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Iraq and Ukraine: exploring the  
legitimacy of the use of force in  
contemporary conflicts through the  
*Just War Theory*

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# TABLE OF CONTENTS

ABSTRACT .....	3
LIST OF ABBREVIATIONS .....	4
INTRODUCTION.....	5
<i>STATE OF THE ART</i> .....	13
<b>CHAPTER 1: JUST WAR THEORY: A THEORETICAL AND CONCEPTUAL FRAMEWORK</b>	<b>23</b>
1.1    WAR, JUSTICE, AND JUSTIFICATION: A COMPREHENSIVE EXPLORATION .....	23
1.2    EVOLUTION OF A THEORY: TRACING THE JOURNEY FROM <i>BELLUM IUSTUM</i> TO JUST WAR THEORY	26
1.3    HUMANITARIAN INTERVENTION AS THE NEW JUSTIFICATION FOR A <i>JUST</i> WAR .....	35
1.4    THE PRINCIPLES OF JUST WAR THEORY .....	39
<b>CHAPTER 2: TWO INVASIONS COMPARED: SIMILARITIES AND DIFFERENCES.....</b>	<b>44</b>
2.1    FEARS AND PROMISES .....	44
2.2    THE BUSH DOCTRINE AND THE PROMISE OF DEMOCRACY.....	46
2.2.1 <i>JUS AD BELLUM</i> : THE PREVENTIVE WAR IN IRAQ .....	52
2.3    PUTIN’S “RUSSIAN WORLD” DOCTRINE: FOREIGN POLICY AND ACCUSATIONS AGAINST THE WEST	63
2.3.1 <i>JUS AD BELLUM</i> : RUSSIAN NATIONALS PROTECTION AND <i>DENAZIFICATION</i> .....	74
<b>CHAPTER 3: IRAQ AND UKRAINE THROUGH THE JUST WAR THEORY’S PRINCIPLES.</b>	<b>84</b>
3.1    THE CONTRADICTIONS IN GEORGE W. BUSH’S “JUST WAR” AGAINST IRAQ .....	84
3.1.1 <i>JUS IN BELLO</i> .....	88
3.1.2 <i>JUS POST BELLUM</i> .....	90
3.2    THE CONTRADICTIONS IN VLADIMIR PUTIN’S “JUST WAR” AGAINST UKRAINE.....	92
3.2.1 <i>JUS IN BELLO</i> .....	98
<b>CHAPTER 4: THE DOUBLE STANDARDS OF WESTERN COUNTRIES TOWARDS IRAQ AND UKRAINE .....</b>	<b>101</b>
4.1    AN INTERNATIONAL ORDER TO PROTECT: A REFLECTION.....	101
4.2    FROM IRAQ TO UKRAINE: TRACING INTERNATIONAL ALLIANCES AND RESPONSES .....	103
<b>CONCLUSION.....</b>	<b>113</b>
<b>BIBLIOGRAPHY .....</b>	<b>119</b>

## **ABSTRACT**

*This research thesis aims to analyze the compliance level of the 2003 Anglo-American invasion of Iraq and the ongoing Russian invasion of Ukraine with the principles of the Just War Theory. These principles indicate the right to go to war (jus ad bellum), the conduct to adopt during the war (jus in bello) and the post-war justice (jus post bellum). The Just War theory originated in ancient times and was predominantly adopted during the Medieval era when Augustine and Thomas Aquinas defined the criteria for its application, but with the emergence of nation-states, it lost significance. However, after the 9/11 attacks on the United States, the theory experienced a resurgence, as the then-American President George W. Bush claimed that the wars the U.S. engaged in to fight terrorism were just, as they were carried out in the name of self-defence against imminent foreign threats. Despite the U.S. sidestepping international law and the UN Charter provisions, the war in Iraq attained widespread support from the U.S. allies, i.e. Western countries.*

*Twenty years later the horrors of war returned to the Western borders when Russian President Vladimir Putin invaded Ukraine with similar justifications to the American ones. Namely, Moscow claimed to use force as a means of self-defence and portrayed the intervention as a humanitarian one. The Kremlin has been firmly accused by the West and by the international community's institutions, revealing a slight hypocrisy in the Western response. This time, the Global South is highlighting Western double standards and does not adopt a unified voice to accuse Russia. Instead, it either ignores the invasion or supports Russia, seeing no difference from the historical past of Washington and its allies.*

**Keywords:** Just War Theory; double standards; Ukraine invasion; Iraq invasion; NATO; Foreign Policies; Russian World; Bush Doctrine.

## **LIST OF ABBREVIATIONS**

CIA: Central Intelligence Agency

EU: European Union

ICC: International Criminal Court

ICJ: International Court of Justice

MENA: Middle East and North Africa

NATO: North Atlantic Treaty Organisation

NIE: National Intelligence Estimate

WMD: Weapons of Mass Destruction

UNSC: United Nations Security Council

UN: United Nations

UK: United Kingdom

US: United States

USSR: Union of Soviet Socialist Republics

## INTRODUCTION

The first months of the year 2022 have brought back the flames of war to the West, which had appeased twenty years ago after the United States' War on Terror began to wane. However, even framing it as a "return of war" is inaccurate. The truth is that wars never ceased; they have always been in front of our eyes but did not truly affect us, either because they were too distant, or the involved actors did not belong to Western civilizations, or simply because they did not jeopardize Washington's hegemony.

This time is different; the Russian invasion of Ukraine is perceived by the West as a challenge to its hegemony, an affront that must be addressed to maintain power and an opportunity to contain the rise of other emerging powers from the Global South. With a unified voice, the United States (U.S.), the European Union (EU), and all other allied and Westernized states have rightfully condemned the Russian invasion, employing soft-power tools to encourage President Putin to abandon his strategy and return to exercising Russian foreign policy through dialogue and diplomacy. For President Putin, however, there seems to be no alternative but to continue what has been often identified as a *special military operation* to defend Moscow from the expansionist ambitions of the North Atlantic Treaty Organisation and protect the rights of Russian-speaking citizens residing in Ukraine. According to the Kremlin, these citizens were severely oppressed by the pro-Western Ukrainian government, which aimed to sever the umbilical cord connecting Kyiv to Moscow.

The fact that the Kremlin refers to the invasion as a "special military operation" is not coincidental; rather it is a way of invoking memories of Atlantic Alliance's interventions, especially those of the United States, in the Balkans, and the Middle East and North Africa (MENA) area. Similarly, both Moscow and Washington have invoked the concept of *just war*. This concept, originating from Ancient Rome, has evolved, and adapted to generational changes, establishing principles by which a war can be deemed just or unjust. In the modern and contemporary era, the legitimacy of war is sanctioned by international law and the United Nations Charter, stipulating that the only legitimate war must be defensive in response to an armed attack. Over the years, the defensive war has taken on many nuances, even evolving into a preventive one. In theory, the use of force should always be considered as a *last resort*, to be adopted only in response to an armed attack

on the state or a direct threat. However, in the upcoming chapters, we will examine how this conception has lost its meaning.

Baghdad first and Kyiv later became victims of governments that prioritized national interests over the promise of peace and stability born after the end of the Cold War, whose aims were driven by the desire to assert themselves and the fear of losing power, determined the fate of foreign populations. By appealing to the concept of a *just war*, they reignited academic debates on the morality and justifiability of war, raising questions about the existence of a legitimate war and its limits.

March 19, 2003, and February 24, 2022, are two crucial dates which marked not only our modern history but also the approach of individuals towards the use of force. Respectively, the former designates the invasion of Iraq by the hands of the *Coalition of the Willing* which comprised the United States (US), the United Kingdom (UK) and other European and non-European states. The latter marks the beginning of the war in Ukraine at the hands of the Russian Federation. Albeit argued differently, both perpetrators of the invasions invoked pseudo-justifications, related to the use of legitimate preventive defence. In any case, there is no doubt that both invasions are deemed amoral, and both President Bush Jr. and Russian President Putin must be held accountable for the human rights violations that their decision to invade a sovereign Nation caused.

The present thesis aims to analyze the factors that produced the founding reasons for the military aggressions, with the purpose of better understanding what were the motivations of those favoring the use of force. Even though the work deals with the two invasions separately, acknowledging that today's onset and geopolitical conditions are very different from those back in 2002, I engage in a comparison in the light of the Just War Theory's standards.

As this work is conducted within the framework of the Just War Theory, it aims to apply its principles to argumentations as to why Bush and his *allies* chose to invade Iraq, and why Putin twenty years later decided to do the same in Ukraine and how the role of international law has been bypassed. Therefore, the thesis explores the principles under which war can be considered a *just* one. At first, the invasion of Iraq has led to different interpretations, and it is debated, by those who initiated it, that the causes were aimed at positive results, such as setting the basis for a democratic administration of the country,

liberating the Iraqi people from a dictatorial regime, and also freeing the West from terrorist threats.

Recently, the philosopher Judith Butler wrote about violence and the condemnation of violence in the London Review of Books. In particular, she discussed the violence committed by Hamas and Israel, but I believe that the concept that she puts forward can be applied to other cases. While Butler condemns without qualification the violence committed by Hamas on the 7<sup>th</sup> of October of this year, she stresses the necessity of documenting the facts within the historical framework of the entire conflict. Nonetheless, she admits that when one attempts to do so it can be accused of “relativizing” or “contextualization”. But contextualizing, understanding the conflicts from different sides of the story, cannot be considered a morally problematic activity, because the aim of such activity is not to rationalize violence or shift the blame (Butler, 2023). Rather, it allows us to interpret and understand what we consider just or wrong. In my opinion, what Butler wrote has fundamentally something to do with the purpose of the Just War Theory, namely fully understanding the context in which a conflict unravels, giving the benefit of the doubt to the parts involved. Considering this, it appears audacious today to claim that Vladimir Putin has essentially put forth similar justifications to those presented by Bush before invading Ukraine. However, if on the one side, the American President has been supported and justified by some countries, on the other side the Russian President is being prosecuted and his actions condemned to be unjustified. And it is precisely for this reason, that this work has juxtaposed these two cases that have not much in common, except for the fact that in both cases there has been an invasion of a sovereign state’s territory.

The present thesis aims to shed some light on the hypocrisy of the West concerning the respect of international law. In particular, as explained by Professor Traoré (2023), there is a shared perception in the Global South that Western preoccupation over Ukraine is troubling because the same importance is not given to other situations of violation of international law and the principle of avoiding the use of force. Therefore, it can be argued that the West adopts a stand of double standards in international politics. This hypocrisy has, probably, in the long term allowed other actors to mirror West’s behaviour, and, in my opinion, Putin’s invasion of Ukraine provides a clear-cut example. In fact, it is not surprising that “President Putin has made the same Western hypocrisy-based argument,



to justify Russia's invasion of Ukraine" (Traoré, 2023). For instance, in March 2014 Putin referred to the Kosovo War as a precedent, stating that the situation in Ukraine reflected what happened in the past decades, especially directing comments against the United States. Hence, according to the Russian president, "the U.S. forced necessary resolutions from international organizations and ignored and bypassed the UN Security Council. The lack of a UNSC resolution justifying U.S. and NATO action in Kosovo" has also been mentioned (Steinke, 2015, p. 52).

Following the commencement of the invasion of Ukraine on February 24, 2022, significant economic, political, and diplomatic sanctions were imposed on Russia. This provision was accompanied by global condemnation at the UN General Assembly, resulting in the suspension of Russia's seat in the Human Rights Council. Conversely, Western Nations responded by extending substantial financial support to Ukraine, including funding for weapons, military logistics, drones, and rockets, aimed at bolstering Ukraine's resistance against the Russian threat (Slimia & Othman, 2022). Nevertheless, in 2003, the *Coalition of the Willing* took actions that were widely considered to be against international law. Remarkably, no Western countries held the U.S. and its allies accountable for violating the UN Charter, and there were no sanctions, isolation, or boycotts imposed on them.

It is crucial to note that these events occurred in two distinct historical periods. The Iraq war was a response to a period of heightened fear and insecurity in the aftermath of the 9/11 attacks. In contrast, the Ukrainian war, which erupted in 2022, brought violence back to Europe after years of peace and stability and was not a clear response to an attack.

Examining these distinct case studies is imperative for a nuanced understanding of our condemnations. Failing to do so may perpetuate a bias wherein we criticize the actions of the "other" while overlooking our own. The process of "othering" significantly influences our judgments and condemnations, especially concerning the use of force. During crises, there is a tendency to perceive the unknown, such as the aftermath of the 9/11 terrorist attack, as a threat, leading to the demonization of unfamiliar groups like Islam. This demonization attributes societal evils to the "other", fostering inconsistency and hypocrisy in our critiques of war, often leading to the imposition of double standards in global affairs. Countries from the Global South, with differing values and civilizations,

are frequently labelled as irrational and uncivilized, creating a simplistic black-and-white worldview.

Therefore, to fully comprehend the proposed case studies and apply the Just War Theory effectively, it is essential to abandon presumed Western superiority and adopt a neutral perspective. Only then can a comprehensive analysis be conducted.

In essence, this thesis will delve into the concept of the “other”, a subject about which we possess limited knowledge, and the little we do know about is often linked to distressing events that have disseminated fear in our society. Acknowledging this, I recognize that the idea of Western superiority plays a significant role in the analysis of conflicts. When we label one invasion as malevolent, it is imperative that we apply the same judgment to all invasions, not merely those executed by countries that the Western world perceives as misaligned with its values. Consequently, as someone from the Western world, indoctrinated by Eurocentrism and the presumption of Western superiority, I am mindful of this as I write, and I encourage anyone seeking to analyse a conflict to adopt a neutral perspective, leaving behind preconceived notions of good and evil that may have been ingrained in them. Therefore, when I examine the conflicts in Ukraine and Iraq side by side, my aim is not to place blame on Putin while exonerating Bush, or vice versa, but rather to unravel all the intricacies that led to the use of force and position them within a theoretical framework that demands emotional detachment and objectivity.

By referring to the words of the 39th President of the United States, Jimmy Carter, the central focus of this research is to explore what turns a war from being just a war to a Just War (Carter, 2003). Therefore, my objective is to determine whether the Iraq war met the criteria of a Just War. If it is established as such, the question arises: can the justifications presented by Putin before the Ukraine invasion be compared to those put forth by George W. Bush during his Presidency?

Considering the points mentioned above, this dissertation seeks to use the Just War Theory as its primary theoretical framework. The three fundamental criteria of *jus ad bellum*, *jus in bellum*, and *jus post bellum*, will establish the foundation for this research, guiding the exploration and discussion regarding the justifiability of two specific case studies: the 2003 invasion of Iraq by the US-led forces and the invasions of Ukraine in 2014 and 2022.

Analyzing the intricate domain of political violence raises fundamental inquiries about acts that can be deemed justifiable within this sphere. It necessitates an exploration of the specific methods or uses of violence that might be regarded as morally acceptable in political contexts or for political purposes. Hence, to differentiate *just* political violence from its unjust counterparts, it becomes crucial to delve into the underlying principles and standards that shape such judgments, notably, the criteria established by the Just War Theory. This theory favors particular forms of political violence over others, prompting a spontaneous question about the factors that render these authorized forms of political violence morally superior and defensible in comparison to alternative methods. Moreover, the thesis seeks to encourage a reflection on the double standard of the Western countries towards the Russia-Ukraine crisis and the Iraqi invasion.

To justify any stance assumed, the present research relies on data and facts drawn from a range of primary and secondary sources. In examining the Iraq war, the primary sources encompass directives, speeches, and memoirs from individuals within the Bush Administration, along with declassified documents. Additionally, a multitude of academic resources, such as books, web sources, journal articles, and reports, have been employed as secondary sources. For the Ukraine invasion, the research analysis is tougher because the events are recent and are still ongoing, therefore the data collected are mainly secondary sources such as books and journal articles, but also a few primary sources retrieved from President Putin's speeches and declarations.

Writing about an ongoing war is a high risk and, in fact, it is the main limitation of the present research, which requires in the future a follow-up in-depth analysis. Adding to that, another limitation of the thesis concerns the case study related to Iraq. Indeed, the research will only examine the U.S. conduct within the Just War framework and will exclude the actions of coalition troops and Iraqis, which are also equally important from the Just War perspective. Finally, the findings of the thesis concerning both case studies would only reflect the Just War perspectives, leaving behind other important approaches to the concept of invasion and war such as realism and pacifism.

The thesis is organized into four chapters in which the comparison between the Iraq and Ukrainian wars unravels. The first chapter offers the theoretical and conceptual framework in which the aspects of the Just War Theory are presented and analyzed, intending to provide a scale for evaluating the morality of war. Therefore, the chapter

explores the intricate relationship between war and justice, addressing the ambiguity of the concept of justice itself. In the context of warfare, questions of legitimacy are juxtaposed with the context of conflicts, particularly highlighting the relationship between violence and justice. This is evident as the use of force is frequently employed in the name of defending human rights, representing the ultimate form of the 20<sup>th</sup>-century Just War Theory. Thus, the chapter sets out the evolution of this theory, tracing its development from ancient times to the contemporary era. Passing by the influence of key figures such as Cicero, Augustine and Aquinas, the understanding of the theory shifted from the medieval conception of *just war* as a means to attain divine justice to its modern interpretation, where the concept of state sovereignty plays a crucial role in determining the legitimacy of the use of force. However, the Just War Theory experienced a decline following the Peace of Westphalia, which marked a shift in the perception of war, detaching it from religious motivations and emphasizing its role as a means to increase a nation's power. Today's resurgence of the Just War Theory is due to the emergence of ideological and ethical conflicts that are arbitrated by international bodies like the United Nations. The promotion of humanitarian principles and the concept of humanitarian intervention serve as contemporary justifications for the use of force. Consequently, military interventions are framed using terms such as "humanitarian intervention", "peacekeeping missions" or "police operations", serving to sidestep the prohibition of war outlined in the UN Charter. Finally, the analysis delves into the principles of Just War Theory, namely *jus ad bellum*, *jus in bello*, and *jus post bellum*. Respectively, these principles address the justifiability of going to war, the conduct of war and the post-conflict ethics and intentions.

The second chapter focuses on the foreign policy doctrines of the former American President Bush and the Russian President Putin, presenting the developments both doctrines experienced since the perceived *imminent threat* that justified their decision to employ force. On the one hand, the Bush Administration, in 2002, published a new national security doctrine, formalizing American intentions to address emerging international threats through any necessary means, including the use of force. The Bush Doctrine and the invasion of Iraq stand as a pivotal moment in modern history, illustrating the complexities and challenges inherent in drafting and executing foreign policy in a rapidly changing global environment. The principles underlying the doctrine, including

preemptive self-defence and the promotion of democracy, continue to shape discussions on international relations and security strategy. On the other hand, President Putin's Russian World doctrine is not a novel foreign policy doctrine but finds its roots back in the dissolution of the Soviet Union, when Russian ethnic and Russian-speaking communities found themselves residing outside Russian borders. These people, considered *compatriots living abroad*, serve as a source of political capital for President Putin and offer the Kremlin a justification for determining its stance towards the host countries. Through the Russian World doctrine, Moscow adopts the role of defender of their rights, manufacturing evidence to justify its military intervention, as first happened in Georgia and then in Ukraine.

Furthermore, this chapter analyzes the *jus ad bellum* principle of the Just War Theory, examining the *just causes* used by both Bush and Putin to justify their aggression. In Washington's case, the 9/11 attacks were used as a pretext to invade Iraq due to suspicions about Saddam's possession of WDM. Conversely, Moscow intervened using the need to stop genocide and curb the expansionist ambitions of NATO as justification.

The third chapter applies the Just War Theory's principle to both the Iraq War and the Ukrainian War, providing a critical examination of these conflicts and highlighting contradictions in the justifications for war, particularly in the *jus ad bellum*. In general, the chapter not only addresses the pre-war justifications but also scrutinizes the conduct of war and the post-war justice. Beginning with the Iraq War case study, the chapter exposes the American rationale for war, such as national security, protection of the Iraqi people from Saddam's regime and the promotion of democracy. It underscores that all these *just causes* were ultimately proven to be false and fabricated. Additionally, a significant contradiction arises from the violation of the UN Security Council's resolution, challenging the narrative of an *imminent threat*. For what concerns the other two principles, *jus in bello* and *jus post bellum*, the chapter demonstrates the Coalition of the Willing non-compliance, particularly because the U.S. faced accusations of human rights abuses. Moving on to the Ukrainian war case study, the chapter illustrates how President Putin invoked the Euro-American precedents to rationalize Russia's aggression. Nevertheless, in the same manner as the Iraqi case, the provided *just causes* have been criticized and evidence has been presented to expose the contradictions within the Russian narrative. The conduct of war is portrayed as unlawful, with instances of human rights

violation being outlined. The ongoing situation in Ukraine poses a limitation in the analysis of the *jus post bellum* principle.

The final chapter of this research thesis proposes a reflective exploration, arguing how our view and perspective of geopolitical and military events are influenced by a history that is entangled in an American-Eurocentric truth. This is particularly relevant considering this thesis's assessment that both the Iraq and Ukraine wars, when evaluated through the lens of the Just War Theory, are deemed unjust. As such, the chapter proposes to detach from the double standard ingrained in our collective consciousness, by presenting the two case studies objectively. While the West and its allies firmly condemned Russia's actions in Ukraine and imposed sanctions, they did not equally respond to the Anglo-American war in Iraq. Indeed, it is shown that during the Second Gulf War, only a few countries opposed the use of force, whereas the other allies participated by providing military aid, or only by giving verbal support. This apparent unity in the face of the Iraq war showcased an international legitimization of the use of force, irrespective of the provisions outlined in the UN Charter. Twenty years later, the West which had previously aligned with the aggressor in Baghdad, found itself firmly supporting the victim in the Ukrainian war. Despite the moral righteousness of choosing to aid Ukraine, the thesis highlights Western hypocrisy, a factor that has triggered the response of the Global South in the latest conflicts. The latter revealed a reluctance to lend support to Ukraine, regardless of the Russian violence, in the name of the inconsistency of the West's defence of international law.

Finally, the conclusion synthesizes the key findings providing final considerations on the topic and suggesting further research. Specifically, it encourages further addressing the contemporary applicability of the Just War Theory and urges to overcome the double standards that hinder the objective evaluation of international emergencies.

### ***State of the art***

The principle of the use of force changed over the years, and its use is regulated by international organisations and international agreements. For this research, it is fundamental to grasp what the Charter of the United Nations enshrines concerning the use of force and also how the Security Council operates, being the institution that has the role of peacekeeping and preserving international security.

On this matter, there is a vast body of literature that explores the evolution of the principle of not using force. For example, the independent *Centro Studi per la Pace* cured by the lawyer Nicola Canestrini, gathers several research and publications on the legitimization of the use of force and its path to the current status quo. Relying on the analysis carried out by Francesco Damiani (2003) and Andrea Serraino (2001), it follows a summary of the evolution of the use of force.

The use of force was unrestricted until the League of Nations was established in 1919. Before the formation of this organization in the aftermath of World War I, employing military force was considered a normal course of action for resolving disputes between states, addressing threats, and even for political motives. Military force was applied automatically and ceased only when a clear winner emerged. Resorting to the use of force was perceived as an inherent right of every state, needing no justification. The only distinction made was between *jus ad bellum* (the justifications for going to war) and *jus in bello* (the rules to be followed during conflicts).

