, provided it satisfies the remaining *jus ad bellum* principles. It is unclear how the demands of a collective common good, authority and ability relate to secessionist movements. We often see that groups seeking self-determination satisfy these demands to different degrees, given that some are prevented from establishing these conditions.

The JWT does not provide a comprehensive theory of the right to secede or 'why no such theory is needed' (Buchanan, 1992, 348). Allen Buchanan's statement from 1992 remains relevant today, as contemporary accounts of JWT continue to reference secession but lack a comprehensive approach in which it is dealt with. The communitarian conception can frame collectives seeking secession as pre-existing as a community with a shared common life. This is satisfied if members share a common life with established historical, social or cultural factors that drive the values of members. However, this does not necessarily equate to self-

determination. Self-determination implies the right to form a state and secede, whereas the communitarian development can allow different communities to coexist, hence the notion of a *community of communities*.

Walzer (2015) discusses self-determining groups as having a communal origin, with justice potentially providing the group with a cause to secede. This line of communitarian development suggests that when a *community of communities* fails to meet its role in facilitating and protecting the goods, a collective may seek secession as a remedy of last resort. Nonetheless, communitarian theorists differ in their treatment of justice as remedial (Buchanan, 1989; Margalit and Raz, 1990; Sandel, 1998).

Some communitarians argue that the right to secede is not solely based on persecution or neglect but on the right of members to practice and preserve their common values (Margalit and Raz, 1990; Philpott, 1995). Avishai Margalit and Joseph Raz (1990) go as far as suggesting that the case for self-determination weakens when members are exploited or aggressed. They argue that the stronger the protection of the common good, the stronger the right to self-determination. This view stems from the belief that membership in a functioning group is essential for self-determination. According to Margalit and Raz, 'membership of such groups is of great importance to individual well-being, for it greatly affects one's opportunities, one's ability to engage in the relationships and pursuits marked by the culture' (1990, 449). They argue that a prosperous culture is important to the well-being of members. If it is decaying due to discrimination or aggression, members lose access to opportunities and 'their pursuit less likely to be successful' (1990, 449). Moreover, Margalit and Raz argue that individual dignity depends on the brute fact that members require that respect is afforded to them and is not subject to ridicule.

Margalit and Raz's account contradicts the foundational values of communities and overlooks the intrinsic value of the common good. They fail to recognise that the right to self-determination seeks to protect and advance the common good, particularly in response to aggression that is undermining it. Take for example, the case of the Israeli occupation of the West Bank. Settlers have built their conception of common good and interests in the West Bank, undermining the values of Palestinians. Over time, this has weakened the thick values of Palestinians within the territory and driven them out. Under Margalit and Raz's account, the Palestinians' right to self-determination would appear weakened because their common good has been violated and partially erased. This conclusion is counterintuitive, given the communitarian emphasis on the intrinsic value of the community. The Palestinian struggle highlights that self-determination is not solely contingent on preserving a thriving collective but defending the survival of a community's values under attack. It is this very attack on the common good that provides a just cause to wage war. Furthermore, the Palestinian case demonstrates that the so-called 'brute fact' that members require the esteem of others and respect is not entirely true. Despite the ridicule and discrimination, the Palestinian community retains its sense of identity and continues to demand self-determination.

Additionally, it is important to note that satisfying the communitarian focus on communal origins and an assumed unexploited nature is easier for some groups to satisfy than others. Convincing arguments must be put forward to justify excluding groups, especially in partial communities where identities and values overlap. For groups struggling to secede, conflicting alignment with communities and decisions to entrust power to one group over another may alter their communal origins. Consequently, communal origin may not be as rigid for some communities, especially those affected by injustices and events that undermine their ability to

maintain an unexploited nature. This does not negate the non-voluntary nature of communities but acknowledges the solutions collectives employ to preserve themselves in the face of attack or change.

Under the communitarian argument, I can argue that the right to self-determination is based on the call of a collective with a common good to organise and separate from another collective that either fails to account for their good/or aggresses it. Nonetheless, unlike conflicts within partial communities discussed above, secessionists put forward an additional demand for a separate state, which necessitates claims to territory. To adequately respond to the legitimacy of such claims under my situated response, we must explore the relationship between collectives, their common good and their claim to a particular territory. This will be the focus of the next chapter.

4. Conclusion

The *demos problem* poses significant issues for addressing war. Without answers to these, the JWT is limited, if not inapplicable, to complex conflicts like those in Ukraine and Yemen. I outlined the extent of these issues and proposed a communitarian approach to mitigate JWT's *demos problem*. By incorporating the communitarian emphasis on the intrinsic value of collectives, the chapter has redefined and contextualised the foundational concepts of JWT. The communitarian identification of the value of communities in creating and developing the good of individuals and their interpersonal relations provides the basis for understanding people. It is this basis that determines the very definition and intrinsic value of the common good of 'the people', which creates the causes and ends of war.

Communitarianism provides a compelling framework for understanding 'the people', the common good and justifications for war. I identified 'people' as a collective with a clear common good or a range of collectives living in partial communities with multiple common goods. At the core of these communities are intrinsic values, expressed as thick and thin values. Thick values provide the maximal definition, while thin values emerge and gain meaning in relation to these thick values. In times of war, the protection or violation of these values forms the basis for just causes.

The communitarian development also leaves room for the role of legitimate authority to oversee the common good(s) and legitimise war. Rather than adhering to a traditional statist model, I emphasised the role of authority in genuinely overseeing and protecting the good or goods of collectives. This allows for a broader range of actors to potentially satisfy the role of legitimate authority, shifting from state-centric authority to the capacity of any actor to protect the intrinsic values of a collective. However, legitimate authority alone is insufficient, as the protection of the common good must be pursued alongside satisfying the remaining *jus ad bellum* principles. This ensures that the decision to wage war is properly calculated and justifiable, rather than relying on the traditionalist role of legitimate authority.

While the chapter argues that the communitarian lens provides a strong basis for defining the intrinsic value of people and the good, it does not neglect the need for consequentialist considerations. The chapter ended by arguing that purely deontological approaches to war are inadequate in moralising about war and can undermine the flourishing of the common good of collectives. The common good holds such an inherent value, the justification of waging war to defend it is just as important as the justification of avoiding war that will undermine it.

Chapter 4: Space

A central just cause for resorting to war is the defence of territorial integrity and political sovereignty. Most accounts of JWT begin with the assumption that states are legitimate territorial units, but they overlook the critical question of how the right to a specific territory is established or acquired (Simmons, 2001, p. 302). Across traditionalist, contemporary revisionist and contractarian camps, JWT identifies a just cause in defending against territorial aggression but neglects the intrinsic value, definition or justification of territory. This is the third shortcoming, surrounding territory, that I identified in Chapter 1. This chapter interrogates this neglect that stems from JWT's overreliance on statist borders and its under conceptualisation of the relationship of people to a space, and puts forward normative considerations for the value of territory and its attachment to a people. I argue that the value of territory can be understood through the relationship among members of a collective, which is inherently tied to the land. Their occupancy enables the formation and sustenance of their common good, which ultimately depends on territory.

The first section critiques JWT's treatment of territory across traditionalist, revisionist, and contractarian views, highlighting their shared failure to adequately explain the relationship between people, territory and state legitimacy. I argue that JWT falls short in defining territory, addressing the legitimacy of actors over it (*the particularity problem*), and explaining its relationship to people (*the attachment problem*).

The second section of the chapter explores some attempts to provide a theory of territory in wider political theory. I develop Moore's theory of territorial rights and argue that demarcating the land and defining who can wield power over it, *the particularity problem*, can

be satisfied once the attachment of a collective is evident through their just occupancy of a territory. The collective wields power over that territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory, which preserves and creates their conception of the common good. Their attachment to the territory evolves through a temporal extension, rooted in a commitment to a shared good and informed by mutual roles and duties that foster cooperation. Territorial integrity is thus a vital good, providing the space for a collective to live according to their shared values, existing as they do because of the land, just as the land is shaped by and dependent on the presence of the collective. Defending it against threats protects the collective's ability to exercise its conception of the common good.

The final section defends the right of a collective to protect its territory as a just cause for war. Territorial integrity underpins the collective's sense of identity and functionality. Therefore, the collective's right to defend its territory, essential to their common good, justifies waging war when the remaining *jus ad bellum* principles are met.

1. Just War Theory's Under-theorisation of Territory

In *A Political Theory of Territory*, Moore writes that territory is under-theorised in political theory. This is surprising, given that the language of the state and people is intrinsically tied to geographical domains and the contemporary interstate order relies on the demarcation of territory. Moore notes that political philosophy often focuses on the rights and duties of individuals in relation to the state (and vice versa), while potentially overlooking the normative foundations of territorial claims. As A. John Simmons argues, this may stem from a 'common sense' view of 'the territoriality of the modern state as natural and unquestionable'

(2001, 301). Such assumptions help explain the lack of normative analysis regarding the state's claim to a specific territory. This critique also applies to the literature of JWT. While there is a growing focus on the relationship between the warring rights of citizens and the state, the concept of territory remains neglected. This omission in JWT is distinct from the neglect in political theory and is of greater consequence, given that territorial aggression often serves as a primary justification for defensive force.

This section outlines under conceptualisation of territory by surveying some contributions from traditionalists, contemporary revisionists and contractarians. First, I present the traditionalist argument that territorial integrity and political sovereignty constitute a just cause for war (Walzer, 2015; Benbaji and Statman, 2019). I argue that traditionalists, particularly Walzer, inadequately address the relationship between people, their common good, and how this legitimises the state's authority over territory. By maintaining the status quo, this perspective resists the use of force by irregular groups such as secessionist movements.

Next, I turn to contemporary revisionists, who prioritise individual rights and self-defence as the core justifications for war (McMahan, 2014). While revisionists often employ hypotheticals and practical examples, their analyses frequently return to collective territorial considerations in cases of group or state-based conflict. However, they fail to provide a moral foundation for the concept of territory or to define its distinct rights. This under-theorisation risks undermining the normative significance and rights of collectives, whether states, non-state actors or secessionist movements.

Finally, I examine the contractarian approach, which reaffirms the traditionalist framework by endorsing a legalist paradigm (Benbaji and Statman, 2019). This approach relies on the existing legal order, reinforcing statist boundaries and agreements while overlooking the pre-contractual rights of collectives without recognised status. By neglecting the need for a normative theory of territory, the contractarian view perpetuates a suppressive understanding of territorial boundaries.

1.1.Traditionalists

Traditionalists provide ‘moral foundations for international law’; thus, a key emphasis is on the state and its national defence (Lazar, 2017, 38). Walzer (2015) argues that the forceful violation of a state’s territorial integrity is the utmost moral concern. Walzer asserts that the defence of territorial integrity is tied to the sovereignty of ‘the people’. The people’s independence rests on the protection of the common way of life that is established and developed within the territory. According to Walzer, the state holds the role of overseeing the common good of ‘the people’ within its land. Walzer proposes a collective rights-based approach, arguing that a state’s moral standing grants it the legitimacy to respond to aggression. In other words, the independence of a state and its role over territory are linked to its protection and maintenance of the common good.

Nonetheless, Walzer does not necessarily suggest that a state that denies citizens’ rights and liberties forfeits its right to political sovereignty. It is only in cases of enslavement or massacre that this right is forfeited. Walzer’s threshold for violations appears considerably high, given that he provides a collective rights-based approach, which is attached to the analogy between persons and states. He argues that individuals within a society forfeit their rights when they

violate the rights of another, just as a state that aggresses against another state forfeits its right to political sovereignty. Yet, when a government violates the rights of its people, it does not follow that 'the people' have a right to deploy force against the government. Gerald Doppelt writes that it is easier to understand the rights of individuals in terms of their 'certain rights of life and liberty' and what 'entitles them' to those rights, and when they may be denied (1978, 4). By contrast, he writes, understanding the certain rights of the state, what entitles it to those rights, or when it forfeits them, is not as straightforward. Walzer's analogy is weak and fails to provide a sufficient answer to what exactly provides a state with the right to territorial integrity.

Walzer explains the state's right to territorial integrity by highlighting that 'in the absence of a universal state, men and women are protected and their interests represented only by their own government' (2015, 61). Their government is better placed to protect them from external encroachment and secure the common life shaped within the particular territory. As outlined in the previous chapter, Walzer states that the common good is established via an organic process of people within a shared space setting out their conception of the good. This claim is persuasive but incomplete, as it fails to explain how a particular space is attached to the common good. It is unclear how the relationship between the state, people and the common good warrants territorial integrity over a particular space. It becomes even more difficult to understand this when communities within a state hold partial or disputed connections to parts of the territory. Thus, we need to understand not only how the state derives its rights, but also how the common good of its people is linked to the territory and how this justifies defensive force for territorial integrity. The following scenario may help illustrate this unclarity further:

Seceding group: Citizens X within State A decide for no particular reason that they want to secede from their state and join State B. State A provides them with safety, rights and it is democratically elected. State B will offer them equal safety and democracy. In seceding, they will be taking with them a subset of territory, which will not decisively impact the survival of State A.

The traditionalist stance identifies State A as the legitimate actor over X, as it governs the demarcated political territory. State A's legitimacy is further demonstrated by its provision of safety, rights and democracy. Also, there does not seem to be an indication of State A failing to preserve the common good of X. It is worth briefly noting that Walzer's discussion on the rights of self-determining groups suggests they must exercise authority within a territory and defend their rights against alien or oppressive measures by the state. The scenario does not indicate justice is being sought against alien or oppressive measures, nor do we see X exercising distinct authority, as they aim to group with State B rather than establish a new state. It would seem that their freedom is exercised within State A and that joining State B would not provide them with the justice they lack in State A.

For this chapter's purpose, the bigger concern here is that the traditionalist approach does not outline what X owes, if anything, to State A, which obliges them not to secede. State B can provide the exact security and rights, so what is distinct about State A? It is not clear how the territory establishes a special relation of X to State A. This requires justifying how the right to the whole territory has come about and explaining that X's secession would be unjust, even if it has minimal impact on State A and will not undermine its survival. Without this, it is undefined how X's secession and territorial claim affect State A's integrity. Walzer's approach does not provide the tools to address these questions.

Firstly, Walzer offers a collective rights-based approach, yet it is ambiguous how this speaks to the legitimacy of a state's claim to a whole demarcated territory. How a collective gains rights over an entire territory as a whole also remains unresolved. Answers to such questions would determine whether X in the scenario would violate the good of the nation if they were to seize a parcel of land to which all citizens lay claim. This is part of the *attachment problem*, which involves explaining how a collective is attached to a space and how this grants them territorial rights.

Secondly, it remains ambiguous how Walzer derives the legitimacy of the state over people and territory based on his initial identification of the role of people exercising their common good within a space. We can assume that State B could satisfy this role over X and preserve its common good. It is not clear whether State A has a distinct role or claim over X, which would prevent State B from doing so. Without answers to this, the grounds on which State A can legitimately prevent X from seceding remain undefended. We can assume State A will still hold legitimacy over the remaining people and their good. Thus, we require a clear theory that explains how state legitimacy arises with respect to territory, particularly to justify why a state can wield power over a particular territory. This is what Margaret Moore (2020b) calls the particularity problem, a concept originally coined by A. John Simmons (2007) to highlight the difficulty of justifying why individuals owe political obligations specifically to their own state rather than to all states

Walzer's approach provides a foundational claim that aligns people and their common good to a territory. In doing so, members of the community are bound by a common good that supersedes individualist notions of rights and representation. It is these collective rights that attach people to one another within a space. However, Walzer's approach overlooks key

aspects necessary to explain how people and their common good are attached to a particular space and what claims this determines over it as a whole. Without these answers, we cannot fully understand how Walzer grants a state legitimacy based on the protection of the common good, which provides it with rights over a particular territory. It seems, therefore, that the attachment of people to each other in a territory plays a role in establishing the demarcation of a particular territory.

1.2. Contemporary revisionists

Contemporary revisionists reject the traditionalist view of a state's 'unqualified right of self-defence,' focusing instead on individual rights (Brown, 2017, 91). According to revisionists, the right to defence relies on protecting individual rights rather than collective ends (Fabre, 2012). However, McMahan addresses this contrast and argues that while the traditional defence of justifiable force is mistaken, this does not mean that the revisionist's 'individualist approaches to war cannot justify defensive war... because revisionists [it] cannot account for the importance of state sovereignty and territorial integrity' (2014, 157). He writes revisionists can account for the importance, but there needs to be sufficient attention to proportionality, which accounts for the number of victims and the necessity to respond to 'lesser aggression'. This contrasts with the traditional view, where the defence of territorial integrity and sovereignty is nearly always justified.

McMahan addresses this contrast by considering instances of lesser aggression. Lesser aggression involves non-lethal goals, such as capturing territory or resources. While violence may be a means to these ends, it is not the primary goal (McMahan, 2014). Here, there is a risk of non-lethal or non-physical harm, yet the response from the defence's side triggers the

violence. According to some revisionist accounts, lesser aggression alone does not tend to justify the use of force (Lazar, 2014; McMahan, 2014; Rodin, 2014). They suggest victims of lesser aggression can avoid violations to life and bodily integrity by allowing the aggressor to achieve their ends, which could well be what the aggressor prefers. The question that follows for McMahan is whether victims can go to war 'to defend the values or rights, such as rights to territory, resources, or political sovereignty' when 'threatened by lesser aggression' (2014, 120-121). He identifies Walzer's justification of lesser aggression as tied to the analogous association of territorial integrity and political sovereignty with individual life and liberty. McMahan refutes this and writes:

...a state can clearly survive the loss of some of its territory. That it could be so unclear what the analogues are for a state of harms to individual persons such as death, physical injury, or restriction of personal liberty suggests at the outset how tenuous and unstable the domestic analogy is as a basis for reasoning about war (2014, 121).

He argues that the domestic analogy is unstable for reasoning about war because it complacently prioritises defending state territory and sovereignty without adequately considering the scale and intensity of the force involved, which undermines individual life and liberty. It appears the analogy pulls away from understanding individual rights and 'obscures any role they might have in morally constraining practices' (McMahan, 2007, 96). Traditionalists rely on the assumption that aggression may be 'lesser in its effects on individual persons' but 'lethal, or severely disabling, in its effect on the state' (McMahan, 2014, 121). Such a rationale appears contradictory to the analogy, and for McMahan, insufficient to justify lethal force.

Instead, McMahan writes that the defence of sovereignty and territorial integrity is to be determined by independent considerations of justifications for inflicting harm on a culpable aggressor. These include:

...the ratio between the number of potential victims and the number of lesser aggressors it would be necessary to kill to defeat the aggression, the fact that the conditional threat posed by lesser aggressors increases the harm to which they may be liable, the risk that lesser aggression may escalate to major aggression, and the importance of maintaining deterrence against aggression (McMahan, 2014, 157).

McMahan's paper responds to these considerations by exploring the relationship between defensive killing against lesser aggression and proportionality. He distinguishes between narrow and wider proportionality, with the former focusing on liable harm and the latter regarding harm to innocents and its necessity. For example, it is widely considered permissible to kill an aggressor to prevent kidnap, torture or mutilation. The aggressor would inflict lesser harm, but the great harm of the defence is necessary. Necessity and proportion in this case justify the means. Necessity determines whether the response is the morally optimal means of 'achieving a just aim' (Rodin, 2002; Lazar, 2014). Thus, killing an aggressor to prevent kidnap, torture or mutilation is deemed necessary when alternative means would not produce the success, cost or expected harm to override the aim. Whereas proportionality against an aggressor does not involve comparing alternative acts but rather comparing the good effects with the inflicting of the bad effects.

In smaller-scale or individual cases of force, calculations of necessity and proportionality appear to be easier to consider. This is particularly true when lethal harm is used and a culprit

is identifiable. In cases of lesser aggression on a collective level, this is not as straightforward. Take for example, aggression against territorial integrity. The loss of territory is deemed to produce losses for a collective, which cannot be reduced to individual harm. McMahan identifies such claims and writes:

When the sovereignty of the state is compromised and a people's control of their own collective life is compromised, a special form of association may be lost... But even if all the individual members of the cultural and political community survive, and even if they are able to adapt to their diminished capacity for political self-determination, lesser aggression may nevertheless damage or ultimately destroy an irreducibly collective and perhaps transcendent set of goods: namely, the bases of collective identity that have bound these people and their ancestors together and would have encompassed their descendants as well (2014, 134).

Yet, he is not persuaded that collective determination as a cause to resort to war is convincing. McMahan argues that forms of lesser aggression undermining territorial integrity would not be 'comprehensively invasive' and could be 'tolerable, or less burdensome' than other forms of territorial violations (that could not be deemed 'lesser') (2014, 137). Instead, in such cases of lesser aggression, defence is to be calculated based on the necessity to inflict harm on the aggressor and its proportionate effect.

McMahan's approach to territorial integrity remains unclear. The problem lies in an undeveloped understanding of territory. Firstly, it has been reduced to a lesser value, without a convincing response to traditionalist arguments that present territory as an intrinsic collective good. Secondly, while proportionality is important, its association with the numbers

of culprits and impacts on harm are highly individualised, which is incompatible with the collective good of territory that is beyond an aggregate good. Any meaningful calculation of proportionality cannot be considered until the value of territory (and the harm of aggression against it) is properly assessed.