However, after the end of the First World War, the global community recognized the need to find alternative solutions to international conflicts, ones that did not involve the pain and loss caused by the use of force. Among these efforts, the establishment of the League of Nations marked a collaborative initiative by 63 countries dedicated to fostering international cooperation and ensuring global peace and security. To achieve these goals, they committed to obligations prohibiting the use of war (League of Nations, 1919, Preamble). Article 10 of the League of Nations Covenant stated that Member States were responsible for safeguarding the territorial integrity and sovereignty of all other member states. It declared that “the Members of the League undertake to respect and preserve as against external aggression the territorial integrity and existing political independence of all Members of the League. In case of any such aggression or in case of any threat or danger of such aggression, the Council shall advise upon the means by which this obligation shall be fulfilled” (League of Nations, 1919). However, it's important to note that the League of Nations did not oppose all wars; rather, it opposed wars deemed unjust. Article 12 of the Covenant mandated that any dispute potentially leading to a rupture should first be addressed through a judicial settlement or an inquiry by the Council. Additionally, it established the obligation of refraining from war until three months after a decision was made by the Council or judges. Consequently, there were

situations in which member states were prohibited from going to war, while other disputes falling outside the Covenant's scope could be addressed without restrictions, such as cases where the Council couldn't reach a unanimous decision. Furthermore, the League of Nations offered the option to intervene through economic and military sanctions in instances of Covenant violations. Regrettably, all the measures proposed by the League demonstrated inefficacy and ultimately led to failure. The League of Nations was officially dissolved in April 1946 due to its incapacity to effectively address the substantial challenges it encountered throughout its tenure.

One of the many initiatives aimed at preventing and prohibiting war was the Kellogg-Briand Pact, signed in Paris on August 27, 1928. Aristide Briand, the French Minister of Foreign Affairs at that time, proposed this peace agreement to the United States to prevent war between the two countries. However, U.S. President Calvin Coolidge and Secretary of State Frank B. Kellogg suggested an alternative approach, which involved inviting all nations to join the endeavor to outlaw war. The Pact comprised two key articles: the first article condemned the act of resorting to war and advocated for its abandonment as a political instrument, while the second suggested peaceful means to resolve hostilities between states (Office of the Historian - Department of State, n.d)

Following the Second World War, further discussions about global peace and security took place, particularly with the creation of the United Nations Organization (UN). Serving as the successor to the League of Nations, the UN was established with the primary goal of preventing world wars, a mission clearly outlined in its Charter. The objectives of the United Nations are succinctly articulated in Article 1 of its Charter, which includes maintaining international peace and security, fostering friendly relations among nations, and promoting international cooperation to address global challenges. Membership in the United Nations is open to all states willing to adhere to and fulfil the obligations outlined in the UN Charter (Charter of the United Nations, 1945).

The United Nations Charter encapsulates crucial principles governing the use of force, the right to self-defence, and the global security framework. Article 2(4) of the UN Charter expressly regulates the use of force, stipulating that “all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the



Purposes of the United Nations” (Charter of the United Nations, 1945). While this article prohibits the use of force, Article 51 of the Charter carves out an exception for self-defence. It asserts the inherent right of individual and collective self-defence, ensuring that this right remains intact *in the event of an armed attack*, without being undermined by any other provisions of Charter<sup>1</sup>.

The interplay between the prohibition of force and the right to self-defence is further nuanced by the role of the Security Council. Article 51 mandates that the Security Council must take necessary actions to preserve international peace and security. However, until the Security Council acts, a state retains the right to defend itself in response to an armed attack. In essence, while the Security Council evaluates the context and takes its decision, typically authorizing the use of force, Article 51 provides a temporary exception, allowing self-defence while the Council takes its time to shape its responses.

In this matter, it is crucial to underline that self-defence is legitimate only when a state is under attack. Preemptive self-defence, before an actual attack occurs, is not considered valid under international law. In this context, the authority to enact measures *preventing* a threat to peace and security rests solely with the Security Council (Haque, 2020). In fact, Article 39 provides that “the Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Article 41<sup>2</sup> and 42<sup>3</sup>, to maintain or restore international peace and security” (Charter of the United Nations, 1945).

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<sup>1</sup> Article 51 UN Charter: “Nothing in the present Charter shall impair the inherent right of individual or collective self- defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self- defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security”.

<sup>2</sup> Article 41 of UN Charter: “The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations”.

<sup>3</sup> Article 42 of UN Charter: “Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include

After the end of the Second World War, the London Agreement was signed and came into force on August 9, 1945, in respect of France, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, and the United States of America, establishing an international military Tribunal for the trial of Nazi war criminals. Moreover, in this agreement, aggressive war was finally defined as a crime against peace. Hence, Article 6 of the Agreement considered crimes against peace “planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing” (London Charter, 1945).

In contravention of UN regulations and international law, multiple instances of unauthorized force have occurred following the conclusion of the Cold War. These transgressions have been perpetrated by various states, including influential Western military powers and coalitions. The latter have justified their interventions by citing the need to ensure collective security. Nonetheless, it is important to note that the responsibility for safeguarding collective security rests with the United Nations, rather than individual states. For instance, NATO’s intervention in Kosovo in 1999 raised questions about the boundaries of *jus ad bellum*, specifically the conditions under which nations can use force according to international law. In this scenario, military action was not taken for self-defence but rather for humanitarian reasons. Some scholars argue that the Kosovo campaign established a dangerous precedent for international law and global stability. Others argue that it was an exception, asserting that despite the harsh conduct of the war, it ultimately achieved its objective: halting the killings of Kosovar Albanians and ethnic cleansing in Kosovo (Steinke, 2015).

Nevertheless, NATO’s intervention breached international law, specifically Chapter VII of the Charter - “Action with respect to threats to the peace, breaches of the peace and acts of aggression,” notably Article 51. This article stipulates that any use of force outside self-defence must be authorized by the UN’s Security Council (UNSC). NATO intervened without such approval due to concerns over opposition and vetoes from

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demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations”.

two member states, China, and Russia. Despite initial opposition from only three countries - China, Russia, and Namibia – NATO’s involvement garnered strong support from the Western world, particularly from then-Prime Minister Tony Blair, who deemed it a just war, that was “not based on territorial ambitions by NATO but rather on shared values” (Steinke, 2015, p. 50).

More broadly, the unconstrained US global war on terror has contravened the fundamental rules established in the UN Charter. It is intriguing to observe that the international community deems certain wars as crimes against humanity, while others are viewed as legitimate and justified.

Currently, we are witnessing another instance where military force has been unlawfully employed, namely the Russian invasion of Ukraine. First in 2014 with the annexation of Crimea, and then in 2022 when the Russian troops entered the territories of Donetsk and Luhansk, Putin’s Russia invaded the sovereign State of Ukraine, an unjustified action. However, the Russian President advocated that his actions were not to be considered an invasion but a liberation of the pro-Russian population that was discriminated against and mistreated by the Ukrainian government. In other words, the intervention was touted by Putin as a “peacekeeping duty”, however, most of the international community refers to it as a war of conquest that aims to occupy territories rather than liberate a population. Nonetheless, as already mentioned, it is not in the individual state’s position to intervene militarily, even when it has noble purposes, but is the UNSC that must implement a resolution and find peaceful alternatives. Thus, regardless of the *moral* legitimacy of Putin’s actions, Russia still operated against the principles of international law. The Ukrainian emergency has been met with varying responses from different countries. As Professor Sâ Benjamin Traoré argues (2023), in general, the West has denounced Russian actions and implemented soft power measures, such as economic sanctions, and advocated for the arrest of Putin. In contrast, some countries in the Global South have adopted an indifferent and reluctant approach toward this conflict. This attitude may be connected to other problematic instances in which Western forces unlawfully intervened in conflicts, as seen in Libya and Syria, without facing significant consequences in terms of international law. Hence, from this point of view, it is deemed only logical that the non-Western world finds it perplexing why Russia should face consequences that Western countries have never experienced.

A significant case in which the West has not experienced harsh consequences is the Iraqi war, which has not only been an international crisis but could be argued that has also created a precedent concerning international law, international politics, and diplomatic relations. The invasion of Iraq was a clear-cut case of the U.S. changing its foreign policy approach by starting a major international conflict rather than entering a war to stop it. The invasion of Baghdad was announced as a consequence of the September 11, 2001, attacks, which have been notably covered by the media with no filters, leading to a traumatization of the global public opinion. Moreover, the terroristic attack in New York and Virginia by Al-Qaeda revealed how the U.S. Administration was unprepared: the nation had never suffered an attack of this magnitude. Consequently, the Republican Administration that was in charge adopted a stricter approach to tackle this new wave of terrorism. This new wave of attack can be distinguished, as classified by David Rapoport (2004) for its religious and political purposes, and it is a threat that lasts until today and still influences foreign policy. This kind of threat introduced new tactics to perpetrate fear, such as suicide bombing which had the potential of causing a lot of victims, and indeed, Rapoport refers to it as the “most deadly tactical innovation” (p.63).

After the Al-Qaeda attack, the entire Western world felt profoundly threatened. At that time, President George Bush Jr. defined the incident as an act of war against the United States and its core principles of freedom and democracy. While it is accurate that Al-Qaeda had identified the U.S. as its primary adversary following the collapse of the Soviet Union, this fact was underestimated by the American government until the tragic events of 9/11 unfolded (Rapoport, 2004).

This marked a pivotal moment in American foreign policy, driven by President Bush Jr., who recalibrated the nation’s doctrine and responded to the looming threat with military interventions. First, Afghanistan was invaded in 2001, given its role as a safe haven for Al-Qaeda. Subsequently, in 2003, Iraq was targeted. The justification for these operations rested on Afghanistan's association with Al-Qaeda and Iraq’s alleged possession of both connections to terrorist organizations and weapons of mass destruction, which were perceived as potential threats against the Western world.

As D’Alessio (2021) argues, these assumptions led most of the discussion at that time to refer to the Iraqi war as a justified one. However, as it will be explored in a dedicated chapter, the resort to war to be considered justified requires war to be a last

resort after having exhausted all peaceful means available. The Just War Theory's doctrine was developed with the purpose of establishing whether a war is morally justifiable and necessary. In general, theorists of this doctrine's actions may be considered ethically defensible when their primary aim is to prevent greater evil and preserve innocent lives. Consequently, the principle of Just War represents a set of rules governing the conduct of warfare, founded upon moral ideals, with the overarching objective of mitigating human suffering and ensuring the welfare of the population (D'Alessio, 2021).

The theory has religious roots as it was shaped by Christian philosophers and theologians. One of its first thinkers was St. Augustine, then followed in the Middle Ages by Thomas Aquinas, who deemed that war to be considered *just* had to meet some criteria, namely resorting to war had to be justified by a good cause and right intentions (*jus ad bellum*) and had to be conducted in legitimate ways (*jus in bello*). So, it can be understood that the use of force is only legitimate when a just cause like stopping a genocide or self-defence can be identified. In the early 2000s a third criterion, known as *jus post bellum*, was introduced by a Canadian academic named Brian Orend, as he claimed that the other two criteria were only focused on the pre- and post-war period, excluding the focus on the war's aftermath. Related to the introduction of this new concept, a contribution that is particularly relevant to this thesis, is the one conducted by Gary J. Bass, who wrote the article *Jus Post Bellum* (2004) in which he argues that the *Jus Post Bellum* criterion is closely linked with the *jus ad bellum* one. The justice after-war criterion is considered to be an inherent postwar obligation that the offender state has to fulfil once the war is over. The aftermath of war should be an improvement of what existed before. Hence, as Bass (2004) puts it "if a state wages war to remove a genocidal regime, but then leaves the conquered country awash with weapons and grievances, and without a security apparatus, then it may relinquish by its postwar actions the justice it might otherwise have claimed in waging war" (p. 386). Furthermore, it is suggested that any war waged in the name of justice should ultimately aim for peace. However, the establishment of new governments and institutions mirroring the intervening forces is not necessarily a benevolent action. Taking the example of the war on terror, which aimed to create democratic institutions in the Middle East after overthrowing authoritarian regimes, among other objectives, it did not obtain the results hoped. On the contrary, the instauration of such institutions would more likely lead to the establishment of puppet governments devoted to the generous

government that helped them with the reconstruction. This consequence would transform a just war into an unjust war close to conquest and acquisition (Bass, 2004). Therefore, linked to Bass's assumptions, is the concept of the war on terror, in particular on this matter is relevant to the article of Alex J. Bellamy (2005), who explored whether the war on terror was just. To accomplish this, the author explains how scholars in the field of international relations frequently employ the theories of realism and pacifism to examine a conflict and its components. Realist theorists argue that when a nation's security is threatened, there should be no moral limitations on the methods employed during warfare. In contrast, pacifism completely rejects the use of force due to its inherent connection with killing, deeming it inherently unjust. However, both theories lack the ability to answer moral questions, like the ones that the present thesis aims to answer. On the contrary, the Just War Theory allows us to identify better the counterpart's role, the part that, depending on the point of view, is either the offended one or the one from which a state attacks to self-defended. The Just War Theory, therefore, allows those who carry out an analysis to assess whether there is a just cause of war. In fact, there exists a substantial body of literature critically examining conflicts through the prism of Just War Theory, for instance, D'Alessio's article (2021), "Was the 2011 NATO-led intervention in Libya a Just War?". In his research, the author meticulously evaluates the extent to which the 2011 NATO intervention in Libya aligns with the principles of Just War Theory. The findings reveal a nuanced assessment: while certain conditions stipulated by the theory were met, full compliance remained elusive. On one hand, the intervention demonstrated a just cause, yet its underlying intentions diverged from the theory's standards. Notably, NATO's involvement aimed at effecting a regime change rather than solely providing humanitarian aid. This argument is supported by the organization's non-intervention in comparable humanitarian crises in the area, such as Yemen. Additionally, the *jus in bello* criterion was only partially fulfilled; the Alliance's engagement significantly exceeded the indications outlined by the United Nations. Moreover, the *jus post bellum* criterion remained wholly unmet. The aftermath of NATO's intervention failed to facilitate the establishment of a new political and civil society, plunging Libya into a devastating civil war in 2014. The author concludes by arguing that while the intervention ostensibly sought to safeguard civilians from dictatorship, the subsequent turmoil and lack of post-war reconstruction render it untenable to categorize the Libyan conflict as just. This

nuanced analysis underscores the intricate challenges in applying the Just War Theory to complex geopolitical realities. Thus, every situation must be assessed singularly to claim whether security threats provide or not a just cause for war.

# CHAPTER 1: JUST WAR THEORY: A THEORETICAL AND CONCEPTUAL FRAMEWORK

## 1.1 War, Justice, and Justification: A Comprehensive Exploration

When discussing the Theory of Just War, one might immediately think that the word “war”, implying violence or “Gewalt”, using the German term adopted by Professor Massimiliano Tomba (2006) in *La “vera politica” Kant e Benjamin: la possibilità della giustizia*, alongside the concept of “justice” seems to clash. This becomes even more apparent when the concept of justice is so ambiguous that it raises the question of what justice truly is. Each individual’s idea of justice could potentially lead to conflicts and, in extreme cases, wars. In today’s world, as in the past, there is this shared view where “might is right”, in this case “might” refers to the majority, the representative governments. This is precisely the central issue in this thesis because, as Tomba (2006) discusses, the real problem underlying the interplay of war and justice is “the fact that strength can contradict justice and assert itself as just” (p.14). As Antonello Calore (2009) claims, the Latin expression “*bellum iustum*” raises the question of how to understand the adjective *iustum* (just), which in turn begs the question of which manner is to be considered *just* in the use of armed force. Is it possible a relationship between war and justice, particularly when there is ambiguity with the notion of justice? Indeed, in his essay “*Giustificare l’ingiustizia – Guerra, rapporti di forza, diritto e democrazia*”, Casarotti (2023) contends that when discussing justice, it is imprudent to assert the existence of a universally recognized value. Even if a value is widely shared, it seldom attains universality. It is precisely based on this reasoning, that one might be inclined to deduce that the question posed in this thesis—whether there exists a just war—is either destined to remain unanswered or be interpreted by the standpoint of who tries to answer it. Indeed, even when considering the reflections of Erasmus of Rotterdam, who queried, “*cui autem sua causa non videtur iusta?*” translating to “to whom does his cause not seem just?” we are confronted with the stark reality that discussions involving abstract concepts such as ethics, morality, and justice entail a formidable endeavour. Similarly, Tomba (2006) in grappling with the intricate concept of justice, confronts its inconceivability, positing it as an immediate impediment to its realization. Despite the challenge posed by the idea that justice is hard to understand and achieve, Professor Tomba tries to tackle this



problem, by suggesting we should practically explore the idea of doing something that seems impossible - calling it the “possibility of the impossible”. This exploration includes a careful shift in how we talk about justice, especially in connection to the concept of *Gewalt*. In German, *Gewalt* can mean both power (*potestas*) and violence (*violentia*), making it a tricky and ambiguous term. Tomba argues that to really get justice, we need to look closely at how it connects with *Gewalt*. This discussion also looks at basic democratic ideas like people's power, the right to resist, majority rule, representation, and equality. He thinks these important concepts hide and protect a system where *Gewalt*, whether seen as power or violence, is the only way to judge things. So, in simple terms, Tomba is suggesting that we should rethink the usual understanding of justice by considering its relationship with power and violence.

Furthermore, the author argues that the question of legitimacy arises when considering a *just war* within the confines of being a conflict exclusively directed by authorized entities, specifically modern states. In this conceptual framework, *Gewalt* assumes heightened importance as it programmatically positions itself as a tool for achieving human rights objectives. However, this declaration comes at the expense of severing its inherent connection with the concept of justice. Considering the Latin phrase “*ex crimine oritur ius*” - meaning “law arises from crime” or “from the crime arises the right” suggesting that a legal right or justification can emerge as a consequence of a wrongful act or violation of the law - distinctly encapsulates the principle that forms the basis of humanitarian intervention. On one side, the legal framework resulting from the breach of existing statutes legitimizes the *Gewalt* that instigated it. On the other side, the inherent criminality in the utilization of *Gewalt* finds immediate justification in its natural end—the defence of human rights. Consequently, force gains the capability to distinguish what is legally just from unjust, thus negating the original connection between legal conceptualization and the predicament of justice. *Gewalt* intricately intertwines with the question of justice: on one hand, the prevalence of *Gewalt* has eliminated the opportunity for justice that “authentic politics” is obligated to restore; on the other hand, *Gewalt*’s reality is legitimized through instrumental justifications, transforming war into a perceived just conflict (Tomba, 2006).

To answer the question of the justifiability of war, it is necessary to address the transformation that the concept of just war underwent from ancient times until today. The

literature on this theory is extensive and many scholars have given their interpretation of past wars using the lenses of the Just War Theory. This chapter aims to outline the major transformations that the theory of just war has undergone over the years and to provide concrete examples offered by other scholars. By relying on criteria highlighted in other studies, this approach allows for a critical consideration of past events, as well as more recent ones, enabling the ability to distinguish between a just and an unjust war.

It appears crucial to emphasize that the theory of just war can be approached from two distinct perspectives: the juridical and the ethical. In the vast literature that covers this war theory, Antonello Calore (2009) presents two interpretations offered by other scholars. Firstly, Norberto Bobbio contended that the Gulf War (1990-1991) was *just*, asserting its legitimacy based on the United Nations Charter, which sanctioned the use of force as an act of self-defence. In this context, legitimacy and justification were interconnected. Another perspective, advocated by a group of sixty intellectuals, evaluates a conflict, such as the war in Afghanistan, by asserting its righteousness in defending universal human values that transcend international law. Here, the military action is justified by its ultimate “just” goal (just cause) to restore violated rights and establish peace (Calore, 2009). In essence, most of the scholars that assessed a war through this theory have either adopted the same stance of Bobbio or the other one.

The meaning ascribed to the “just war” expression changed significantly, ranging from a judicial interpretation of the “just” adjective to the theological approach, according to which war is perpetrated following the divine will, and ultimately adopted ethical-moral approach, which retains that the war is aimed at defending universal and inalienable human values.

Commencing with the ancient definition of a just war, which, nonetheless, existed within a significantly different context than the present understanding of just war, the examination explores the contemporary restructuring of this concept. In the Augustinian perspective, a just war was perceived as a means to attain or reinstate justice according to a divine natural order. However, the rise of the modern state and the assertion of state sovereignty have made the antiquated notion of a just war impractical. In this scenario, acknowledging an authority superior to state sovereignty is precluded, and the determination of whether to preserve or alter a given order is vested within national sovereignty. With the escalation of military involvement, even in endeavours endorsed by

the Atlantic Alliance for the defence of participating nations, certain constitutional scholars have begun contemplating the potential evolution or complete transcendence of the war prohibition. This reinterpretation aims to expand the range of situations classified as unauthorized war, and it is justified by adherence to international treaties that place constraints on national sovereignty. Additionally, there is an initiative to include in the constitutional framework not only the defence of the state's territorial integrity but also military interventions that uphold the values it embodies, especially universal human rights. This effort extends to situations where such rights face threats or denials through the use of armed force. Essentially, the intention is to redefine the permissible circumstances for engaging in armed conflict, broadening the considerations beyond territorial defence to include the protection and promotion of universal human rights under international agreements (Tomba, 2006).

## **1.2 Evolution of a theory: tracing the Journey from *Bellum Iustum* to Just War Theory**

The theory of Just War has a long tradition and has experienced periods in which it reached its highest peak, periods during which it declined gradually losing significance, whereas more recently is living a second life. Michael Walzer (1990) explores the concept of justness of war in one of his most well-known works, "Just and Unjust War". Judgments on the morality of war refer to the medieval distinction between *jus ad bellum* (the right to war), which is the reason that motivates states to fight, and *jus in bello* (the right in war), which deals with the positive and customary rules of combat.

The concept of just war, understood as a war guided by morality, dates back to Ancient Rome. Walzer recounts the testimonies inherited from Cicero in "*De re publica*" and "*De officiis*". Cicero in chapter XI of the first book *De officiis* wrote:

In relations between States, the laws of war must be observed. In truth, there are two ways of disputing: with reason and with force; and since reason belongs to men and force belongs to beasts, it is necessary to resort to the second only when one cannot make use of the first. Wars must therefore be undertaken only to live in a safe and quiet peace; but, having achieved victory, those who were not cruel during the war must be spared.

There is no *just war* except the one fought either after seeking reparation for the offence or after having threatened and declared it.<sup>4</sup>

Thus, from this excerpt, we learn that Ancient Rome was familiar with the precursor of the Just War Theory, known as *bellum iustum*, which was characterized by similar elements of the contemporary Just War Theory. In particular, the foundational elements were *a)* the war as last resort; *b)* the use of force only for self defence and/or as a response to an injustice/menace; *c)* war must be declared, should not be a sudden aggression; *d)* the war must be conducted by avoiding cruelty.

In particular, the *bellum iustum* was applied when the Romans declared war on a foreign people if the latter had not satisfied the request for compensation for damage suffered or feared, for revenge or prevention, respectively. In any case, for the Roman people, entering into war under these terms was considered legal and protected by legal-religious rights. Therefore, in this context “*Iustum*” indicated a connection with a legal criterion rather than the ethical value of “justice”.

In Medieval times war was considered a clash between good and evil, in particular in the Christian doctrine the just war was the holy war, which was mandatory to spread Christian religion and values. Therefore the war did not need any legitimization besides the justification provided by God’s will. In the Christian doctrine, every war fought outside the borders of the Christian republic had to be regarded as just if aimed at defending the divine order and spreading his word (Biagi, 2023).

The framework of Christian thought on just war took shape precisely as the Roman Empire was crumbling. Augustine di Ippona’s (354 – 430) thinking drew from that of Cicero, but the contents were different, considering that Augustine lived in a religious society whose founder proclaimed non-violence, preached the rejection of violence, yet simultaneously did not allow peaceful coexistence among different beliefs, recognizing only one God. For this reason, in the Middle Ages in Europe, for states that satisfied the first legitimacy requirement of war, it was easy to find a just cause by justifying it through religious motivation. Moreover, the entire process was facilitated by the fact that the criterion of *recta intentio*, good intention, intention for the good, was

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<sup>4</sup> Translation from Italian to English of the author. The excerpt is retrieved from the Italian book *Marco Tullio Cicerone, Dei Doveri*, curated by D. Arfelli, 1958.

simply guaranteed by papal authority. This is how holy war and just war essentially assumed the same meaning. More precisely, Augustine reinterprets Cicero's thoughts on war contained in *De Officiis* II. He aligned the Roman's thought with his own theological-political *Weltanschauung*. According to Augustine, the certainty of peace is elusive, and the potential for war to disrupt reality looms incessantly. The existence of enemy nations, the pursuit of power, and pervasive mistrust may give rise to injustice and transgressions against the established order, necessitating a response through the *bellum justum*, mandated by God as a means to punish the corruption of nations and to guide peoples towards a pacific existence. Antonello Calore (2009) analyzed Augustine's thought focusing on his book *Quaestiones (qu. 6,10)*, in which the authors believe the theory of *bellum iustum* is explicitly reported. According to the analysis provided by Calore, Augustine claimed that we are not used to considering *unjust* those who perpetrate just wars, also when the conduct of war is brutal and illegal. Part of this though is tied to the common view that the goal, namely justice, justifies all the means and that it is inconceivable that the "good" leads to "bad" outcomes. Being the "good" part of the conflict would always justify the goal, justice, and therefore it does not matter the modalities through which justice is obtained, namely the *jus in bello* criteria becomes trivial.

For Augustine divine-will is the supreme justification for armed conflict, thereby introducing a moral paradigm of war that departs from the Roman juridical significance. The objective of obtaining and guaranteeing a peaceful environment as desired by God allows the divine law to consider war as a mere instrument that must re-establish what has been fractured, namely the peace (Biagi, 2023). Hence, when men engage in acts of war that align with the divine plan, such actions are inherently deemed just, as their ultimate aim is the attainment of peace. Divine justice stands as the sole basis for justifying any conflict. By introducing God's will as the paramount motivation for employing force, Augustine shifted the perspective from a judicial understanding of war to an ethical interpretation, thereby establishing moral conditions for waging war. Augustine's influence transformed warfare into something morally acceptable rather than reprehensible. The Just War Theory, as formulated during the Middle Ages, rested on the foundational principles of justice, peace, and love, serving as the criteria (*jus ad bellum*) for initiating a war, whether in defence or prevention. These principles were equally

crucial in guiding the conduct of the conflict (*jus in bello*), aiming to prohibit massacres and atrocities (Sacco, 2012).

After Augustine, Thomas Aquinas resumed Augustine's reflections on the *bellum iustum* theory, and he fixed three conditions that must be respected to consider a war just. First of all, war must be declared by legitimate authority; secondly, war must be justified by a righteous cause; and third, war must be waged to promote good over evil. With Aquinas, the idea of a just cause turns into a mistake that requires punishment. War, even though it is considered sinful, becomes crucial in fixing situations that disturb the moral order of life—a responsibility that every Christian needs to understand and support. In simple terms, in the intricate discussion of the Just War Theory, going to war is not considered acceptable just because of religious differences. The primary goal is not to destroy those of a different faith, but rather to restore justice and peace by punishing wrongdoers. In the Christian tradition, war becomes a tool to maintain the balance between order and peace. For a just war to be legitimate, it needs to be authorized by political leaders, use lawful methods, have valid reasons (like self-defence), and follow ethical guidelines set by religious authorities. This involves making a formal declaration, honouring treaties, ensuring the safety of innocent people, and treating prisoners humanely. According to the Christian perspective, both defensive and pre-emptive actions against perceived threats from non-believers, such as crusades and evangelization missions, are considered inherently just. In contrast, those opposing Christianity are seen as inherently unjust and therefore criminal; the shedding of the blood of Arabs, Jews, and Turks was not a sorrow in the divine will's conception (Biagi, 2023). The reasoning was straightforward: those opposing Christianity were regarded akin to criminals or outlaws, making it acceptable and justifiable to kill or torture them, even without adherence to ethical and legal principles, because in the Christian medieval *bellum iustum* the enemy was diabolic and as such had to be fought and erased.

The just war, after its medieval peak, crumbled during the Renaissance when the interventions of Machiavelli and Erasmus of Rotterdam, with two opposing interpretations, succeeded in eliminating the adjective “just” when talking about war. On the one hand, Erasmus of Rotterdam, a firm pacifist, criticised the *bellum iustum* theory for its defeating nature, since the consequences were greater than those caused by those who violated the divine will. Moreover, he believed that war was incompatible with

human nature which is essentially pacific. Additionally, he argued that while in the domestic sphere, the judicial power could resolve conflicts by adopting an impartial stance, in the external relations where the disputes between states could not rely on a *super partes* authority, each side could construct arguments to justify a just war of aggression and conquest. Therefore, in the eyes of the theologian, the wars among Christians were not just, on the contrary, *just* were those wars in response to external attacks at the hands of violent and barbaric aggressors. In essence, even the pacifist Erasmus of Rotterdam could not renege on the just war theories of that era, however, he justified only defensive wars (Biasiori, 2023). In the midst of these discussions, Machiavelli played a pivotal role by anticipating the concept of *silete theologi in munere alieno*, suggesting that discussions surrounding war should break free from theological debates and transition into the realm of juridical-political contemplation. Machiavelli's contribution to the discourse was significant, as he viewed war not merely as a theological matter but as an inevitable event intricately connected to the dynamics of politics. Consequently, he laid the groundwork for the subsequent rejection of the abstract relationship often posited between war and justice. To elaborate further, Machiavelli's perspective diverged from the notion that war required religious justifications. Instead, he regarded war as a natural and inherent manifestation of political objectives, notably the pursuit of power and glory. In essence, the Florentine intellectual asserted that the intrinsic nature of war could be comprehended through the lens of political motives, eliminating the need for religious rationale (*Ibid*). Consequently, the justification of a war as "just" became outdated and anachronistic.

Therefore, the decline of the *bellum iustum* was not precipitated by a sudden preference for peace but rather by the cessation of the Catholic empire's endeavour to eradicate religious distinctions and assert dominance over the continent. The Peace of Westphalia (1648) subsequently introduced the principle of equilibrium, aiming to restrain nations from excessive expansionism and power assertion. This epoch also signalled the initiation of European public law. Significantly, the moral significance of war was nullified, transforming it into a discretionary determination for individual countries, disentangled from religious underpinnings. Sovereign States were now vested with the authority to determine when to engage in war, contingent upon an assessment of its alignment with the public good. This paradigm shift altered the perception of war,

detaching it from religious motivations and emphasizing its role in expanding a Nation's power in accordance with its perceived interests. Although nations retained the prerogative to declare war, they were obligated to adhere to specific regulations, particularly concerning the maintenance of a balance between sovereign entities. In simple terms, war was not banned but became something countries could choose to do, closely tied to human history. Tomba (2006) has specifically focused his analysis on this paradigm change. Thus, he argues that we cannot discuss about just war as it was conceived at its birth. In fact, with the establishment of modern nation-states, there was no longer a superior entity, God, to guide Earth's dynamics. On the contrary, sovran could establish a new order that was supreme only because they were the ones that established it. Above the state there was nobody superior, therefore the decision of using force was to ascribe to ration human beings.

To grasp the idea of war in recent times, we need to look at two main things: how force is used and the goal of completely winning over opponents. This wide view helps us reconsider various historical events with different arrangements and rationales for happening, like conflicts driven by nationalism, imperialism, fights for freedom, decolonization, religious motivations, and revolutions. Things get even more complicated when one group is involved in multiple conflicts at once, making discussions about justice in warfare even more detailed and complex.

In this intricate landscape, the attribution of justice takes on unique meanings based on the specific characteristics and dynamics intrinsic to each conflict. Understanding the diverse dimensions of war necessitates a nuanced comprehension of justice across various conflict scenarios. Notably, the concept of *Just War* underwent transformation during the modern era when war became an inherent right of all states, a consequence of their full sovereignty. The absence of supranational norms meant that any act of war could be deemed just as it aimed to protect the sovereign state authority.

The French Revolution impacted on the modern system established by the Westphalian Peace because reintroduced internal conflicts that aimed to re-establish an empire at the expense of other European nations. In particular, the purpose was to construct a new state model where citizens could identify with a national consciousness. This has rendered possible a blurred separation between state, people, and nations, fostering patriotism and nationalism. The new nationalistic and patriotist sentiments



became the legitimizing causes leading to conflicts against other nations, compromising the old model of war. Especially, through the introduction of compulsory military service that marked the shift to new revolutionary democratic ideals. For these reasons, among others, the French Revolution initiated slow changes, shaping on the one side a new political, legal, and social order and on the other side a new peak of violence. Thus, the Great War was the highest peak of nation-state violence, and the character of total war blurred the line between military and civilian targets. The end of the war required new international bodies aimed at preserving peace. Nevertheless, after the First World War, the League of Nations proved weak and the fear of returning to a climate of war returned, especially after witnessing the establishment of new totalitarian movements. In fact, in 1939 World War Two began. The conclusion of the Second World War, characterized by the profound atrocities it witnessed, gave rise to the establishment of a novel political order with the primary objective of attaining peace among nations. This, in turn, sought to address and mitigate any potential conflicts that might arise among states. In light of these considerations, there was a prevailing sentiment favouring the abolition of war and its abolition was officially formalized in the Charter of the United Nations in 1945. However, the spectre of new global conflicts persisted especially during the years of the Cold War's bipolarity. It is important to underline that the apparent lack of direct conflicts was not due to the success of the establishment of new international organisations such as the United Nations, but rather peace was a normal consequence of the possession of nuclear weapons by the USA and USSR, which discouraged the engagement in large-scale conflicts, as the destructive power would be lacking any rational justification. Therefore, contrary to the end of WW2's expectations, peace was not sought for the harsh lesson learned but was rather driven by the fear of a nuclear war. In essence, the peace was dictated by the dread of total destruction rather than by reason. This mechanism of preserving peace ceased with the collapse of the bipolar system in 1989, and simultaneously the United States took the opportunity to establish its own new empire positioning itself as the monopolistic authority on *jus ad bellum*. Accordingly, continually claiming its own as just wars, supported by a discourse wherein the Western fundamental values were bent toward the pursuit of global dominance. Reintroducing in the geopolitical discourse the old *just war* slogan, there was an attempt to provide legitimacy to several interventions from legal, humanitarian, and preventive perspectives. Thus, not

only the U.S but all the leading powers in the international system, have not really shied away from resorting to the use of force. Quite the opposite, they resorted against “evil” forces in the name of the universality of human rights and justice. Therefore, it can be argued that even if the Western powers advocated a just a lasting peace, they themselves have revived the concept of *just war*. In a time when the delegitimization process of war was taking place, this was for sure a paradox (Girgenti, 2017).

From this evolution one can conclude that the theory of *just war* faded from geopolitical discourse from the modern era until the 20th century, when it came back thanks to the raising importance of the humanitarian principles that gradually gained traction in international law. After the horrors of the two world wars, international law addressed the admissibility of war especially due to the emergence of conflicts marked by ideological and ethical reasons. The resort to the use of force was also possible due to the United Nation’s consensus to leave open the possibility of intervening military against rogue states that were potentially involved in serious crimes against humanity. Even after the end of the bipolar world and the overcoming of the East-West bloc confrontation, conventional conflicts did not diminish, as evidenced by the Gulf War (1990), the Balkans (1991-1995), Kosovo (1999), Afghanistan (2001-2002) and Iraq (2003). All these conflicts invoked the idea of “just war” to demonstrate universally acceptable justifications for the use of force, indicating a departure from the theoretical foundations that gave rise to the theory in the medieval period. As for universally acceptable justifications are included those aimed at the protection of human rights and democratic values, and all the conflicts that use these justifications are not referred to as “war” but rather by using the neologisms of “humanitarian intervention” or “prevention and resistance to international terrorism”. For example, the Russian Federation used the term “special military operation” or “special operation” to denote and legitimize its invasion of Ukraine in 2022, which does not stray very far from the term adopted by the US when, in 1990-91, invaded Iraq, namely “international police operation” (Biagi, 2023)

Especially with the emergence of the phenomenon of globalization, presented as an era of peace regulated by the market’s rules and needs and guaranteed by the end of bipolarism, the war itself took new characteristics. In the first place, globalization changed the nature, modalities, legitimization, and justifications means that were all aligned with the neoliberal mentality. The last thirty years witnessed a progressive decline

in the efficacy of international law and political mediation favoring the rise of a paradigm of moral interpretation of war and all social and political conflicts:

a paradigm that divides the world into *good* and *evil*, criminals and victims, guilty and innocent; and discriminates wars into just and unjust, virtuous, and vicious, and consequently legitimate and illegitimate, depending on the justifications, interests, and hierarchies of humanity they respond to, at the expenses of the rejection of war altogether, which should guide peaceful coexistence, legal regulations, and political resolutions of conflicts (Dominijanni, 2023, emphasis added)<sup>5</sup>

The decision and authorization for the use of force have rested in the hands of the UNSC since the end of the Second World War. However, the Security Council is controlled by its Member States, who, in seeking legitimacy for acting against their adversaries, entertain proposals for *new interventionist theories*. These theories aim to circumvent the United Nations Charter, providing justifications for the use of force. Especially, the significance of human rights and their protection, including doctrines of humanitarian intervention, has grown notably since the late 1990s. According to Walzer, these doctrines serve as genuine justifications and excuses, invoking a state of necessity to legitimize and make *just* interventions that would otherwise be deemed unacceptable, especially without the various authorizations of the Security Council (Cardinale, 2020). However, embracing the moral interpretation of war as a legitimizing theorem for wars conducted in the name of democracy and human rights, the moral paradigm ends up having subtly antidemocratic effects, censoring any dissenting position, and closing the spaces for any political compromise (Dominijanni, 2023).

Therefore, the evolving nature of warfare has led to an increased demand for robust justifications for involvement in conflicts, especially in the aftermath of total and technologically advanced wars in the last century. Consequently, a war is deemed just

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<sup>5</sup> Author's translation from Italian into English: "un paradigma che divide il mondo in buoni e cattivi, criminali e vittime, colpevoli e innocenti; e discrimina le guerre in guerre giuste e ingiuste, virtuose e viziose, e di conseguenza legittime e illegittime, a seconda degli scopi con cui vengono giustificate, degli interessi a cui rispondono e delle gerarchie dell'umano che stabiliscono, a scapito del ripudio della guerra tuot court che dovrebbe orientare la convivenza pacifica, la regolazione giuridica e la risoluzione politica dei conflitti".

when its rationale can be accepted in some form. The perception of war as unjust often triggers the invocation of absolute values, such as human rights, to justify intervention, where the failure to uphold these values is seen as a greater evil than the war itself. It becomes apparent that the judgment of a war's justice is influenced by the perception of its justification, creating a nuanced and relativistic conclusion. The power of argumentation or, more frequently, the power of violence (*Gewalt*) plays a pivotal role in shaping this perception. The underlying hypothesis suggests that inherently unjust, war can be perceived as just through an *effective strategy of justification* (Casarotti, 2023). This intricate interplay of factors underscores the ongoing evolution and complexity of discussions surrounding justice in the context of warfare.

### **1.3 Humanitarian intervention as the new justification for a *just* war**

The evolution of the Just War Theory, originating from the medieval era and extending into contemporary perspectives, illuminates a profound transformation with a pronounced focus on the defense of human rights. Originating from the concerns articulated by medieval European Christian theologians, the present form of Just War Theory has dynamically adapted to address the evolving landscape of global ethics and security considerations. The conventional emphasis on safeguarding political sovereignty and territorial integrity now intersects with an increasingly recognized imperative to protect and prioritize human rights. In recent decades, scholars have played a pivotal role in challenging and expanding the traditional just-war framework, advocating for the application of its principles to elevate the global protection of human rights. The appeal to moral justifications that make acceptable and legitimate the use of force on the international stage, is what unites contemporary armed conflicts, whether an intervention is due to stop a genocide or to defend global peace from a powerful terrorist group (Girgenti, 2017). Hence, despite employing force in the pursuit of law and peace, the eradication of war has not been achieved; instead, it has transformed in its essence through the extreme radicalization of the universality of ethical principles. Specifically, the evolution of the right of intervention has given rise to the revival of the doctrine of just war (Colombo, 2007). This evolution marked a substantial departure from the medieval emphasis on state sovereignty alone, reflecting a contemporary acknowledgement of the pressing need to prioritize and defend universal and inalienable human values within the

complex realm of armed conflict. Specifically, it was the end of the Cold War that marked the increase in debating the humanitarian political intervention which sought to respond to the human dimensions of complex emergencies (Holliday, 2003).

The doctrine of humanitarian intervention had a prominent role in outflanking the Charter of the United Nations, suggesting that military intervention is aimed at protecting the citizens whose nation is allegedly violating their human rights. However, as explored in detail in the dedicated section, Article 39 of the Charter gives only the Security Council the role of defining whether there is a threat to peace, identifying it as the sole body that can take all necessary actions for maintaining order and peace among state, using force as it were an international police force. Nonetheless, the UNSC played a limited role since the fall of the Berlin Wall until the 1991 Gulf War due to the veto power granted to the Permanent Member State. For instance, there have been cases where the Security Council did not intervene and silently witnessed massacres and violations of rights; Cardinale puts forward the example of Sudan in this case. On the other hand, other instances suggest that the inaction of the international community in making decisions about emergencies left space for intervention by other international actors. In 1999, the UNSC had to consider the course of action regarding the Kosovo War after the failure of all diplomatic means, but Russia was ready to exercise its veto power in the case of an interventionist proposal. Nevertheless, NATO intervened and attacked Serbia. NATO intervention, even though supported by most of the international community, was inadmissible because it violated international law and the Charter. However, the UN Secretary-General of that time, the diplomat Kofi Annan, stated that “there are times when the use of force may be legitimate in the pursuit of peace” (United Nations Press Release). Such a statement confirms Tomba’s position when he claims that the opinion of the strongest is always considered just. The Kosovo instance suggests that there are occasions where morality supersedes the law, making an encroachment of the *jus ad bellum* feasible, namely those wars conducted with humanitarian purposes putting morality at the centre of their reasons for war, or *casus belli*, and that is considered right only in the light of political reasons. Especially after the 9/11 attacks against the United States, these wars became the leitmotiv of the most recent events, giving a second life to the theory of the Just War.

It goes without saying that by using such justifications and terms is easier both to let unnoticed the violation of international law by those countries that intervene militarily

and to garner approval from the population due to the nobility of the goals pursued. Indeed, the concept of “human rights”, asserting that everyone should have specific rights, is crucial. In this new perspective, there’s a strong disapproval of war because it’s seen as going against what we believe are rights universally shared by all humans. Guided by the principles of global natural law, the primary objective is to achieve enduring peace among all people—an enduring aspiration. Thus, referring to the war above mentioned, the belligerent state by terms like “special operation”, “freedom operation”, etc, intended to initiate a transition towards a *new world order* in which justice would have uprooted injustice, Good would have triumphed over Evil. Essentially, this revived the notion of a medieval “just war” where conflicts are waged based on principles believed to be universally valid. This concept supports the idea that it is acceptable to engage in war against those who disagree with these principles, especially when the actors involved are NATO countries or Western nations in general. Comparable to the humanitarian intervention doctrine is the responsibility to protect, which is associated with the concept of *droit d’ingérence*, signifying the right and obligation of the international community to intervene in a foreign state during emergencies, including instances of human rights violations, even if it entails disregarding state sovereignty. Nevertheless, it is imperative to grasp that any action and use of force carried out in defiance of the articles of the Charter should be deemed illegal, even if attempts are made to justify it through doctrines and intervention theories (Cardinale, 2020). Whether labelled “humanitarian intervention”, “peacekeeping missions” or even “police operation” these interventions are military operations.

Therefore, beyond the terminology used to describe conflicts, one cannot ignore the belligerent nature of the conflict. While the United Nations Charter acknowledged defensive war as a last resort, today we face an expansive interpretation of this provision that effectively legitimizes preventive war, leading to the inevitable resurgence of the concept of Just War. However, it has undergone some transformation, especially concerning the enemy. The enemy is no longer someone with the same right to defend their interests, a just enemy, but rather a criminal acting outside the law. Therefore, mediation is not possible, and nothing is owed to them, legitimizing the use of any means, including improper weapons, and involving the civilian population.

In this context, we also witness a decline in *jus in bello*, namely the conduct during war. This is because actors convinced of embodying universal values consider themselves authorized to act outside any international legitimacy. This paradox arises: those who proclaim themselves defenders of good, law, and human rights ultimately find themselves outside the realms of law and rights, assuming the role of subverters of international legality.

From this perspective, it is crucial to emphasize that many military initiatives undertaken by the United States and its allies in the last twenty-five years—though this analysis could extend to Russia's interventions in Chechnya or Israel's attacks on Lebanon and the Gaza Strip—could be classified as acts of aggression, warranting international sanctions. While these wars have often been justified and propagandized by Western powers as “sanctioning” actions against violations (of “human rights”, “democratic principles” etc.) committed by the attacked states, in reality, according to the law they acknowledge, these powers should be brought before international justice and sanctioned for crimes against peace, independence, and sovereignty (Girgenti, 2017).

Present-day international crises, such as humanitarian intervention, police operations, and terrorism prevention, are becoming so frequent that the traditional dichotomy between the ordinary state of peace and the extraordinary state of war has become obsolete.

As Ida Dominijanni (2023) masterfully suggests, the Ukrainian conflict has sparked renewed discussions on the concept of Just War, partly because this time the war in the former Soviet state is acknowledged as a conventional war, without resorting to alternative terms like special operations. The unease surrounding the “return” of war to the heart of Europe after seven decades is distinct from the sentiments associated with earlier wars on the continent, predating 2022. It is important to note that the claim of no war in Europe for seventy years is inaccurate, as the conflict had already resurfaced in the 1990s in Yugoslavia. Moreover, European states had actively participated in various wars within the Atlantic Alliance since 1992, challenging the optimistic outlook of globalization and the “new world order” proclaimed by George Bush in 1991. These involvements in conflicts include the Gulf War, wars in the former Yugoslavia, wars on terror in Afghanistan and Iraq (except for France and Germany), initiated by the jihadist attack on the Twin Towers in New York on September 11, 2001, as well as interventions

in Syria and Libya. Despite being labelled as “special operations” in the last decades of the previous century, these conflicts were generally perceived as necessary and just wars with a noble cause. Consequently, it is now imperative to apply the principles of the Just War Theory to a conflict that, in the eyes of the Western world, is deemed unjustified and illegitimate. This moment calls for a thorough analysis of the military special operation, as termed by Vladimir Putin, employing the same criteria used to evaluate wars conducted by Western forces, such as the United States or the Atlantic Alliance itself.

Nonetheless, despite the use of armed intervention would in principle be precluded by the Charter of the United Nations, as well as by general international law, it remains among the main modalities adopted for the resolution of international disputes. Indeed, “for good reasons and bad, intervention in its diverse contemporary forms is one of the leading political issues of the age” (Holliday, 2003, p. 115).

The consequence of this significance ascribed to war; the latter may be less recognizable as such. Indeed, this approach allows new conflicts to be easily assimilated by Western societies causing almost no disruptions and repercussions. Thus, as Girgenti (2017) pointed out, since human rights universality entered the debate in the 90s, Western wars have not been conceptualized or presented to the public as wars but were rather framed as *international police actions*. Cassese (1999) also acknowledges how states in contemporary conflicts tend to speak only of police operations and military actions as self-defence, circumventing any accusation of initiating a war in violation of the UN Charter. Police intervention is always presented as an intervention aimed at restoring the violated human rights, democracy, and the free market, in other words, aimed at restoring the global justice that has been overturned.

So, despite the prohibition of war outlined in the UN Charter and in the Nürnberg trials, there has been a revival of the Just War Theory.

#### **1.4 The principles of Just War Theory**

In the previous paragraphs discussions concerning the theory of Just War included the use of some terminology that prompts more in-depth examination. Specifically, the focus is directed towards the exploration of the three foundational principles intrinsic to this theory, each governing various facets of warfare. These principles, identified as *jus ad bellum*, *jus in bello*, and *jus post bellum*, pertain respectively to the justifiability of going to war, such as in self-defence or humanitarian intervention; the ethical conduct



during war, encompassing the prohibition of harming non-combatants; and the post-war justice, delineating the appropriate behaviour that occupying forces must adopt following the cessation of hostilities. All these principles serve to limit the suffering caused by war.