On the first point, McMahan briefly notes that lesser aggression can impact individuals and the state, which is a 'focal point of identity, solidarity, and belonging for its citizens, as well as a source of more tangible forms of support' (2014, 134). It is this attachment that makes up some of the very reasons people take up arms. McMahan writes that the question that follows from this is not merely whether this is worth dying for, but whether its preservation can justify the killing of people. This is where the proportionality issue comes into play, as the numbers of deaths on both sides are taken into account. This is because numbers can impact individual liability. The more combatants, the less the causal contribution. McMahan writes it 'would be permissible to kill a certain number of lesser aggressors if that would be sufficient to defeat their aggression', yet as 'only lesser harms are at stake...there is a limit to the number that it can be permissible to kill' (2014, 139). This is where McMahan's approach runs into some difficulties. The basis for treating territorial violations as a lesser harm remains unclear. To show that such losses are less serious would require McMahan to justify their lesser status, or for traditionalists to explain why territory possesses inherent value. This is imperative as, based on a matter of proportionality, the value of territory and whether it warrants killing cannot be separated. If it is true that it holds the value that McMahan identifies briefly, we must properly explore what this means before discussing the necessary response. How we calculate the justification of response to lesser aggression is determined by the value we place

on the good, and how the intervention undermines this. Thus, the value impacts calculations of necessity and proportionality.

Secondly, it is not obvious how McMahan's individualist approach to war justifies defensive war when considering state sovereignty and territorial integrity. McMahan moves from terms such as the collective, territory and sovereignty towards an individualised focus on aggressors and victims. This focus undermines the significance of territory as a collective good that cannot be fully understood through an individualist lens. While McMahan assumes territory holds a communal value, his analysis renders it lesser by prioritising the right to life and bodily integrity over other important values. McMahan's individualised focus does not afford the terms to identify the value of territorial integrity and how it is associated with individuals. Threats to territorial integrity, even when non-lethal, can impact collective survival, flourishing and the shared practices that constitute a community's identity. Individualist approaches might claim to account for this value by aggregating individual harms, but such an account misses the constitutive role that community and its territory play in shaping individual lives. By treating lesser aggression as inherently less significant, McMahan's approach risks undervaluing these collective dimensions. A deeper account of the value of territory, beyond its analogy to individual rights or aggregate harms, is therefore required to assess the proportionality and necessity of defensive responses to protect it.

1.3. Contractarianism

McMahan attempts to outline the shortcomings of the traditionalist approach while offering stringent normative claims that greatly lower the odds of justifying wars. Yet, he assigns value to traditionalist concepts, such as territory, without accounting for their significance. Benbaji

and Statman (2019) outline how the revisionist arguments take a somewhat unexpected plot twist: after normative considerations, revisionists accept legal or traditional elements of governing war and seem to return to the foundations of the JWT. The same tradition that they argue is ungrounded and naïve, without providing convincing alternatives (Benbaji and Statman, 2019). In contrast, Benbaji and Statman propose that the rules of war should be grounded in a contractarian framework where war is regulated on a 'mutually beneficial and fair agreement between the relevant players' (Benbaji and Statman, 2019, 3). They suggest the UN Charter and the Laws of Armed Conflict are contracts between decent states that aim to establish peace. By accepting these contracts, states waive the right to use force to achieve particular aims, while reserving the right to use defensive force if aggressed.

In terms of the relationship between 'the people' and the state, Benbaji and Statman write that individuals possess 'pre-contractual rights' that include the right to life and bodily integrity. They claim individuals freely accept rules under a political system and implicitly consent to be governed by the state. These rules are accepted because they satisfy a mutual benefit, ensuring safety, protecting rights and fostering fair and respectful social relations. Benbaji and Statman accept the political system and its institutionalisation in the state. Under this system, pre-contractual rights are waived to gain other rights. The state is then to follow the *ad bellum* agreement as found in the UN Charter. According to the contractarian view, the state is consented to by people, who waive pre-contractual rights, and the decent states waive their pre-contractual permissions in agreeing to the UN Charter.

Speaking to territory particularly, Benbaji and Statman argue that agreements supersede pre-contractual justifications, limiting defensive force to breaches of territorial integrity. They write:

Any armed violation of a state's territorial integrity by another state is an instance of prohibited aggression. The contract confers a right against aggression even on states whose borders are unjustly drawn, and even on dangerous states whose political society is irrecoverably divided...By accepting it, the parties waive their right to go to some pre-contractually just wars (like subsistence wars, preventive wars, or wars whose aim is a just regime change), but gain a right to go to some pre-contractually unjust wars (like wars whose aim is the maintenance of territorial integrity) (2019, 71).

Here, sovereignty and territorial integrity become the *casus belli*. Benbaji and Statman justify this by arguing that throughout human history, territory (whether it be the family home, the tribe's area of control or the state's political border) has been the most obvious *casus belli*. They further claim that most states aim to protect this by entering agreements securing against threats to their territorial integrity. These threats are said to lead to inefficient wars and chains of events that can cause a worse-off impact, a Pareto-inferior war (Benbaji and Statman, 2019). Here, the Charter provides what the theorists call the simplest and most efficient way to enforce protection against the *casus belli* and minimise the threat and occurrence of Pareto-inferior wars.

This approach, however, rests on problematic assumptions about the nature of states. Firstly, it assumes that pre-contractual conditions are dropped when states and borders are formed. This assumption overlooks territorial disputes predating a state's establishment and ongoing disputes. Secondly, Benbaji and Statman overlook the notion of non-state actors and the complexity of groups within states (as outlined in the previous chapter) that exercise partial connections or localised power away from the central state. As Janina Dill and Fabre note, this advances an 'inherently conservative' image of the state, defending existing laws that do not

necessarily reflect the way wars are unfolding (2022, 667). I will respond to these points briefly.

On the first point, the acceptance of the boundaries drawn up by the states entering the agreement overlooks pre-contractual conditions that states and actors (outside of the agreements) continue to hold. Christopher Finlay (2022) writes that Benbaji and Statman assert that the contract supersedes pre-contractual morality. Thus, those engaging in pre-contractual morality, whether or not party to the agreements, are excluded from the 'decent war theory' yielded by Benbaji and Statman's contractarianism. Finlay further observes that a consideration not discussed by Benbaji and Statman is the epistemic fog of actors on both sides believing their cause is 'evidence-relatively decent even when it is fact relatively in breach of the rules' (2022, 726). While Finlay is right to claim this may push towards regular war rather than just war, the contractarian approach entails a bigger shortcoming in that it deprioritises elements of wider justice-seeking causes of actors within the agreement and excludes actors outside of the agreement responding to injustices committed by contractual states. As the causes of war are limited to territorial integrity, the epistemic fog may be dense enough to create conflicting causes of this matter, but too narrow to account for wider causes that provide evidence of fact-based injustices. The neglect of pre-contractual justice and non-contractual parties fuels this narrowness.

Benbaji and Statman suggest that the actors that remain outside of the agreements may care 'very little about morality' or not care enough as they are 'too partial' (2019, 73). However, it could be neither, but rather that the actors cannot satisfy the social contract demanded in contractarianism due to a rejection of the borders of another state, occupation or a lack of capability. This is particularly worrying in cases when a contractual party claims legitimacy

over a territory under dispute and claims rights against a non-contractual actor who lacks capacity. It seems counterintuitive to argue that the non-contractual party's lack of a social contract renders them an indecent entity or invalidates their territorial claim against a contractual actor. This would overlook pre-contractual injustice, allowing agreements to supersede territorial disputes in favour of the state deemed decent enough to accept contracts. Contractarians seem to prioritise the ability and power of some actors who have captured and drawn territory. This is troubling given that many states' origins are attached to unjust practices that include gaining territory via conquest and brutality (Moore, 2020b). While the emphasis on the intrinsic value of the territorial integrity of states is clear, insufficient consideration is given to how territory is justly acquired.

Finally, the statist focus of the Charter excludes non-state actors. Though Benbaji and Statman suggest groups aiming to form states may justify force to resist repression, they treat this as a mere extension of state agreements. Benbaji and Statman write that non-state actors hold 'a mechanical extension of the war agreement between states' (2019, 91). The use of force against the group is a crime against peace, 'like the violation of territorial integrity in wars between states' (2019, 91). This interpretation may address the use of force by non-state actors, but comparing it to 'like a violation of territorial integrity' fails to recognise that such groups often claim the repression *is* a violation of their territory. As the contractarian account prioritises states, it fails to see how partial communities or collectives within a state may hold claims to a particular territory or oversee its functioning. This demands a better understanding of how these groups function, their rights and territorial components, rather than a statist extension of the contractarian approach that fails to interrogate claims to territory, representation of people and warring rights.

Contractarianism takes borders as given, ignoring pre-contractual justice and realities on the ground. Its return to the traditionalist framework suppresses the need to respond to key questions on the relationship and attachment of people to particular territories and how this relates to legitimate authority over demarcated spaces. Benbaji and Statman may speak to how, in practice, states are prioritised in contemporary agreements and politics. Yet, they remain abstract in exploring the justification for the empirical realities of war, localised power and the territorial demands of groups other than the state. These are the realities increasingly central to contemporary war.

1.4. The limitations of the theory of the just war.

The work of Walzer (2014), McMahan (2015) and Benbaji and Statman (2019) reveals multiple shortcomings in the theorisation of territory within JWT. Traditionalists view defending territorial integrity as nearly always permissible, linking it to the common good. However, the basis for people's attachment to land and the state's legitimacy over it remains unclear. Revisionist critiques, while challenging traditionalist assumptions, similarly fail to resolve the attachment and particularity problems. Individualised notions of just causes and individual goods offer only a partial account of territorial value. It remains unclear how the collective significance of territory can be meaningfully attributed to each individual or why the protection of such territory constitutes a lesser form of aggression. Consequently, it is unconvincing to claim that violations of territory can be overlooked, given that they may still cause significant harm. Finally, the contractarian approach advanced by Benbaji and Statman attempts to reaffirm traditional principles by endorsing sovereignty and territorial integrity as potential *casus belli*. However, its reliance on a legalist framework limits critical engagement with questions of territorial attachment and particularity. In doing so,

contractarianism provides an insufficient normative account of territory, neglecting issues of pre-contractual justice and the complexities inherent in territorial disputes.

2. Addressing the Particularity and Attachment Problems

I now turn to the political theory of territory to respond to the particularity and attachment problems identified within JWT. I argue that Moore (2015) provides the most convincing response to the ambiguities surrounding territory, particularly when compared to Lockean or statist approaches. Moore's framework allows us to understand the essence of territory through its attachment to the occupancy rights of people who share a special relationship within a particular space. This relationship enables them to establish and pursue a conception of the common good, which extends temporally and sets the grounds for ongoing cooperation within collectives. However, Moore's approach is not without its shortcomings. It imposes more demanding conditions on some collectives, denying them territorial rights, while more easily granting rights to others. By emphasising political capacity, her account risks overlooking the normative significance of the relationships among members of collectives and their connection to the land. I argue that a degree of lenience should be afforded to weaker collectives when assessing political capacity, especially where their capacity has been impaired by unjust circumstances. In the final section of this chapter, I return to the role of political capacity as a separate consideration in the context of waging war to defend territorial rights. I argue that even in the absence of the political capacity condition, a collective can still possess legitimate territorial rights.

2.1. The Political Theory of Territory

Within the wider field of political theory, Moore writes that there has been a recent surge in work on territorial rights that examines what they are, who holds them and what justifies them. This surge also tends to neglect how to conceptualise territory (particularly that of a state). Moore (2015) writes that a theory of territorial justice is necessary, where these underlying assumptions should be given attention. The theory must interrogate and justify the relationship between 'the people', land and the regime, government or state (Moore, 2015). Central to this theory are two problems: demarcating the land and defining the territory of the state or entity (the particularity problem) and identifying who the rights holders attached to the territory are (the attachment problem). A comprehensive framework for understanding political territory involves addressing these fundamental elements before we can go on to explore the territorial justification of waging war.

Some theorists have responded to territorial rights by looking to Lockean property rights (Steiner, 1994; Nine, 2008). Cara Nine develops Lockean property rights by linking territorial rights to a collective's relationship with resources essential to meeting their basic needs, differing from the consent-based individual property rights. According to the individualist account, 'territorial rights are established on the basis of the voluntary consent of individual property owners' (Nine, 2008, 150). Property owners consent to state jurisdiction over and within this individually owned territory; therefore, the state receives territorial rights indirectly via the land on which the property is owned. Developments of the individualised Lockean account can support either the property owners' agreement to be under a state's jurisdiction or the mutual agreement of property owners to form a state with territorial jurisdiction. The former development has faced compelling criticism due to it being immersed in a vicious cycle (Brilmayer, 1989; Nine, 2008). This cycle suggests a property right is

determined by the state's jurisdictional authority, yet this jurisdictional authority is defined by the individuals' territorial rights. Here, we fail to go beyond the territorial right and see what justifies it.

The latter development also fails to justify the particularised rights to a territory. It claims that individuals create state territorial jurisdiction when property owners enter into a voluntary agreement with one another. Property rights exist before the state's jurisdiction, as they are natural rights. This avoids circular reasoning because individuals are contracting with each other without a pre-existing territorial state (Nine, 2008). However, this claim introduces a new issue. It assumes members have meta-jurisdictional authority, permitting them to exit the state with their property or declare another state over their property (Nine, 2008). Such an approach treats the individual as the fundamental unit of rights, capable of entering into various associations. This creates the potential to undermine the existence of the state entirely, either by generating multiple competing states or leaving a vacuum of no state at all. Such outcomes conflict with our conventional understanding of rights derived from ownership over territory or the broader framework of rights within and over states. While a person's property rights may imply the ability to demand consent from others regarding actions within their property, it is not this consent that grants them the property right. The connection between property rights and territorial rights remains unclear. As Nine observes, 'territorial rights cannot be explained by consent, because the territorial right itself is the reason for the state's right to demand consent to its rule' (Nine, 2008, 154).

In response, Nine writes that it is within territorial rights that a different relationship emerges, one where the 'establishment of justice' takes place (2008, 156). She argues that states possess the right to land based on two conditions. They 'must be capable of changing the land, thereby

creating a relationship with it' and the 'relationship must be morally valuable – established by the Lockean principles of liberty, desert and efficiency' (Nine, 2008, 155). Nine identifies the need for coordination among people sharing resources and space. As the relationship with the land is morally valuable, territorial rights are granted (Nine, 2008). This responds to *the attachment problem* by providing a Lockean acquisition theory to explain the relationship between the collective and the land (Moore, 2015). Within this space, Nine (2008) argues the state plays a key role in improving territory by enforcing jurisdictional rules according to the principles of justice. The approach is forceful in separating individual and territorial rights. However, it leaves out crucial answers to who should be included within the territory, how the conception of justice relates to collective rights to territory and why one state rather than another possesses a claim over the collective base.

Alternatively, Moore appeals to the *jurisdictional domain view* to respond to *the attachment and particularity problems*. This view argues that a state's territorial rights over a specific space stem from its legitimate 'jurisdictional authority' which holds the justified 'power to make and enforce laws' (2015, 26). This justification is rooted in the principle of *popular sovereignty*, where the power to create and enforce law is derived from the authorised equal voice and input of 'the people'. Thus, the state is the 'instrument through which... 'the people' as the locus of popular sovereignty... realise some value, and territory as the geographic domain in which they express that value' (2015, 28). The elements in Moore's political theory of territory are the people, land and the state' (2015, 28).

Moore contends that 'the people' hold the right as a collective entity to form an independent state to govern a geographical area. This is borne out of the relationship of 'the people' to the land. People have an independent *moral right of residency*, which means they possess the liberty

to settle in unoccupied areas and be free from dispossession. Collectively, they possess a *moral right of occupancy*, establishing their domain for residency rights and control over an area in which they possess a special interest. The collective entity, based on its group identity, historical ties, and way of life associated with settling and controlling activities within the area, holds a group-level moral right to establish residence and exercise control over human activities therein.

Moore writes that in agreement with Hobbes and Walzer, people have a moral right of residency as 'we are physical beings' that occupy spaces in which we create and develop projects, relationships and a way of life to which we are attached (2015, 38). This attachment to a place is important for two reasons. First, 'people form relations and attachments with others in a particular place' and 'individual plans and pursuits depend on a stable background framework, and this is provided by security of place'. (Moore, 2015, 38). Second, a person's 'aims and activities often rely on background assumptions about the physical place that they live in' (Moore, 2015, 38). The projects and aims that give life meaning can only be pursued in a 'particular location, with a particular institutional structure and geography and so on' (Moore, 2015, 38). Choices and aims developed are based on the place we inhabit.

Moore rightly notes that it is essential to acknowledge that there exists a crucial physical connection to the place beyond the relationships formed with its inhabitants. Both individual and collective locational rights are at play. Excluding an individual violates their residency rights, and excluding a group violates their collective rights of occupancy. Moore notes it is the moral right of occupancy that 'justifies territorial right over a particular place' (2015, 37). This occupancy is connected to collective identities as part of a religious, ethnic or cultural group, essential to self-perception and shared aspirations. The attachment individuals feel

towards a particular place isn't solely based on their personal experiences but is shaped by their membership in a collective or group. Members of these groups share a geographical location, and this shared sense of belonging enhances their connection with the land. This collective identity is usually connected to a place rather than free-floating. Moore (2015) and Anna Stilz (2019) write that occupancy rights award the right against dispossession and the right to return. They agree these are not aggregate rights but individual rights within a collective. These individual rights play a role in providing the definitive location of these occupancy rights and confer an identification of the scope of the land in which the collective lives.

Moore presents an intuitive overview of the attachment of people to a space composed of their collective rights to occupancy over a distinct land with which they practice a special relationship. However, when discussing what this means for the territorial rights of this group, Moore suggests that occupancy rights do not present a sufficient condition for full territorial rights. She argues, 'We cannot justify rights over place unless people are in the right kind of relation to place to justify jurisdiction over it' (Moore, 2015, 45). To be of the right kind, they must have a physical presence on the territory, 'the kind of relationship that can develop between a people in a group, and between people and a land' (Moore, 2015, 66). Moore (2015) and Stilz (2019) agree relationships should be formed justly without exclusion, coercion or expulsion of other collectives. They are formed by the conditions of 'political identity, political capacity and political history' (Moore, 2015, 66). Political identity refers to: how members perceive and engage in their collective political project; capacity refers to maintaining political institutions to exercise self-determination; and political history refers to the continuum of political cooperation spanning past, present and future.

Moore puts forward a *prima facie* credible framework for understanding the role of occupancy rights in determining territorial claims. However, her approach still faces shortcomings. To properly evaluate Moore's theory, I will address three key questions: Is the relationship of 'the people' Moore describes essentially a means of understanding a cultural nationalist argument for territory? Is Moore's approach too demanding for certain groups? Finally, can her framework be developed to address conflicting claims of rights over the same territory?

2.2. Cultural nationalist view of territorial rights

I will briefly focus on David Miller's cultural nationalist account here. He describes a nation as 'a community which is constituted by shared beliefs and mutual commitments', with an extensive history, is 'active in character', associated with a particular territory, and demarcated 'from other communities by its distinct public culture' (Miller, 1995, 27). To sustain the nation, Miller asserts that jurisdictional authority over the land is necessary to create and maintain territorial rights.

Moore distinguishes her theory from cultural nationalism and critiques its focus on culture. She notes that Miller's approach conflates identity-based and culture-based accounts 'by using the term 'nation' to refer to cases where groups share a common culture constituted in part by shared beliefs and to cases where they share a common identity constituted by shared sentiments' (Moore, 2015, 80). This conflation becomes evident in cases such as Canada or the United Kingdom, where collectives may be considered nations, yet it is unclear that they share a common culture. Moore rightly observes that political and cultural identity may align in some cases but diverge in others. While this critique of cultural identity-focused theories is

important, this will not be the focus here. Instead, I will explore how Miller may, in fact, propose a solution to *the attachment problem* that can strengthen Moore's approach.

Miller provides three solutions to *the attachment problem*. First, he posits that a collective establishes its relationship with the land through a symbiotic relationship. Here, the community and the land are interrelated as people shape the land and the characteristics of the land, in turn, shape their culture. Territorial rights thus emerge from this integration of culture and land. Second, land entails particular value for the collective's culture and identity through significant and ongoing events, fostering subjective value for 'the people'. Third, the collective must maintain control over the space to preserve its value over time, which necessitates territorial jurisdiction.

Moore is quick to dismiss the justifications, suggesting they do not justify territorial rights, particularly as Miller's main premise is undermined by the definition of a nation that conflates cultural and political identity. I agree that this conflation weakens his framework. However, Miller's response to *the attachment problem* offers valuable insights that could enrich Moore's concept of political identity. Attachment between a collective and its land is important due to a special relationship, whether it be symbiotic or based on subjective value. Moore contends that such attachment naturally arises from occupation and does not require additional appeal. However, Moore's assumption can be limiting. Appealing to subjective value can be crucial in cases where natural attachment has been denied. For example, the Kurdish people have a long-standing connection to a region spanning parts of Turkey, Iraq, Iran and Syria. Their attachment is valuable even if it does not arise straightforwardly from occupation, and this value is denied if we adopt Moore's assumption. Importantly, this does not imply that only culture in Miller's sense can sustain Kurdish identity, rather their attachment reflects a

broader set of historical, social and identity-based ties to the land, which persist despite political suppression and denial of self-determination.

2.3. Demand for political capacity

The overlooking of subjective or symbolic sentiments of a collective is apparent in Moore's approach, as she advances a political conception of territory. Territorial rights are awarded to those who can establish and maintain institutions that support their flourishing. Moore recognises that an institutional mechanism of control and decision-making is a necessary condition for the moral value of the collective and its occupancy of a space. Thus, 'the people' realise the 'moral goods intrinsic to that relationship', with members possessing rights and duties accordingly (Moore, 2015, 48). Moore writes that 'the group must meet' these conditions 'to make good its claim to political capacity' (2015, 51). I argue this presents two issues. First, focusing on political capacity shifts the theory's emphasis toward the politicisation of groups, placing a demanding burden on some groups that lack such capacity. Second, and related to the former point, aligning political capacity with institutional mechanisms may devalue the distinctive subjective significance of collectives and their attachment to territory. This subjective value becomes evident during times when occupancy rights are under attack and when institutional mechanisms to protect collectives were previously unnecessary.

On the first point, Moore's answers to the *attachment and particularity problems* suggest that people's attachment to space holds a normative significance, as it provides the way of life and connected projects and plans. Yet, her emphasis on political capacity requires that collectives must also have jurisdictional authority and the ability to mobilise institutionally. This demand

diminishes the normative significance placed on the geographical attachment. Moore further stresses the significance of politicised collectives in her support for power-sharing or consociational democracy within existing larger states (Kwan, 2016). Such suggestions take away from the normative force of people's attachment to the land and pull towards a favoured politicisation of the group. I share Avery Kolers' concern that whilst Moore presents a non-statist theory, her conditions for territorial rights may only be achievable for an extant state (Kolers, 2018). Consequently, her theory unintentionally does what she seeks to avoid, prioritising circumstances over choice. To illustrate this shortcoming, a case would be useful.

Secession within a divided state: Within State A, multiple communities exist. One of these, Community Y, practices distinctive and deeply held values that are not recognised by the state but have been integral to their identity for generations. State A begins an economic project in Community Y's territory, accessing natural resources for state-wide use. Community Y resists, claiming the resource lies within their localised territory, which they have preserved independently of State A. In response, Community Y begins to call for secession.

According to Moore's theory, we can recognise that Community Y satisfies a relationship between its members and the land. They possess a political identity, or perhaps even a cultural identity, distinct from other communities in State A. In terms of political capacity, Community Y exercises a localised conception of a common good, yet, as it functions within State A, there are features of capacity that the state addresses. It is only in response to the economic project that Community Y demands to operate independently of State A. While Moore might recognise Community Y's citizens as candidates for occupancy rights, she would deny them distinct territorial rights due to their relationship with State A.

This seems counterintuitive, as Community Y might not have had the opportunity to develop comprehensive political capacities because it was pre-empted by State A. However, State A's imposition has now triggered Community Y's ambitions for autonomy. Moore's approach struggles to address such cases or instances where injustices prevent a community from developing political capacity. Rather, her focus on political capacity and even a suggestion that third parties have a duty 'not to interfere' (but assist a community to meet their claims for territorial rights), favours capacity tied to sovereign statehood.

The political capacity demand is especially worrying when elements of justice are ignored. For instance, State A may have previously exercised political capacity over Community Y. However, since the community's opposition to the economic project, they now present a justice-seeking claim against State A's authority. Moore's approach overlooks such justice-based understandings of political legitimacy. This omission is important, as justice claims can explain why a collective may lack political capacity at a given point, but now present a valid demand for autonomy. For such collectives, an informed normative theory of territory must accommodate considerations for unmet standards and offer flexibility in defining territorial rights. This flexibility is particularly relevant for guiding a theory of defensive force for territorial rights, which I will explore in the final section of this chapter.

2.4. Developing Moore's conditions with the concept of the common good

Moore provides a persuasive response to *the attachment and particularity problems*. However, when considering what these rights mean for achieving self-determination, her approach is insufficient. It is in these cases, in particular, that justice-based arguments for territorial rights must be considered. With this in mind, I am led to believe that political capacity may instead

be part of the wider considerations for determining how and when territorial rights should be defended, rather than serving as a key feature determining whether they exist. This calls for a revision of Moore's approach, one that aligns with the communitarian conception of 'the people' and their good that I developed in the former chapter.

A collective is attached to a matrix of relationships with people, particularly those in a shared space. It is through this relationship with people and the space that a particular common good is derived. This forms a special relationship 'temporally extended- both with a history and with (in normal cases) the expectation of a future' (Moore, 2015, 48). From this, three normative features emerge:

1. Common good: a space in which members determine the common good, setting out a distinct meaning of what it means to live a good life.

As outlined in the previous chapter, the common good is the communal formulation of the good. The common good is made up of 'the shared understanding of the members', and through the organic process of participation, application and distribution, it generates values, from which rights follow (Walzer, 1983, 313). This conception (and the rights that follow from it) can only be derived from the relationship of people formed through a shared space. Thus, what creates the core of Moore's condition of political identity is the collective's common good.

2. Temporal extension: a special relationship within a collective where meaning, values and goods are encumbered by previous generations and will encumber generations to come.

The space is home to a collective's conception of good that members are inherently born into and continue to redefine. It is this particular inheritance that creates a sense of moral particularity to a collective and, in turn, the space they occupy. It is here that a continuum of cooperation, spanning the past, present and future (as identified by Moore's principle of political history) is enabled.

3. Cooperation: a space in which relationship-dependent goods, roles and duties are established and exercised.

As set out by the temporal extension and an established common good, collectives in the space form functional roles, duties and rights via proximate interactions, participation, application and distribution. These roles and duties emerge from the common good and realise its moral value. This condition differs from Moore's principle of political capacity and instead focuses on the role of the collective to form cooperative measures to organise and live according to their conception of the good.

In brief, the geographical space provides the arena to achieve a temporal extension, a collective's conception of a common good and cooperative activity. A key feature here is that the collective is attached to the space, yet the space allows them to flourish in a particular way.

As argued by Avery Kolers:

...the group and the land interact in mutually formative ways: the land is as it is, in both its natural and its built features, because this group has been there; the group is as it is, in both its ideological and its empirical features, because it has been on this land (2009, 93).

The relationship of members of the collective with one another is inherently attached to the land. This relationship is tied to their conception of the common good, a vital good that is determined by their temporal extension and cooperation, which is as it is, because of the land, just as the land is as it is because the collective has been there. It follows that the survival of this good is dependent on territory, a territory tied to its historical formation and one that continues to enable its maintenance.

Given the normative significance of such collectives, it is unjust to disregard the territorial claims of groups that may not meet Moore's stringent principle of political capacity. I will consider what this means in the final section when applying my situated response to the attachment and particularity problems in the context of waging war.

2.5. Contested territories

The section above has outlined that wider political theory provides some plausible answers to the attachment and particularity problems that JWT overlooks. Moore's approach presents the close relationship between the attachment and the particularity of a space. I agree with the approach, but revise Moore's principles of territorial right and suggest territorial rights can be awarded to groups that satisfy a conception of a common good, a temporal extension and cooperation relations on a territory. The scope of this relationship among 'the people' defines the boundaries of the territory over which they have rights. This leaves us with the following:

Demarcating the land and defining the territory of collectives, *the particularity problem*, can be satisfied once the attachment of a collective is evident through their occupancy on a territory. The collective wields power over that territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory that

preserves and creates their common good. This is formed through temporal extensions, a commitment to a common good and mutual and shared roles and duties that inform cooperation.

The argument I have set out so far establishes the normative significance of collectives and spatial rights. However, as claimed by Moore, such explanations are abstract 'from the most difficult elements of most cases of settlement and occupancy' (2015, 139). This stems from disputes amongst those settled on land and the collective that previously occupied it. The members of this past collective often exercise claims to this same land and argue that those now settled have acquired the land unjustly. If my argument, which emphasises the normative significance of rights that collectives acquire through their exercise of the common good, temporal extension and cooperation, is to hold, it must also address claims to territory from those expelled and what this means for the right of return. From my argument about the normative significance of collectives, we would assume that when occupancy has been denied by forced expulsion or the need for a collective to flee persecution, the fitting remedy would be the right of return for those expelled. This is especially true when this collective can claim their occupancy rights have been violated and their temporal space for their common good and flourishing has been undermined.

However, theorists suggest this remedy is not as straightforward in cases where those settled over time begin to claim rights to the territory (Waldron, 1992; Moore, 2015; Stilz, 2019). The settled collective, whether they or their ancestors acquired the land unjustly, begins to exercise what Jeremy Waldron calls 'legitimate expectations'. He writes that people begin to 'build up structures of expectations around the resources that are actually under their control' (Waldron, 1992, 16). Over time, they organise their lives 'around the premise that that resource

is theirs [hers]' (Waldron, 1992, 16). Waldron argues that these expectations begin to give rise to claims of justice. In agreement with Moore, these expectations cannot be 'legitimate' if they have emerged from continuous injustice, where the settlers profit from the crimes against the expelled. However, for my development of territorial rights, Waldron's argument provides food for thought. In cases where those settled establish homes and a temporal extension within the space and where second-generation children begin to distinguish themselves from the original injustice, we begin to see the emergence of the normative significance of a collective. If they develop the three characteristics of the common good, temporal extension and cooperation that I outlined, they may also acquire moral claims to territorial rights. This could mean that both the expelled and the current collectives exercise claims to the land. Such a situation complicates the question of the right to return.

For those expelled, the situation varies. Some may have adjusted and organised their lives in new situations, while others are stuck in refugee camps or conditions where they cannot achieve a sense of collective identity or enjoy legitimate expectations of life (Moore, 2015). Moore rightly agrees that for such refugees, the right to return remains legitimate, as they must reclaim their occupancy to enjoy their legitimate expectation of life. It is evident that for refugees in such situations, a right to return is legitimate as they must reclaim their occupancy to realise their common good. Yet, this argument may suggest that for groups that have adjusted to new situations, the right to return might appear less urgent, especially when settlers have now established their own occupancy rights. As claimed by Moore, the moral right to residency and occupancy diminishes over time if the displaced people adjust to new contexts and develop new life projects. Nonetheless, this does not mean their claims to territory, rooted in their distinct collective identity and common good, are invalid. I agree

with Moore that these claims are strengthened when displaced groups fail to establish meaningful collective life elsewhere. However, the new situations that enable flourishing do not inherently undermine their right to return. To claim otherwise would suggest that the original injustice against the settlers has been superseded. Instead, a justice-seeking account should be adopted, which ensures that this right to return is examined alongside the injustice committed and the ability of the expelled group to truly exercise their meaningful life outside of the temporal background they claim.

To examine the feasibility of the theory of territorial rights and the rights of return that stem from historical injustices, it would be useful to briefly apply it to a contested case. The conflict between Palestine and Israel presents a case of two collectives that claim a right of self-determination and a right to return to contested territory. The conflict dates back to the Balfour Declaration of 1917, when Britain announced support for establishing a national home for Jews in Palestine (Adwan et al, 2012). At the time, Palestine was inhabited by an Arab majority, a Jewish minority and other smaller ethnic groups (Beinin and Hajjar, 2014). Jews upheld the land as home to their ancestors, whilst the Palestinian Arabs claimed it via their ancestors. Following the persecution of Jews in the 1920s and 1940s, the numbers arriving in Palestine grew rapidly. Violence intensified for decades over territory with clashes between the two communities and Palestinian protests over the British occupation (Adwan et al, 2012). In 1947, a UN vote recommended partitioning Palestine into Jewish and Arab states, with Jerusalem under international administration (Koler, 2009). A year later, Britain withdrew, and the state of Israel was declared. Neighbouring Arab countries attacked, leading to the expulsion of Palestinians. By 1949, Israel controlled most of the territory, with Jordan and Egypt occupying the West Bank and Gaza, respectively (Beinin and Hajjar, 2014).

Today, Israel has occupied the West Bank, East Jerusalem and most of Gaza and claims Jerusalem as its capital (Bartov, 2021). Jews make up the majority, and Arab Palestinians the minority. The question that matters here is who possesses the right to territory, particularly when there are conflicting narratives about peoplehood in the space. How does this theory of territorial rights speak to such a case in which satisfying the status of peoplehood is undermined by injustice?

I argued, in agreement with Moore, that a central feature of a people's particular claim to territory is born from their occupancy rights on a territory in which their collective is established. In the case of Palestine and Israel, it is evident that both groups present this claim. Both collectives claim a temporally extended relationship with the land based on history and an expectation of a future. Whilst the number of Jews residing in Palestine increased after the Balfour Declaration, a minority was already present and settled with a distinct community (Adwan et al, 2012). The number of Jews decreased over centuries, given the historical massacre and exile of Jews dating back to the destruction of the Second Temple by the Romans, the massacre by the Crusaders and the conquests by the Arabs (Sand, 2012). Some Jews remained living there, and others moved back and forth to their holy land of Israel.

Palestinian narratives also present a historical connection to the land. Just as the Jewish narrative associates Jerusalem with the holy land of their religion, it holds close ties with Muslim and Christian Palestinians found in the narratives and history of messengers and accounts within Abrahamic scripture (Guardia, 2007). Palestinians' territorial claims are heavily tied to their historical claims via ancestry and continued habitation (Quigley, 2002). Their current claims to territory are linked to the 'population size, demographic breakdown, and land ownership distribution before the UN Partition of 1947' (Kolers, 2009, 125).

Along with this historical claim, both groups possess a political identity with established notions of a common good. Within each group, divisions are evident and subgroups apparent, yet two overarching common goods pertain to such differences. Palestinians and Israelis derive their common good from territorial attachment, rooted in their history and processes of participation and distribution (Walzer, 1983). This then sets out their cooperative measures, creating roles and duties. Many of these goods and cooperations are attached to the same land and stem from the same land (Moore, 2020a).

While the conditions of territorial rights (common good, temporal extension and cooperation) help explain claims to land, they are insufficient for settling contested territorial disputes on their own. In the case of Israel and Palestine, these conditions must be considered alongside prior and ongoing injustices, as the ability of groups to meet these conditions is rarely coincidental. For Israel, this ability is deeply influenced by historical and ongoing actions of coercion and displacement. Palestinians who were in legitimate occupancy of the land were expelled, removed or forced to flee to escape violence. Israeli policies further entrenched this displacement with rulings enabling the 'expropriation of abandoned' property, 'emergency land requisition, absentee property law, and the expropriation of depopulated lands for public purposes' (Moore, 2020a, 299). Many properties and plots of land became available because their rightful owners could not return. Such events indicate that the establishment of Israel is tied to the forcible removal of Palestinians, undermining Palestinians' rights of residency and occupancy while enabling Israel to meet the conditions of territorial rights. This is further entrenched by the Israeli state's prevention of the return of the displaced, depriving Palestinians of the opportunity to rebuild their lives and repair severed communal relationships.

Over time, those occupying these lands have developed a distinct way of life, passed down to successive generations. The children of the perpetrators have inherited this alongside a sense of legal entitlement and recognition of the Israeli state as their homeland. This does not morally justify the initial injustices, but it does suggest some Israelis have nowhere else to go. Thus, in contested cities where both Palestinians and Israelis can be seen to have developed territorial claims, there is greater complexity in awarding exclusive territorial rights to one group. However, this complexity applies to some areas and not others. In areas such as the West Bank and Gaza, Israeli expansion has occupied and displaced the Palestinian collective and actively entrenched ongoing injustices. Here, the children of perpetrators are not so 'innocent', as they are directly participating in or benefiting from the ongoing occupation and dispossession of Palestinians. These expansions lack legitimacy, as Palestinians maintain strong territorial claims to these areas. They possess territorial rights here, not the Israelis.

The ongoing injustices against Palestinians, particularly their forced displacement, justify the continued recognition of their right to return. This right cannot, however, extend to the global Jewish population. The Israeli claim to a universal right of return, inviting Jews from around the world to settle on contested lands, cannot be historically or morally justified, particularly given the continued disenfranchisement of Palestinians (Moore, 2020a).

Thus, a justice-based solution must be considered when examining territorial claims of a contested territory, weighing the legitimate claims of collectives while critically addressing the historical and ongoing injustices. Here, territorial rights can be awarded when the relationship of people to the land, *the attachment problem*, is evident through their *just* concentration on that particular territory that preserves and promotes their common good.

3. Applying a Theory of Territorial Rights to Just War Theory

Wider political theory provides compelling responses to the ambiguities and assumptions of JWT when understanding territorial rights over a particular space. Demarcating the land and defining the territory of collectives, *the particularity problem* can be satisfied once the attachment of a collective is evident through their *just* occupancy of a territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory that preserves and promotes their common good. This is formed through a temporal extension, a commitment to a common good and mutual and shared roles and duties that inform cooperation. Territory is more than just a physical space, it is deeply connected to the collective that occupies it. The value of territory lies in its ability to support the flourishing of the collective, preserve the common good and reinforce the group's identity.

This section examines the implications of this development of territorial rights for JWT. I argue that the definitions provided by wider political theory identify the normative significance of territory, which supports JWT's notion of the defence of territorial integrity as a just cause. Building on the communitarian framework established in the previous chapter, I demonstrate that defending territorial integrity aligns with the collective's common good, which constitutes the central just cause for waging war. However, as noted earlier, the remaining *jus ad bellum* principles also play a vital role in evaluating the consequences of conflict and mitigating its impacts. These principles may constrain the resort to war, even when the just cause of territorial defence is evident.

3.1. Territorial integrity as a just cause

With the developed understanding of territory from wider political theory, territorial integrity can be identified as a just cause for collectives based on its value and role in preserving and protecting self-determination. This perspective differs from statist views, which assign the state as the responsible actor for waging war or consider the protection of the state a just cause. Instead, it is the collective that holds the right to wage war, as it is their territory under threat or attack. I will return to the question of who has the right to wage war later, but for now, I will outline why defending territorial integrity is a just cause.

Territorial integrity is a vital good for collectives. It constitutes a space they collectively occupy to live according to their good, a good rooted in and sustained by the land. Defending it against threat or attack protects the collective's exercise of its conception of the common good. As outlined above, McMahan states that some attacks against territory do not include attacks against individuals, deeming them lesser aggression. However, by applying the situated political theory of territorial rights, it becomes clear that the defence of territory cannot be merely assumed to be 'lesser'. Given the normative significance of the collective's territory, threats or attacks are not limited to protecting citizens from lethal aggression. As territory provides the space in which members preserve their self-determination, an attack against it is an attack against all members. Such attacks may not take the form of lethal aggression but still target a central and vital good. Territory serves as the home of the collective's history, present functioning and future generations. Its historical significance connects members with past generations through the lived common good on the land and the continuation of habits tied to it. The present functioning of the collective is grounded in its common good, reflected in

roles, duties and cooperation that shape daily life. Even lesser aggression, while not violating the bodies of the members, violates the very home where they determine how to live.

This developed notion of territory moves away from the focus on individual rights and points towards what Moore rightly calls the 'analogue' defensive rights of collectives. Just as an individual can respond to an armed attack with force, according to proportionality, a collective can respond to attacks against its home. This is particularly pertinent as territory is the space where the collective's full existence is established, expressed and exercised.

3.2. Communitarian development

The developed argument of territorial integrity as a just cause aligns closely with the communitarian argument I put forward in the former chapter. I argued that war is justified in response to injustices against a community's conception of the good. The common good is the communal formulation of the good. It is made up of 'the shared understanding of the members' which creates a certain way of life for the group and generations yet to be born (Walzer, 1983, 313). This shared understanding is a natural and organic process. Individuals are encumbered, it is unnatural to speak of an atomistic being as from birth an individual's attributes are inherently particularistic, shaped by their 'family or community or nation or people, as bearers of that history' (Sandel, 1984, 90). Human goods, values or rights cannot be understood in isolation. Through the organic process of participation, application and distribution, the good generates values and rights emerge from these values (Walzer, 1983). The common good informs particularistic membership, which is tied to a specific conception of the good and defines the meaning and language through which values are exercised and redefined.

Moore's theory of territorial rights begins by outlining that such rights are awarded to a collective. This collective is a people with a relationship with one another, grounded in rights and duties that instil cooperation intrinsic to their conception of the good. This aligns comfortably with the communitarian notion of the common good. It is precisely this good that is established by generations before and developed by the current generation. To ensure such a common good, proximate relations in a shared space are essential. Whether the collective migrates to this space to develop their good or forms it while already inhabiting the space is secondary. At an organic stage, they will establish their common good on this land, incorporating its full potential. So long as this is secured justly, their claims to the land to enhance their good are valid. In essence, individuals are naturally bound to collectives in which they generate their common good and meaning of life. To enable this, territory is crucial as it defines the sphere where cooperation and the good are realised. The intrinsic value of a territory is only realised once this common good is exercised.

Territory serves as a key feature within the common good. Its geographical basis grounds community membership, providing temporal significance and a space in which the collective can function and flourish. Territory contributes to defining the values, roles and rights that people rely on to live according to their conception of a good life. Attacking or interfering in this territory undermines the scope of the collective's good and functioning. Thus, whilst territory is part of the common good, it is also the means by which the collective protects and sustains its good. It holds distinct value within the common good. In the previous chapter, I outlined that the common good is made up of both 'thick' and 'thin' values. The former refers to particularistic values of 'the people', and the latter to inter-community recognised values. These goods together form the common good, which a collective has the right to protect due

to its inherent value to their existence. An attack on a single unit of the common good does not necessarily justify the use of force by a collective. Whether it is worth fighting for depends on the value of the good and its impact on the common good as a whole. This calculation must be made by the collective, which is best placed to understand the relative significance of their goods and distinguish between vital and thin values. Nonetheless, an attack on the value of territory constitutes a just cause for the aggrieved. This is because it is not just a single value within the common good. Territory provides the basis for enabling a collective to live by the common good, it provides the foundation for a collective to live by their common good. It is an indispensable value. Territory holds normative significance as it symbolically and empirically represents the home of the collective, the sphere where they practice other vital and thin values, and the basis for defining roles and duties.