Holliday (2003) contributes to the literature by exploring the contribution of Just War Theory to the contemporary ethics of intervention, providing an evaluation framework to engage in humanitarian interventions, missions or war, whatever term one wants to refer to the use of force in international relations. In other words, his work is focused on the *jus ad bellum* principle. The latter aims at delineating when an intervention is justified, setting the parameters and terms of engagement. According to the author, and a large consensus of the literature in general, the *jus ad bellum* has seven constituent parts: just cause, right intention, legitimate authority, formal declaration of war, reasonable hope of success, last resort, and proportionality regarding war aims. Considering that with the foundation of the United Nations and international law, formal declaration of war went into disuse in contemporary warfare, the possibility of declaring war legitimately has been limited. Consequently, this condition became inapplicable and therefore the judgment of fairness should not be based on this. The main problem in the individuation of the just cause, as already underlined in the previous paragraphs, is that the Just War Theory relies on the virtue of justice and the only way to demonstrate its lack, and the reasons to achieve it back is the demonstration of an injustice. This allows to extend the reasons for war beyond the right of self-defence. Thus, a just cause is legitimated both by the presence of an injustice and, of course, the need for self-defence from unjust attacks.

Delving into the realm of just cause, the meticulous examination of each of the six conditions necessitates a commitment to logical reasoning within the broader context of decision-making processes aimed at comprehending the ethical dimensions of what is deemed just or unjust. Therefore, Holliday proposed a threefold ethical evaluation to establish when military intervention is justified. This evaluative approach encompasses the identification of a problem, the formulation and presentation of a solution, and a comprehensive risk assessment.

The initial phase of this evaluative process entails the recognition of a state of intractable injustice that compels intervention, including diplomatic channels among other means. Intractable injustice, in this context, denotes an unjust scenario that resists restoration within the confines of the target state. The injustice, to be considered as such, must not

only be demonstrable through compelling documentary evidence but it must be proved that less invasive means to address the issue have been meticulously tested and proven ineffective. Consequently, proceeding to the second phase of the evaluation, the proposed solution unfolds as a responsible intervention held by the appropriate authorities and guided by the right intentions. Nowadays, this step requires to be backed also by a UN Security Council's mandate that allows for some invasive actions for humanitarian purposes. However, there are some examples, like the ones put forward in this thesis, Iraq (2003) and Ukraine (2022), that lack these conditions. However, the determination of the right intention, as discussed previously, remains a challenging endeavor that demands a meticulous case-by-case assessment. It is true though that nowadays is easier to advocate a just cause when arguments on human rights protection and freedom promotion are being called into question, claiming to ameliorate an unjust condition. The concluding stage of this evaluative procedure entails a thorough examination of the potential risks and advantages associated with an intervention. It is advisable to initiate an intervention solely when there is a tangible expectation of success and a strong assurance that the resulting consequences will not lean toward causing more harm than good. This latter condition is closely connected to the post-intervention principle known as *jus post bellum*. Moreover, the intervention must be carefully adjusted to prevent disproportionality to its declared objectives and should vigilantly avoid unintended counterproductive outcomes.

The criteria delineated by the *jus in bello* give rise to intricate moral and legal dilemmas within the context of contemporary warfare. The predominant application of the principle governing the conduct of war often results in the discriminatory treatment of an unjust adversary. This differential treatment, in effect, confers legitimacy upon the party fighting in the name of law, justice, or humanity, absolving it of the same constraints imposed upon the opposing party. Moreover, transcending the theoretical realm of just war, soldiers engaged in traditional conflicts were intricately bound by moral imperatives dictating the conduct of hostilities. This framework unequivocally prohibited the infliction of harm upon non-combatants. However, the practical implementation of these moral precepts encountered impediments for various reasons. Notably, the invocation of the state of necessity became a rationale for actions that deviated from the norms of *jus in bello* but were deemed indispensable for achieving victory. Alternatively, the principle of double effect was invoked to justify actions that strayed beyond the bounds of

permissible conduct, especially when there existed a potential for civilian involvement even in the legitimate pursuit of military objectives. In the contemporary era, the technological evolution of warfare has facilitated a more precise differentiation between military and civilian sites, likely rendering *jus in bello* nearly obsolete. However, this transformation proved to be wrong, especially after the influence of the Global War on Terror. Notably, instances have underscored that any suspicion, no matter how weak, that a terrorist group has hidden part of its material within a populated area is deemed sufficient justification for aerial bombardment, classifying it as a legitimate military target. Consequently, the resultant damages and casualties are often summarily dismissed as collateral damage, thereby challenging the foundational principles of *jus in bello* (Girgenti, 2017).

The final principle within the Just War Theory stands out as an innovation, having been integrated only recently. The principle of *jus post bellum* compels parties involved in conflicts to extend their considerations beyond the immediate wartime phase. In numerous instances of contemporary conflicts, be they framed as humanitarian interventions, international police operations, or freedom operations, there has been a notable oversight regarding the potential aftermath of the conflict. This oversight has resulted in devastated territories and vulnerable populations.

Consequently, it arises a dual imperative: the formulation of a comprehensive strategic plan for post-conflict reconstruction, offering a justification for the intervention itself, and the fostering of an ethical framework for reconstruction. This ethical framework must encompass essential concepts such as self-determination, popular legitimization, and civil rights. A fundamental part of the reconstruction phase is the establishment of a robust state authority, the legitimacy of which should emanate primarily from the will of the people rather than being imposed by external powers. Without this legitimacy, the realization of a genuinely peaceful territory remains elusive, potentially paving the way for renewed hostilities.

The failure to adhere to the principle of *jus post bellum* carries profound consequences, easily transforming a just war into an unjust one. This transformation results in outcomes contrary to the intended objectives, including the distortion of power dynamics and the upset of the global balance. In essence, a disregard for the *post bellum* principle not only jeopardizes the immediate reconstruction efforts but also undermines

the very essence of a just war, fostering conditions that may lead to the resurgence of conflict.

All factors considered, any war could be considered *just* when its primary objective is the establishment of lasting peace and the reaffirmation of justice. However, constructive criticism can be moved against it, especially when one considers the inherent nature of war itself. In fact, irrespective of any evaluations and adherence to principles, war remains a violent phenomenon. As such, it stands as a traumatic event that undermines peaceful relations between nations and poses a profound threat to all human existence. Therefore, bearing all this in mind, the ethical complexity of defining a war as *just* for its pursuit of peace and justice becomes even sharper when the harsh reality of conflicts is observed.

## **CHAPTER 2: TWO INVASIONS COMPARED: SIMILARITIES AND DIFFERENCES**

### **2.1 Fears and Promises**

On September 11, 2001, al Qaeda terrorist attacks on the United States marked the beginning of a new era in the international relations field. In particular, it led to the emergence of new security challenges and the reevaluation of traditional approaches to diplomacy and warfare. At the centre of this transformation was the Bush administration's foreign policy doctrine, which aimed to reshape global dynamics. In fact, on the same day of the attacks, the then-American president condemned the attacks referring to them as “acts of terror” in the first place, and “acts of war” in a second moment. The fact that the US were in the crosshair of a terrorist cell gave space to the growing sense of fear. A fear both for the security of all American citizens – or Western citizens more generally - but also fear of losing the role of global supremacy.

This fear led to the rise of the Bush Doctrine, which would be applied for the first time in history in 2003. Therefore, the Iraq war is remembered, not only for its drastic consequences but also for the salience of a new American security strategy. On September 20<sup>th</sup>, President Bush in a statement declared the beginning of the “war on terror” not only against Afghanistan but also against all those nations where there was a dictatorship because considered to be more likely to host terrorist networks. (Address to a joint session of Congress, President G. W. Bush, 20 September 2001).

Alongside the purpose of persecuting those who caused terror in the West, the United States has sought to disseminate the values of democracy, freedom, and free enterprise to make the world safer and better. Contemplating this assertion critically, one may inquire: better for whom? When the United States engaged in military actions in Iraq and other Middle Eastern countries, was it driven by a desire to export its vision of democracy, to empower the people of the besieged state, or was it fundamentally incapable of curbing its own fears and ambitions? In attempting to find an answer to such a profound question, it becomes evident that throughout history, the fear of being attacked, both through soft power and hard power means, has often been intertwined with the illusion and promise of spreading the Western idea of democracy and empowerment of the people. However, it is also true that many wars justified by the ambition to export

this principle have primarily been dictated by the fear of losing the position of global power.

In 2014, about a decade after the Anglo-American invasion of Iraq, we found ourselves once again using terms like invasion and war, but with a tendency to associate them with an even more negative connotation. Let me explain further: while the use of force by the United States was justified as a global effort to eliminate terrorist organizations threatening global stability and security, the justifications for Putin's invasion of Ukraine, from a Western point of view, do not hold the same weight. However, it is also true that President Putin, with an ambitious Moscow-centric doctrine to create a network of Russian compatriots in the Eurasia area, expressed similar concerns to those voiced in 2003 by his American counterpart. The Russian President, in various addresses to the nation and the UN, has frequently expressed resentment towards NATO's eastward expansion, fearing the loss of his sphere of influence, which, according to agreements between NATO and Russia, seems to have been established as inviolable.

Moreover, in 2013, following the Ukrainian revolution that brought a pro-Western government to power for the second time in history, President Putin believed that the United States and the European Union played a role, viewing the elections as more of a Western-backed *coup*. Considering that the Russian World doctrine, carefully devised in recent decades, has created a loyal community tied to the historical homeland of neighboring populations, separatist forces in southeastern Ukraine expressed the desire for autonomy and alignment with Russia in the same year as the revolution. In the subsequent years, the use of force in these regions did not diminish. With the pretext of an alleged genocide in the Donbas region and continued interference by Western forces in Ukrainian-Russian affairs, Moscow invaded Ukraine on February 24, 2022. Like President Bush in 2003, President Putin invoked the rights established by the United Nations Charter to invade another sovereign state.

Although we are discussing two wars with little in common, similarities in the justifications that allow for comparison can be discerned. What is certain is that in both cases, the fear of the different and the Other, and the inability to coexist with those who see the world differently, came into play. With different promises of liberation, democracy, and the protection of human rights, both the United States and Russia,

allowed their fears to override international law and militarily intervene in sovereign states, leaving behind death and destruction.

## **2.2 The Bush Doctrine and the promise of democracy**

The Bush administration has been one of the most controversial in the field of international relations, especially for the strategy adopted to face what we identify now as a threat to security. However, the entity of this security threat was unknown at the time, indeed no Western countries had yet to tackle the consequences of that situation. Therefore, the new landscape, brought about by the terrorist attack on the World Trade Centre and the Pentagon, needed the adoption of a new approach in terms of defence and foreign policies. As previously anticipated, foreign affairs' principles and goals identified by the American administration following 9/11 are all grouped under the term *Bush doctrine*. During G.W. Bush era, America started its path towards the war on terror through the use of several means ranging from diplomacy to the vicious use of force.

Even if, after the Second World War, the use of force was no longer contemplated to be a means to guarantee peace and stability, in 2002 President Bush stated that “new threats also require new thinking” (President G.W. Bush, West Point, 1 June 2002). Accordingly, he introduced the administration's new approach for the first time just a few hours after the 2001 terrorist attacks, declaring that his administration would have considered as a threat to his country's security both those responsible for the attacks and all the States that would have offered asylum and support to those involved. This was confirmed a few days after in his speech before Congress on 20th September 2001:

*“We will pursue nations that provide aid or safe haven to terrorism; every nation, in every region, now has a decision to make. Either you are with us or you are with the terrorists. From this day forwards, any nation that continues to harbour or support terrorism will be regarded by the US as a hostile regime”* (Address to a joint session of Congress, President G. W. Bush, 20 September 2001)

It can be understood from these words spoken by the President that he left the other countries no space for neutrality: *either you are with us, or you are with the terrorists*. Furthermore, as Noam Chomsky argues (2004), it is fathomable that with this declaration the United States intended to exacerbate its dominant role in the world by using all

possible means, including the use of force when necessary. Bush's statement was then followed by a series of actions aimed at implementing the new doctrine (2004).

The Bush doctrine comprised four key components: a firm conviction in the significance of a nation's domestic system in shaping its foreign relations; a recognition of substantial threats that can only be vanquished through proactive measures, with preventive war being a prominent option; a readiness to act independently when circumstances demand it; and an overarching belief that maintaining peace and stability requires the United States asserting its dominance in global politics (Jervis, 2003). The conviction that domestic policy significantly impacts the political stance adopted in the realm of foreign affairs, a viewpoint aligned with Samuel Huntington's (1997) perspective, provides a rationale for positing that a dictator, who perpetrates injustices against their own populace, is more inclined to flout international agreements, employ coercive measures against neighboring regions, thereby precipitating security concerns and heightening apprehension. Hence, the Bush administration contended that effecting a regime change in those countries governed by tyrants, with an orientation toward Western values, was imperative even if these countries had not attacked the U.S. Nonetheless, while acknowledging the influence of a state's domestic policy on its foreign policy, the political analyst contends that the imposition of Western values upon other societies only heightens the likelihood of entanglement in conflicts, thereby yielding outcomes contrary to those intended.

The fact that the Bush administration considered being justifiable to act against these countries just based on the perception of threat is associated with the so-called principle of preemption, which was first introduced by President Bush in January 2002, during the State of the Union, when he claimed that "[...] we must *prevent* the terrorists and regimes who seek chemical, biological or nuclear weapons from threatening the United States and the world..." (President G. W. Bush first state of the Union address, 29 January 2002, emphasis added). Following these statements, 2001 and 2002, the American administration initiated the "war on terror" against the Taliban's regime in Afghanistan and the counter-terrorism policies against all the Al-Qaida training camps in Pakistan, the Philippines, the Horn of Africa and in Trans-Sahara (Cucurachi, 2009).

The principle of anticipatory self-defense became central to the whole Bush doctrine, also called pre-emptive use of force, and was incorporated in the National



Security Strategy (NSS) in September 2002. The strategy differed from the tactics adopted during the Cold War, namely the ones of containment and deterrence. However, the American President's administration believed that *any* actions taken against an enemy would have a deterrent effect on other hostile states. However, history tells us otherwise. In other words, the principle posited that the United States had the right to take military action against emerging threats before they could materialize. This marked a departure from traditional international norms that emphasized the use of force as a last resort (Görener, 2004).

Another speech President Bush delivered during the graduation ceremony in West Point (2002) outlined the new challenges and threats to peace and security faced by the U.S. in the post-9/11 world. President Bush identified a danger in the intersection of radicalism and technology, particularly the proliferation of chemical, biological, and nuclear weapons, and ballistic missile technology. He warned that even weak states and small groups could gain the capability to cause harm to great nations, and to face it the traditional Cold War defence would not work. On the contrary, new threats require new thinking, thus deterrence would be ineffective against terrorist networks and containment is impossible when dictators with weapons of mass destruction can support terrorist allies. In his speech, Bush rejected the idea of relying on hope and the word of tyrants, rather he emphasized the need for proactive actions against those nations that support aggression and terrorism. Indeed, the document of the new national security strategy introduced by Bush says that "given the goals of rogue states and terrorists, the US can no longer solely rely on a reactive posture as we have in the past... we cannot let our enemies strike first. As a matter of common sense and self-defence, America will act against such emerging threats before they are fully formed" (White House, 2002, p. 14). Moreover, President Bush underscored the moral purpose behind the war on terror, namely the American commitment to protect its own safety and global peace from terrorists and tyrants, arguing, additionally, that moral thrust is universal and there could be no neutrality between justice and cruelty, between good and evil (Bush G. W., 2002). In his graduation speech, Bush explained what the new strategic doctrine of preemption, abandoning the Cold War strategies of containment and deterrence, entailed. Consequently, the Bush administration embraced a multifaceted approach, aimed not only at countering terrorism but also at preempting the emergence of new challenges to American hegemony. To

achieve both objectives, the United States needed to ensure its security apparatus while simultaneously bolstering its offensive capabilities (Heajeong, 2003).

After the terrorist attacks, the Bush administration contended that the USA had legal rights to use force to exercise its right to self-defence, a right that is enshrined in the UN Charter under Article 51, which states that all Members of the UN have “the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security” (Charter of the United Nations, 1945). Allegedly, the United States had the right to attack any nation considered to be a threat to American national security pre-emptively. This assumption led to the draft of the new phase in US foreign policy formalized in a document entitled *The National Security Strategy of the United States of America* in which military pre-emption and superiority are heavily emphasized. However, it is important to underscore that the Charter’s article uses the words “if an armed attack occurs” which precludes any right to preemptive self-defence. It is no coincidence, then, that the document fails to mention Article 51. In fact, the National Security Strategy document implicitly addresses the right of preemptive actions as it was intended before the issue of the UN Charter in 1945. Namely, the “necessity of self-defence, instant, overwhelming, leaving no choice of means, and no moment of deliberation” (U.S secretary of State Daniel Webster, 1842). This urgent need for self-defence stems also from a growing sense of threat posed by new elements. Indeed, a careful reading of the document allows us to glean that terrorist attacks were not the only concern. In fact, the fear of other states’ possession of chemical weapons is unequivocal. President’s Bush administration acknowledged the emergence of a small number of rogue states that owned and acquired nuclear weapons and biological agents posing a significant threat to all nations. Moreover, the doctrine does not explain how to deal with actual and potential issues like owning weapons or when to attack first. Instead of focusing on these important issues, the Bush administration only looked at what they thought threats were (Gupta, 2008).

Alongside the self-defense and pre-emption goals, the democracy issue was another feature central to the new foreign policy strategy. Thus, the Bush administration turned the spread of democracy and freedom promotion to a means to foster global stability and justify any action taken to achieve such an objective. In President’s Bush

view, by promoting democratic governance, the world could deter potential aggressors and prevent the emergence of havens for terrorists. Hence, it is the lack of political freedom in countries of the Middle East, and elsewhere, that facilitates the emergence of extremism and anti-western terrorism. Therefore, the spread of democracy in those places is aimed at cutting the roots of terrorism and the new threats. With this purpose in mind, the Bush administration “has made the Middle East the front line of its freedom agenda reflecting the close tie it draws between the war on terrorism and democracy promotion” (Carothers, 2007, p. 4). Anyway, the spread of the values of freedom and democracy has not been specifically introduced by President Bush and his team, but it is rather a purpose that has been entangled in American foreign policy since longer. Indeed, as Carothers clarifies in his work (2007) “it is a continuation of a pattern of modest, quiet support for democracy (often overridden or neutralized by other policy priorities) that emerged in the early 1980s and has been followed by every administration ever since, gradually being institutionalized into the U.S foreign policy and foreign aid bureaucracies over time” (p.10) Nonetheless, the Bush administration has engaged on the issue of democracy promotion in the Middle East more than any previous U.S administration.

Eventually, to tackle the sense of fear, in 2002 the Bush administration directed a significant portion of its resources towards what he referred to as the “axis of evil”, which included North Korea, Iran, and Iraq. The President in his State of the Union in 2002 highlighted the perceived threat from these countries, including Iraq and discussing the possibility of fostering a regime change in Baghdad. Their rationale was based both on the allegations of these countries were sponsoring terrorism and pursuing the development of weapons of mass destruction. By characterizing this threat as malevolent, uncivilized, and akin to fascism, the Bush Doctrine injected moral justification into all military endeavors in the Middle East following the aftermath of 9/11, providing a moral imperative for the use of force (Heajeong, 2003).

Thus, in the *National Security Strategy of the United States of America* document, it is reported that those states “brutalize their own people and squander their national resources for the personal gain of the rulers; display no regard for international law, threaten their neighbours, and callously violate international treaties to which they are party; are determined to acquire weapons of mass destruction, along with other advanced military technology, to be used as threats or offensively to achieve the aggressive designs

of these regimes; sponsor terrorism around the globe; and reject basic human values and hate the United States and everything for which it stands” (White House, 2002). Based on this premise, any action taken against these States can be moralized and considered as fair, or even necessary. Such necessity is explained later in the document, when it is claimed that the United States must be prepared to stop these states and their terrorists before they take action against the US and its allies, justifying this approach by stating that the nature of this new threat does not allow any other traditional approach adopted in the past, because it would leave them the space to strike first (*Ibid*).

Taliban’s Afghanistan and Saddam Hussein’s Iraq have been the first concrete attempts to put in place what George W. Bush has incorporated in his foreign policy doctrine. It is evident so far that the U.S. has maintained a foreign policy intervention since the end of the Second World War. Indeed, the U.S had intervened to push for a regime change in many countries starting from Syria in 1948. The interventionist policy approach was adopted even more during the Cold War, which provided an excellent justification for American intervention since the Soviet Union was threatening democracy and freedom around its sphere of influence. One of the most contentious manifestations of this foreign policy approach materialized in the form of the 2003 invasion of Iraq, a decision that ignited heated discussions and heightened global tensions because the U.S. acted unilaterally and ignored international rules imposed by the United Nations. The invasion of Iraq demonstrated that the Bush Doctrine was intended very seriously, indeed it was set to be executed also without a legitimate justification and any international authorization, demonstrating that the course of action would have been chosen at the discretion of only those in control” (Chomsky, 2004, p. 16). Such intentions showed that Washington was willing to act regardless of other nations’ interests and international law.

Before analyzing any further the actions taken against Iraq, it is significant to mention that pre-emptive wars were not new in international politics. On the contrary, there have been numerous instances in international history. In the case of the United States, we witness to several pre-emptive strikes, for example, the 4<sup>th</sup> American President, James Madison, used the pre-emptive strategy in the 1812 war in Spanish Florida. Another significant instance took place in 1898 when the US attacked the Philippines during the Spanish-American war, but also during the Cold War the US overthrew regimes, such as Guatemala and Iran, because it contended that they were facilitating the spread of Soviet

power and influence. Also, the US intervention in Vietnam had pre-emptive reasons, namely the US wanted to prevent the spread of communism in other Asian countries. However, not only the US engaged in pre-emptive wars, but also other nations like Israel in 1967, who launched a pre-emptive strike against Egypt and other Arab states to defend its national borders from an Arab invasion. In 1981 Israel attacked Iraq because the state's nuclear program posed a national security risk. These are only a few examples, but there are a lot more, however, all these strikes mentioned were perpetrated because an imminent threat was menacing the state. What is different in the Bush Doctrine is the absence of an imminent threat as a justification for attacking another state (Gupta, 2008).

The Bush Doctrine set a precedent by not clearly differentiating between justified pre-emptive strikes and illegal aggression. This lack of distinction might empower other nations to act against their adversaries. As a result, powerful countries could use this as a justification for taking action against states seen as a direct threat to their national security (Gupta, 2008). The US, through the adoption of the Bush Doctrine, has granted to itself the right to use force “whenever and wherever it believes the pre-emption of potential future threats warrant it while denying the same to others” (*Ibid*, p. 189).

### **2.2.1 *Jus ad bellum*: the preventive war in Iraq**

Iraq has long served as a testing ground for American foreign policy, alongside the Israeli-Palestinian issue. This is due to Iraq's strategic position in the Middle East region and its numerous elements of domestic instability.

Through the structure of the Ba'ath party, Saddam Hussein rose to the presidency in 1979. The country existed under autocratic leadership until 2003 when Hussein was deposed. Between 1979 and 2003, Iraq underwent multiple wars—the Iraq-Iran war 1980-1988 and the Gulf War in 1991 followed by a decade of economic sanctions and isolation.