3.3. Value of the common good

A community's ability to formulate and commit to its own conception of the common good is itself a central political value. It provides people their natural sense of meaning and purpose. As encumbered beings, we naturally flourish and exercise a fruitful life when we live according to a certain way that pertains to our history and present. This flourishing is not fixed but evolves with meanings that enable us to define and refine our values. We can do this sufficiently within a space that fosters interpersonal cooperation and application. The common good provides the means by which good is exercised and sets out the ends which satisfy this good life. The common good is home to the thick and thin values people practice and apply when defining their vital goods, roles and duties. A threat or attack on the common good risks destabilising the shared meaning of the collective's life. Such an attack creates

barriers that impede the collective from determining and living by their conception of the good. These violations may not involve loss of life or bodily integrity, but they diminish the value inherent to living. If we place value on the lives of individuals, we must recognise that this value depends on protecting what it means for them to live a meaningful life - a life grounded in and sustained by their collective conception of the common good.

The recognition of the common good's value establishes a just cause for defending it. However, just cause is only one principle of *jus ad bellum*. To wage war in defence of the common good, the remaining conditions of necessity, proportionality, last resort and chance of success must be met. In the previous chapter, I discussed the distinct nature of the proportionality criterion. Proportionality depends on the other *jus ad bellum* principles. It is impossible to assess the proportionate justification for defending the good without considering the necessity, scale and magnitude required to morally achieve the ends (Steinhoff, 2014). Thus, while just cause identifies the good worth fighting for, there remains the question of how much bad is proportionate. I have argued that the common good is worth killing for, but the question that follows is how much is it worth killing for. While space does not permit a thorough discussion of this question, the work of McMahan on proportionality is noteworthy in this regard.

A proportionate response is tied to *liability* and *the doctrine of double effect*. The former outlines that people are liable to harm when this harm is 'necessary or unavoidable for the achievement of a good' – the protection or defence of the common good which they are threatening or violating (McMahan, 2010, 11). The latter concept of intentionality suggests that whilst we invoke the liability argument to justify harms, people may be liable to endure harm as an 'unintended side effect' (McMahan, 2010, 11). McMahan writes that this means 'harms to

which people are liable do not have to be *means* to a good end, they can also be unavoidable side effects of the achievement of that end' (2010, 11). While these concepts provide persuasive tools to calculate the proportionate use of force, they require considerations of necessity and lesser evil, particularly when justifying harm to innocent or non-labile individuals. Making such a calculation is challenging, especially when the good to be achieved is tied to the significant value of protecting the common good. Nevertheless, depending on the case and potential consequences, a commitment to proportionality by the warring parties is essential to minimise harm to innocents. This includes the collective's authorisation for war, accepting sacrifices on their side while accounting for lesser evil impacts on innocents on the enemy side. Here, the collective bears the responsibility of justifying 'why they [one] may do harm despite the moral worseness of harming compared to allowing harm' (Frowe, 2018). Depending on the case and the degree of impact on the functioning and survival of the common good, the threshold for lesser evil calculations increases.

3.4. Who can wage war?

Given the value placed on protecting and defending the common good and the calculations of proportionality attached to it, waging war needs informed decision-making and mobilisation. Such a consideration is attached to the question of who can wage war. I outlined in the former and current chapters that the common good, and in turn, territorial rights, are tied to the collective. The value is defined, redefined and sustained through the cooperation of its members. A legitimate authority can wage war based on its role in overseeing the collective's common good, which, in turn, is tied to territory. A role of the state or an institutional authority can follow from this, insofar as they provide 'institutional expression

to political communities' (Moore, 2015, 237). As argued in the former chapter, an authority is legitimate when it demonstrates the capacity to pursue the politics of the common good, or what Moore would refer to as the political identity of the collective. This supports the role of the institutional authority in fostering a sense of solidarity among the members of the collective, a collective endeavour united by political identity, shared history and commitment to common ideals (Taylor, 1989). This does not necessitate a statist approach. While states may often fulfil this role, they are not the only actors capable of doing so. Other entities, such as political communities, non-state actors or alternative institutional authorities, (emerging in contexts of injustice) can also legitimately wage war when they are able to safeguard the collective's territory and common good.

Nonetheless, I argued above that awarding territorial rights to politicised groups is demanding for some groups that do not possess the ability and can undermine the significance of the territory for the common good of their members. I outlined that political capacity is not a condition for groups to possess territorial rights. Groups without political capacity, particularly due to injustice, still carry a significant claim to territorial rights. However, territorial rights (or the claim to them) do not, in themselves, authorise the use of force. It is in deciding on waging war that the principle of political capacity becomes relevant as a moral consideration in calculating the chance of success and, in turn, the proportionality of force.

Success in war, as asserted by Aquinas, requires unity. He noted that collective activities are necessary for war, as there is a need for mobilisation and a chain of command. He writes:

For just as a man can do nothing well unless unity within his members be presupposed, so a multitude of men which lacks the unity of peace is hindered from virtuous action by the fact that it fights against itself (cited in Reichberg, 2016, 132).

Here, an institutional authority ensures the ability to control and cease the use of force through an effective chain of command (Johnson, 2001). It is convincing that for a war to produce the goals of protecting and defending the territory, it is done so according to coordinated actions, capacity and organisation. However, as argued by Reichberg (2016), the chain of command can also be a double-edged sword, potentially leading to *jus in bello* violations through the directives given to soldiers. The political capacity to wage war is therefore essential, but only meaningful if exercised appropriately. This includes adhering to a just cause that aligns with protecting the collective's common good and applying proportionate means to preserve it. The authority must not only possess the ability to act but must also ensure that its actions are morally justifiable and avoid actions that would undermine the values of the collective.

3.5. Applying the developed approach to cases

To understand the application and implications of the developed response to *the attachment and particularity problems*, it would be useful to apply the approach to contested cases that are less straightforward than the standard case of a state's defence of territorial integrity.

In the first case, I will briefly present how a distinct minority occupying a contiguous territory within a larger state and committed to a rival conception of the common good can, under certain conditions, justifiably initiate war against that state even without overt aggression if the state prevents them from seceding and thereby obstructs their pursuit of the common good.

Breakaway from an existing state: Community X wants to secede from State B. It calls upon its prima facie right to exit State B and exist within its eastern region, where Community X happens to dominate. The community cites the need to protect its common good, which has developed over generations and is neglected by a state that continues to exclude it from political participation. Within this territory, they have developed tailored schooling and places of worship that are central to their culture, history and values. Although State B employs no kinetic attack against them, its secular approach to governance fails to sufficiently incorporate the values of Community X.

According to the developed theory, Community X constitutes a collective. They possess a distinct common good with a history of advancement across generations and operate localised institutions, roles and duties established via cooperation. Their connection to their territory is not incidental and forms the foundation for their collective flourishing. The territory enables them to exercise their common good through cultural, religious and social practices. Their right of self-determination is undermined by exclusion from political participation in State B, which fails to identify with their conception of the good due to its secular values. This lack of a cooperative relationship between Community X and State B extends to the territory Community X inhabits, where devolved power over religious institutions and education remains insufficient to meet their needs. It seems that the establishment or drawing of borders of State B either failed to consider the identity of Community X or evolved in a way that denies a significant mutual identity.

Community X seeks to self-govern, given that its values are not sufficiently addressed by the central government. Their political and social engagement with the political community is excluded, and their practices are further impacted by the secular policies advanced by the

state. The theory of territorial rights developed within the communitarian conception can identify Community X's rights of self-determination and recognise their aim to protect and preserve their conception of the common good, indicating a just cause (Gilbert, 1990). However, whether they can use force to achieve secession depends on satisfying the remaining jus ad bellum principles. Due to the implications of war on 'the people', including many innocents in both State B and Community X, a careful weighing of the consequences of different courses of action is required - one that applies principles of necessity, proportionality and chances of success. The use of force is also not tied to a response to aggression per se. Yet, aggression from State B can present an urgent need for force, helping to satisfy the principles of necessity and last resort. Aggression against Community X can guide calculations of proportionality, setting out targets of liability and, in turn, unintended harm.

Even without aggression, Community X might consider force if its relationship with the state undermines its common good. Community X's territorial rights to the eastern region depend on their attachment to the land and their exercise of the common good. If they satisfy this attachment, the just cause must then be evaluated alongside the remaining jus ad bellum principles.

Instead of employing a straightforward cost-benefit analysis, which fails to account for the complexity of waging war, the cost of war should be assessed partially through the lens of success and values defined by the community (Lamb, 2013). For instance, Community X might feel that preserving their common good is valuable enough to justify death as a consequence. From a cost-benefit perspective, disproportionate losses among combatants and civilians might suggest that Community X should not wage war. However, strong popular support for war within Community X could override such objections. This should be reflected in

proportionality and chance of success calculations. The consequentialist *jus ad bellum* principles must be applied using the language, values and units of measurement defined by the collective to appropriately assess costs and success. Nevertheless, they must justify liability and unintended harm, which is harder to calculate in cases without apparent aggression.

Thus, the developed theory permits that Community X, as a territorially concentrated minority committed to a rival conception of the common good, could justifiably initiate war against the parent state if that state prevents secession and thereby undermines their self-determination, even in the absence of direct aggression.

Now, let us turn to another complex scenario, annexation. This case illustrates that even when a state loses part of its territory through annexation, the way in which different communities understand and pursue their conceptions of the common good may mean that the state losing territory does not, in fact, have a just cause to use force to defend its territorial integrity.

Annexation: State C has annexed a part of the territory recognised as belonging to State D. State C claims that the majority of people in the annexed territory identify with its common good. State D argues this is a violation of its territorial rights and maintains that it continues to oversee the good of the annexed community and enable its devolved powers, though still within the political institutions of the state.

According to international law and some JWT accounts, annexation constitutes aggression against peace and stability (Stiltz, 2011; O’Leary, 2023). Such accounts do not determine whether the aggression is against the state or the people, reflecting the underlying uncertainty over whether territorial rights belong to a state or to the people themselves. Under the

developed view, it is the people's self-determination which grants them rights to territory, born from their occupancy and establishment of a common good, history and cooperation. If territorial rights are held by the self-determining collective, then the moral focus should fall on the will and identity of that collective rather than on the abstract sovereignty of the state. Should we not respect that the majority within the annexed land identify with the common good and history of the annexing state? Moore argues that the relationship between the state and territory is not based on ownership, it should incorporate the 'aspirations and identities of 'the people' living on the territory' (2015, 229). Given this emphasis, the collective within the annexed group should decide on its future.

As the majority of people in the annexed territory identify with the good of State C, it may be appealing to suggest that the territory can join State C. Yet, this leaves a minority on the territory who possess occupancy rights. They may constitute a separate or a partial collective. It is not uncommon that people belong to partial communities, identifying with the good of one community while also sharing some values with another. For example, the minority within the annexed land may hold a partial identity with the majority, as over time they have built a home, shared space and cooperated according to a shared conception of the good. Yet, the minority may also identify with the political community of State D. Such differences in identity and partial goods often become apparent in times of contestation.

Some solutions here may be power-sharing or autonomous agreements to reflect this difference within either State C or State D. However, in this scenario, the use of force to defend or reverse annexation is not adequately justified. The annexed community already had an adequate degree of self-determination over their common good, while the majority also identified with the annexing state. In such a case, it is unclear that there has been a violation

of territorial rights sufficient to undermine the common good of the collectives. Thus, we cannot support the use of arms or identify a just cause for war. However, a cause may still emerge depending on the responses of the collective within the annexed land and the broader implications of annexation.

Therefore, even if annexation appears unlawful under international law, the developed account suggests that the moral right to use force depends not on sovereignty alone but on whether the annexation violates the collective's self-determination and common good. Where it does not, a defensive war is not justified.

4. Conclusion

I have demonstrated that territorial integrity is not merely a physical boundary but an essential component of a collective's conception of the common good, grounded in its historical, social and political dimensions. JWT often presumes the legitimacy of defending territory without fully addressing the intrinsic value of land or the relationship between a collective and its territory. By considering broader theories of territorial rights and developing Moore's theory of territorial rights, I have argued that demarcating the land and defining who can wield power over it, *the particularity problem*, can be satisfied once the attachment of a collective is evident through their just occupancy of a territory. The collective wields power over that territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory that preserves and creates their common good. This connection evolves through a temporal extension, rooted in a commitment to a shared good and informed by roles and duties that foster cooperation. Thus,

territorial integrity is inseparable from the collective's ability to flourish and maintain its normative structure.

The defence of territory, therefore, is not merely an assertion of sovereignty but a defence of the collective's common good. The community's right to its land is intrinsic to its capacity to thrive, providing the physical and symbolic basis for its membership, functionality and prosperity. This perspective reframes territorial rights as belonging to the collectives that occupy and shape the land, grounding the justification for war in the protection of these rights. When external aggression or interference undermines the territorial foundation of the collective's common good, the defence of territorial integrity becomes a just cause. This argument diverges from conventional JWT approaches, which often take territorial defence for granted without interrogating its foundational significance.

Moreover, the authority to defend territorial rights is not exclusive to the state. While states often play a vital institutional role in fostering self-determination and advancing the common good of 'the people' within their boundaries, other actors may legitimately claim this authority. Any entity that demonstrates the political capacity to organise and protect the conception of the common good tied to a territory may have the right to wage war to secure these rights. This inclusivity challenges state-centric assumptions and reinforces the notion that territorial rights stem from 'the people' and their collective identity rather than from the state alone.

While this expanded understanding of territorial integrity provides an informed framework for justifying the defence of territory, it remains consistent with JWT's broader principles. A just cause to defend territory does not override the necessity of fulfilling the additional

criteria of jus ad bellum, including proportionality, necessity and chance of success. Thus, while territorial integrity is integral to the common good, its defence through war must adhere to these guiding principles to ensure moral and ethical legitimacy.

Chapter 5: Applying the Situated Just War Theory

This chapter applies the normative revisions developed in Chapters 2, 3 and 4 to the conflicts in Yemen and Ukraine, in order to interrogate how a situated just war theory can offer clearer normative judgments on war. It addresses three key areas of JWT's shortcomings: its over-reliance on the peace/war dichotomy; its under-conceptualisation of 'the people' and their significance in waging war; and its over-reliance on statist borders, which fuels its under-conceptualisation of the relationship between people and territory.

JWT's *temporal deficit* is tied to its difficulty in clearly marking when a war begins and ends. Theorists often postulate, without much thought, a simplistic war/peace binary that overlooks the complexity of transitional or borderline cases of war. Both Yemen and Ukraine challenge this simplistic framework, as they exhibit extended periods of tension and conflict short of outright war. Using the peace, vim and war continuum developed, this chapter explores when conditions transition from vim to war. The continuum helps account for the long histories of vim in both cases, while the defining characteristics of war, namely the intent behind the use of force and the intensity, scale and unpredictability of violence, determine when war is taking place. In Ukraine, this framework identifies the Donbas crisis of 2014 as the war's inception, marked by the intention of Russian-backed separatism and the level of violence exhibited. In Yemen, the 2014 Houthi coup signalled the shift to war, as it aimed to destabilise the political order through intense, scalable and unpredictable violence.

The second shortcoming concerns 'the people' and their role in justifying war. This is an area where both traditionalist and revisionist accounts of JWT remain incomplete. These accounts fail to address who 'the people' are, how their collective good is defined and who holds the

legitimacy to act on their behalf. Drawing on communitarianism, this chapter reconceptualises collectives, recognising both Yemen and Ukraine as a *community of communities* where just causes on behalf of the nation must reflect the diverse and overlapping goods of multiple collectives. The chapter shows that some actors, such as the STC and the Ukrainian state (after the 2022 invasion), can successfully align their just cause with defending identifiable collectives. Other actors, such as the Houthis, Yemeni governments and the Donbas separatists, face challenges in demonstrating a just cause, as their claims lack broad legitimacy and alignment with the conception of a common good of the communities they claim to represent.

The third shortcoming concerns the role of territorial rights. Territorial integrity is a central just cause of many accounts of JWT, but there remains a lack of clarity on how territorial rights are awarded or justify force (McMahan, 2014; Walzer, 2015; Benbaji and Statman, 2019). Incorporating a development of Moore's (2015) concept of territorial rights highlights how historical and relational ties to the land, where a shared good is created and maintained, shape the legitimacy of particularisation and attachment to a space. In Yemen, fragmented attachments challenge claims based solely on internationally recognised borders. Actors like the Houthis and the state invoke these borders but lack the deep historical ties and cooperative relations needed to justify claims over the entire space. The STC, by contrast, grounds its claims in cultural and historical ties to Southern territory, supported by temporal extension and cooperative roles, justifying defence against encroachment. However, this does not necessarily award it the right to secession, given internal disagreements. In Ukraine, contested claims over the Donbas reflect weak ties and historical neglect, while separatists rely on external support rather than genuine community attachment. Thus, residency rather than

occupancy rights can be awarded to those within the Donbas. Ukraine's broader defence against Russian aggression strengthens its territorial claims in aligned regions, though the Donbas remains disputed.

In applying the supplemented approaches from IR and wider political theory, this chapter outlines the contributions of the situated just war theory developed. It challenges the dominant peace/war binary by introducing the concept of *vim*, a transitional period of escalating tension that better captures the complex onset of contemporary wars. Through a communitarian lens, it reconceptualises who the collective is, grounding just cause not in abstract or statist terms but in the value of communities and their shared conception/s of the common good. This development enables a more precise ethical assessment of claims to war by evaluating whether actors genuinely defend a singular or plural good, rather than appealing to oversimplified unity or representation. My development also redefines legitimacy as the evolving capacity of actors to oversee these diverse goods, not merely their legal or institutional status. Finally, it rethinks territorial rights by moving beyond fixed borders to highlight historical, relational and cooperative attachments to land. Together, these revisions produce a more coherent ethical framework, capable of responding to the moral complexity of modern conflicts.

The chapter is structured as follows. First, it examines the application of these normative revisions to the conflict in Ukraine, addressing three ethical questions: 1) Are the actors in a state of war? 2) Do they possess a just cause reflecting the defence of 'the people' and their conception of the common good? 3) Are their territorial claims plausible and do they justify defensive force? Second, these questions are extended to the conflict in Yemen. The chapter concludes by reflecting on these applications, revealing similarities between the cases, even

though just cause is often more readily attributed to wars like Ukraine than to Yemen. Through a situated approach, we can better understand the complexity of both cases and JWT's potential to provide clearer normative judgments on contemporary conflicts.

1. Ukraine

The conflict in Ukraine appears to be a textbook case for JWT, aligning with several key approaches. It represents an act of aggression against national sovereignty and territorial integrity, fitting both traditionalist and contractarian readings of just cause for war (Walzer, 2015; Benbaji and Statman, 2019). It also satisfies the condition of legitimacy, such as authorisation which recent revisionist philosophers argue for, alongside their acceptance of individuals' rights to protection from aggression and to self-determination (Fabre, 2012; Parry, 2017a). But before we can confidently apply these just war principles, there is a set of questions we must first address, questions that traditional JWT is not well equipped to answer. Was Ukraine in a state of war following Russia's invasion, or had this already begun since the clashes in the Donbas in 2014? What constitutes the Ukrainian 'people' and how do their collective rights provide grounds for justifying the defence? And how can we adequately reconcile the demos and state authority with territorial rights in contested areas such as the Donbas?

This subsection addresses these gaps by integrating insights I have developed from drawing on peace studies, and communitarianism and territorial rights found in wider political theory.

1.1. Time

In Chapter 2, I argued that traditional JWT rests on the belief that war is distinct from other forms of conflict and authorises a greater degree of violence and certain permissions (Walzer, 2015). However, JWT (whether traditionalists, revisionists or those in between) fails to provide sufficient temporal insight into when a war begins or ends. While accounts of JWT typically view Russia's 2022 full-scale invasion as the start of the war, they overlook the hostilities that began before then, including Russia's annexation of Crimea and its support for separatists in the Donbas (Walzer, 2022; Fabre, 2023; McMahan, 2024). The developed peace, vim and war continuum can better capture the shifting nature of conflict. Accounting for vim highlights the differences in intention, scale, intensity and unpredictability of violence that define the start and end of war. I argue that war begins when there is an escalation in intensity, scale and unpredictability of violence, driven by intent. These characteristics are not separate from intent but emerge as its extension, reflecting a deliberate goal requiring more than acts of vim. War ends when these defining characteristics subside and the intent narrows, transitioning violence back into vim. In applying this framework, we can mark the war in Ukraine as beginning with the clashes in the Donbas in 2014 and recognise how it continues.

By departing from the peace and war dichotomy and incorporating vim into the theorising of the use of force, we gain a distinct lens to understand the war in Ukraine. It becomes evident that Ukraine's modern history has been shaped by complex tensions over language policies, geopolitical alignment and dissatisfaction with corruption and governance (Masters, 2023). These tensions intensified into pivotal events such as the Orange Revolution in 2004-05 and Euromaidan protests in 2013-14, rising again in 2014 with Russia's annexation of Crimea and its backing of separatist violence in the Donbas (Katchanovski, 2016; Yekelchuk, 2023). These

key events, rooted in deep historical, political and cultural divisions, demonstrate how the dichotomous conception of peace and war is undermined by the vim phase (Plokyh, 2023).

Ukraine cannot be described as peaceful before 2022, as indirect and sporadic violence existed throughout this period. If this phase is considered vim, the question that follows is: when did Ukraine transition into a state of war? The answer lies in recognising events that signal a shift, where the intentions of the actors are aimed at using substantial force and destruction to achieve a goal. While the 2022 invasion meets these criteria, the prior conflict already exhibited these elements. Clashes with separatists in the Donbas before 2022 show that the war had started earlier, marked by the intention, scale, intensity and unpredictability of the violence employed.

First, Russia's annexation of Crimea marked a shift from political pressure to outright military intervention, setting a precedent for further destabilisation in eastern Ukraine (Plokyh, 2017). The formation and militarisation of separatist groups in Donetsk and Luhansk, backed by Russian arms, intelligence and personnel, revealed a clear intent to wage war for secession (Marples, 2021). These actions escalated the conditions beyond vim into full-scale war. Before these clashes began in 2014, Ukraine had been grappling with a political crisis, with political parties and citizens disputing the direction of the country's relationship with Europe (Katchanovski, 2016; Yekelchuk, 2023). While there were sporadic clashes and a lack of positive peace during this period, the phase can be best understood as one of vim rather than war. However, the departure from vim became evident as the militarisation of separatists in the Donbas began. With Russian support, these groups sought secession, employing force to achieve their goal. In response, Ukraine, under President Poroshenko, shifted from managing unrest to a strategy of national defence, mobilising volunteers and seeking international

support (Plokhy, 2017). At this point, all three actors, the separatists, Ukraine and Russia, demonstrated clear intentions and capabilities to engage in sustained war over territorial sovereignty.

Second, alongside this intention to wage war, was the marked intensity and scale of the violence within the clashes beginning in 2014. As I argued, the intent to wage war is one characteristic of the departure from vim, but the start of war is also defined by the intensity, scale and unpredictability of the conflict. Examining the characteristics in the case of Ukraine reveals that the full-scale Russian invasion in 2022 intensified and widened the scope of the war. It expanded the war beyond the Donbas, opening multiple fronts and exposing Russia's direct involvement, previously hidden behind separatist narratives (Khromeychuk, 2022). However, the 2014 conflict in the Donbas already displayed the hallmarks of war. Unlike the lower levels of force typically associated with vim, the Donbas conflict saw extensive mobilisation of resources and troop deployments, engaging in a sustained military campaign.

In addition, the scale of force in the Donbas was not restrained in scope. Its effects extended beyond specific targets, destabilising the entire eastern region and causing widespread death and social disruption. By the end of the first year of the conflict, reports documented over 9000 deaths, millions displaced and portions of eastern Ukraine in ruins (HRW, 2016). Entire communities were impacted, with cities like Donetsk and Luhansk becoming central battlegrounds. The deaths, destruction of infrastructure and displacement highlight the war's intensity from its inception in 2014. This expansive scale and intensity drew international attention, with countries like the US, Canada and the UK sending military advisors and aid to support Ukraine's defence against separatists (Masters, 2023). While the scale and intensity

have evolved since 2022, the actors and aims have remained consistent, marking a heightened continuation, rather than a new beginning, of the war since 2014.

Third, in addition to the intention to wage war and the scale and intensity of clashes since 2014, the war bears the characteristics of unpredictability, fuelled by the complexity of the intentions and actions that follow. I argued that force within the realm of *vim* appears more controlled and calculated, with outcomes and impacts that are relatively easier to anticipate (Brunstetter and Braun, 2013). In contrast, war is inherently unpredictable, often leading to unforeseen consequences that escalate violence and destabilise regions (Walzer, 2006). This unpredictability was evident from the onset of the Donbas War in 2014. It was not clear what was coming next, whether the separatists had enough Russian support to sustain their efforts or whether Ukraine could acquire sufficient military capability to fight back. The next move and the consequences were unpredictable. The cycle of fighting after failed ceasefires has led some to describe the conflict as a frozen conflict (Grossman, 2018; Potočňák and Mares, 2023). These ceasefires did not simply return Ukraine to a period of *vim*, as the unpredictability remained in place with the potential scope and intensity of the next round of fighting often exceeding the previous (Grossman, 2018). This was because neither Moscow nor Kyiv sincerely intended an end to the conflict. The ceasefires instead worked to stabilise 'the front line and allow both sides to regroup and rebuild their depleted forces in preparation for further fighting' (Lough, 2024, 3).

The unpredictability of the conflict became more evident as the war unfolded further in 2022. Initial expectations of a quick Russian victory were thwarted by Ukraine's resilient defence, supported by Western intelligence and arms supplies. The rapid shifts in battlefronts, such as Ukraine's counteroffensives in Kharkiv and Kherson, highlight the volatile nature of the

conflict (BBC, 2025). The shifting alliances and outright support have raised questions about what could happen next in the region. As it stands, the potential consequences are unpredictable, just as they were when the war started in 2014.

By applying the peace, vim and war continuum, we can see that the war in Ukraine began in 2014, with the conflict in the Donbas. Russia's intervention during this period, through fuelling separatism, deploying resources and orchestrating violence, escalated beyond domestic unrest or low-intensity clashes into a conflict with the characteristics of war. This transition is evident in the intention, scale, intensity and unpredictability of violence employed, which shifted towards objectives of destruction and domination. Understanding this continuum allows us to better grasp how vim transitions into war, thus clarifying the conflict in Ukraine began long before Russia's full-scale invasion in 2022.

The development of the peace, vim and war continuum not only speaks to the beginning of war but also its end. It does so by identifying the end as the point at which the defining characteristics of intention, scale, intensity and unpredictability of war dissipate. In the case of Ukraine, this would require sustained intensity, large-scale destruction, and expansive objectives to no longer be widespread, a scenario far from the current reality.

Localised battles and tactical engagements have persisted into 2025, yet the broader conflict has not de-escalated. The fighting is particularly intense along key frontlines in eastern and southern Ukraine, such as Bakhmut, Donetsk and Luhansk, where strategic military objectives remain contested (Harward *et al.*, 2025). During the end-of-year news conference in 2024, Vladimir Putin stated, 'There is movement along the entire front line. Every day' (cited in Adams, 2025, 1). We can see this in eastern Ukraine, where Moscow is 'gradually churning

mile by mile through the wide open fields of the Donbas, enveloping and overwhelming villages and towns' (Adams, 2025, 1).

As both sides consolidate their positions and launch artillery strikes, there is no clear road to peace. Both Russia and Ukraine are engaged in military campaigns, causing widespread destruction and heavy casualties. To date, over a million people have been killed or wounded (Pancevski, 2024). Russia's continued support for separatist movements in the Donbas, as well as its goal for territorial expansion in Ukraine, ensures the conflict continues. Meanwhile, external actors, including NATO and the European Union, continue to provide Ukraine with military assistance, bolstering its resistance (Sherzer and Boumendil, 2024). It appears that both sides are entrenched in a struggle that could last much longer, leaving the present events at the far end of the continuum, far from *vim*. It would appear that even an end to the major battles would not return Ukraine to JWT's assumed peace dichotomy, as underlying tensions over territorial claims and the Donbas' history would remain. This highlights the likelihood of continued tension and clashes short of war, an evident period of *vim*.

Recognising that the war in Ukraine began in 2014 rather than in 2022 reveals how many applications of JWT, along with dominant media reporting, have treated ethical evaluation as beginning only once large-scale war becomes visible, overlooking the moral weight of earlier phases of violence. The years preceding 2014, including the Euromaidan protests and subsequent unrest, are often described as a period of instability or hybrid conflict. Within the peace, *vim* and war continuum, these years represent an extended phase of *vim*, during which ethical decision-making should have been guided by *jus ad vim*. By applying *jus ad bellum* only once full-scale war is recognised, as in 2022, most interpretations neglect the

responsibilities inherent in the lead-up to war and also fail to acknowledge that war was already underway.

My temporal framework identifies the threshold of war as the point when intent, scale, intensity and unpredictability converge, as in the Donbas in 2014. This has clear ethical implications. Ukrainian leaders should have applied *jus ad bellum* from 2014, evaluating defensive action in terms of just cause and legitimate authority. Russian leaders should also have been assessed under *jus ad bellum* from the same point, with their resort to force judged accordingly. Separatist groups in the Donbas should likewise have been evaluated under *jus ad bellum* for their attempts to wage war for secession, recognising their responsibility for escalating violence. Once the threshold of war was crossed in 2014, *jus in bello* became relevant, and its enhanced permissions, including proportionality, discrimination and restraint, operated from that moment. A situated temporal reading of war thus better highlights when JWT applies and ensures that ethical decision-making accounts for the full spectrum of responsibility and permissible conduct.

The peace, vim and war continuum thus addresses the temporal deficit in JWT. It provides a conceptual tool for identifying when war begins but does not determine whether it is just, thereby clarifying the threshold for moral responsibility without presupposing the justice of the war itself. The next two sub-sections take up that question directly, extending this temporal framework through a supplemented understanding of people and their space, examining how communities and territorial claims shape who may rightly wage war and in defence of whose common good.

1.2. People

Above, I have outlined that we can better understand the beginning of the war in Ukraine as starting in 2014, due to the defining characteristics of an intention to wage war, manifested through the associated characteristics of scale, intensity and unpredictability of violence. The supplemented temporal understanding demonstrates how the conflict has intensified since Russia's full-scale invasion, yet before 2022, Ukraine was not in a period of vim and was even further away from peace. Answering when Ukraine was at war resolves one of the shortcomings identified, yet we still need answers to who the 'people' are and whether actors can satisfy their claims for waging war in the name of 'the people' they cite.

I now turn to assessing whether Ukraine, the separatists in the Donbas and Russia are justified in taking up arms. Under a situated just war theory, this includes understanding who 'the people' are and whether their conception of the common good is under attack enough to warrant a just cause to wage war. I argue that Ukraine is a *community of communities* and that claims to protect the good of 'the people' of Ukraine must account for these various goods. Moreover, actors must have legitimacy based on the protection of these goods. While neither Ukraine, Russia, nor the Donbas separatists initially fulfilled this role, the resistance to Russia's full-scale invasion has reinforced a cohesive Ukrainian political community, bolstering its legitimacy. Conversely, the separatists' dependence on Russia and the lack of authentic representation for plural collectives in the Donbas undermine their claims to wage war.

To supplement JWT's under conceptualisation of who the 'people' are and their role in justifying the use of force, I have proposed the communitarian conception of the community.

I argued that it is within communities that people are naturally situated and develop their conception of the good, a good through which their meaning and interpersonal relations are defined and redefined (Sandel, 1984; Chang, 2022). Thus, 'the people' are a collective with a clear common good or, as I argued, a range of partial communities, each contributing to the formation of overlapping common goods (Kukathas, 2003; MacIntyre, 2007). I emphasised that a community is not necessarily homogeneous and that individuals can belong to more than one. There is often a layered and interconnected nature of belonging, where individuals participate in multiple overlapping communities, whether geographical, psychological or historical, each shaping and contributing to their identity (Bell, 1993). Communitarians address this diversity with the concept of a *community of communities* (Etzioni, 1996). This development helps us understand who the 'people' of Ukraine are. Ukraine is a pluralistic community, aligning with the ideal of a *community of communities* (Constantin, 2022). It represents an 'ethnolinguistic mosaic,' shaped by its Soviet legacy and historical, geographic, linguistic and ethnic divisions (Constantin, 2022). The Soviet legacy has left a complex landscape where Russian served as a common language in regions like Crimea and the Donbas, despite many identifying as ethnically Ukrainian (Arel, 2013; Constantin, 2022). These divisions result in various communities expressing their conceptions of the good.

This pluralism becomes more evident when examining the 2001 census, which highlights discrepancies between declared ethnicities and native languages, as well as regional patterns of identification and language use (Arel, 2013). While 77.8% of the population identified as ethnically Ukrainian, only 67.5% declared Ukrainian as their native language and 29.6% identified Russian as their native language (Constantin, 2022). Among ethnic Ukrainians, 14.8% stated Russian as their native language, reflecting linguistic assimilation or preference.

Minority groups, like Greeks and Jews, overwhelmingly identified Russian as their native language (88.5% and 83%, respectively) (Constantin, 2022). These figures illustrate the historical intertwining of ethnicity and language in Ukraine, complicating efforts to define a unified Ukrainian identity, while also underscoring the plurality embedded within the Ukrainian state.

In traditionally multi-ethnic regions like Crimea and Donetsk, Russian is dominant as a language, but as outlined above, language does not necessarily translate into political or national alignment. Yet, separatists in the Donbas region assert there is a common way of life for ‘the people’ of the Donbas region. While ties to Russia exist, the identities of people in the Donbas are distinct and cannot be plausibly reduced to a mere extension of Russian culture or political identity. Identities vary and reflect a blend of industrial heritage, multiculturalism and political history, shaped by a diverse ethnic composition including Ukrainians, Russians, Greeks, Germans, Jews and Tatars (Kuromiya, 1998). This diversity distinguishes the Donbas from more homogeneous regions in both Ukraine and Russia, contributing to its unique cultural mosaic.

Now that we have clarified who ‘the people’ in question are, we can move on to their role in justifying force. My developed lens also provides us with answers to this, tied to understanding the intrinsic value of these communities. I argue that central to these collectives are intrinsic values categorised as thick and thin. Thick values offer deeply embedded, particularistic moral cultures, while thin values represent more universal principles that may overlap between communities (Walzer, 2019). These values derive from the collective’s conception of the good and, when under threat, often serve as grounds for just cause. The Ukrainian government, Russia and separatists in the Donbas claim to act in defence of the

collective's good, but a closer examination through the communitarian lens reveals complexities and contradictions in these claims.

The Donbas separatists claim a just cause for waging war, asserting their actions are necessary to protect their community's thick values, including cultural identity, language and autonomy (Voronovici, 2023). They frame their struggle as resistance against an increasingly nationalist central Ukrainian government. While this appears aligned with the communitarian emphasis on safeguarding the community's good, it is not convincing that the region possesses a distinct collective. Rather, the Donbas is home to different collectives, with some distinct and interconnected identities (Kuromiya, 1998). Additionally, the separatists' reliance on Russian support undermines their claim of independence. A genuine just cause for war requires actions that reflect the community's good and independent will, which the separatists fail to demonstrate. Polling data from March 2014 further weakens their case, showing that only one-third of residents in Donetsk and Luhansk supported separation, while 56% opposed it (Kazodobina, Hedenskog and Umland, 2024). This suggests their cause was not rooted in the collective will but in manufactured dissent.

A situated just war theory emphasises that secession can be justified when a community's existing conception of the common good is under threat. I have already argued that the Donbas separatists cannot support this claim. However, under my communitarian reading, secession may also be justified as a means for a group to establish a truer conception of the common good when the current one has been thwarted. I do not think the Donbas can convincingly take up this route. A communitarian right to secession would require a clear collective will and enduring attachment to distinct values that make up the collective's common good/s. These elements are absent in the Donbas case. The *community of communities*

has not come together, and authorised separatists who convincingly oversee and protect their goods, to secede. Russia's intervention on behalf of the Donbas separatists also complicates their claim for secession. While war ethics and communitarianism allow for external assistance in extreme cases such as genocide, such interventions must be necessary and proportionate. Russia's actions, however, appear to fuel conflict rather than support genuine secessionist movements.

Russia's action has also allowed Ukraine's just cause to evolve. Before the full-scale invasion, the state's claim to defend the Donbas from separatist movements was less clear, as it struggled to assert a cohesive national identity that included the region. However, since the full-scale invasion, Ukraine's defence has taken on greater legitimacy. The invasion has galvanised widespread public support for the Ukrainian government, transforming it into a more robust political community capable of uniting and protecting its diverse population. From a communitarian perspective, this newfound solidarity reinforces Ukraine's claim to act in defence of its people (Sánchez-Castillo, Galán-Cubillo and Drylie-Carey, 2023; Sherzer and Boumendil, 2024). The government's actions now reflect a cohesive effort to preserve the shared thick and thin values necessary for the collective flourishing of its *community of communities*.

In contrast, Russia's claim to a just cause, based on the protection of Russian-speaking populations in Ukraine, lacks credibility when examined through the communitarian lens. The principle of just cause demands alignment with the genuine values of the affected community. Russia's actions, however, appear driven more by geopolitical ambitions than by the actual interests of the Donbas population (Gardener, 2023; Perez and Nair, 2024). The

invasion disrupts the Donbas community's ability to independently define and pursue its conception of the good, continuing a pattern of Soviet-era Russification.

The supplemented approach offers a clearer understanding of 'the people' of Ukraine and the legitimacy of the parties' causes. In 2014, at the onset of the war, the justifications offered by Ukraine, Russia and the Donbas separatists were weak, as none convincingly demonstrated that they were defending a shared conception of the common good under genuine threat. Since the full-scale invasion, however, Ukraine's cause has become more discernible, grounded in the emergence of a political community supported by the majority of its population, one that increasingly transcends linguistic and ethnic divisions (Toal and Korostelina, 2023).

Ukraine now possesses a more persuasive just cause, but does it also possess the legitimacy to wage war in the name of its people? Legitimacy, as I argue, is tied to the ability of actors to protect the plural goods that underpin a community's shared conception of the good. Since Russia's full-scale invasion, Ukraine has garnered significant internal support, demonstrating the emergence of a political community with the legitimacy to act on behalf of the majority of its communities, though not necessarily those in eastern Ukraine (Sánchez-Castillo, Galán-Cubillo and Drylie-Carey, 2023). By contrast, the Donbas separatists' claim of legitimacy rests on the notion of a unique regional identity under threat, but this assertion is unproven. It is unclear whether this distinct collective exists. For instance, as I argued, in 2014, more than half of Donbas residents voted to remain part of Ukraine (Kazodobina, Hedenskog and Umland, 2024). The separatists also lack legitimacy due to their dependence on Russian support, raising questions about the authenticity of their claims and whether there has been any genuine growing support for separation since 2014 (Kofman *et al.*, 2017; Gormezano, 2024). Thus, we

cannot convincingly grant the separatists a clear role representing a distinct collective, nor a just cause or legitimacy to wage war in defence of their conception of the good.

We could even go as far as arguing that the action of the separatists and Russia, as the war has gone on, has undermined the thick and thin values of the communities in the Donbas. External influence and Russia's occupations in eastern Ukraine have been extreme, disrupting the locally constituted moral space that allows collective flourishing. Thick values have been eroded as local traditions and understandings of the good are supplanted by priorities serving external geopolitical objectives rather than the communities themselves. Security, freedom of movement, and participation in communal decision-making, are systematically denied, constraining residents' ability to exercise duties that contribute to the collective good. From a communitarian perspective, both thick and thin values are essential: thin values provide universal moral coordination, while thick values embed these universals within local practice. Separatist and Russian interventions disrupt both, violating thin values while distorting thick ones, making the pursuit of collective flourishing and the exercise of duties central to it significantly more difficult, if not impossible.

We might be inclined to think that Ukraine should protect the Donbas against such violations. Yet, communitarian theory reminds us that legitimacy is not simply assumed; it depends on the state's ability to uphold and protect the common good/s of those it claims to represent. At present, Ukraine's authority over the Donbas does not clearly demonstrate this capacity. To act legitimately, Ukraine would need to recognise the Donbas as a 'community of communities', acknowledging their distinct identities and values, rather than treating them as a unified whole. Only with this commitment can we begin to explore how Ukraine may justifiably claim the authority to defend and protect them.

In resolving the demoi problem, this communitarian lens allows us to identify not only who ‘the people’ within Ukraine and the Donbas are, but also which actors genuinely represent them and are authorised to wage war. This legitimacy has become increasingly evident for Ukraine across most of its claimed territory since the full-scale invasion in 2022, but the Donbas separatists and Russia continue to fail these conditions.

This understanding of the people and their conception of the common good has direct implications for the application of JWT in Ukraine. Ukraine demonstrates legitimate representation of its people and a just cause grounded in defending their common goods, meaning it can justify its defensive actions under *jus ad bellum*. The Donbas separatists, lacking a coherent community and independent legitimacy, cannot claim a just cause. Russia, acting externally without representing the affected communities, is likewise not justified under *jus ad bellum*. *Jus in bello* permissions, including proportionality and discrimination, govern the conduct of all parties, but the absence of legitimate representation for the Donbas separatists and Russia renders any actions to enforce claims over communities ethically problematic.

The situated just war theory, as outlined so far, clarifies when war occurs, for whom it is waged and whether actions are just, but it still leaves open the question of whether the people’s territorial claims can justify the acts of those who claim to represent them.

1.3. Space

Above, I contended that the war in Ukraine should be viewed as beginning in 2014, given the evident intention to wage war, as reflected in the scale, unpredictability and intensity of violence employed by the separatists in the Donbas. This shifted Ukraine from a state of vim into war, rather than from peace to war, as the nation before 2014 was shaped by a modern

history of ongoing indirect violence and political disputes. I then went on to outline that when considering the question of who the war is being waged for and whether their cause can be justified, it proved difficult for the Donbas separatists and unjustifiable for Russia. While Ukraine's central government has not convincingly demonstrated its authority over the goods in the Donbas to justify its defence against separatists, the full-scale Russian invasion in 2022 generated the presence of a more cohesive political community within the rest of Ukraine (Toal and Korostelina, 2023). Ukrainians collectively mobilised in defence of a shared political identity, affirming their state's legitimacy to protect their nation.