Since the end of the Cold War, American administrations have grappled with the Iraqi question, adopting various approaches. George H. W. Bush, Bill Clinton, and then George W. Bush all held different views on how to intervene. The discussion regarding the true American interests in the region has been ongoing, with economic interests in energy resources being one key factor. However, Iraq posed a threat to the United States due to Saddam Hussein's tyrannical rule and his government's support for domestic and

international Islamic terrorism. Therefore, Saddam Hussein represented a destabilizing threat to the American order of the twenty-first century, prompting an American intervention, or at least that was what the American elite believed (Di Cecco, 2004).

As explained in the Bush Doctrine section, there are two distinct American foreign policy strategies: one pre-9/11 and the other post-9/11.

Prior 9/11, both George Bush Sr. and Bill Clinton employed an approach typical of the Cold War era, combining military operations and diplomatic compromises aimed at containing the Iraqi issue. However, before the outbreak of the first Gulf War in 1991 – in response to the Iraqi invasion of Kuwait for territory claims and on the ground of disputes on oil exportation - the United States maintained a relatively positive attitude towards Iraq. Starting with Ronald Reagan in the 1980s, America supported Saddam Hussein's regime, partly based on the principle that "the enemy of my enemy is my friend". American support for Iraq had its roots in a Cold War strategy: the United States aimed to diminish Soviet influence in the region while advancing its interests, also serving as a counterbalance to Iran (Indeed, the US supported Iraq and Hussein's decision even to the extent of defending the use of chemical weapons against Iran. For instance, the United States voted against the Security Council Resolution in 1986 that condemned Iraq's use of mustard gas against Iranian troops (*Ibid*).

Bush Sr. continued Reagan's approach by providing economic and financial assistance to Saddam Hussein's regime, hoping for a transformation into a more responsible and stable state in the long run. Moreover, in 1989, the White House's National Security Directive No. 26 stated that maintaining access to Persian Gulf oil required maintaining good relationships with key friendly states in the area. The document also noted that, if necessary to defend vital interests, the U.S. *could* use military force against the Soviet Union and other enemies. Additionally, it outlined the nature of the relationship with Iraq, expanding political and economic incentives to ensure greater influence on Baghdad. However, it also warned that economic and political sanctions would have been imposed if any illegal use of chemical and/or biological weapons would have been carried out, also seeking the support from other allies and friends. (White House, 1989, p. 2). When the Gulf War erupted in 1991, circumstances changed, and the U.S. had to intervene to restore Kuwait's sovereignty. With the consent of the UN, the US invaded Iraq along with a coalition. The UN Security Council Resolution 661 pursued

Iraqi evacuation from Kuwait and imposed a system of sanction for noncompliance to Baghdad. In any case, this American intervention was limited to liberating Kuwait and did not aim to overthrow Saddam Hussein's regime, as that would have conflicted with American vital interests.

Upon entering the White House, Bill Clinton criticized his predecessor's approach and, adopting a containment strategy, immediately imposed sanctions on the Iraqi regime and provided aid to opposing forces. President Clinton's desired outcome did not materialize; on the contrary, in 1995, Kurdish opposing forces attacked Saddam's military, resulting in a massacre of the Kurds. The United States did not militarily intervene, but this event marked the start of a new foreign policy tactic toward Iraq based on the belief that the U.S. could achieve its objectives through the use of soft power tools i.e. political pressure, diplomatic negotiations, trade agreements, and international cooperation. Only through such diplomatic means could the United States ensure stability and security in the region. Clinton's more diplomatic approach and reluctance to use force left space to the Iraqi dictator to violate the embargo imposed by the United Nations in 1991 and solidify his tyrannical role in the region (Di Cecco, 2004).

Then, everything changed. September eleventh. Terrorism. Death:

“On a September morning, threats that had gathered for years, in secret and far away, led to murder in our country on a massive scale. As a result, we must look at security in a new way, because our country is a battlefield in the first war of the 21<sup>st</sup> century. We learned a lesson: The dangers of our time must be confronted actively and forcefully before we see them again in our skies and in our cities. And we set a goal: we will not allow the triumph of hatred and violence in the affairs of men” (Bush G. W., 2003)

As President Bush emphasized in his speech in February, a growing sense of fear spread all over the United States and in the West. With the adoption of the new foreign policy strategy, President Bush Jr. announced the beginning of the war on terror “our war on terror begins with Al-Qaeda, but it does not end there. It will not end until every terrorist group of global reach has been found, stopped, and defeated” (Office of the Press Secretary, 2001).

When the attacks took place on September 11, President Bush, Wolfowitz, and other officials of the administration thought that Iraq was behind the attacks. This belief proved to be wrong, as Bush himself later revealed. However, the connection *9/11 attacks - Iraq* stuck for many. In fact, after the order to destroy al-Qaeda in Afghanistan, soon after the case against Iraq moved rapidly to the front burner.

Following the attacks, the United States government began his public campaign against terrorism, designating Iraq as part of the “axis of evil”. Broadly speaking, it can be argued that the events of 9/11 provided the U.S. with an opportunity to use military force and leverage the war on terror to establish pro-American governments in the affected region. President Bush Jr. framed the conflict as a choice for nations: either support terrorism or align with the U.S. in combating this menace. This approach created a binary narrative, portraying the conflict as a struggle between the forces of good, those siding with the U.S., and the forces of evil, all the other. Nevertheless, the U.S. government failed to identify and confront the true nature of the evil. Instead of focusing on dismantling Al-Qaeda and other terrorist networks, President Bush’s war on terror targeted entire sovereign states.

At that point, the countries in the Middle East began to be perceived as a threat and Iraq, a state with whom the previous administrations had established a relationship of tolerance, was no longer perceived as a single problem but rather as a direct source of threat to the U.S. A threat that had to be eliminated, or from the perspective of the Bush Jr. administration, liberated. The reason of this paranoid perception of threat finds its basis in the assumption that Saddam Hussein was “building and hiding weapons that could enable him to dominate the Middle East and intimidate the civilized world” (Bush G. W., 2003). Furthermore, Iraq not only had allegedly these weapons, but Hussein had also “close ties to terrorist organizations and could supply them with the terrible means to strike America” (*Ibid*).

It can be contended that the 2003 invasion was based on both official and unofficial reasons and goals. To better tackle them it is crucial to take into consideration critical elements that were present long before 9/11. Indeed, as already mentioned, in the 90s the United States initially sought a change in the regime in Baghdad, but this ambition faltered after the conclusion of the first Gulf War, leading them to opt for a containment



approach. In short, President Bush Sr. sanctioned a covert-action “finding” for the CIA to oust Saddam’s regime. Under Bill Clinton’s administration, no-fly zones were established in northern and southern Iraq to prevent Saddam’s aircraft from operating, safeguarding the Kurds and Shias. In October 1998, President Clinton endorsed the Iraq Liberation Act, allocating funds to the Iraqi opposition. Subsequently, he authorized a four-day bombing campaign targeting Iraqi WMD sites. Despite these various strategies, the Clinton administration never considered a full-scale invasion of Iraq. Upon entering office, George W. Bush initially directed the focus away from Iraq, with CIA threat briefings centered only on al-Qaeda. Despite the efforts by the CIA to highlight the threat posed by the terrorist group, the Administration remained relatively unresponsive. In contrast, the Pentagon, under the guidance of Deputy Secretary Paul Wolfowitz, had been contemplating military options against Saddam Hussein well in advance of the September 11 attacks. A strategy of phased pressure on Iraq emerged, incorporating an enhanced version of many measures previously employed by the preceding administration, such as sanctions, weapons inspections, and support for opposition forces. The adoption of these measures before the 9/11 attacks underscores a longstanding interest in targeting Baghdad (Gompert, Binnendijk, & Lin, 2014).

The American rationale for invasion has a multi-layered structure, in which at the base we can find the official reasons such as the sense of fear posed by an imminent national danger, the belief that Saddam owned WMDs and that he took part in funding Al-Qaeda. The other layers represent other secondary and unofficial reasons, respectively humanitarian intervention, and the desire to spread democracy in the Middle East and have the merits of leading to a domino effect.

“We seek peace. We strive for peace. And sometimes peace must be defended. A future lived at the mercy of terrible threats is no peace at all. If war is forced upon us, we will fight in a *just cause* and by just means - sparing, in every way we can, the innocent. And if war is forced upon us, we will fight with the full force and might of the United States military - and we will prevail” (State of the Union, 2002).

The fear against Saddam, however, was understandable as in the past the dictator proved to be a “ruthless villain”. Indeed, “he used chemical weapons against his own people and against Iranian troops in the 1980s. He invaded Kuwait and started a bloody war against Iran. He perpetually threatened Israel. He refused to implement at least ten UN Security Council resolutions aimed at ending his WMD programs and expelled weapons inspectors in 1998” (Gompert, Binnendijk, & Lin, 2014, p. 163). Adding to that, the sense of threat was enhanced when, after September 11, letters laced with anthrax began appearing in the U.S. mail. Five Americans were killed and 17 were sickened in what became the worst biological attacks in U.S. history. At first, intelligence reports indicated that it was Saddam’s move.

Considering that the al-Qaeda threat was at first underestimated and bypassed, in the aftermath of the attacks the CIA took any warning much more seriously and began to develop the WMD case against Saddam to identify his capabilities. This time the intelligence reports were given for certain. Taking all these into account, the invasion of Iraq has been a long-awaited opportunity, especially for the “prevailing sense of unfinished business with Saddam – namely, his removal – that needed closure” (Gompert, Binnendijk, & Lin, 2014, p. 164).

Hence, the imminent threat posed by the al-Qaeda attacks on New York, Washington and Pennsylvania has provided the main reason for initiating the Global War on Terror. This also entailed a change in the modalities to tackle the issue: terrorism was not targeted through law enforcement means but through military force warranting aggressive counterattack. This was especially true for practical reasons: it was believed that at that point also non-state actors and terrorist state sponsor groups had the possibility of, above all, the willingness to employ mass destruction weapons. In a sense, the world realized that the States were no longer the sole actors to have the monopoly on declaring war. From this point of view, it is reasonable that a state uses war power against such an organization to defend its values and citizens. However, the Bush administration went beyond its obligation of defending the nation when the 43<sup>rd</sup> president of the United States declared war not on the single organisations that perpetrated the 9/11 attacks, but rather stated that he was willing to initiate war against all those suspected of approving and supporting combat terrorist organisations. Among these, in the 2002 speech, he stated that “Iraq continues to flaunt its hostility toward America and to support terror” and

accordingly the US would identify the Middle East's State as a sponsor of terrorism and therefore a central target in the War of Terror. In the State of the Union, Washington specifically stated that "evidence from intelligence sources, secret communications, and statements by people reveal that Saddam Hussein aids and protects terrorists, including members of al-Qaeda" (State of the Union, 2002). Accordingly, the Bush Administration adopted a powerful narrative to stress the presumed collaboration between Iraq and Al-Qaeda. Also days before the invasion the Vice President Cheney continued to highlight this link, as he stated on March 16 that "we know that [Saddam] has a long-standing relationship with various terrorist groups, including the al-Qaeda organisations" (Adams, 2010). Also after the invasion of Iraq, the US administration's stance was confirmed and strengthened by the contribution of international security professionals and scholars. For instance, the researcher of the Institute for National Strategic Studies (INSS), Judith S. Yaphe, stated that Baghdad actively endorsed terrorist groups, offering them a safe haven, training, arms, and logistical support. In return, these groups were obligated to execute operations directed by Baghdad in alignment with Saddam's objectives.

Despite the opinions within the US intelligence community, there have also been a multitude of reports that found no verified links between Saddam Hussein and al-Qaeda terroristic organisations. Therefore, the link proposed by the Bush administration and the intelligence was rather a desire to have some elements to justify the invasion.

"If Saddam Hussein does not fully disarm, for the safety of our people and for the peace of the world, we will lead a coalition to disarm him" (State of the Union, 2002).

The second main premise for the war was that Saddam had WMDs, representing the risk of these falling into the hands of other terrorists. According to the President, the terrorist organisations were willing to cause as much death and destruction as possible careless of hurting civilians, too. During the State of the Union 2002, President Bush made a parallelism with the North Korean regime – a state part of the axis of evils – namely referring to its nuclear ambitions. In the administration view, Saddam twelve years earlier "agreed to disarm of all weapons of mass destruction. [...] He systematically violated that agreement. He pursued chemical, biological, and nuclear weapons, even while inspectors

were in his country nothing to date has restrained him from his pursuit of these weapons - not economic sanctions, not isolation from the civilized world, not even cruise missile strikes on his military facilities” (State of the Union, 2002).

Intelligence shaped a case for Saddam’s possession of WMDs that appeared strong enough to direct the decision-making process against containment strategies. The Pentagon set up an intelligence unite, the Counter Terrorism Evaluation Group, to produce and identify proofs to justify an intervention. However, some of the intelligence was produced by Chalabi, an Iraqi opposition politician, who in his turn had other reasons to encourage the overthrowing of Saddam’s regime. Moreover, what led the Pentagon’s analysts to believe in the possession of WMDs was the fact that the United Nations Security Council’s Resolution 687 imposed on Iraq the destruction of any stockpile of WMD and all the means to produce it. To be sure of Iraqi compliance to the Council’s indication inspections were required. However, these inspections were consistently hampered until November 8<sup>th</sup>, 2002, another UN resolution, number 1441, was enforced giving Iraq one more chance to comply. even though at the end of the day Iraq destroyed all its WMD equipment. This time inspectors entered the country without facing particular problems and they did not find any WMD. Despite the result, the US insisted that Saddam Hussein was hiding them along with an ongoing program to manufacture them. Indeed, CIA analysts prepared a *National Intelligence Estimate* (NIE) concluding and confirming that Iraq possessed chemical and biological weapons and that was bound to reconstitute its nuclear programs. However, no ties between Saddam and Al-Qaeda were found. The NIE report confirmed the contents of the dossier that the British allies drafted in the same period. President Bush used this intelligence to convince Congress to authorize him to start war with Iraq, as he considered that the NIE results were more accurate than the UN Security Council’s case that Saddam destroyed all WDMs (Pfiffner, 2007).

Between 2001 and the actual invasion of Iraq the press and media portrayed Iraq and Saddam as enemies to be fought, contributing to the population’s comprehension of a just cause and its approval of entering war to revenge 9/11.

“Mr. Hussein is a serial violator of both international law and Security Council resolutions” (New York Times, 2003)

“To free the Iraqi people from the sadistic repression of Saddam Hussein. [...] Saddam Hussein, [who] is guilty of some of the most terrible war crimes and human rights violations of the past 50 years. He has tortured, gassed, and slaughtered his people” (Washington Post, 2003)

Going back to the multilayer structure of the justifications for the invasion, among other reasons there is the humanitarian one. Despite, the humanitarian rationale was occasionally offered for the war, it played a secondary role compared to other reasons. The United States-led coalition forces framed the Iraq invasion as part of a broader effort to promote democracy and regional stability and aspired to create a domino effect, namely, to inspire other authoritarian states in the Middle East to embrace democratic reforms and foster a more peaceful and secure region. According to a Human Rights Watch (HRW) report, although war frequently entails significant human costs, there is the necessity to stop or prevent genocides or slaughters, which sometimes also justifies the use of military force. In fact, the new Just War Theory mainly relies on humanitarian purposes. However, despite Saddam Hussein being a ruthless leader, HRW judged the US humanitarian intervention as unjust. First of all, humanitarian intervention was not acceptable because it represented an inconsistency with previous measures adopted in the 1980s and early 1990s. Indeed, as previously noted, during the 1980s, the Iraqi government deployed chemical weapons against Iranian forces. However, instead of intervening to safeguard Iranian targets, the Reagan administration supplied intelligence information. Similarly, in the aftermath of the Anfal campaign and the Kurdish genocide in 1988, both the Reagan and first Bush administrations extended billions of dollars in commodity credits and import loan guarantees to Baghdad. In each instance, the priority for the American administration was to prioritize the defeat of Iran and counteract Iranian influence in the region over the objective of discouraging and preventing large-scale slaughter. Notwithstanding, the inconsistencies observed in past administrations, Human Rights Watch maintained that during the invasion, Saddam Hussein’s killings had ebbed, and the scale of violence was significantly less compared to the extensive killings in preceding years. Additionally, the imperative to protect human rights should have encompassed both preventive and reactive measures. However, during the second Iraqi war, there was no indication of large-scale slaughter being planned or imminent. Prior to

the conflict, no credible assertions were made that the Saddam Hussein government was actively plotting mass killings, and no evidence supporting such claims emerged. Furthermore, the organization rightly emphasized that humanitarian intervention should have primarily aimed to stop mass murder rather than to punish its perpetrator, a goal that the United States ostensibly sought (Roth, 2004).

Restoring violated human rights is also part of the Bush Doctrine which regards it as an American supposed duty and as such it includes the duty of helping Iraqis and others to realize their democratic destiny (Kesler, 2005).

“Securing democracy in Iraq is the work of many hands. American and coalition forces are sacrificing for the peace of Iraq and for the security of free nations. Aid workers from many countries are facing danger to help the Iraqi people. The National Endowment for Democracy is promoting women’s rights, and training Iraqi journalists, and teaching the skills of political participation. Iraqis, themselves - police and borders guards and local officials - are joining in the work and they are sharing in the sacrifice” (White House, 2003)

As argued by Heinrich (2015), another reason for declaring war can be associated with an intended effect that the US hoped to achieve, namely the domino effect. To comprehend this reason better, it is necessary to consider the broader context. Firstly, the Bush Doctrine places at its core the objective of democratizing totalitarian, authoritarian, and tribal societies by reconstructing them along democratic lines. Additionally, portraying Iraq’s government as an enemy to democracies and peace that needed to be toppled would have also provide an opportunity to deter others, with the hope of initiating a domino effect in the Middle East region. The Bush Administration aimed to witness the fall of one hostile regime after another, marking the victory of the War on Terror. Toppling Saddam Hussein would have created an open space in the government to establish a puppet state devoted to the US.

This aspiration, however, was not novel in the American narrative; instead, it derived from Wilsonianism and Manifest Destiny, asserting that the U.S. is a liberating force seeking to free Middle Eastern nations from the brutality of their own traditions and

oppressors. The vision was that once Iraq would have become a flourishing democracy, benefiting from oil revenues and reconstruction, it would have served as an example for other states, sparking a wave of insurgency inspired by Iraq's success. Consequently, even other rogue states in the region would not view the United States negatively. This would position the US to control the region and benefit from its rich natural resources. All of this was envisioned to culminate in a stable, peaceful, and secure region where the United States would emerge as the sole victor, enhancing the security of its Middle Eastern ally, Israel, and ensuring its uninterrupted global access to oil reserves. Access to the latter could also be seen as an underlying reason for resorting to war.

With all these premises and available evidence, on October 16, 2002, the US Congress sanctioned a joint Resolution authorizing the President to deploy the United States Armed Forces to defend the nation against the threat posed by Iraq. The resolution passed with 296 positive votes in the House and 77 in the Senate. All the Republicans but one voted in favor and most of the Democrats did. Therefore, the decision was bipartisan (Gompert, Binnendijk, & Lin, 2014). This decision was rooted in the belief that Iraq possessed "stockpiles of chemical weapons, a large-scale biological weapons program, and an advanced nuclear weapon development program on the brink of producing a nuclear weapon" (2002). These factors were deemed to constitute a "continuing threat to the national security of the United States and international peace and security in the Persian Gulf region". Consequently, in Section 3(a), Congress evaluated that the President was empowered to employ force when deemed necessary and suitable to safeguard national security. Nevertheless, the President's discerning choice to resort to force should be of last resort, specifically when diplomatic and other peaceful measures prove inadequate in ensuring the country's national security and compliance with resolutions of the UN Security Council is unlikely.

On March 19, 2003, the President addressed his Nation declaring war against Iraq:

"My fellow citizens, at this hour, American and coalition forces are in the early stages of military operations to disarm Iraq, to free its people and to defend the world from grave danger. On my orders, coalition forces have begun striking selected targets of military importance to undermine

Saddam Hussein's ability to wage war. These are opening stages of what will be a broad and concerted campaign. More than 35 countries are giving crucial support - from the use of naval and air bases, to help with intelligence and logistics, to the deployment of combat units. Every nation in this coalition has chosen to bear the duty and share the honor of serving in our common defense." (Bush G. W., Operation Iraqi Freedom, 2003).

The US invaded Iraq under the pretext of uncovering Iraq's Weapons of Mass Destruction (WMDs), making Saddam Hussein's Nation comply with UN resolutions and saving Iraqis from the tyranny of the dictator. Therefore, the Bush Jr. Administration defined its interventions in Iraq as a democratizing mission with the scope of doing good to Iraq, however, the security objectives played a major role. Indeed, the decision to invade Iraq in 2003 was arguably the most contentious and polarizing application of the Bush Doctrine. The administration justified the pre-emptive invasion framing it as a Just War conducted for just causes.

### **2.3 Putin's "Russian World" doctrine: foreign policy and accusations against the West**

The dissolution of the Soviet Union forced the new Russian Federation to rebuild its ideological identity, allowing the country to position itself as a major player in international relations, actively shaping global politics and the economy. Despite optimistic expectations for Russia's transition to democracy and a market economy at its foundation, under President Putin's leadership, the nation retained imperialistic perspectives, seeking to reclaim its position as a major global power. The recent invasion of Ukraine exemplifies Russia's response to perceived threats and a growing convergence with tsarist foreign policy.

Understanding the onset of the Ukrainian war requires insight into the Russian national background and the developments of foreign policy doctrines. Russian foreign policy is primarily shaped by the perceived threat of a Western expansion (NATO and EU) and the ambition to create a "Russian World", namely a distinct civilization that can in no way be integrated into the West.



During Russian history, tsars always justified wars and expansions in the name of security and modern leaders adapted their rhetoric to the same idea. In particular, President Putin's foreign policy's characteristics and style reflect a combination of nostalgia for the Soviets and Tsarist Imperial Russia, which can be confirmed by the fact that security discourses are largely framed mirroring past ideas of greatness and specific references to the Russian tsarist imperialist past (Calis & Tinker, 2022). Indeed, the Russian President never misses a chance to emphasize the Russian status as a great power and seeks recognition as such. He underscores Russia's ability to influence and determine the decisions of other states on the international stage, highlighting its objective of safeguarding its sphere of influence in the Eurasian region. To achieve these objectives, Russia pursues an active foreign policy strategy aiming to undermine transatlantic trust between the United States and Europe while simultaneously enhancing relations with China to counterbalance U.S. influence.

Between 1992 and 1996 the Russian Federation's President Yeltsin directed the nation toward a Westernized future, embracing principles such as freedom and promoting privatization of various assets. Yeltsin aimed at improving relations with the U.S. and EC. In so doing, he secured approval from Russian oligarchs seeking financial opportunities exploiting the wave of privatization and garnered support from Washington. The U.S. perceived Moscow as the Cold War's defeated party and as such Russia would have given up on its foreign policy ambitions, its sphere of influence, national interests, and geopolitics in general. The positive relationship manifested through substantial influxes of foreign capital and monetary loans from institutions like the World Bank and IMF, fostered increased interdependence between Russia and Western nations. In essence, the pro-Western policy of the Russian Federation rested on three key pillars: diplomatic relations with the United States, collaborative relations with NATO marked by a mutual desire for cooperation aspirations, and finally a good relationship with the then European Community. During the years following the Berlin Wall's collapse, the EC pursued a policy towards Central Eastern European countries that would have provided aid to Poland and Hungary first and expanded then to other post-Soviet nations. The Kremlin did not oppose it, on the contrary, it hoped for a common security strategy and held this favorable stance also when discussion of the European Union's enlargement started. The first phase of the Russian Federation's foreign policy, the most pro-Western until today,

did not cease either because of the enlargement of the EU or because of criticisms from Western countries on the first Chechen war, but due to the decision to enlarge NATO towards the East. Such a decision aroused harsh criticism in Russian public opinion and in the government (Dundovich, 2019).