Responding to the demoi problem brings us to the final shortcoming of JWT, the ambiguity surrounding territorial rights and its justification in waging war. In the war in Ukraine, territorial integrity is presented as a core justification for taking up force. The cases illustrate the tension between localised attachments to land, alongside Russia's internal imposition. To address this ambiguity surrounding who possesses territorial rights and whether they can wage war to secure them, I incorporated a theory of territorial rights from wider political theory, particularly the development of Moore's concept. I argued that by demarcating the land and defining who can wield power over it, *the particularity problem*, can be satisfied once the attachment of a collective is evident through their just occupancy of a territory. The collective wields power over that territory. This occupancy is established through a people's concentration on that particular territory that preserves and creates their common good. This is formed through temporal extensions, a commitment to a common good supported by mutual and shared roles and duties that foster cooperation. This relationship satisfies *the attachment problem* that I argued JWT overlooks. Once particularity and attachment are satisfied, we can grant the collective territorial rights, which can be exercised to wage war in

the name of defending the space in which they derive and exercise their conception of the good. Territory is indispensable to the collective as it grounds their shared identity, provides the sphere for exercising their good and secures their way of life, making its violation a just cause for war.

In supplementing JWT with this theory of territorial rights, I will outline that the Ukrainian government possesses a claim to protect some territory it claims territorial integrity over, yet not convincingly the Donbas region, where it remains unclear that the people's goods align with those of the political community. However, given that the separatists cannot demonstrate they are waging war to secure a demarcated territory intrinsically linked to the good of a people through historical continuity and cooperation, they too cannot be granted territorial rights over the Donbas.

The separatists in the Donbas struggle to justify their claim to territorial rights. As addressed above, the region's diverse population of Ukrainians, Russians, Greeks, Jews and Tatars does not exhibit a unified conception of the good (Kuromiya, 1998). The Donbas does not exhibit a cohesive, temporally extended community with a shared commitment to good or an overarching legitimate actor overseeing the various goods. It was not until the DPR and LPR declared independence in 2014 that we were introduced to a claim to a historical and distinct community (Yekelchuk, 2023). Before then, there was limited mobilisation around separatist identities. Instead, the Donbas reflects a patchwork of cultures and allegiances shaped by migration and industrialisation (Kuromiya, 1998). The diversity within the Donbas does not invalidate the population's right of residency, but it does challenge their claim to territorial rights. Communities in the Donbas may hold an independent *moral right of residency*, allowing them to settle in the area and be free from dispossession. However, it is not apparent that they

collectively possess a *moral right of occupancy*, a special interest. Territorial rights demand a *moral right of occupancy* that is a historically rooted relationship tied to a group identity and cooperative engagement with the land. 'The people' of the Donbas do not demonstrate the cohesive identity or sustained cooperation needed to fulfil these criteria.

Consequently, claims of a temporal extension and a distinct common good in the Donbas appear ill-founded. The cooperative measures through which relationship-dependent goods, roles and duties are established and exercised within the space remain fragile, due to Russian interference. Since 2014, political and economic life in the region has become increasingly dependent on Russian support (Kazodobina, Hedenskog and Umland, 2024). The conflict has resulted in a collapsed industrial infrastructure, disrupted supply chains and halted banking systems. The Donbas has not been able to form or sustain systems to oppose or replace this and instead separatists rely on Russia to provide financial support that includes pensions and wages (Hoch and Kopeček, 2019). It has also relied on Russia to provide the separatists with political direction, which has integrated the areas into Russian politics (Kazodobina, Hedenskog and Umland, 2024). This reliance undermines organic cooperation among 'the people', reflecting external imposition rather than a genuine, cooperatively sustained relationship with the land (Melnik, 2021). For the Donbas to establish territorial rights over the region, the emergence of an organic common good/goods developed over time through sustained cooperation, duties and roles must be demonstrated.

Ukraine also presents territorial rights as a core reason for taking up arms against the Russian invasion and the growth of the separatists in the Donbas. Ukraine maintains its claim to all internationally recognised territory, including Crimea, the Donbas, Kherson and Zaporizhzhia (Ali, 2023). Yet, as argued above, territorial rights are born from the occupancy

rights a group of people possess via their historical relations, developed goods and cooperation, and a state cannot simply claim territory without addressing the rights of 'the people' residing within it (Moore, 2015). The broader Ukrainian polity has exhibited unity in the face of Russian aggression since 2022, but this unity has not always extended into the Donbas. It is not evident how the Ukrainian government can present a claim that 'the people' within the Donbas have a share in the same good, temporal extension or cooperative relationships as those of the political community. Nor can the government convincingly claim they oversee the territorial integrity of 'the people' within the Donbas, which allows them to develop and exercise their goods within the space. Historical neglect and policies such as restricting the Russian language weaken Ukraine's relationship with its eastern regions, complicating its claim to territorial rights there (Lunyova et al, 2025). Thus, Ukraine cannot be awarded a justification to employ force to defend the territory of the Donbas.

Nevertheless, Russia's actions, including annexations and military assaults, pose existential threats to Ukraine's remaining territory and political integrity. Russia's invasion has disrupted areas beyond the Donbas and displaced Ukrainians across the country (BBC, 2025). Ukraine can react to this imposition in the name of the political community it oversees, which includes the multiple goods of partial collectives. These goods may align with local spaces, but these collectives have now indicated a clear relationship with the political community (Tolz and Hutchings, 2023; Gugushvili, 2025). This suggests Ukraine can fulfil its role in overseeing the common good of a political community which has been generated. Within this territory, various groups hold residency and occupancy rights and have affirmed their commitment to a broader vision under a unified political community. While this does not establish a national moral right to occupy or assert authority over all of Ukraine, it highlights

an emerging identity and a collective will to legitimise the state. This legitimacy provides Ukraine with a just cause to defend the areas where these people reside. However, this justification does not easily extend to the Donbas, where separatist demands challenge the state's legitimacy and its territorial claims.

This analysis raises important questions about the legitimacy of the use of force for territorial integrity by both the Ukrainian government and separatists in the Donbas. If Ukraine's claim to territorial rights in the Donbas is weak due to the lack of a cohesive political community aligned with its national good, does that then grant the separatists a just cause to defend themselves against what they perceive as an illegitimate threat? This is not the case. Although the separatists contest Kyiv's authority, they themselves fail to demonstrate the existence of a legitimate, temporally extended collective with an organic common good tied to the territory, independent of external influence. Their reliance on Russian support and the absence of sustained, cooperative self-governance undermine their claim to territorial rights and thus their just cause in defending the territory against a threat from Kyiv.

However, while they lack a territorial claim that would justify defending the Donbas as *their* territory, this does not mean they lack any moral standing altogether. If Ukraine were to launch an attack or impose policies that undermined the Donbas population's ability to secure their shared common goods, a form of just cause may emerge. This would not rest on territorial rights but on the moral value in protecting the capacity of communities to sustain their goods and way of life. A legitimate authority might also arise from such a threat, galvanising support from across these partial communities to defend their shared social and political environment. Over time, if the collectives within the Donbas with occupancy rights were to come together to defend their conceptions of the good under a wider political

community, they could begin to fulfil the necessary conditions for sustaining those goods. Such efforts could help establish the basis for a legitimate collective actor, which is currently absent, and may eventually support a claim to secession, not as an abstract right, but as a practical necessity to preserve the shared goods and institutions that sustain everyday life. In that case, the defence of the Donbas by this emergent community would be justified not through existing territorial rights but through the evolving formation of a *community of communities* capable of authoring its own political future.

At present, neither side's use of force in the Donbas can be justified as defending a legitimate political community or its goods. Ukraine's claim is grounded too heavily in assumptions of state sovereignty, without addressing the disconnection between its political community and the Donbas. Meanwhile, the separatists' appeals to self-determination are undermined by their reliance on Russia and lacking evidence of 'a people'.

This revised focus on territory demonstrates that the application of JWT cannot rely on statist assumptions, as territorial control alone does not establish legitimate representation of the people or the defence of their common goods. A situated application, however, reaffirms the ethical importance of space as the physical and social context in which communities and their conception of the common good exist.

2. Yemen

With its complex history, multiplicity of actors and a fragmented central government, the war in Yemen challenges the core premises of JWT. Unlike conflicts where clear aggressors and defenders can be delineated, Yemen's war involves overlapping claims of legitimacy, shifting alliances and competing visions of sovereignty. These complexities are not merely a feature

of the conflict itself but also reveal the limitations of JWT in addressing the following fundamental questions: When can we say war is occurring in Yemen's fragmented political landscape? Who does the war serve amid the competing interests of local, regional and international actors? And how can territorial claims of disparate groups, from the Houthis to the STC, be discerned?

As with the case of Ukraine discussed above, this subsection will address these questions by incorporating my insights from IR, territorial rights and communitarianism to refine JWT.

2.1. Time

Some theorists mark the beginning of the war in Ukraine as Russia's invasion in 2022 (Walzer, 2022; Fabre, 2023; McMahan, 2024). However, my expanded temporal understanding of the peace, vim and war continuum revealed that the war actually began in 2014 with the clashes in the Donbas. In contrast, the Yemen conflict is not typically associated with a single starting point. Some trace it back to the rise of the Houthis in 2004, others to the emergence of non-state actors following the Arab Spring in 2011, others to the Houthi coup in 2014 and some to the intervention by the Saudi-led coalition in 2015 (Wintour, 2019; Orkaby, 2021; Robinson, 2023). These varying dates reflect the perceived complexity of cases like Yemen, while Ukraine's conflict is often perceived as more straightforward. This comparison, however, is misleading. As I outlined earlier, Ukraine has a complex history in which neither a clear period of peace preceded the 2022 invasion, nor did the war in 2014 emerge from a departure from the peace paradigm. The state-centric nature of Ukraine's conflict leads some to assume otherwise, as they associate war predominantly with state actors, a notion that my developed

continuum contests. Instead, I have outlined the characteristics of war, rather than the status of actors, define the onset of war.

My enhanced reading of the temporal boundaries of the War in Yemen will indicate that, like Ukraine, the country has experienced a complex history of extended periods of vim. By viewing Yemen's history through this lens, I argue that while the clashes between the Houthis and the state ceased in 2011, a period of vim persisted until their coup in 2014 transitioned the nation into war. This transition was marked by the Houthis' intentions, the responses of other actors, and the conflict's increasing intensity, scale and unpredictability.

Using the peace, vim and war continuum I developed, I argue that the transition from vim to war is characterised by the actors' intentions and how these intentions shape the scale, intensity and unpredictability of the resulting violence. This framework allows us to distinguish between periods of vim and outright war, offering a clearer understanding of the temporal boundaries of Yemen's current conflict.

Claims that the war began during the Saada Wars in 2004 are valid in terms of the historical context of causes, but do not accurately define the temporal starting point of the current conflict. The 2004–2010 period, characterised by the Saada Wars, meets the criteria for war, marked by the Houthis' clear intentions to secure dominance alongside a sustained scale, intensity and unpredictability of violence. The period, marked by six rounds of conflict known as the Saada Wars, reflected a shift from protest to war. Reports estimate that the conflicts caused hundreds to thousands of fatalities and displaced over 250,000 people (Boucek, 2010). The Houthis' protests in 2004, initially involving around 600 demonstrators, rapidly escalated into sustained battles between government forces, Houthi rebels and other political factions

accused of supporting the rebellion (Boucek, 2010). The Houthis' intent to secure their position in Yemen's highlands and resist the dilution of their identity was clear. The resulting intensity, scale and unpredictability of the violence marked these clashes as war rather than vim. Each round of the Saada Wars began with heavy clashes and accusations of external support and then subsided into sporadic fighting (Boucek, 2010). Despite ceasefires, violence routinely resumed. For instance, during the fourth round, President Saleh's creation of the Popular Army, which combined regular troops with tribal militias, exacerbated tribal rivalries, leading to widespread clashes among various tribes, some unrelated to the Houthi conflict (Brandt, 2017).

By 2010, a ceasefire between the Yemeni government and Abdul-Malik al-Houthi brought an end to active hostilities. While tribal clashes and low-level violence persisted, the conflict's scale and intensity diminished significantly. Yemen thus transitioned back to vim, as the absence of sustained, large-scale violence did not equate to peace but indicated a cessation of war. Between 2010 and 2014, conditions in Yemen remained tense. Political exclusion and economic neglect continued, with the Houthis engaging in protests and constrained clashes that indicated no intention to engage in war or violence of an intense or unpredictable scale (Lackner, 2019). These actions, though confrontational, remained within the bounds of vim (Salisbury, 2016). However, the fuel price hike in 2014 catalysed a shift in the Houthis' intentions. No longer content with securing representation or resisting marginalisation, they sought to dismantle the existing political order. This escalation from vim to war is evident in the Houthis' intention to dismantle the political order, the mobilisation of resources, the heightened intensity and scale of violence and the unpredictability that disrupted Yemen's political and social fabric.

A shift in their intention was clear: the Houthis coordinated an effort to seize control of the capital, Sanaa, and extend their authority over northern Yemen, including key population centres and military installations (Robinson, 2023). The Houthi coup of 2014 marked the transition from vim to war, sparking a broader escalation. The Hadi government, supported by international allies, viewed the Houthis' actions as an existential threat and sought to reclaim the capital and preserve Yemen's territorial integrity. Simultaneously, the STC exploited the chaos to advance its long-standing goal of southern secession, further fuelling violence against both the Houthis and government forces (Salisbury, 2018). These competing intentions exemplified expansive objectives that sought to secure political dominance rather than merely addressing specific threats. Although the Saudi-led intervention in 2015 intensified the conflict and internationalised it, this did not constitute the beginning of the war but rather its expansion. Thus, we can see how the shift from vim to war in Yemen occurred with the Houthi coup in 2014, marked by their clear intention to dismantle the existing political order. Alongside this intention to wage war, the coup marked the onset of the intensity, scale and unpredictability of the violence. These are the remaining characteristics that mark the departure from vim to war.

An evident difference between vim and bellum is the intensity and scale of force. Vim involves significantly lower levels of force that address specific threats, whereas war employs extensive mobilisation of resources that create widespread and escalated military campaigns. The scale and intensity of the force shifted in 2014, as between 2011 and then, the Houthis' actions, though sometimes violent, remained limited and reactive (Boucek, 2010). The coup, however, involved coordinated military operations, the seizure of state infrastructure and a broader campaign to dominate Yemen (Brandt, 2017). The Houthis mobilised troops, secured

resources from looting and external aid and committed to widespread combat as they seized the capital and launched a military campaign to expand their control beyond Sanaa (Robinson, 2023). The Houthis' measures were designed to oppress any opposition, and they were prepared for a sustained military campaign with their mobilised resources and troops. Hadi's government and STC's response to the Houthis matched this intensity. Not only did they react to their growing presence and defend their territory, but they also employed intense measures aiming to dismantle their safe havens and coordinated operations to prevent goods from reaching the Houthis and citizens within Houthi-controlled territory (Coombs, 2022).

As the war progressed, other events also heightened the intensity and scale of force. Most notably, the Saudi coalition's Operation Decisive Storm in 2015 escalated and prolonged a war that had already begun with the Houthi coup. Operation Decisive Storm's heavy aerial bombardments of Houthi positions resulted in significant civilian casualties and the destruction of critical infrastructure, including schools, hospitals and markets (Shield, 2021). The coalition's air, land and sea blockade exacerbated the humanitarian crisis, leading to widespread famine and deprivation (Lackner, 2019). As the war progressed, it became increasingly brutal, with all sides accused of committing war crimes. This sustained scale and intensity of violence reinforced Yemen's transition from vim to war, though the war had already begun with the Houthis' intention to dismantle the political order and their mobilisation of troops and resources.

In addition to the intention to wage war and the scale and intensity of clashes since 2014, the war bears the characteristics of unpredictability. Unlike the earlier rounds of vim, where clashes were relatively predictable and contained, the post-2014 conflict became chaotic and nationwide. The rapid fall of Sanaa created a power vacuum, destabilising local political and

tribal systems and leading to unforeseen escalations across Yemen. New battlefronts emerged across Yemen, including Marib, Taiz and Hodeidah, with shifting alliances and sudden offensives making the war volatile (McKernan, 2021). This was evident in the South as competing factions, such as the STC, began to voice their secondary intention of secession and other calls for a federal split, further complicating the conflict's trajectory (Salisbury, 2016; Bamutraf, 2025). Additionally, the Saudi-led coalition's airstrikes and the Houthis' retaliatory missile and drone attacks on Saudi territory further destabilised the region and created more unpredictability (Yemen Data Project, 2025). The Houthi takeover of the state triggered the war's unpredictable nature as violence erupted without warning, disrupting the political system and the everyday lives of citizens. They operated in a manner that was neither controlled nor visibly calculated, making their next moves and impacts difficult to anticipate.

The reduction of Saudi-led airstrikes since April 2022 has lowered the overall intensity of violence in Yemen (Friedman, 2023). This points us to the question of whether the war has ended. As outlined above, my development of the peace, vim and war continuum helps to better understand the end of war by identifying the point at which the defining characteristics of intention, scale, intensity and unpredictability of war dissipate. It is true that the Saudi coalition's earlier interventions significantly escalated the conflict, as they were responsible for over 25,000 airstrikes and an air, sea and land blockade that caused both direct and indirect civilian deaths and a severe humanitarian crisis (Yemen Data Project, 2025). However, as the Saudi coalition's airstrikes have ceased, violence continues through ongoing clashes among the Houthis, PLC, STC and various local factions. ACLED (2025) reports nearly 1,000 political violence incidents in late 2024, illustrating the persistence of the scale, intensity and uncertainty of violence as well as the intention of actors to continue their defence. These

attacks continue across various locations in Yemen, including Sanaa, Saada, Taiz and the South, with the insecurity and unpredictability of the next attacks evident throughout these locations (ACLED, 2025). Violence and blockades persist, alongside internal divisions within the PLC, illustrating the scale and unpredictable nature of war (Al-Deen, 2023). While the force may have decreased, its intent, intensity, scale and unpredictability remain significant enough to indicate that there is not a clear transition to vim.

Thus, in applying the developed peace, vim and war continuum to the war in Yemen, we gain a better understanding of its temporal boundaries: the conflict has been ongoing since its onset in 2014 with the Houthi coup. From this point, the Houthis, Hadi's government and the STC became responsible for the ethical conduct of warfare under *jus in bello*. Earlier periods of lower-intensity clashes, protests or limited confrontations fell within *jus ad vim*, and actors' decision-making should have been guided by responsibilities of escalation prevention and containment. This situated temporal reading highlights when wartime moral responsibilities arose and how ethical obligations shifted with the intensity, scale, unpredictability and intent of the conflict. The Houthis became accountable for proportionality, discrimination and restraint once large-scale operations commenced, and the Hadi government and STC likewise bore responsibilities for ethically conducted defensive and counter-offensive measures under *jus in bello*.

As with Ukraine, this temporal reading clarifies when war is taking place, while questions of justice, legitimacy and authority remain, shaping how *jus ad bellum* and *jus in bello* are assessed. The subsequent sub-sections examine for whom the war is waged and how competing territorial and communal claims shape justifications and moral responsibility.

2.2. People

The war in Yemen is best understood as beginning in 2014, given the evident intention to wage war, reflected in the intensity, scale and unpredictability of the violence prompted by the Houthi coup. Despite the recent cessation of the Saudi coalition airstrikes, the war in Yemen persists as warring parties continue to engage in widespread violence to pursue their fight for control. These various parties and objectives showcase the need of JWT to properly pay attention to for whom the war is being waged and how justified the presented causes are.

The thesis began by outlining that traditionalist accounts of JWT are limited in their understanding of 'the people', as they do not address the complexity of partial communities and differences that exist within a nation or how this impacts justifications for waging war. Similarly, revisionist accounts are limited in their ability to understand the intrinsic value of collective goods presented as warring causes. In contrast, the communitarian lens helps us better understand the nature of the diverse concepts of the common goods in Yemen, rendering arguments for protecting a single national collective flawed. Defending 'the people' of Yemen requires protecting the multiple conceptions of the common good and demonstrating legitimacy in overseeing them - a standard unmet by both the government and the Houthis. They both lack a justified cause for taking up arms and the legitimate authority to do so in the name of 'the people' of Yemen. In contrast, the STC provides a more plausible cause, as they demonstrate better relations with the communities in the south and have garnered support for the defence against the Houthis.

The communitarian development of 'the people' provides an illuminating angle to understanding 'the people' of Yemen. They consist of various communities whose conception

of the good is shaped by previous generations and will continue to be refined by them and those who follow (Etzioni, 2004). For instance, the Houthis represent a distinct partial community rooted in the Zaydi sect of Islam and tribal networks (Brandt, 2017). Their shared conception of the good is shaped by religious traditions, historical identity and grievances against marginalisation. The Houthis' conception of the good aligns primarily with their Zaydi community and the northern regions of Yemen. In contrast, the southern region of Yemen, represented politically by the STC, constitutes a distinct community. The South is also grounded in shared history, cultural identity and socio-political grievances (Salisbury, 2023). This stems from the perceived marginalisation of the South, which intensified after the unification of North and South Yemen in 1990 and the subsequent civil war in 1994, where Southern forces were defeated (Hill, 2017). Attempts have been made to generate a unified political identity, yet ongoing disagreements and conflicts have led people to reinforce their identity in alignment with their community.

Other partial communities in Yemen are attached to tribes. Tribes like Hashid and Bakil maintain significant influence over local governance and security (Hill, 2017). They often act as intermediaries between state actors and local populations (Jones, 2011). Rather than a distinct identity, these tribes have been able to create partial links between local populations and a political community. Yet, in times of conflict (like the current war), local groups have shifted to securing their immediate safety and territory, departing from a unified political identity (Al-Dawsari, 2012). Given the nature of the partial communities in Yemen, legitimacy in waging war depends on effectively representing and protecting these diverse conceptions of the good. As seen in Ukraine, external aggression can unify diverse goods into a cohesive

political community capable of asserting a shared identity in times of threat. Unlike Ukraine, Yemen's conflict has exacerbated internal divisions among its communities.

Hadi's government and its successor, the PLC, claim to represent the entirety of Yemen, focusing on national unity and sovereignty (Ardemagni, 2022). However, the Hadi government primarily represented a narrow elite and failed to protect the goods of Yemen's fragmented communities. The PLC, while more inclusive in composition, has struggled to address the fundamental needs of the Yemeni people, including the aspirations of southern communities and opposition to the Houthis (Goodridge, 2024). Yemen, like Ukraine, is a *community of communities*. However, in Yemen, there appears to be a weak political community that unifies the collectives. Instead, collectives are fragmented by tribalism, religion, regional disparities and political marginalisation (Salisbury, 2015). Each of these communities holds intrinsic value, as they shape the principles through which people define their identity and continually reinterpret it in line with their evolving conception of the good. I argued that this intrinsic value forms the basis for a just cause, justifying defence against the violation or threats to thick values that comprise the flourishing of a collective. Most actors in Yemen present unconvincing claims of just causes to protect the goods of Yemenis.

The Houthis justify their force as a defence against systemic exclusion, economic marginalisation and the failure of governments to represent Yemen's communities (Robinson, 2023). Their grievances align with a communitarian understanding of partial communities seeking to protect their intrinsic values. However, the Houthis' cause was not initially framed as a war for the neglect of the Zaydi conception of the good. They initially mobilised against systemic exclusion and economic hardship, but later, with rising fuel costs impacting the entire nation, they claimed a wider just cause for waging war to secure the goods of all

Yemenis (Robinson, 2023). We could go as far as arguing that the Hadi government was undermining the flourishing of many collectives in Yemen. However, the Houthis' just cause for employing force is interdependent on their legitimacy. The Houthis satisfy the communitarian definition of a community in Saada, bound by shared values, history and norms, yet their claim to represent Yemen as a whole is flawed. This was swiftly opposed by other collectives who took up arms against them and was later discredited by the Houthis' actions and governance that largely prioritised the interests of their particular community (Zohar, 2023). The Houthis implemented policies in the capital, Sanaa, that align with teachings from the Zaydi sect and continue to exercise repressive measures against those who dissent or oppose them (Qahtan, 2024). Thus, the Houthis fail to present a convincing just cause as their claim to protect the goods of Yemenis is undermined by their governance and opposition from various communities in Yemen.

The justification of the Hadi government to defend the Yemeni citizens from the Houthi coup was just as weak. Hadi's government reacted to the Houthi coup by asserting that, as the internationally recognised government, it held the just cause to defend its territory and people (Riedel, 2017). Orthodox JWT would support this claim, recognising Hadi's right to defence as the president of Yemen (Walzer, 2015). However, under a communitarian understanding of the demos, the Hadi government's legitimacy and cause of defence are open to doubt. As highlighted, Hadi's inability to effectively govern or oversee the collective goods of Yemenis undermined his claim to represent Yemen (Lackner, 2022). This was evident as the war began, with local factions defending their territories rather than joining the national forces or rallying behind a joint opposition to the Houthis (Al-Awlaqi and Al-Madhaji, 2018). These groups, rather than the government, demonstrated legitimacy in opposing the threat. They

maintained a stronger relationship with their local communities and resisted the Houthi expansion that would undermine their way of living.

This was evident in the South, with the STC quickly mobilising to defend against Houthi encroachment (Radman, 2020). The STC's governance in southern Yemen has allowed it to secure and protect the communities in the South more effectively than the central government. They have established tangible authority, exemplified by their creation of a separate House of Commons and an ability to govern their region more effectively than the internationally recognised government of Yemen (ACLED, 2024b). This visible rule has strengthened the STC's support and, in turn, their claim to just cause, as they actively seek to address the needs of southern Yemen and better oversee the thick values tied to the South's identity and autonomy. Thus, the STC possesses a compelling claim to defend the South against Houthi encroachment.

It is worth mentioning that the STC has a secondary just cause, their secession. While the STC and the government share the aim of ousting the Houthis, secessionist clashes have fuelled another strand of violence. From my revised perspective, the STC's claim to independence is valid if it reflects the intrinsic values and common good of the southern Yemeni people. Secessionist claims can be evaluated not only based on historical grievances but also in terms of the community's capacity to preserve its conception of the good. The South's immediate cause of their struggle was to defend against Houthi expansion, but there is now a move towards secession of the South, cemented in 2017 with the formation of the STC (Kingsbury, 2021). In the south, they have repelled Houthi encroachment and built systems of governance to maintain daily functions for citizens, thereby sustaining and furthering the good of the region. However, internal divisions may weaken their claim to secession (Salisbury, 2018).

The areas the STC claims as part of the South include key governorates such as Aden, Lahij, Dhale, Abyan, Shabwa, Hadramawt and Socotra. However, their authority is not uniformly recognised across these regions, leading to disputes with local authorities and other political entities (Radman, 2020). Local leaders have expressed reluctance to align fully with the STC (Ezzi, 2023). Instead, they advocate for greater autonomy to manage their affairs. This calls into question what the South entails and how we understand the relationship between people, territory and their common good. I will address this issue below when considering the question of southern Yemen's secession.

The supplemented understanding of 'the people' and their just causes helps us see that Yemen comprises various communities. Some align with the Houthis, others with the STC, some with localised communities and a minority with a political community (Lackner, 2019, 2020). Thus, to employ force to protect the proclaimed unified good, actors must demonstrate legitimacy in their authority and cause by actually overseeing and protecting the plural common goods. This has proven challenging for the Houthis and the government, who possess support from some communities within Yemen, but not the nation as a whole. The Houthis, while effectively representing their Zaydi and northern tribal community, cannot legitimately claim to protect Yemen's wider goods, and thus fail to meet the core principle of just cause. Similarly, neither the internationally recognised governments of Hadi nor the PLC have demonstrated the ability to galvanise support for a national defence against the Houthis or showcase their legitimacy in overseeing the protection of the diverse internal conceptions of the common goods (Ali-Khan, 2023). It becomes apparent that these actors are limited in what they can ethically defend because their authority does not extend across all communities.

By contrast, localised communities, such as the STC in southern Yemen, are better positioned to understand and protect the goods of the populations, granting them partial *jus ad bellum* legitimacy in their defensive actions. Their authority, rooted in actual support and governance, allows them to ethically guide decisions about the use of force in defence of their communities.

This analysis illustrates how understanding the people and their goods shapes ethical responsibility in Yemen. Actors with limited authority, such as the Houthis or Hadi's government, cannot claim to defend the common good of all communities, making their use of force ethically problematic. By contrast, actors more closely aligned with the communities whose goods they seek to protect, such as the STC, have stronger grounds for legitimacy and must act proportionally and discriminately under *jus in bello*. Thus, assessing who oversees the people and genuinely protects their common goods clarifies who can ethically make decisions about the use of force and the extent of their authority. The next sub-section examines how territorial claims interact with these ethical decisions to wage war.

2.3. Space

I have identified the start of the war in Yemen with the Houthi coup in 2014. I then argued that claims by the state and the Houthis to wage war to protect the whole of Yemen cannot be supported. These claims fail due to the partial nature of Yemen's communities and the absence of an actor with legitimate authority over these diverse collectives. In Yemen, people and their concept of the good are primarily a localised phenomenon. Their goods and cooperation reflect local governance, cultural practices and histories. This challenges the justification for a group waging war over the entire nation as a singular collective, as it disregards the plurality

of Yemen's communities and their local territorial attachments. This takes us on to the next interrelated shortcoming, identifying who possesses territorial rights.

I argued that the overreliance on internationally recognised borders and legal conventions, which provide the basis of territorial claims in some accounts of JWT, do not account for how a nation or state forms an attachment to a particular territory, granting it territorial rights (Walzer, 2015; Benbaji and Statman, 2019). Instead, a development of Moore's theory offers a helpful framework for understanding how a demarcated space becomes aligned to a collective through just occupancy, temporal extension, commitment to a shared concept of the good, and cooperative roles and duties to sustain it. In Yemen, the Houthis and the government do not present territorial claims for the war, as they instead accept internationally recognised borders. In contrast, the STC puts forward a territorial angle by claiming to protect its distinct territory from encroachment and presenting desires for secession. A situated just war theory highlights that the STC possesses territorial rights strong enough to take up arms against encroachment, but the use of force for secession depends on them accounting for those within who do not wish to secede.

Although the STC's claims introduce a territorial element to the conflict, the war in Yemen is primarily about competing conceptions of the common good and which actor can legitimately represent this good. For the state and the Houthis, the war is a fight to capture the state and reinforce a government that oversees 'the people' of Yemen. I argued above that the government of Yemen (past and present) and the Houthis pose an unconvincing case to this claim, as their causes do not hold legitimacy. The goods of communities have indeed been impacted by poor governance, but both of these actors lack the legitimacy to oversee the goods of the nation. The Houthis and the state also lack territorial rights over Yemen. They do not

explicitly present this claim, because they assume the borders of Yemen and the extent to which they should have power over Yemen. Traditionalists or contractarians would allow for the claims of states and limited groups to merely accept this demarcated territory (Walzer, 2015; Benbaji and Statman, 2019). However, my supplemented framework outlines the misjudgement here. Accepting legal demarcations of territory turns a blind eye to the fact that different collectives possess occupancy rights over different spaces.

For example, local groups, such as the Houthis in Saada, can better claim a temporal extension, a shared good and cooperative roles and duties over the land. In that particular space, they can trace how the space is home to their history of Zaydi beliefs and how it has grown to build and impact the goods and cooperation that follow. Yet, this is the extent of their territorial claims. Their good, history or cooperation does not extend to a space outside of this. This is just as true for other tribal communities in Yemen, where they have a distinct relationship with that land. This is harnessed through the terrain in Yemen that has allowed communities to live in isolation. Thus, claims by the Houthis or the state to the whole of Yemen are unjustified.

The STC provides an explicit territorial component to its claim to wage war. They claim South Yemen based on historical and cultural ties, rooted in the region's distinct temporal extension predating unification in 1990 (Salmoni, Loidolt and Wells, 2010). The STC's conception of the common good is deeply intertwined with the collective memory of the People's Democratic Republic of Yemen (PDRY) (Day, 2010). The PDRY existed as a socialist and independent state before unification, emphasising egalitarianism and autonomy (Day, 2010). This historical narrative continues to shape southern aspirations, linking past, present and future generations.

The STC has further solidified territorial claims through governance. Through efforts such as establishing a local parliament, taking control of public services and managing resources through institutions like the Central Bank of Aden, the STC has demonstrated its ability to govern in alignment with southern priorities (ACLEED, 2024b). These actions reflect the cooperative roles necessary to sustain and protect the distinct common goods of the southern community. This illustrates the STC's role in defining territory that preserves and continues to reshape their community's concept of the good, reinforced through relations, grievances, cultural ties and cooperative structures.. This presents the South with a strong claim to defend against the encroachment of other actors that do not possess rights in that space or oversee the good within it.

While the STC's territorial claims are compelling as a defence against Houthis' encroachment, they do not automatically justify a right to secession. The defence against encroachment is supported by different groups in the South, but there remain disagreements on how their region's future should look (Nagi, 2022). For some individuals and communities within the South, their future looks towards their own regional autonomy in the South, not aligned with the STC, while others wish to align with a broader Yemeni identity (Lackner, 2019). Political solutions and rivalry exist over what the South should look like.

Under my framework, the South may defend its right to territory to protect its distinct way of life, particularly given that the Yemeni government has failed to provide legitimate governance over southern territories and the Houthis' challenges. However, territorial rights do not present them with a right to secession. The STC's governance should account for distinct concepts of goods in the South and the occupancy rights of rival groups that have led some groups to seek autonomy. As it stands, a power-sharing arrangement or other

mechanisms to ensure the inclusion of interests could provide a pathway toward legitimate governance, rather than secession (Moore, 2015).

3. Discussion

Mainstream media frequently portrays Ukraine's ability to defend itself against Russia as a straightforward and cohesive effort, largely attributed to the emergence of a unified national identity in the face of external aggression (Beale, 2022; Nordenstreng *et al.*, 2023; Roth, 2024). In contrast, the war in Yemen is often described as a manifestation of tribal divisions and internal weaknesses, presenting its justification for warring rights as fragmented and less cohesive (Wintour, 2019; Orkaby, 2021; Robinson, 2023). However, this narrative oversimplifies the complexities present in both conflicts, which my revisions to JWT highlight and theorise. The first part of this section illustrates these complexities and reveals the structural and ethical similarities between the two cases. The second part then demonstrates how a situated just war theory responds to these challenges, offering a framework that is better equipped to address the moral dimensions of contemporary war.

First, in both Ukraine and Yemen, the onset of war does not represent a clear break from peace but is instead the culmination of historical tensions and exclusions. These conflicts emerge from prolonged grievances rather than sudden ruptures. This challenges the notion that wars begin only at the moment of overt hostilities. This shift from a peace-to-war paradigm highlights the importance of understanding the intermediary period of *vim*. In both cases, these tensions predate the outbreaks of open conflict and stem from exclusionary practices and the prioritisation of one collective over others.

Second, an exploration of ‘the people’ and actors involved in both conflicts reveals similarities in the nature of the collectives. Both Yemen and Ukraine are made up of diverse communities with distinct values and conceptions of the good life. These communities are not unified under a single, cohesive national identity but instead reflect a patchwork of overlapping and sometimes conflicting priorities. Claims by internal actors often mask this complex and fragmented reality. Even in Ukraine, where the conflict has fostered a stronger sense of national unity, this unity emerges in response to an external threat, built upon communities coming together.

Legitimacy in both contexts is rooted in the ability of actors to navigate these diverse collectives. Actors may gain legitimacy within specific groups but face challenges in claiming authority over the whole. Legitimacy is not fixed; it evolves alongside actors’ capacity to represent and protect the diverse goods of the communities. In Ukraine, the government has positioned itself as a legitimate defender of sovereignty and the diverse interests of its people, drawing strength from collective resistance. In Yemen, by contrast, legitimacy remains fragmented and contested among competing groups.

Third, territorial rights present another area of convergence between the conflicts. Both challenge traditional assumptions about state sovereignty and territorial integrity, as collectives emphasise distinct occupancy and cooperative relationships across different areas of land. Territorial claims in both cases are rooted in attachments that reflect historical, cultural and social bonds, but are complicated by the presence of communities that do not share those visions. These realities expose tensions between the state-centric model of sovereignty and the multiple collectives within contested regions.

These shared complexities show that, while Ukraine is often framed as easier to theorise and Yemen as fragmented, both confront JWT with similar ethical challenges. The second part of this discussion turns to how my supplemented approach, drawing on communitarian theory and a revised understanding of time, legitimacy and territoriality, is better able to respond to the demands these cases present.

My development outlines that war begins when the intention to wage war, accompanied by escalating violence of an unpredictable, intense and scaling nature, is present. Using this lens, the intentions of separatists in the Donbas, along with escalating violence in 2014, mark the onset of war in Ukraine. Similarly, the Houthi coup in 2014 marked the beginning of the war in Yemen. Before 2014, both Ukraine and local actors in Yemen were operating within the realm of *vim*, a period of escalating tension that is constrained but morally and strategically significant. In both cases, these periods saw increasing threats and clashes that, if left unaddressed, risked escalation into outright war. In Ukraine, Russian and separatist threats pushed the situation from *vim* into open hostilities, fuelling Ukraine's defensive actions. In Yemen, the Houthis unjustly initiated the war, and local groups responded by resisting encroachment once full-scale conflict erupted.

The transition from *vim* to *bellum* highlights the ethical gap that *jus ad vim* is designed to address. *Vim* is recognised through escalating threats, localised clashes, and intensifying tensions that fall short of full-scale war, signalling the ethical need for intervention. This demonstrates that *jus ad vim* applies to actors already under escalating tension, before the onset of outright war. Rather than viewing the onset of war as a sharp departure from peace, *vim* emphasises gradual intensification, and *jus ad vim* complements existing just war principles by bridging the ethical gap between escalating tension and outright war.

In supplementing contemporary JWT with communitarianism, I have demonstrated that the claims of certain actors, such as the Houthis, Russia and the separatists in the Donbas, are unjustifiable. This is not because they oppose the statist order, as traditionalists assume, but because they fail to provide compelling justifications or legitimacy for waging war in the name of the people they claim to defend. In fact, a situated just war theory highlights that any actor, whether a non-state actor or foreign state, could if it satisfies a role in overseeing a common good/s. Nor does my analysis suggest that Ukraine possesses a just cause of defence by virtue of its status. I have shown that Ukraine's legitimacy to defend itself in 2014 was uncertain, not because it lacked a right to act, but because it was unclear whether the government at the time oversaw or was defending a shared common good in the Donbas. By contrast, things became much clearer in 2022, when the full-scale invasion prompted a unified response that revealed the depth of Ukraine's collective will and commitment to sovereignty and independence. This highlights how legitimacy in defensive war often becomes apparent in moments of crisis, when the alignment between political authority and the common goods of a people is brought decisively into focus.

Likewise, I have shown that the claims of Hadi, PLC and Houthis are ill-founded. These actors claim to defend 'the people' of Yemen, yet their understanding, or commitment to, the multiple goods of Yemenis is weak. They cannot represent the plural goods of Yemen's fragmented communities, as their governance resorts to favouring their own conception of the good. However, the STC presents a more convincing case for defence, grounded in its historical ties to the South and its governance efforts, demonstrating a legitimate claim to oversee and protect the goods of the South from Houthi encroachment. My approach welcomes the STC's defence against the Houthis, yet it does not extend to their secondary

claim of secession. The South's support for defending against the Houthis may be evident, but its desires for the future of the South vary.

My development of territorial rights has been able to clarify JWT's assumption of territorial integrity as a just cause. I argued that the cases showcase the limitations of internationally recognised borders. It is evident in both Yemen and Ukraine that the demarcated space does not belong to a unified national collective. Instead, we saw that groups have residential rights in some places, and others have territorial rights in other spaces as they belong to a collective with a distinct history and continue to establish and exercise roles and duties accordingly. We saw this in the south of Yemen, however, this was more challenging in the Donbas. Actors such as the STC present a stronger case for territorial rights due to their historical and cultural ties to the South. While some actors in the Donbas have attachments to the land, they do not meet the threshold for territorial rights due to the absence of a deep temporal and cooperative connection with one another within that space.

As the cases I have examined illustrate, the situated just war theory proposed establishes a very demanding criterion, one that is hard to meet. This appears to be merited, given the profound costs and consequences of war.

4. Conclusion

The wars in Yemen and Ukraine are undeniably complex, rooted in historical grievances, fragmented identities and contested territorial claims. Yet, as this chapter has demonstrated, they are not beyond comprehension. By supplementing contemporary JWT through the integration of insights from international relations and the communitarian and territorial

rights literature within wider political theory, this chapter has provided a situated framework for understanding the ambiguity surrounding time, people and space.

The first key contribution is the introduction of the peace, vim, war continuum, which moves beyond JWT's binary distinction between peace and war. This continuum allows for a more nuanced identification of war's onset and conclusion by tracing intention, intensity, scale and unpredictability. In doing so, it reconceptualises the conflicts in Ukraine and Yemen as emerging from prolonged tensions and exclusions, with 2014 marking significant escalations rather than abrupt ruptures from peace.

Second, the chapter rethinks the notion of just cause by foregrounding the legitimacy of actors in relation to their connection with the collective's shared goods. A communitarian lens reveals that legitimacy cannot rest solely on state or non-state status, but must derive from a meaningful and sustained relationship with a people and their conception of the good. In both Ukraine and Yemen, this has enabled a more careful evaluation of who can legitimately act in defence of a community.

Third, the chapter redefines territorial rights within JWT, challenging the assumption that sovereignty alone provides a just cause for territorial defence. Instead, it introduces a set of criteria based on historical, cultural and cooperative relationships with a space. This move enables a more grounded assessment of territorial claims and explains how claims by the STC and the Ukrainian state have greater legitimacy than those advanced by the Donbas separatists or the Houthis.

Through this supplementary approach, this chapter advances a reimagined JWT that addresses the core shortcomings that limit JWT's ability to theorise contemporary wars. This

development emerges from incorporating the challenges raised by the cases of Yemen and Ukraine and creating an evolving heuristic of what JWT can and should respond to. As outlined in Chapter 2, JWT's strength lies in its capacity for adaptation and evolution in response to new ethical challenges. This chapter has put forward a form of that evolution, expanding the theory to respond to the rising complexities of contemporary wars while also enriching the analysis of earlier conflicts.