Although the then-new Russia Federation initially embraced a cooperative approach in the 1990s, promoting liberal democratic changes internally and fostering positive ties with NATO and the European Union, today we rarely witness events where Russia and the West's objectives and plan for the future are aligned. Quite the contrary: the Western neo-liberal aspiration of establishing economic ties with countries all over the world and exporting values like the rule of law, democracy and freedom undermined the tacit pact that was reached with Russia. Indeed, as the realist scholar John Mearsheimer (2014) never fails to underline, after the end of the Cold War, the Russian Federation favored the presence of U.S. forces in Europe and that NATO stayed intact because it would have kept the newly reunified Germany pacific. This is also demonstrated by the 1994 *Partnership for Peace* which Russia decided to join to foster dialogue and cooperation with NATO, which provided a forum where topics of common interest such as peacekeeping and security were discussed. This partnership had positive results and therefore led to the negotiation of the signing of a real agreement in 1997 named "Founding Act on Mutual Relations, Cooperation and Security between NATO and the Russian Federation", that ensured constant cooperation between the parties.

Nevertheless, Russia was against the idea of an expansion of the organization as it would have constrained its sphere of influence. Additionally, Eastern Europe maintained historical ties with Moscow, and there was an aspiration to preserve these connections and its influence in the new era. Russia assumed the comprehension of the West and trusted there would not have been an expansion.

However, Moscow's concerns about NATO expansion materialized during the Clinton Administration in July 1997 when a project of expansion of the Alliance in the East (Czech Republic, Hungary, and Poland) was announced in Madrid. If on the one hand, in the West the approval of NATO expansion faced initial opposition - mostly by realists who believed there was no longer a need to contain Russia but, on the contrary, such expansion would have caused a reaction from the Russian Federation – on the other hand, the Russian Federation felt that it had any say in NATO decisions despite the

partnership act signed (Dundovich, 2019). However, Yeltsin officially approved the NATO expansion by setting forth two conditions: no deployment of nuclear weapons and no stationing of allied combat forces on the territory of the new member countries.

Russian impression of its *de-facto* irrelevance was confirmed when the 1999 NATO launched Operation Allied Force against the Federal Republic of Yugoslavia, which was strongly opposed by Moscow as the decision to intervene militarily was considered a mistake and a unilateral choice of action. Anyway, for the sake of preserving the progress made in the realignment of historical enemies, Russia collaborated in the regions with NATO forces, underling its irrelevant role inside the Alliance. However, in the light of these events the then Foreign Minister Primakov introduced a doctrine that rejected the U.S unipolar system deeming it conceptually undesirable and impractical due to the unpredictability of American decisions. The Foreign Minister advocated for a new international system based on a plurality of major players that would include also Russia, China, India, and Brazil (Dundovich, 2019). Therefore, it can be argued that the Kosovo crisis caused a major deterioration in U.S.-Russia relations, culminating in a complete rupture after 2008, and it set a dangerous precedent. According to Russia, the intervention of “a regional military organization, in the name of humanitarianism and human rights, bypassed the United Nations and took military action against a sovereign state. It created an ominous precedent in international relations” (Sivis, 2020). In other words, Russia saw the intervention not as a humanitarian one but rather as an intervention that had to do with *power politics* and NATO’s hegemonic ambitions. An international system that aspired to solve problems through political solutions rather than through the recourse to force. Moreover, the intervention in Yugoslavia provoked a reaction from Russia’s nationalist and statist politicians, who saw the main problem in the violation of the existing balance of power and to whom Western interest was merely tied to establishing NATO’s full control in Europe rather than preventing a humanitarian catastrophe. In fact, at the time in Russia it was argued that the West was pursuing precise objectives in the Balkans, among them the establishment of a pro-American regime within Yugoslavia and the imposition of liberal and typical Western values. Moreover, it was contended that NATO’s intervention, besides being a humanitarian one, was also a strategic move that intended to reinforce the American model in a unipolar world, where Russia had no relevant role in future decisions. One could argue that it is exactly because of this Western intervention

that the Russian national identity in opposition to NATO's expansion aspirations was created.

The relations between Russia and the West further deteriorated in 2000 endured a shift when President Vladimir Putin came to power. If on the one side, President Putin showed pragmatism and awareness of Russian weak position in the early 2000s, accordingly revising the Permanent Joint NATO-Russia Council and demonstrating readiness for cooperation, on the other side, as McBride asserts, NATO's bombing of Kosovo became a source of grievance against Western powers and interpreted NATO's intervention as a clear message that Russian interests would no longer be considered in international decision-making. Thus, Putin started the grievance narrative in which he portrayed Russia as a victim of an expansionist Western agenda. In response to a Western-centered world order project, the Russian President pushed for a more conservative approach that became particularly evident in Russian foreign policy. In particular, Putin withdrew Russian peacekeeping forces from Kosovo in 2003 and obstructed the UN's acknowledgement of Kosovo's declaration of independence in 2008. All these decisions were intended to emphasize and highlight Moscow's assertive reaction, which was prompted by the perception that Western powers were neglecting Russia's influence and interests in the geopolitical landscape. In essence, Moscow's decisions were a demonstrative response to what it perceived as a lack of consideration or respect for its role and concerns in international affairs (2023).

Consequently, anti-Western nationalism rose and remained significant until today. This is especially evident in Putin's promotion of a Eurasian identity and the launch of active policies of cooperation with the Eurasian neighbours including China, India, Mongolia, North Korea, and other post-Soviet countries (Tsyganjov, 2001)

Somehow, Moscow felt that the West viewed Russia as a Cold War adversary, and as such it was expected to embrace the *Pax Americana* and conform to the norms of liberal democracy. Especially during the Bush Jr. administration, the US-Russia relation took a negative shift when Bush's longing for further expansion permitted the entrance of newly independent post-Soviet countries such as Bulgaria, Estonia, Latvia, Lithuania, Romania, Slovakia, and Slovenia. From the start, Moscow expressed strong dissatisfaction regarding unilateral American and globalist tendencies in world politics that acted unconcerned of Russian will.

In 2008, when the possibility of admitting Georgia and Ukraine into NATO was being discussed, France and Germany voiced opposition. The then-Russian deputy foreign minister believed that such a move would be a strategic mistake with severe consequences. Consequently, NATO decided to halt the membership process but acknowledged the aspirations of the two countries, keeping the possibility of future membership open. This triggered a response from President Putin, who argued that admitting Georgia and Ukraine would pose a “direct threat to Russia”. The invasion of Georgia in 2008 demonstrated Putin’s determination to prevent these countries from joining NATO. However, NATO expansion continued with Albania and Croatia becoming members in 2009.

From the Kremlin’s standpoint, this marked a constraint to the country’s sovereignty and on top of that further insecurities were fueled by the decisive role played by the neoconservatives in the United States in support to the coloured revolution in post-soviet states, such as Georgia, Kyrgyzstan, and Ukraine, which aimed to implement liberal democracies and bring to power pro-Western administrations. Of course, from a neo-liberal perspective, the American stance was aligned with the country’s aspiration of exporting democracy worldwide, establishing long-lasting relations with other countries in the world which would contribute to its influence and economic rise. However, seen from a Russian perspective, such Western policies were aimed at nothing more than containing Russian influence in the area (Curanović, 2021).

Not only NATO and the U.S., Russia also had to closely monitor the expansion of the European Union’s influence towards the East, first with the 2004 enlargement, and then by the implementation of the Eastern Partnership initiatives to promote prosperity in nations such as Ukraine and facilitate their integration into the EU economy (Mearsheimer, 2014).

We are not witnessing a change in the Russian narrative, as the concerns over NATO expansion have been explicitly stated many times in the last decades. For instance, already in 2007 during the Munich Conference on Security Policy Putin claimed:

“It turns out that NATO has put its frontline forces on our borders, and we continue to strictly fulfil the treaty obligations and do not react to these actions at all. I think it is obvious that NATO expansion does not have any

relation with the modernization of the Alliance itself or with ensuring security in Europe. On the contrary, it represents a serious provocation that reduces the level of mutual trust”. (Putin, Speech and the Following Discussion at the Munich Conference on Security Policy, 2007)

In the same speech, President Putin reiterated that the fall of the Berlin Wall signified Russian openness to democracy, freedom, and partnership. However, he feared that the West’s unipolarity set new virtual dividing lines. American foreign policy was viewed as aimed at setting back the unipolarity as it was between the early 1990s and the second half of the 2000s. The unipolarity was considered a historical aberration by Putin, who aimed at securing a multipolar environment capable of maintaining global peace and stability. Therefore, the Russian leader still considers that his country is entitled to have a geopolitical influence in its neighbourhoods and accordingly is entitled to minimize the American influence in these regions (Calis & Tinker, 2022).

“Sadly, some of our counterparts are still dominated by their Cold War-era bloc mentality and the ambition to conquer new geopolitical areas. First, they continued their policy of expanding NATO. One should wonder why, considering that the Warsaw Pact had ceased to exist, and the Soviet Union had disintegrated. Nevertheless, NATO has kept on expanding, together with its military infrastructure. Next, the post-Soviet states were forced to face a false choice between joining the West and carrying on with the East.” (Putin, Speech at the 70th session of the UN Assembly, 2015)

The Kremlin’s concerns of the past persist and have intensified over time, prompting President Putin to address these issues by endorsing a specific foreign policy doctrine in 2023 centered around the idea of a “Russian World”, a notion used to justify intervention abroad in support of Russian-speakers. To fully grasp the implications of the Russian World concept and its relevance to current events, it is essential to delve into its evolution, briefly examining key elements.

The concept of the “Russian World”, as analyzed by Iurie Rotari (2023), can be traced back to the past of the Russian Federation and faced continuing developments from

the Middle Ages until today. Despite the term itself was not used until the early 2000s, the idea behind the concept was always present in Russian history. Rather than a doctrine of foreign policy, in the past “Russian World” concept referred to the pan-Slavist ideals of the Tsarist Empire with the vision of politically unifying the Slavic population under Russian leadership, creating the Slavic federation. The origins of the idea have been also linked to Fyodor Dostoevsky, who in his diaries pondered Russia’s role and place in the world, expressing ideas influenced by pan-Slavism such as the Russian role to unifying the Slavs not through means of conquest or violence but as a service to humankind. However, the author never used the term “Russian World”. During the URSS years, Pan-Slav ideas were rejected and replaced with communist internationalism, however, it experienced a brief revival during World War II under the form of Soviet pan-Slavism, which was nothing more than Moscow’s attempt to unite the Slavic peoples outside the USSR in the struggle against the Axis. The term “Russian World” was not used in this period either. Despite the demise of Soviet pan-Slavism, Slavic ideas remained. Specifically, elements of the modern “Russian World” concept may be detected in the KGB’s strategy towards the Russian diaspora. Namely, dismantling anti-Soviet organisations abroad and establishing at the same time pro-Soviet entities to wield influence in countries within the capitalist bloc. These entities sponsored by the KGB concentrated their endeavors on individuals from the Soviet diaspora, with the specific objective of converting neutral emigrants, including those of second and third generations, with the scope of increasing their patriotism and forging a connection between them and the USSR by leveraging a sense of allegiance to the “Motherland”. Following the dissolution of the Soviet Union, a significant shift occurred, with 25 million Russians finding themselves residing beyond the borders of the Russian Federation. This phenomenon led to the emergence of Slavic and nationalist movements in post-Soviet Russia, where ties to the state were stronger than the attachment to their historical homeland. The idea that the emerging Russian diaspora could pose a potential threat to the Russian Federation, particularly in the form of territorial claims, has intensified the demand for revised policies concerning these Russian communities, such as the introduction of new language and citizenships laws in the new post-Soviet states and new legislation in Russia to define benchmarks for Russianness. Adopting a similar strategy to the KGB, many of these nationalist movements directed their attention to the Russian

diaspora – including not only Russian nationals but also individuals who identified as Russian or were Russian speakers. The culmination of their nationalist ideas was marked by the foundation, in 1992, of the Russian nationalist political organisation Congress of Russian Communities (CRC), which aimed to reunite all Russians in an expanded Russian state and to promote the rights of ethnic Russians living in the newly independent countries. From this, it emerged the term “compatriots from abroad” – individuals and their descendants residing abroad but associated with nations that had historical ties to Russia and maintained cultural and spiritual connections - appeared in public discourses since the 1990s, marking the beginning of the “Russian World” concept and the birth of ideas about the existence of a Russia that extends beyond the border of the Russian Federation, with particular attention to the two ex-soviet states Ukraine and Belarus.

To date, the Congress of Russian Communities remains a relevant organisation, as the objectives that led to its establishment are still endorsed by Russian officials. For example, at the 2018 Council Congress President Putin asserted that “the organisation plays an essential role in the social life of Russia and the Russian World, primarily due to its involvement in educating people in the spirit of ‘patriotic and civic values’” (Rotari, 2023, p. 178).

In 1999 with the enactment of the *Law on Policy Towards Countrymen Abroad* a significant step towards the Russian World concept was taken. This law aimed to preserve Russian influence among Russians residing outside the country because it was assumed that they were subject to harsh discrimination. Anyway, the law did not outline specific policies to support compatriots abroad, but it had a pivotal role in shaping Russian foreign policy. Thus, while fueling patriotist sentiments and nostalgia for being a global power, the Kremlin bolstered an anti-Western resentment evident in the 2023 doctrine.

The first application of the term “Russian World” can be traced back to the early 2000s when the intellectual Pyotr Shchedrovutsky introduced it in one of his papers. According to Shchedrovutsky, the Russian World constitutes a network of communities that share the Russian language and culture, encompassing former Soviet States and the Russian diaspora. The individuals referred to by the intellectuals were also perceived as valuable human resources, a perspective echoed by Vladimir Putin. The latter first used such a narrative in 2001 during the World Congress of Russian Compatriots Living Abroad. In his address, President Putin recognized the significance of the compatriots



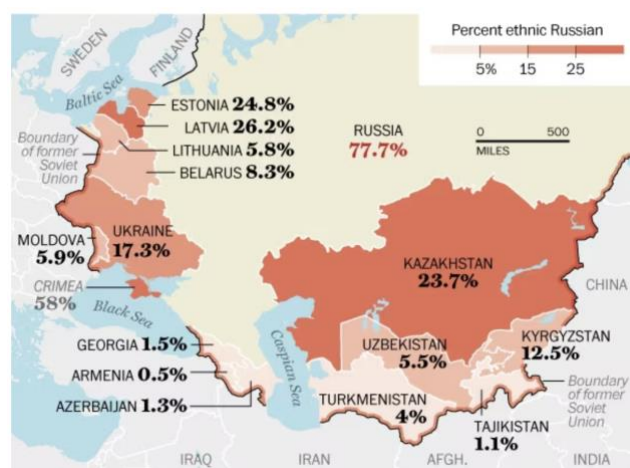
abroad who could actively contribute to Russian economic interests by integrating into the global community and the world economy. President Putin emphasized that these individuals could further their homeland's interests by participating in dialogues with foreign partners and portraying Russia positively on the international stage. The Russian diaspora, consequently, became a tool employed by the Kremlin's foreign policy to exert influence in regions where the diaspora was situated (Rotari, 2023).

In 2007 the Kremlin launched the "Russian World" as a political concept when Vladimir Putin signed the presidential decree on the establishment of the '*Russkiy Mir*' Foundation to spread the Russian language across the world. The ideology of the Foundation was that the "Russian World" was a global project aimed at creating a new Russian identity and opening new possibilities of cooperation with the rest of the world and would include every Russian speaker, foreigners who speak Russian and are interested in Russia included. Therefore, ethnicity was not a discriminatory to be included, but everyone who considered himself as part of the Russian community was considered a compatriot. Reference to Russian compatriots abroad served as a discourse to justify the contradictions in the Kremlin's approach to other states' sovereignty. Hence, after having created a Russian and Russian speaker community abroad who was loyal to the homeland, Russia saw itself as the main protection of Russian compatriots' interests (*Ibid*).

Until the early 2000s, despite speculations to the contrary, the Russian government had not developed any policies that would have interfered unlawfully in other sovereign states' domestic affairs. On the contrary, in 2010 the amendments to the Law on Policy towards Compatriots Abroad, enshrined that the Kremlin would have supported compatriots living abroad to establish cultural associations and similar. The same law stipulated that any discrimination against Russians residing abroad may impact the policy of the Russian Federation towards that particular state. Therefore, Russia's stance on others' "state sovereignty" came into question with the eruption of the war in Georgia in 2008, wherein Russia's "obligation" to protect Russians abroad evolved into a foreign policy objective and was used as a justification for the use of military force. Hence, "the protection of compatriots in the Georgian breakaway provinces South Ossetia and Abkhazia featured prominently in Russia's rhetoric to justify a "rescue mission" for allegedly humanitarian reasons (Pieper, 2020, p. 757). Similar to the events that led to the

Ukrainian war, in 2008 Moscow declared that in Georgia there was a genocide of the Russian minority in the two secessionist provinces. As a matter of fact, after more than 15 years, no proof has been found to support Putin’s declaration.

The same justification was adopted in 2014 to legitimize the war in Donbas and later in 2022 to do the same for the invasion of Ukraine. Indeed, after six months of the war, President Putin approved the new foreign policy doctrine through a decree of 31 pages on the “humanitarian policy of the Russian Federation abroad”. However, Martin Kragh (2022) demonstrated that there is nothing new in respect to the 2016 foreign policy doctrine. The document confirms the ambition to promote Russian culture abroad and describes the Russian culture as a separate civilization to which the West represent a threat, both to the culture and to the Russian Federation. To face such threats Russia takes the role as a defender of morality, humanism, and spirituality. Moreover, the doctrine sets Russian priority of engaging with the Russian diaspora and identifies the occupied areas of Abkhazia, South Ossetia, the so-called republics of Donetsk and Luhansk, Moldova, and Georgia as area in which Russia can protect the rights of Russian-speaking groups. Particularly relevant is that the Russian culture is described in the document as an “instrument of soft power” to strengthen Russia’s global stance and “neutralizing anti-Russian tendencies of a political-cultural nature” (p.2).



**Figure 1. Ethnic Russians in former Soviet Republics.**  
 Source CIA World Factbook | The Washington Post May 17, 2014

In summary, the concept of the “Russian World” emerged in the aftermath of the USSR’s dissolution, driven by various factors. Initially, it originated from the Russian

Federation's necessity to address the situation of ethnic Russians and individuals closely aligned with Russia, who found themselves outside the Federation's borders. While seemingly tied to the Russian language and possessing a local essence, this concept holds a global significance as it encompasses not only expatriate Russian citizens or ethnic Russians but also individuals with an ideological connection to Russia that is self-determined. Furthermore, the Kremlin's ambition to maintain its influence in Euro-Asia found expression in frequent references to the Russian World beyond the Federation's borders. The focus on developing a Russian network primarily targets post-Soviet states claimed by the Russian Federation to be within its sphere of influence. This underscores the Kremlin's aspiration to challenge the unipolar world order and contribute to the creation of a multipolar world, wherein Russia assumes the role of a respected global leader. Additionally, Moscow, leveraging the Russian World concept, undertakes the responsibility of safeguarding its "compatriots" living abroad. Putin has strategically used the "Russian World" concept as a foreign policy instrument to exert influence on countries with large Russian communities and focus on minority protection and the defence of human rights.

As Kragh (2022) points out, it seems that the new doctrine mirrors the sentiment of the Soviet ideology, namely the idea of Russia as a unique civilization, the conflict between Russia and the West, and the need to counteract hostile forces abroad. In addition to that, the document's persistency in referring to the former Soviet space, from the Baltics to Central Asia, served as a pretext to emphasize its legitimate sphere of influence. Though presented as a form of soft-power, Russia has exploited these ideas to legitimize Moscow's occupation of some areas of Ukraine.

### **2.3.1 *Jus ad bellum: Russian nationals protection and denazification***

Despite Putin's rise to power in 2000, where his foreign policy was initially guided by a European orientation, disagreements with the West escalated from 2004 onwards, leading Russia to develop a more Moscow-centric system. Anyway, Russia maintained its interest in cooperating with the EU but insisted on reciprocity and equality when seeking compromises and solutions. Disagreements, however, did not cease; instead, they worsened following a coloured revolution in Ukraine, the war in Georgia, and the Russo-

Chechen war. Although there was a period of rapprochement between Russia and the West during Medvedev's presidency (2008-2012), relations deteriorated completely after Putin's reelection, especially after 2014 (Morini, 2020).

The visibility of Putin's grievance narrative and the "Russian World" concept became increasingly relevant in 2014 when the Kremlin attacked Ukraine. This is especially true because right in the immediate aftermath of the attack, the concept of "Russian World" became frequently used in Putin's political discourse of Russia using it as justification for the annexation of Crimea on March 16, 2014. For instance, President Putin addressed the Russian nation and the residents of Crimea and Sevastopol a few days later, announcing the numbers of the referendum first, and then by highlighting the historical ties between Russia and the Ukrainian territories:

"To understand the reason behind such a choice it is enough to know the history of Crimea and what Russia and Crimea have always meant for each other. Everything in Crimea speaks of our shared history and prime. [...] Crimea is a unique blend of different people's cultures and traditions. Russians and Ukrainians, Crimean Tatars and people of other ethnic groups have lived side by side in Crimea, retaining their own identity, traditions, languages, and faith." (Putin, 2014)

By pronouncing these words, the Russian President spoke to his compatriots living abroad, not only the Russian citizens who emigrated but also the Ukrainian population of the Crimean Peninsula who spoke Russian, who adopted Russian as their first language and those who self-identify as Russian and lean towards Russia. To do so, he used numbers to portray how spread the Russian community was: "The total population of the Crimean Peninsula today is 2.2 million people, of whom almost 1.5 million are Russian, 350,000 are Ukrainians who predominantly consider Russian their native language, and about 290,000-300,000 are Crimean Tatars, who lean towards Russia" (Putin, 2014). As mentioned previously, to Moscow there is no difference between these citizens, and they all have the right to be protected by Russia as if they were Russian conational. However, what kind of protection needed the population of the Ukrainian Peninsula that "permitted" Russia to annex the territory? As far as it is concerned, we already know that at the base

of the annexation in 2014 and then the invasion in 2022 there is Putin's foreign policy doctrine. The latter contends that the West - a Russian partner in the 1990s - increasingly became an enemy and was identified as culpable of USSR dissolution and of distancing the Russians near abroad from the historic homeland, and the aspiration of creating a Russian community that was virtually united even though separated by the new borders. Evidence of Ukraine's distancing from Russia traced back at least a decade before the annexation of Crimea.

Before 2014, the Ukrainian population had demonstrated a commitment to a certain set of values, such as democracy and freedom, which eventually led to numerous protests in Kyiv. The initial uprising occurred in 2004, known as the *Orange Revolution* - named after the color of one of the key figure's parties, Viktor Juščenko - and was triggered by the disputed presidential elections of the same year. Viktor Juščenko took a stand against Yanukovych, the initially declared winner of the elections, who had pledged to continue the pro-Russian policies of his predecessor, Kučma, because there were allegations of fraud and irregularities in the election's results. In contrast, Juščenko advocated for reforms aimed at enhancing Ukraine's global significance and drawing it *closer to the West*. Yanukovych won the presidential elections, particularly in the East of the country, where in Donetsk the percentage in favor of the pro-Russian president exceeded 90%. Juščenko, suspecting electoral irregularities, called for a recount and half a million people joined him in Majdan Square in Kyiv to protest and wait for the recount of the votes. During this time, the pro-Western leader survived a poisoning attempt, raising suspicions directed at Moscow. Juščenko had promised closer ties with NATO and the West, while Moscow perceived Yanukovych as more aligned with traditional cooperation with Russia. Considering the clear opposition from the Ukrainian population against the election results, the Supreme Court ordered a repeat vote, confirming Juščenko's victory in 2005.

At this point, the Kremlin found it necessary to keep Ukraine under its influence. Russia retained that the coloured revolution was organized to provoke an anti-Russian attitude in Ukraine in favour of a pro-American uprising. As such, Moscow believed that the outcome of the re-elections was achieved thanks to a *Western coup*, particularly sustained by the U.S., and feared that it could be the spark of a pro-Western wave within Russia, too. The Russian Federation, in response to the pro-western attitude of President

Juščenko and his speeches promoting a Ukrainian-European identity, started shaping its “Russian World” doctrine, emphasizing language issues and historical ties as a means to exert its power in the post-Soviet space. Therefore, it can be argued that the idea of the Russian World was born as a side effect of the coloured revolutions of those years. From the Russian perspective, the Federation believed it had every right to uphold its influence on Ukraine, particularly given the 1.925 km shared borders. Moscow did not accept the idea of the West gaining control in the region (Flammini, 2023).

In 2010, after a new round of presidential elections, Yanukovych won, garnering approval from Moscow, which started to implement economic strategies to make Ukraine turn back to its historic homeland. For instance, in 2013 Russia proceeded to implement a series of restrictions, cutting imports from Ukraine giving a clear message: either with Russia or with the West. If on the one hand, Ukraine was pursuing a partnership agreement with the EU to access the market, on the other side Russia offered Kyiv a \$15 billion investment in government bonds and a reduction in the price of oil. In 2013, President Yanukovych rejected signing the Partnership Agreement with the European Union and instead opted to join the Eurasian Economic Union. Ukrainians returned to Majdan Square for a peaceful demonstration, demanding the signing of the European agreement and the President’s resignation. The president responded by prohibiting square gatherings, but this ban was not respected; instead, it transformed the demonstration from peaceful to violent, spreading across the entire country. At the same time, members of the EU went to Kyiv to negotiate early presidential elections, obtaining the resignation of Yanukovych who sought refuge in Russia. In February 2014 the Ukrainian Parliament appointed an interim President and Prime Minister, both with a pro-Western attitude, who declared the intention of integration with Europe. Once again, President Putin labelled the outcomes of the Revolution as a *Western coup*. Thus, as reported by Mearsheimer (2014) “before Yanukovych was forced from office, Russian Foreign Minister Sergey Lavrov accused the EU of trying to create a “sphere of influence” in Eastern Europe. In the eyes of Russian leaders, EU expansion is a stalking horse for NATO expansion in its efforts to spread Western values and promote democracy in Ukraine and other post-Soviet states, a plan that often entails funding pro-Western individuals and organizations” (p. 3).

A reaction to the governmental change sparked in the Donetsk and Lugansk regions, where separatist forces declared independence from Ukraine, these armed groups

were supported by Russia with weapons and other military assistance as reported in a Security Council document: “the situation on and around the border between Ukraine and the Russian Federation is a particular concern and remains a key obstacle to the de-escalation of the situation on the ground, as arms and heavy weaponry reportedly continue to flow unabated into Ukraine from Russia” (p.2). The Ukrainian government responded using an anti-terrorist operation, using military force against the rebels advocating Article 51 of the UN Charter. Adding to that, unmarked Russian forces joined Crimean local militias and took over the Autonomous Republic of Crimea and Sevastopol. Hence, the local government of Crimea retained that the deposition of Yanukovich was unconstitutional and was keen on reunifying with the Russian Federation. At this point, the Russian President exploited Crimean irredentism and, with the justification of protecting the local Russian ethnic population, deployed troops to the Crimean Peninsula, blocking the port of Sevastopol. Following a referendum (80% of the voters were in favor of the annexation), declared invalid and illegal by the UN General Assembly, on 18 March 2014 President Putin and the Crimean authorities signed the Accession Treaty (Morini, 2020). Most of the international community has deemed the annexation illegal, and condemned Russian actions during the Security Council meeting, and as such it did not acknowledge any change to Ukrainian territorial integrity. Therefore, under international law Crimea was, and still is, an occupied territory. On the contrary, during the same meeting, the then-Russian UN ambassador Vitaly Churkin asserted that the situation escalated as a direct consequence of Ukrainian use of force against its own citizens in the south-eastern regions of the nation:

“Ukrainian armed forces, without consideration for any standard of international humanitarian law or simple moral precepts, have been indiscriminately attacking cities, residential neighbourhoods, and infrastructure targets. They are using artillery, machine guns and air attacks, using phosphorous explosives banned under international conventions and ballistic rockets. In the so-called anti-terrorist operations area there are 4 million people. Hundreds of thousands of them have been sitting in cellars without water or electricity for weeks, and food and medicines are practically unobtainable. The overall number of deaths now

exceeds 2,000, and it is growing exponentially. The number of people, including refugees, who have moved from Ukraine to Russia is now more than 814,000” (United Nations Security Council, 2014)

In his speech, Mr. Churkin presented a situation that needed a humanitarian intervention, and Russia intervened to protect those who were suffering a *genocide*, who coincidentally were considered compatriots living abroad as in the region some many ethnic Russian and people speak Russian as a first language. Since 2014 the Russian government accused Ukraine of persecuting Ukrainians in the Donbas region.

A few days after the Annexation of Crimea, President Putin in addressing the nation, showed resentment for U.S. and the West in general, saying that the West was still exerting a policy of containment against Russia and kept pursuing the goal of expanding the Northern Alliance eastwards. Hence, the President stated that “with Ukraine, our Western partners have crossed the line, playing the bear and acting irresponsibly. After all, they were fully aware that there are millions of Russians living in Ukraine and in Crimea actions. [...] Russia found itself in a position it could not retreat from” (Putin, Address by President of the Russian Federation, 2014).

The same political view was presented by the Russian Ambassador to the UN, who accused the US of interfering in sovereign states’ internal affairs and of having sent private military contracts and weapon systems to Ukraine.

To avoid a further escalation, Ukraine and Russian-back separatists agreed on a ceasefire deal in Belarus both in 2014, Minsk Protocol I, and in 2015, Minsk Protocol II. These agreements consisted of measures to withdraw heavy weapons from the front line and release prisoners of war. Moreover, Russia had to retrieve its troops from Ukraine, whereas Kyiv had to implement a constitutional reform on territorial decentralization of the two self-determined Republics. The constitutional reform on territorial autonomy was never implemented by the Ukrainian government because of many divergences in the Parliament.

The events in Donbas and Crimea, along with the subsequent reactions from Western states and organizations, have further fueled President Putin’s assertive foreign policy characterized by the employment of military, political, informational, and economic tactics aimed at destabilizing the relationship between Ukraine, NATO, and the



US. It was in the events of 2014 that Putin shaped the *jus ad bellum* for a full-scale invasion of Ukraine.

The war in Donbas started in 2014 and continued for eight years, until 2022, when on February 24<sup>th</sup> Russia launched a large-scale military assault on Ukraine because:

“The People’s Republics of Donbass appealed to Russia for help. In this regard, in accordance with Article 51 (Chapter VII) of the UN Charter, I have decided to conduct a *special military operation* with the approval of the Federation Council of Russia and pursuant to the treaties on friendship and mutual assistance with the Donetsk People’s Republic and the Lugansk People’s Republic, as ratified by the Federal Assembly on 22 February this year” (Putin, Address by the President of the Russian Federation, 2022, emphasis added).

Moscow’s *jus ad bellum* arguments can be mainly articulated in President’s Putin speech, delivered in the early hours of 24 February, which served also as a formal declaration of war against Ukraine. While officially naming it a *special military operation* (as did NATO in the past), the President justified the use of force against another sovereign state based on the right of self-defence as outlined in the UN Charter. Moreover, the Russian intervention was framed as an invitation to protect the people of Donbas, invoking the concept of humanitarian intervention. As argued by Green et al. (2022), the international law provides that for a state to employ force in collective self-defence, the “victim” state must request military assistance in response to an actual or imminent threat. In the Ukrainian case, Putin referred to the two separatist regions – Donetsk and Luhansk – as if they were sovereign states and, in his speech, he named them “Donetsk People’s Republic” and the “Lugansk People’s Republic”. With these newly founded sovereign states, Moscow signed treaties of friendship and mutual assistance built on the historically strong ties and tradition of friendship and good relations between their people. In both cases, Russia claimed that the treaty was signed to meet “the fundamental national interests of the peoples of both States and serves the cause of peace, regional security and stability”. Accordingly, the Russian President justified the intervention as he executed the treaties signed. This is also how Moscow acted in the Crimean Peninsula when, before

the annexation, first recognized it as a sovereign state and then signed the annexation provision with the newborn state.

Regarding the claim of self-defence, Russia invoked both individual and collective self-defence. The individual aspect pertained to various threats both to Russian territory and to Russian citizens in Ukraine. Specifically, the threat arose from NATO's eastward expansion, perceived by the US and its allies as a geopolitical benefit, but for Moscow was an existential concern that impacted the very existence and future of the nation. Nevertheless, the *imminent* threats had not materialized yet. President Putin argued that the *special military operation* was conducted as a preemptive measure, as he was confident that Russia would have soon faced future imminent threats. This conviction was based on the claim that Ukraine had become a host to biological weapons development facilities founded by the US/NATO (Green, Henderson, & Ruys, 2022). Hence,

“As NATO expands eastward, the situation for our country is becoming worse and more dangerous every year. Moreover, in recent days the NATO leadership has been explicitly talking about the need to accelerate and force the advance of the Alliance's infrastructure to the borders of Russia. In other words, they are hardening their stance. We can no longer continue to merely observe what is occurring. That would be completely irresponsible of us” (Putin, Address by the President of the Russian Federation, 2022).

On March 9, 2022, two weeks into the *special military operation*, Igor Konashenkov, the spokesperson for the Russian Military of Defence, disclosed the discovery of secret documents confirming that Ukraine was preparing a significant offensive operation in the Donbas region. As a result, the Russian intervention pre-empted the so-called Ukrainian “Joint Forces operation”. This indicates that Russia employed force to protect Donetsk and Luhansk from an imminent threat.

The claims of self-defence concerned not only the imminent threat of NATO but also were due to protect Russian people abroad, who were suffering genocide and were discriminated against. In addition to that, Kyiv did not implement the constitutional

reform to grant the two Republics independence. From the Kremlin's foreign policy view and the Russian World doctrine, the protection of compatriots living abroad provided a legal foundation for military intervention. Thus, article 61(2) of the Russian constitution guarantees citizens "protection and patronage" even "beyond the borders" of Russian territory. This pretext has also been used as a justification for the military intervention in Georgia in 2008. To protect its citizens living beyond the Russian border, the Kremlin asserted its intention to *demilitarize* and *denazify* Ukraine, as well as persecuted those who perpetrated violent crimes against the Donbas population (Green, Henderson, & Ruys, 2022). Therefore, the "special military operation" aimed at liberating Donbas from what Russia perceived as a neo-Nazi junta in power in Kyiv, allegedly terrorizing the people, especially those who spoke Russian. Indeed, the Donetsk People's Republic Head, D.V. Pushlin, wrote a letter to the Russian President expressing gratitude for acknowledging the Republic's independence and sovereignty. Moreover, he underscored that the military aggression by Ukraine was escalating, specifically targeting civilians and residential areas. Pushlin emphasized the ongoing genocide, which caused over 5,000 casualties, including children. To stop the genocide and protect the Donetsk People's Republic's citizens he asked for assistance from Russia (2022).

Hence, the primary *jus ad bellum* for engaging in war was to stop the genocide and prevent its spread, framing the special operation as a humanitarian intervention. Putin himself, through his choice of words, hinted at the humanitarian dimension of the military operation:

"One cannot look without compassion at what is happening there, but all of this became simply impossible to tolerate. We had to stop this nightmare – a genocide against the millions of people living there who are pinning their hopes only on Russia, on us alone. It is their aspiration, the feelings and pain of these people that were the main motivating force behind our decision to recognize the independence of the Donbass People's Republics" (Address by the President of the Russian Federation, 2022).

From this excerpt, one can assume that President Putin aimed to intervene to protect a population from violations of human rights and as such it was lawfully legitimized by the UN Charter which advocates for the protection of human rights.

President Putin (2022), in declaring war in 2022, addressed the Armed Forces of Ukraine, arguing that Ukrainians had previously fought against the Nazis to defend their common homeland. Therefore, it would be unjust that their struggle was in vain with the return of the “anti-people junta that is robbing Ukraine and mocking its very people” (p.7). Putin urged Ukrainian military personnel not to follow Kyiv’s orders and lay down their weapons, proposing that Russia would free them; otherwise “all responsibility for any bloodshed will be entirely on the conscience of the ruling regime in Ukraine” (p.7).

## CHAPTER 3: IRAQ AND UKRAINE THROUGH THE JUST WAR THEORY'S PRINCIPLES

### 3.1 The contradictions in George W. Bush's "Just War" against Iraq

According to the Rapoport theory, the 9/11 attacks on the United States resembled the onset of a novel wave of terrorism, characterized by religious motivations. This event introduced a heightened wide-shared perception of foreign threats, challenging the traditionally free-thinking ethos of the West. Consequently, the response needed to be tailored to address this new threat. Before the Al-Qaeda's attacks, terrorism acts were directed at domestic targets and were tackled with domestic responses. However, the international nature of this new wave of terror demanded a different approach and new strategies. The deterrence doctrine had effectively operated until that point, but deterrence proved to be functional only dealing with rogue states. For instance, deterrence was effective against those states possessing weapons of mass destruction, which understood the threat they posed to international security and were aware of the consequences of any misstep. However, the vulnerability of terrorist groups differed significantly from that of states. Therefore "preemption seemed to fit the new age better. [...] Deterrence is linked to actions, whereas preemption is more suitable when intentions have to be assessed" (Rapoport, 2004, p. 67-68). We know that preemption was the measure adopted by President Bush to deal with the Iraqi issue and he claimed that for preventive reasons any invasion against Baghdad would have been an instance of just war. In March 2003, a coalition led by the United States invaded the country, but determining the exact legality and righteousness of having portrayed the invasion of Iraq as a Just War is a complicated task.

We have proof that the *just causes* – extensively analyzed in the third chapter - brought about by the US in favour of the use of force turned out to be false. As such, subsequent developments revealed that the U.S. was preparing for war and required a legitimate rationale to warrant military intervention. President Bush, Vice President Dick Cheney, Defense Secretary Donald Rumsfeld and National Security Advisor Condoleezza Rice inaccurately asserted that Iraq had WMDs. Rice even invoked the image of a "mushroom cloud" to warn Americans of a possible tragedy. Through this metaphor, it kind of achieved a green light for the invasion, as the fear of an Iraqi attack was slightly

augmenting. Moreover, Secretary of State Colin Powell shamefully presented false evidence to the UNSC in February 2003, erroneously claiming that Iraq possessed WMD.



Figure 2 Colin Powell's presentation of false evidence to the UN Security Council. Source: Wikipedia

In fact, administration members provided justifications that differed depending on the target audience: some justifications were related to national security concerns, others outlined the need to protect the nation and the region from Iraq's dictator, and others again wanted to foster the welfare of the Iraqi people and provide them with a democratic system. These all would be well defined in the *jus ad bellum's* conditions of *just cause* and *right intentions* under which the US could resort to war and use armed force if only they were true.

In the first place, the most relevant contradiction to the claim of conducting a *just war* is the fact that the US violated the UN Security Council's resolution. Indeed, after that Bush warned the Council that his administration had suspicion, and intelligence evidence, that Iraq had not disarmed. Under the suggestion of the US Administration, the UN Security Council in November 2002 issued Resolution 1441, which offered Iraq a final opportunity to comply with disarmament obligations set out in previous resolutions dated back to the first Gulf War. Iraq agreed to the Resolution on 13 November and about ten days later the UN weapons inspectors returned to Iraq to visit the sites suspected. The Director General of the International Atomic Energy Agency, Mr. El Baradei, reported that "after three months of intrusive inspection, the Agency had found no evidence or plausible indication of the revival of a nuclear weapons program in Iraq. There was also no indication that Iraq had attempted to import uranium since 1990 or that Iraq had

attempted to import aluminium tubes for use in centrifuge enrichment” (Security Council, 07/03/2003). Moreover, the Council reported that “peaceful means to achieving Iraq’s disarmament were far from exhausted” (*Ibid*). Therefore, as proved by the UN statement, the condition of *last resort* of the *jus ad bellum* was violated, because Iraq did not represent an imminent threat to the globe. As such, the results obtained by the weapons inspector team proved that President Bush was wrong. Some scholars also argue that the evidence provided by the American presidency at the time, was false because the *Central Intelligence Agency* (CIA) had been put under pressure from the administration. Vice President Cheney frequently visited the CIA headquarters and some intelligence officials declared that they felt the pressure of his visits and were almost forced to write reports that would have contributed positively to manufacturing a *just cause* for intervention (Pfiffner, 2007). Of course, trying to skew intelligence to suit a policy agenda is definitely contradictory.

Despite the UN reported that an imminent threat was far-fetched, the United States stuck to their suspicions and invaded Iraq anyway, asserting that the invasion was lawful because previously authorized by the Security Council. This was not true because the authorization that the Administration referred to dated back to the 1990s when the Security Council authorized under Resolution 678 a coalition of states to repel Iraq from Kuwait and restore peace and security in the area. The UN then imposed a cease-fire that ended 1990-91, anyway, Iraq violated its obligations causing a breach of UN mandates. This breach of the cease-fire condition was used by the US as an authorization to use force in 2003. The US invoking a doctrine of self-defence provided a series of norms on the use of force that progressively created a precedent for action by any number of states that purport to be threatened by acts of its neighbours. Moreover, it created a precedent for acting against the UN Security Council. Adding to that, the invasion regardless of the lack of any authorization raises the question in the international community on the efficacy of international norms on the use of force and the utility of having a Security Council (Murphy, 2004).

Additionally, if the *legitimate authority* condition of *jus ad bellum* has been satisfied since the military action was approved by a bipartisan decision of both the Congress and Senate, the condition of a *reasonable prospect of success* must also be ensured before entering the war. Regarding this condition, one must admit that is quite

difficult to determine something that will happen in the future. First and foremost, the Bush Administration was quite confident that they would successfully end the war, because the troops operating in Iraq were mostly formed by the US and the UK, very advanced forces whose capability was way superior to Iraq. So, from a mere military point of view success was quite sure. However, one must also consider that invading yields undesired outcomes. The use of force would likely enhance the hate towards the United States and the West in general, “contributing to a perception of US exceptionalism and would not contribute to efforts to strengthen international collaboration for peace” (Powers, 2002, p. 6). Moreover, it could provoke more terrorism than the one intended to prevent as the use of force frequently engenders outcomes incongruent with the strategic objectives sought. Intelligence agencies from both the United States and the United Kingdom consistently forewarned that military intervention in Iraq would likely precipitate an exacerbation in the magnitude of terrorism and facilitate the proliferation of weapons of mass destruction. Subsequent events substantiated this prognosis, manifesting in a discernible surge in the recruitment of terrorists, thereby heightening the overall threat of terrorism (Chomsky, 2004).

Therefore, it cannot be stated that the condition of a *reasonable prospect of success* has been satisfied.

Since the war in Iraq was considered to be part of Bush’s pre-emptive doctrine, it is fundamental to stress that this notion is inaccurate. In fact, as Chomsky (2004) clarifies, there is quite a relevant difference between pre-emptive actions and preventive ones. Pre-emption is a term used in international law to refer to situations that are on the verge of illegality following the UN Charter. Therefore it grants the right of self-defence against armed attacks and imminent threats when there is no time for soft power means such as deliberation and diplomacy. So, countries can react using force only until the Security Council intervene. However, the path taken by the U.S. against Iraq had nothing to do with the pre-emptive war as declared by the then-American administration. Furthermore, it can be argued that It was not a preventive war or anticipatory self-defence either, as at the end of the war it was clear that the threats were constructed, invented, or even imagined. If the preemption or prevention justifications would have conformed to the standards of *jus ad bellum*, the fact that eventually, all the reasons to resort to war turned



out to be wrong, the American intervention fell into the category of “supreme crime of aggression”. Hence, the invasion of Iraq fails to fulfil the *jus ad bellum* requirements.

### 3.1.1 *Jus in Bello*

The principles of *jus in bello*, designed to govern the conduct of war, extend their applicability to both conflicting parties, emphasizing impartiality over determining moral superiority. A crucial facet of *jus in bello* is the prescription for wearing uniforms to differentiate between military personnel and civilians. Unfortunately, this tenet was violated by both sides in the conflict, as the Iraqi forces, under the guidance of a Coalition force, operated without proper uniforms. Additionally, certain members of the US Special Forces disregarded this requirement (Dinstein, 2004). Despite these infractions, it is essential to clarify that they do not meet the criteria for war crimes. The delineation of war crimes occurs when unarmed civilians are intentionally targeted, a challenging determination when soldiers fail to wear identifiable uniforms.

Amnesty International has consistently asserted that the United States committed human rights abuses in Iraq, involving secret detentions, enforced disappearances, torture, and other inhumane treatments. The media played a pivotal role in exposing these violations, shedding light on the darker aspects of U.S. involvement, and underscoring that the nation is not immune to mistreating prisoners of war. An especially egregious episode was broadcasted by CBS News in April 2004 when photographs leaked by US soldiers revealed the abuses at Abu Ghraib prison. These images depicted detainees enduring deplorable conditions, indicating mistreatment and signs of sexual abuse. Additionally, the pictures captured US soldiers “laughing, posing, and gesturing” (Al Shimari, et al. v. CACI, 2009). Thus, questions arise about how the inhumane actions of the US ally can be justified as justifiable moves. The US forces have committed crimes like killings and torture but have also targeted civilians. All these deeds are prohibited by the Geneva Conventions and the International Covenant on Civil and Political Rights (Cohn, 2023).

Another instance of the violation of the United States to the UN Charter, the Universal Declaration of Human Rights, human rights instruments, and applicable international humanitarian law is provided by a report of the Studies Center of Human Rights & Democracy (SCHR), an office of the UN Human Rights Council. As described

by SCHRD, the US violations of basic human rights continued in every corner of Iraq, but one instance of brutal violence was in the city of Fallujah:

“In April 2004, the American forces launched its first major offensive against the innocent people of Fallujah, destroying their homes and leaving more than 1000 civilians dead. In November from the same year a second major offensive was initiated by the American forces in which 70 per cent of the city buildings were completely destroyed, thousands of civilians were killed, almost half a million became refugees” (Studies Center of Human Rights & Democracy, 2010)

All the transgressions perpetrated by the American forces in Iraq are actions that fall into categories such as war crimes, crimes against humanity and severe violations of internal humanitarian law. Fallujah is not a singular occurrence; rather, many of the wrongdoings committed by the American troops remain hidden. The revelation of the so-called *Haditha Massacre*, for instance, only came to light through a report from the British magazine *The Times*. According to the account, in an attempt to avenge the death of one of their comrades, US Marines allegedly killed twenty-four unarmed Iraqi civilians, comprising women, children, and the elderly.

As well, the United States and its allies failed to adhere to the principle of *proportionality* in the use of force and the alignment of their objectives. Beyond questionable tactics and torture, the military employed depleted uranium weapons in densely populated civilian areas. These weapons, often equated to small nuclear bombs, were ostensibly designed to obliterate tanks and other armored vehicles. However, the use of depleted uranium introduces significant concerns about its potential severe health impact on those exposed, subjecting them to toxic health risks. This exacerbates the ethical and humanitarian dimensions of the military actions taken by the US and its allies (Ngai, 2019).

Consequently, the war was unjust both in its objectives and execution, resulting in staggering losses for both sides—economically and in terms of human lives. Specifically, the US Department of Defense recorded a total of 4,432 deaths and 31,975 wounded (US Department of Defence, 2019). Conversely, in Iraq, casualties were devastating, with at

least 134,000 civilians reported killed since 2003. The amalgamation of these violations and casualties underscores the profound human cost and ethical implications of the war.