Conclusion

1. Escaping the Dichotomies

The thesis outlines how a variety of existing accounts of JWT fail to speak adequately to contemporary conflict. The dichotomies underpinning contemporary JWT, between straightforward and complex cases, traditionalism and revisionism and moral and political theory, are unhelpful and actively limit the tradition's ability to respond to the changing nature of warfare. These oppositions fragment scholarly approaches and reinforce analytical habits that detach moral judgment from the political and historical realities of conflict. In refusing to adopt the binaries, this thesis began by examining the cases of Yemen and Ukraine to reveal JWT's, in parts, overreliance on assumptions and, in other parts, under conceptualisation of the definition and significance of core areas, and then concludes by applying developed solutions to the cases.

Ukraine currently seems to be upheld as a textbook case of just war, a clear example of unjust aggression by a powerful state against a sovereign neighbour (Walzer, 2022; Fabre, 2023; Braun, 2024; McMahan, 2024). In contrast, Yemen with its overlapping layers of internal division, contested authority and regional involvement, resists the neat categorisation and theorising of JWT (Robinson, 2023). Despite this, the war in Yemen is no less morally urgent. JWT should be available to help us think about wars like the one in Yemen, yet it is not, as accounts remain too rigid or abstract. This reflects a narrow understanding of which kinds of wars deserve scrutiny and a reluctance to engage with the complexities that emerge when states are not the sole or most relevant actors.

This unequal treatment of cases reveals more than a theoretical preference. It reflects a broader geopolitical bias in the way normative theory engages with war (Lu, 2017). By assuming that certain wars are morally legible while others are too fragmented or too messy to analyse, contemporary JWT reproduces hierarchies of attention that align with dominant legalist and statist perspectives. These habits of thought privilege conflicts that mirror the state-centric order and marginalise those that fall outside it. In response, I have shown that normative analysis must avoid beginning with abstract principles and instead pay attention to the complexity and variation of actual conflicts. Yemen and Ukraine each reveal how JWT struggles when its assumptions are tested. By giving equal ethical attention to both cases, I do not claim that they are essentially the same in nature, but they pose similar questions. I demonstrate that meaningful ethical judgment requires a willingness to confront conflicts even when they fail to fit existing accounts.

Through examining both cases, I have shown that the apparent clarity of Ukraine's war is itself deceptive. Such a presentation mostly overlooks the internal fragmentation within the country and the complex status of communities in regions like the Donbas. A situated just war theory does not grant Ukraine an automatic right to wage war across its entire internationally recognised territory. Nor does it side with separatist claims over the Donbas. Instead, it interrogates how different collectives' conception of the common good is constituted, determining their cause to wage war to secure it and how rights to occupancy and protection may arise from this good. The oversimplified portrayal of Ukraine as a unified nation defending itself against a foreign aggressor risks ignoring the fractures within its borders and the claims of some internal communities that do not align with the central state. This in no

way diminishes the injustice of the Russian aggression but does complicate the story often portrayed by the media and some Just War scholars.

In the case of Yemen, I have shown that despite its internal complexity, the conflict deserves to be analysed as a war rather than dismissed as civil disorder or a humanitarian disaster. What makes it a war in the ethical sense is not the presence of formal armies or state declarations, but intention and a sustained level of violence that undermines collectives and the goods by which they live. The war has involved targeted campaigns against infrastructure, communities and political institutions. It has featured multiple competing authorities, none of whom can easily claim exclusive legitimacy. Yet this does not mean the ethical questions are absent. On the contrary, it is precisely in such fragmented situations that moral reasoning becomes most urgent. My approach refuses to rely on a narrow focus on state sovereignty or formal authority and instead asks how collective goods are formed, contested and attacked and how their defence justifies the use of force. This emphasis shifts JWT away from individualised justifications and towards an account of how individuals live within and by the collective goods that shape their lives. It reaffirms a different conception of individual rights, as part of a larger ethical landscape structured around shared understandings of the collective's conception of the common good and roles and duties that follow.

In presenting such arguments, I avoid aligning a situated just war theory with either the traditionalist or revisionist camp. Instead of starting or ending with a theoretical commitment, my thesis begins and ends with the cases of Yemen and Ukraine. Whilst doing so, I have shown how both revisionist and traditionalist approaches fall short in addressing the complexities these conflicts present. Instead of rejecting either tradition outright, I highlight where their assumptions fail to account for the ethical and political challenges revealed in

practice. I do so in line with the aim of resisting the reduction of JWT to contests between schools or approaches, and to present my supplemented account of it as a practical and ethical response to the dilemmas posed by contemporary warfare.

Rather than produce a new theory or endorse a specific school, I have supplemented contemporary JWT with insights from IR and wider political theory. From IR, I have drawn attention to how peace and war are not binary states but exist along a continuum that includes periods of violence short of war, tension and fragile stability. From political theory, I have examined how a people and its conception of the common good are constituted within a collective and how authority can emerge in forms that extend beyond state institutions. These contributions help JWT better address contemporary conflicts without abandoning its core concern with ethical judgment. The method results in a revitalised tradition that returns to its historical character as an evolving practice of moral reasoning (O'Donovan, 2003). It is a tradition capable of responding to the world as it is, instead of a world imagined by its theorists.

Whilst looking to wider political theory to develop a situated just war theory, a wider achievement of the thesis has been the reconnection of JWT with political theory through engagement with rival conceptions of peace and violence, communitarian thought and the political theory of territory. In doing so, I have highlighted how the failure of political theory to engage with JWT up until now reveals a broader inattention to the practical and normative dimensions of war. By supplementing contemporary JWT in this way, the thesis works to correct limitations within JWT and within political theory itself, insofar as both have marginalised or neglected key aspects of war and political violence.

2. A Reoriented Aim

At the centre of this thesis lies a reorientation of JWT's aim, from the search for abstract principles or rules to the attempt to make ethical sense of how war is justified, contested and endured in context. I maintain rather than discard JWT's normative ambition. I retain the view that wars can be judged just or unjust and that such judgements must inform how wars are waged and restrained. But I reject the view that such judgements can be achieved through deductive reasoning from idealised principles alone. Ethical judgement in war is not merely a matter of applying rules to cases but of interpreting political action in historically and socially embedded ways. This reorientation places JWT in conversation with traditions of political and international thought that begin with the practices, histories and meanings through which political life is made. I have approached war as a moment that reveals the stakes of political life: the goods people are willing to defend, the collectives they belong to and the authorities they recognise. My aim has not been to attempt to justify different causes or to romanticise war. On the contrary, my approach enables a more critical appraisal of how violence is justified and what it does to the fabric of the community. Thus, I situate JWT within a broader concern with political ethics and practical realities. This approach challenges us to think beyond whether a war meets certain criteria and instead what kinds of political relationships and goods are at risk or preserved through violence.

In focusing on the cases of Yemen and Ukraine, I have outlined the core shortcomings JWT faces when applied to cases. The conflicts are not mere examples, but serve as provocations to think differently about war. Both Yemen and Ukraine show how wars are rarely straightforward contests between clear-cut parties, how authority is often fractured and

contested and how claims to justice are entangled with histories of marginalisation, aspiration and loss. Engaging with these cases has revealed the limits of abstract categorisation and the need for an ethics of war that can grapple with the complexities of real-life cases without undermining JWT's aim of restraining war as much as justifying it (Coates, 2003).

The thesis began by investigating how JWT's application becomes visibly limited when the tradition is applied to contemporary conflicts. I do not suggest that these challenges emerge only in recent wars, but that the current conflicts expose and sharpen underlying conceptual and ethical tensions that happen to exist within JWT and that must be confronted in all conflicts, however simple they may seem. The aim was to see how JWT can speak to the selected cases and then respond to the various shortcomings that come to light from this engagement, rather than to start with the limitations themselves as an abstract problem. In doing so, I responded to a central question: How can contemporary JWT be supplemented to address the key shortcomings exposed by contemporary conflicts, particularly in relation to time, population and territory? This question guided the thesis structure as Chapter 1 outlined the shortcomings surrounding JWT's overreliance on the peace/war dichotomy, its under conceptualisation of who 'the people' are, and its overreliance on statist borders that undermine its conceptualisation of the relationship of people and territory, all arising from applying JWT to the cases. Chapters 2, 3 and 4 then explored these shortcomings in greater depth and developed solutions and finally, Chapter 5 applied the developed situated just war theory framework back to the cases of Yemen and Ukraine.

3. Critiquing and Situating Just War Theory

The initial contribution of this thesis has been to identify key shortcomings within JWT that hinder its capacity to address the ethical and political realities of contemporary warfare. I then sought to form solutions with insights from IR and political theory. The aim has been to preserve the moral clarity at the heart of JWT while enhancing its responsiveness to the lived realities of conflict, which is the second core contribution of this thesis.

The first supplement responds to JWT's treatment of temporality in war. Most accounts tend to rely on a clear sequence of peace leading to war (*jus ad bellum*), which leads to conduct in war (*jus in bello*) and finally to post-war resolution (*jus post bellum*). They postulate, without much thought, a peace and war binary. However, both cases of Yemen and Ukraine revealed extended periods of latent conflict, intermittent violence and ambiguous transitions between war and non-war. Drawing on the peace-vim-war continuum by Lupton and Morkevičius (2019) and building on Galtung's (1964) distinction between positive and negative peace, I proposed a more informed temporal lens. I argued that war should be understood not solely through formal declarations or battlefield metrics, but as a transformation in the political intention and character of violence, its escalation in intensity, scope and unpredictability. This reconceptualisation helps us to recognise that there is a middle period of vim exists, and that war rarely arises directly from peace but from this in between stage, when intentions change and thresholds of force begin to escalate.

The second supplement addresses what I term the *demoi problem*: the under-theorisation within JWT of who '*the people*' are and how their conception of the good is invoked to justify war. Traditionalists, such as Walzer (2015), often rely on statist assumptions, positing the state

as the locus of legitimate authority and representative of a unified political community. Yet both Ukraine and Yemen reveal the fragility of this assumption. In Yemen, authority is fragmented among multiple actors, claiming to represent ‘the people’ and the legitimate state (Lackner, 2019; Salisbury, 2017). In Ukraine, competing claims over Crimea and the Donbas have raised questions about which groups constitute ‘the people’, how their interests are aggregated and who may speak or act in their name (Katchanovski, 2016; Plokhyy, 2023; Yekelchuk, 2023). In providing a solution to the *demos problem*, I turn to communitarianism. I argue that ‘the people’ should be understood as a community, consisting of individuals connected by affect-laden relationships that reinforce one another and a shared commitment to values, norms and a collective identity forming a particularistic conception of a common good. The common good is not universal but particularistic. It is rooted in the lived experiences and shared practices of the collective (Etzioni, 2004). It defines what liberty and justice mean within that community. When this good is threatened or undermined, especially in ways that risk a community’s way of life, its defence can provide a just cause for war.

However, the selected cases demonstrated that a single community rarely aligns fully with the boundaries of the state. Most states comprise multiple, overlapping partial communities, each with distinct understandings of the common good. To account for this, I draw on the notion of a *community of communities* (Etzioni, 1996), which allows JWT to recognise that legitimate political authority and just cause may arise from diverse, interrelated collectives rather than a singular demos. This approach acknowledges the coexistence of multiple collectives with distinct common goods and provides a framework for going on to address who can exercise the legitimacy to wage war for this community or a *community of communities*. I argue that an authority has the role of overseeing this good/s, and its legitimacy is tied to

their understanding of the collective's common good/s and its ability to protect this. Thus, a state is not merely awarded the status of legitimate authority, and actors other than states can satisfy this role if they recognise the common good and can protect and oversee it.

The final supplement responds to the under-conceptualisation of territory. While JWT theorists often cite territorial integrity as a just cause for war, they do so without explaining what territory means, why it matters or how legitimate claims to it are established. The under conceptualisation of territory is problematic in conflicts like Ukraine and Yemen, where disputes over land are tied to competing narratives of history, identity and sovereignty. To address this, I draw on insights from Moore's (2015) account of territorial rights to offer a framework that centres the ethical relationship between collectives and land. I argue that demarcating the land and defining who can wield power over it, *the particularity problem*, can be resolved once the attachment of a collective is evident through their just occupancy of a territory. The collective wields power over that territory. The relationship of people to the land, *the attachment problem*, is evident through their concentration on that particular territory that preserves and creates their common good. This connection evolves through temporal extension, rooted in a commitment to a shared good and informed by mutual roles and duties that foster cooperation. Territorial integrity is a vital good for collectives. It is a space which they collectively occupy to live according to their good, a good which is based on the land and off the land (Kolers, 2009). Defending it against threat or attack protects the collective's exercise of the common good. Consistent with the communitarian emphasis on the value of a collective's conception of the common good, I argue that territory holds normative significance, supporting a collective's defence of territorial integrity as a just cause.

4. Clarifying the Theorisation of the Wars in Yemen and Ukraine

The developed situated just war theory has been able to provide much needed clarity to the theorisation of the wars in Yemen and Ukraine.

First, by introducing the peace-vim-war continuum, the supplemented approach addresses the *temporal deficit* in traditional JWT, which tends to presume a binary rupture between peace and war. Both the war in Ukraine and the war in Yemen unfolded gradually through intensifying tensions, exclusionary practices and escalating violence, well before formal declarations or widespread international recognition of war. By recognising vim, a transitional space marked by ambiguous conflict and shifting intentions, the approach allows us to identify extended periods in both cases where violence and hostility exceeded mere tension but had not yet reached full-scale war. The distinction between vim and war can be marked by a shift in the intention of actors, and by an increase in the intensity, scale and unpredictability of violence. In Ukraine, this reconceptualisation locates the onset of war not in 2022 but in 2014, with the outbreak of separatist violence in the Donbas and Russia's covert involvement. In Yemen, the Houthis coup in 2014 marks the moral beginning of the war, rather than the Arab Spring or foreign intervention in 2015. This clarification enables JWT to speak more meaningfully about when war is taking place and where permissions begin.

Second, by addressing the *demoi problem* through a communitarian lens, rather than privileging the state by default, the supplemented framework foregrounds the relationship between actors and the goods of the communities they claim to represent. Claims to legitimacy are not static or tied to statehood, but are shaped by whether an actor can represent, protect and oversee a collective's particular common good. In Ukraine, the state's legitimacy to wage

war in the Donbas in 2014 was weak, given its limited authority in the region and the contested nature of local support. However, the full-scale Russian invasion in 2022 transformed this dynamic, galvanising a broader political community committed to defending a shared set of goods across the rest of Ukraine. While Ukraine's claim to the Donbas remains contested, its legitimacy to defend its remaining territory has since strengthened, grounded in a clearer sense of collective identity. In contrast, the claims of actors like the Houthis, the Hadi government and the PLC in Yemen remain weak due to their failure to represent the plural goods of the Yemeni people that they claim to represent. However, the STC presents a stronger case for legitimate defence of the South from Houthi encroachment, rooted in historical ties and localised governance, though its claim to secession remains unresolved due to internal disagreement over the South's future.

Third, the supplemented approach enhances JWT's treatment of territory by introducing an account of territorial rights compatible with communitarian theory. It challenges the assumption that internationally recognised borders alone provide a just cause for defence. Instead, it evaluates territorial claims based on a collective's particular conception of the common good, its historical ties to land and the cooperative roles and duties that bind its members. These criteria help clarify why Ukraine's defence of its remaining territory is legitimate (excluding the Donbas), and why the STC's claim to South Yemen is stronger than those of the Houthis or the PLC. Crucially, this approach also establishes thresholds for territorial rights, guarding against their indiscriminate application to any group with a minimal presence. For example, while some actors in the Donbas may have attachments to the land, they lack the sustained common good, a temporal extension and internal cooperation required to grant territorial rights. These actors may present moral objections to Ukrainian

governance based on perceived threats to their goods, but such grievances fall short of constituting a legitimate territorial right warranting defensive war.

This supplemented JWT offers a clearer framework for identifying when the wars in Yemen and Ukraine began, assessing the claims of just cause presented and evaluating the legitimacy of claims made in the name of 'the people' and their territories. It avoids the reductive impulse to label one conflict as evidently just and another as hopelessly complex. Instead, I have highlighted how questions of legitimacy, authority and territorial rights are contested in both the Yemeni and Ukrainian contexts. By offering conceptual tools more attuned to the realities of contemporary war, my approach enables JWT to be applied more effectively to the selected wars.

5. Challenging the Core Assumptions of Just War Theory

In addressing the core areas of limitation of JWT, this thesis has inevitably departed from some of the tradition's core assumptions. This is not a rejection of JWT, but a recognition that adaptations are necessary to address the moral and political challenges raised by contemporary conflicts. I depart from several of its core assumptions in four key areas:

The first difference lies in calling attention to the ethical significance of violence that occurs outside the realm of war. This period, which I refer to as the *vim* phase, is often overlooked by JWT's peace/war binary. This oversight is problematic given the growing prevalence of grey zone warfare, coercive diplomacy and asymmetric force. While I do not develop a normative framework for this space, I argue that JWT must take this phase seriously if it is to meaningfully assess when a war is taking place. Not all violence reaches the threshold of war,

but that does not absolve it from moral scrutiny. Ethical analysis must account for how rights and responsibilities shift in these ambiguous, but consequential, periods.

The second contribution challenges the core commitments of both traditionalist and revisionist perspectives with regard to the moral subject of war. Traditionalists entrust moral authority to the state, arguing that it speaks on behalf of ‘the people’ and bears the right to wage war in their defence (Shue, 2008; Walzer, 2015). In contrast, revisionists refute statist justifications in favour of individual rights, grounding just cause in an extension of everyday self-defence (McMahan, 2009; Lazar, 2017). This thesis does not conform to either camp’s core argument. It affirms the centrality of collectives to the ethics of war, but removes this claim from the statist form presumed by traditionalists. Instead, I argue for a conception of community that is historically grounded and capable of sustaining a shared common good. These collectives are not reducible to legal states nor are they abstractions; they are constituted through embedded relationships, mutual recognition and shared practices. As such, the justification for war must be located in the defence of these communities and their capacity to flourish, not simply in abstract accumulation of individual rights or the authority of states.

Third, this thesis advances a flexible and responsive account of legitimate authority. Traditional JWT theorists assume that the state is the default bearer of war-making rights, while some revisionists refute the principle of legitimate authority altogether. Instead, I argue that legitimacy is grounded in an actor’s relationship to the collective it claims to represent. It emerges from a demonstrated ability to oversee and protect the community’s conception of the common good or the goods of a *community of communities*. This approach allows JWT to better account for who has the authority in cases like Yemen or Ukraine, where multiple actors claim to represent ‘the people’ and legal status fails to capture fractured goods and the

responsibility of a legitimate authority. A situated just war theory leaves open space for actors other than states to claim legitimate authority when they are best placed to oversee the flourishing of a collective.

Finally, my approach rethinks the role of territorial integrity within JWT. Many accounts of just war accept the defence of territory as a just cause and often treat territorial claims as self-evident. Instead, I argue that ethical claims to land must be grounded in the lived relationship between communities and their territory. This relationship on the land, shaped by a shared history, an embedded common good and cooperative relations, is integral to a people's way of life. Thus, a collective within the community of communities may have a legitimate claim to one part of a territory but not another, depending on how these relationships have formed and endured. This view challenges the assumption that internationally recognised state borders always map onto moral entitlements and highlights the difficulty in awarding territorial rights to some secessionist groups where partial communities exist with overlapping claims to territory.

6. Reinforcing Just War Theory

This thesis has moved beyond resolving JWT's internal debates or establishing a definitive ethical framework for war. It has sought to highlight the fractures, absences and tensions that underlie the tradition, particularly in how it is applied (or withheld) in the face of contemporary conflicts. The distinction between seemingly straightforward and complex cases, like Ukraine and Yemen, has revealed more than theoretical selectivity when examining wars. It has exposed how JWT's current entanglement in assumptions about sovereignty,

legitimacy and territorial rights leaves it unequipped to address some cases of war. Without confronting these assumptions, the tradition risks moral complacency and irrelevance.

These assumptions reflect deeper methodological and conceptual gaps. I identified these as a *temporal deficit* in determining when war begins and ends, a narrow construction of the demos that under-theorises their essence, value and causes to wage war and an under-theorised understanding of territory that fails to grasp its embeddedness in collective meaning and political struggle. Rather than dismissing JWT on these grounds, I have taken them as a point of departure, an opportunity to supplement contemporary JWT with insights from IR, communitarian political theory and theories of territorial rights. These supplements offer tools to clarify the moral and political stakes in cases that JWT alone cannot easily navigate. They provide a way of judging wars by attending to the historical, social and normative realities that define the theatre of war itself. This move away from fixed dichotomies or ambiguities opens space for a more situated and responsive JWT.

The future relevance of JWT depends on embracing the inherent complexity and political entanglements that constitute the experience of war. Moral reflection on conflict must resist the temptation of neat binaries and universal certainties, instead cultivating a mode of judgement that is sensitive to the realities of the war taking place. However, a situated just war theory does not abandon normativity but reorients it, away from abstraction and toward a situated, political ethics that recognises how war disrupts, reshapes and sometimes reinforces the collective goods through which communities live. This shift foregrounds the demos' conception of the common good, affirming that ethical judgment must be embedded in the thick realities of political life, where contestation is ongoing and legitimacy is always, to some extent, under negotiation.

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