### 3.1.2 *Jus post bellum*

The traditional Just War Theory includes post-war obligations, as to be considered just, a war must enforce improvements of what existed earlier, otherwise, it would cause more disruption. In other words, the party that went into war not only has to demonstrate good reasons for the use of force but must show that the end is consistent with the means. This argument coincides with the presumption that the end justifies any means. The *jus post bellum* is the moment in which this *end* must be presented. If the end is more detrimental than beneficial a just war can be easily turn into an unjust war, rendering the humanitarian intervention unsuccessful. To fulfil the condition of the *jus post bellum* the mighty state that intervened in favour of the population must guarantee that concepts such as self-determination, popular legitimization, civil rights and common good are implemented and respected. It is crucial to reconstruct a strong state authority that is legitimized by the will of the people, which is vital for achieving a genuine pacification of the area. The humanitarian interventions that are conducted according to the principles of just war must consider the consequences that will arise after the conflict and, accordingly, must have a strategic plan for the post-war period. The most important condition is guaranteeing the right to the local actors to participate in their decision-making process is also the key to achieving long-lasting peace and does not fuel resentment against the intervening force.

Moreover, part of the *jus post bellum* is punishment for all the violators of the principle of war. This includes also persecuting the intervening forces that have violated the demands of *jus ad bellum* and *jus in bello*, notwithstanding the good intentions. Bass (2004) asserts that war primarily inflicts harm on citizens, who are also those who neither consented the use of force nor played a role in the decision-making process leading to war. To address, this, the “principle of restoration” comes into play, mandating the intervening party to actively engage in rebuilding the country’s infrastructure and providing proper care for innocent victims of the conflict. An example of adherence to this principle is evident in World War II through the implementation of the Marshall Plan.

However, this restorative principle may not be fully applicable to wars fought in self-defence. Conversely, in more controversial conflicts, there is a heightened need to seriously consider the principle of restoration. This is because the aggressor state, even when advocating for a just case, remains in the role of the aggressor, carrying the responsibility for post-war reconstruction.

For what concerns Iraq, The White House, under George W. Bush, aimed to enhance global safety by implementing “regime change” in Iraq. By willingly embracing this initiative, the White House assumed the responsibility of establishing the economic and infrastructural foundations for this regime change. This included supporting law enforcement and military units, restoring essential services like water, power, and hospitals, and reconstructing infrastructure directly affected by the war. The absence of any indication of profiteering is paramount.

President Bush Jr. aimed for a new democracy in the country with the scope of rendering the region more stable and erasing the pattern of violence and oppression against the population. However, many sources demonstrate that the aftermath of the 2003 invasion of Iraq reveals a lack of post-war justice.

In the first place, the Iraqi President Saddam Hussein was caught by a US ally just two months after the war began, which suggests that the objective of toppling Saddam was achieved and as such the ongoing war should have been stopped soon after. On the contrary, the war continued for eight years: the U.S. military formally declared the end of the Iraq War in 2011. During the eight years of occupation, the United States actively supported the establishment of a pro-American government, leading to dissatisfaction among domestic factions of political organizations. This has unintentionally forged alliances among adversaries, which contributed to the growth of Iranian influence in the area and a growing adverse sentiment against the West in general and the US in particular. As the Atlantic Council reports, the failure of the George W. Bush administration in Iraq had opposing results of what was expected: the ambition of spreading democracy in Iraq and initiating a domino effect triggered a radical response, significantly damaging the reputation of democracy in the whole Middle East region and undermined West’s credibility as a promoter of democratic values. Hence, in the eyes of Arab population, the notion of democratization became synonymous with the exercise of Western military power (Grand, 2023). Given these circumstances, it is no wonder that between 2004-2008

several armed insurgencies by the hand of different movements, both Shiites and Sunnis, have acted against the occupying forces. Hence, one of the various outcomes arising from the war and an insufficient *jus post bellum* is that the 2003 invasion of Iraq can be linked to the emergence of the Islamic State (IS), the successor of the al-Qaeda organisations. The rise of Isis is a clear-cut example that a war of aggression, even when advocated by just causes, yields result opposite to those aspired to.

In the second place, from an economic point of view, one can argue that the developments implemented by the US did not correspond to true post-war justice. Thus, even though there were indications of economic rebuilding and growth in the Iraqi economy and stable democratic elections, these only served the American national interest. Indeed, most reconstruction projects were operated by US enterprises, and the US government gained substantial revenue through oil exports from Iraq, manipulating elections to favor a pro-US Shia regime (Ngai, 2019).

Furthermore, there is a notable absence of justice for war crimes in the post-war period. Considering that the war itself was a direct assault on the sovereignty of Iraq, thereby violating the prohibition on aggressive warfare, the war was a choice against a nation that did not really represent an immediate and clear threat. Additionally, the United States and allies violated the Security Council's resolutions and intervened anyway undermining the rules of the international system. Despite the illegal war of aggression, 20 years later the leaders of the Bush Administration and those of the UK ally have never faced criminal accountability. Having violated the Un Charter, Operation Iraqi Freedom was an illegal war of aggression (Cohn, 2023).

If a nation fails to convince the world that its actions align with *jus ad bellum*, then maintaining impeccable conduct in terms of *jus post bellum* becomes even more critical (Bass, 2004).

### **3.2 The Contradictions in Vladimir Putin's "Just War" against Ukraine**

As discussed in the previous chapter, the Ukrainian war started way before 2022, namely in 2014 when Russia annexed Crimea after the pro-Russian regime was ousted from power by the Euromaidan demonstrations. The pro-western resistance movement against the choices of Yanukovich's government showed the World that Ukrainians

embodied an ideal of their nation way different from Putin's conviction of having an ally in its near abroad, in a country that was inevitably tied due to historical reasons. Putin's endeavors to create a Russian community beyond the Russian Federation borders appeared in vain in Ukraine two times since 2000, namely the resistance to an alliance with Moscow that happened both in 2004 during the Orange Revolution and now again in 2014. Therefore, both events displayed how the Ukrainian vision of Ukraine was so unrelated to the *Russkiy mir* World. The Euromaidan events unequivocally asserted a belonging to another world, where Moscow could no longer influence their choices. Consequently, Putin realized that influencing Ukraine through puppet governments, as the one Yanukovich's was, was no longer feasible and began seeking a way to bind Ukraine inseparably to Moscow. First, the Annexation of Crimea and the war in Donbas in 2014 and then the total invasion of Ukraine, in 2022, Moscow used military force mainly as a response to the idea of Ukraine and Georgia joining the EU and NATO, an option considered unacceptable by Putin. The Russian government claimed several *just* reasons in support of its invasion of Ukraine. However, despite the *jus ad bellum* declared in the President's statements, the aggression's underlying reason lies in the Kremlin's rejection of the Western project of promoting democracy in the Western Balkans, Central and Eastern Europe and the Middle East. The willingness to preserve its sphere of influence and establish a Russian World beyond the Federation's borders outweighed the stated justifications, which ultimately proved to be constructed.

Recalling Primakov's doctrine, which envisioned Russia's return to global power on par with the USA and EU to counter American unipolar ambitions, Putin implemented a plan to expand the Eurasia nature, the common economic space, the Eurasia Economic Union, and a mutual defence collective security organization similar to NATO. The annexation of Crime in 2014 and support for separatist entities in south-eastern Ukraine were rather a signal of a Russian foreign policy aimed at challenging the West (Morini, 2020). From this thesis perspective, the Russian challenge to the West is proved by the fact that Moscow claimed legitimacy using the American interventionist past as a precedent. Indeed, when argued that the US invoked a self-defence doctrine establishing norms for the use of force, it set a precedent for other states claiming threats from their neighbours. Moreover, it created a precedent for taking action without the UN Security Council's authorization. This creation of a precedent is particularly evident in a speech

that Putin had made to the Russian population to announce the commencement of the military action. Indeed, the Russian President stated that the past witnessed decisions taken by actors that felt to be absolutely superior, the West, that led them to take decisions that only benefitted themselves. Then, he provided some instances:

first, without any authorization from the United Nations Security Council, it started with a bloody military operation against Belgrade using aircraft and missiles right in the very heart of Europe. [...] Then came the turn of Iraq, Libya, and Syria. The illegitimate use of military force against Libya and the distortion of all United Nations Security Council decisions on the Libyan question led to the complete destruction of that State, to the emergence of a major hotbed of international terrorism and to the country being plunged into a humanitarian disaster and the abyss of a long-standing civil war that continues to this day” (Putin, Address by the President of the Russian Federation, 2022).

Therefore, we can claim that Russia leveraged a precedent to cast the U.S. and its allies in a negative light. The same can be said in light of very recent events, such as the Anglo-American military attack on Houthi rebels basis in Yemen, when the Kremlin declared that U.S air strikes on Yemen were another example of the Anglo-Saxon’s tendency to bypass the UN Security Council role. Similarly, Putin accused the West of attributing growing ambition to Russia’s approach toward Ukraine, claiming that Russian actions were taken under Article 51 of the UN Charter in the exercise of the right of self-defence and to protect the Donbas population from genocide.

From a Just War Theory perspective, both the *jus ad bellum* and *jus in bello* should adhere to standard criteria. If these criteria are inconsistent or violated, it can classify the war as unjust and as a criminal act against humanity. As the Just War theory provides ethical guidelines to evaluate the morality of war, we should now consider the events in Ukraine accordingly.

By informing Russian citizens of the use of military force against Kyiv, President Putin asserted that it was for a just cause. Indeed, he pointed to NATO’s eastward expansion and the advancement of its military infrastructure towards Russia’s border, unconcerned

about Moscow's protests. According to the Russian President, this escalating situation was getting worse and more dangerous, as the Alliance was also aiming to replace Russian traditional values with Western ones. However, he identified the problem not with NATO itself but with its contribution to fostering armed anti-Russian movements near the Federation's borders. Furthermore, Putin argued that the situation in Donbas was critical and necessitated the use of force, as it was the last available tool. He asserted that Moscow had attempted peaceful resolutions for eight years, but the NATO-backed Ukrainian nationalists and neo-Nazis continued punishing the people of Crimea and Sevastopol for having chosen Moscow over Kyiv. The Russian President contended that these forces would have expanded the war from Donbas to the Peninsula, continuing to kill defenseless people (Putin, 2022). Therefore, for the Kremlin the use of force was of *last resort*.

Despite President Putin's claim of an imminent armed attack on Russian territory and the compliance to the requirements of Article 51 of the UN Charter, namely, to notify the Security Council whether actions in self-defence would be taken, there are many reasons to contend that the invasion of Ukraine violated Article 2(4) of the UN Charter and the international law prohibition on the use of force. Therefore, it can be sustained that the Russian use of force against Ukraine is a case of an unjust war.

Even if Article 51 of the Charter provides that to use force against a sovereign state in exercise of self-defence there must be a previous condition that proves that the Country suffered an armed attack. Nonetheless, we know already from the Iraq case-study that since Bush doctrine it has been introduced in the preemptive self-defence. Putin relied on this kind of self-defence but there is no evidence to support the idea that the United States and NATO were engaged in activities that could jeopardize Russian national security. The limited deployment of forces in the Donbas area cannot be regarded as being of offensive capability against Russia. On the contrary, what Russia was doing on its territory, Belarus and in the Black Sea could have been perceived as such. And now we know they were for real. Especially for what regards the allegations that Ukraine was hosting 30 US/NATO-funded biological weapons programs the UN made it very clear that there was no reason to believe it was true. As such, there are no credible basis for Russia to contend that it faced an imminent threat from NATO in February 2022. The Just War Theory criteria of *just cause* and *right intention*, in this case the cause of self-defence, has been violated as



proof of an immediate threat is insufficient and as such, there is no legal basis to use force against a non-imminent threat (Green, Henderson, & Ruys, 2022).

For what concerns the other *just cause* – the collective defence of the Luhansk and Donetsk People’s Republics from the alleged oppression and genocide of the Russian-speaking population by the Nazi government of Zelensky– it is harder to qualify as just or unjust. If on the one hand, as Fortuin (Fortuin, 2022) argues, the Russian allegation of genocide is to be understood from a Russian propaganda perspective as this narrative is part of a propaganda development that originated in Post-Soviet Russia and Ukraine after 1991. In particular, the Russian propaganda relies on emotionally loaded words that are presented in an exaggerated and hyperbolic way, according to which the term genocide refers both to the alleged killing of the Russian-speaking population in Donbas and the Ukrainian language laws that in the past diminished the role of the Russian language. As we learned from the Russian World doctrine, the protection and spread of the Russian language and culture are the heart of Russian foreign policy and are means to restore the Russian sphere of influence in post-soviet space, and as such Putin would have done anything at his disposal to keep on promoting and safeguarding Russian traditional culture. Therefore, the switch between using the term genocide in a metaphorical way tied with language policy and in its juridical implications is highly problematic.

Considering that there is insufficient evidence to support Putin’s claims that there was a genocide of the people of Donbas, one can only assume that he was referring to the measures taken by the Ukrainian Government concerning the Russian language.

On the other hand, it is true that the two separatist “Republics” have asked for President Putin’s military assistance following the friendship agreements they signed with Russia. However, the right to request military assistance is limited to States. Since the international community did not recognize the two separatist groups’ independence but considered both as part of Ukraine, the treaties of cooperation signed with Moscow are to be considered unlawful. As such, Russian intervention cannot be classified as military assistance. Either the juridical sense of genocide or the metaphorical one related to the Russian language, in any of those cases there was a *just cause* to justify the use of force in Ukraine. Neither the use of force can be considered a *last resort*, since Russia did not attempt to resolve the disputes through diplomatic means (Green, Henderson, & Ruys, 2022).

Even if the *right intent* was declared to be self-defence from NATO expansion and protection of the Russian community abroad, there are grounds to argue that the invasion had also underlying reasons depending on the perspective adopted.

Another condition for the *jus ad bellum*, namely *legitimate authority* has been roughly respected. Russian President Putin acted with the consent of the Duma; however, some scholars today argue that only the United Nations has the authority to wage war. But, considering that the UN Charter provides that for self-defence a State can act regardless Security Council's resolution, it is tricky to define whether the condition of legitimate authority is respected. What we can acknowledge, is the fact that the Kremlin waited for the Duma's authorization and informed the Security Council before starting the war. *Proportionality* and *likelihood of success* are closely linked with the just cause. Considering the just cause of the halt of genocide, the use of force adopted by Russia far exceeded the purpose of the intervention. Indeed, the ongoing devastation of Ukraine is hard to perceive as a proportional response to the alleged threat posed to Russia either by NATO or by Ukraine. Considering that the threats of an armed attack and genocide proved to be false, proportionality is highly unfulfilled. Additionally, President Putin, at the time of invading Ukraine, believed it would have been a quick victory for Moscow and underestimated the Ukrainian counter-reaction with support from the West by the West. Furthermore, President Putin is facing charges at the International Criminal Court for war crimes, demonstrating how the events turned out to be way different from his initial expectations. The widespread condemnation of the Russian invasion of Ukraine by the majority of the international community demonstrated how Moscow's justifications lack credibility. Moreover, also the Russian population is suffering from its President's decision to invade Ukraine, as many countries have imposed countermeasures in the form of soft power like economic, financial, and diplomatic sanctions. All of these consequences are evidence that Putin's calculations before waging war crumbled. Quite the contrary, as we already argued that most of the time the use of force yields opposite results, it is exactly the case of Russia. Indeed, if Russia aimed to position itself as a power in a multipolar world, the armed invasion of Ukraine resulted in pushing other states towards the US increasing their dependence on Washington. For example, countries like Germany and Japan exhibited a level of cooperation hardly seen after the end of the Cold War.

### 3.2.1 *Jus in Bello*

Undoubtedly, the Russian Federation's invasion of Ukraine constitutes a clear violation of the prohibition on the use of force outlined in Article 2(4) of the UN Charter and international law. Additionally, Moscow breached Article 51 of the Charter which enshrines the "inherent right of self-defence". However, the Article specifies that such a right is contingent upon "the Security Council has taken the necessary measures". It is true, though, that the role of Moscow as one of the five permanent members of the UN Security Council obstructed all the efforts to end the war or hold Russia accountable, making it impossible for the Council to take the necessary measures. Due to these reasons, the *jus ad bellum* appears to be inconsistent, with none of the conditions being fulfilled. In this respect, it raises the question of whether the *jus in bello* conditions is also unmet, or if Moscow's conduct in war can be judged fairly, at the very least.

Considering the ongoing character of the "*special military operation*" in Ukraine facts and events are constantly reported on the news, allowing us to gather more information regarding the conduct of war of both parties. To date, there are no specific details about Russian conduct in the conflict and any potential violations of the *jus in bello*. However, it is sufficient to note that President Putin has been charged by the International Criminal Court (ICC) with war crimes and issued an arrest warrant because of indiscriminate killings and sexual and gender-based violence against civilians. Additionally, countries have accused Russia of genocide in Ukraine and provided documentation to the International Court of Justices.

Despite Moscow trying to portray some actions as humanitarian measures to protect Ukrainians in the war zone, the ICC issued warrants of arrest both for Vladimir Putin and Maria Alekseyevna Lvova-Belova, the Russian Commissioner for Children's Rights, as they are both allegedly responsible for the unlawful deportation of children and unlawful transform of them from occupied areas of Ukraine to the Russian Federation. The Russian President alone has also been accused of having committed other crimes related to improper control over military subordinates who committed the acts, allowing them to conduct the war unlawfully (International Criminal Court, 2023). According to the United States Institute of Peace, Russia is committing three types of crimes: war of aggression, war crimes and genocide. Moscow has been accused of targeting civilian areas and therefore using force indiscriminately, as it has intentionally targeted housing,

hospitals, schools, and other civilian areas. Thus, the principle of *proportionality*, whereby the harm caused must not be greater than the one to be prevented, has been largely breached. The *Bucha massacre*, also known as the *Bucha Genocide*, provides a tragic example of how Russians are fighting their “special military operations”. As reported by the Human Rights Watch organisation, surviving residents of Bucha reported that the Russian army after having gained control over the territory conducted house-to-house searches in residential areas, claiming to be hunting Nazis and looking for weapons. The searches included interrogations of residents and detainment of some with no real reason, but also executions and torture. Russian forces occupied houses and buildings setting up military targets. With no doubt the actions committed by the Russian forces are classified as crimes against humanity. The reported number of casualties in Bucha stands at 458, of which the majority were civilians. This shows how the conflict impacted the local population and the condition laid down by the principle of the Just War Theory, the *jus in bello*, of separating combatants from non-combatants has not been met. Moreover, Moscow sent to various territories, including Bucha, mercenaries from the Wagner Group (WG), which can be regarded as a way to evade their obligations in terms of a just conduct of war.

Another example of unlawful use of force was the Russian attempt to take Bakhmut, compared to a “meat grinder”, which has been estimated that the daily victims were as high as the World War I and II ones, for both the Ukrainian and Russian parties.

In the modern era, the condition of proportionality extends beyond the conduct of war against humans but encompasses also long-term environmental damages resulting from the consequences of warfare. For instance, the demolition of the Nova Kakhovka dam on the Dnipro River put at risk the residents living close to the front lines of the war because of the flood of the villages and towns. Or also fighting close to the Nuclear Power Plant of Zaporizhzhia, if hit, could have caused a spread of radiation all over the area, including Russia (Daly, 2023)

As Sorel (2023) argues, the ongoing character of the war in Ukraine is a limitation in the application of the laws governing the conduct of war, *jus in bello*. In fact, with the absence of effective measures to stop the war and the UN peacekeeping efforts obstacle by the veto power of Russia in the UNSC, the focus should shift to addressing and mitigating the consequences of the conflict, the *jus post bellum*. Given that the war is ongoing, the

current state makes it impossible to address the principle of *jus post bellum* in the writing of this thesis.

## CHAPTER 4: THE DOUBLE STANDARDS OF WESTERN COUNTRIES TOWARDS IRAQ AND UKRAINE

### 4.1 An international order to protect: a reflection

The first time I thought about writing this thesis and comparing the two case studies of Iraq and Ukraine, even before questioning whether either of them was a case of a Just War, I wondered if there had been a different reaction to the emergencies from the international community. Therefore, to ascertain if there had been a double standard approach, through an analytical approach applying the theory of Just War I outlined that we are dealing with two *unjust* wars from both the *jus ad bellum* and *jus in bello* perspectives. Certainly, the fact that the war in Ukraine is still ongoing prevents us from making a complete comparison, particularly regarding the principles of *jus in bello*, as many events have not yet unfolded. Additionally, concerning the principle of post-war justice, *jus post bellum*, we will have to wait [I fear] a bit longer to be adequately addressed. On the other side, with regard to Iraq, we observed that the much-desired export of democracy and the imposition of a puppet government yielded opposite results, increasing disdain in the MENA region towards the West, general disorder, and an increase in terrorism. It is also true that the analysis compared two cases that differ in their goals. Indeed, among Its ambitions, Russia aims to annex the entire Ukrainian territory and return to the imperial dimensions it had before the dissolution of the Soviet Union. Therefore, considering the “special military operation” only for self-defence and humanitarian intervention seems almost superficial, especially considering the economic benefits Russia would gain if it truly emerged victorious from the conflict. Just consider that the EU imports a significant amount of Russian natural gas through Ukrainian territory: from a neoliberal point of view, the annexation of Ukraine to Russian territory would mean a decrease in transit prices that Russia would have to pay to Ukraine to export to Mediterranean Europe. However, Europe is also trying to become independent by severing the umbilical cord that puts the Union in a position of reliance on Moscow. Consequently, even if the Kremlin were to achieve success, reaping economic benefits would prove difficult due to the impracticality of collaboration with a state identified as an aggressor by Brussels.

On the other hand, the United States attacked Iraq following terrorist threats and to eradicate terrorism at its roots. Despite most of the evidence being fabricated or manipulated to justify the invasion, the United States entered Baghdad not to annex territory but to “encourage” the rise of a democratic government under their leadership. In a sense, having a puppet government could be seen metaphorically as annexing a territory. But even in this case, adopting a neoliberal approach, there were economic reasons, especially regarding the oil resources that Baghdad is rich in.

Beyond the arguments put forth by Washington and Moscow, both unjust, it is essential to bear in mind that in every war, there is a party that suffers the consequences, the victim, and another that acts as the aggressor. In the case of the Second Gulf War, Iraq and its population were the victims, despite the United States considering themselves as the first victims after the 9/11 attacks. Instead, in the context of the war in Ukraine, the aggressor is clearly Moscow, even though from the Russian perspective, the victims are Russian compatriots living in eastern Ukraine who have suffered the expansionist ambitions of NATO.

But let’s go back to the double standard: if for every state that supports the victim, there is a state that supports the aggressor, there are cases where the position of these states may seem hypocritical. For example, during the Iraq war, much of the West sided with Washington, the aggressor in that situation, while later adopting a supportive position towards Kyiv, the victim.

Why does the West speak out, accusing Russia of the conflict in Ukraine, and introducing all sorts of sanctions, while no European country, except for France and Germany, has condemned the United States for their decade-long war in Iraq? Let’s remember that also that conflict was an act of aggression against a sovereign country, without authorization from the Security Council of the United Nations. Only today, we witness an increasing consensus that the war undertaken by the U.S. and the “Coalition of the Willing” represented a shameful page in contemporary history. In fact, after Saddam’s fall, the country went into civil war causing the ungovernability of Iraq. Moreover, the 2003 attack on Baghdad was ordered by then-US President George W. Bush based on false news about alleged weapons of mass destruction in Saddam’s possession, presented as real facts to the United Nations. Nonetheless, President Bush has never been brought to trial for this action. The whole world silently observed the war crimes of the Americans but took no

action against the United States. Therefore, when comparing the Western countries' reaction to the war events in Iraq and Ukraine, the double standards of the West become evident. There are many examples of this "double standard": Yugoslavia, Afghanistan, Libya, Kosovo. Supposedly, the reason for these double standards lies in the global hegemony of the United States, determined by its dominance in global finance and its military presence worldwide particularly benefitting from the armed organisation of NATO.

Consequently, it appears that what favours US interests is good, legal, and acceptable, while what harms US interests is bad, illegal, and should be condemned. This is the outcome of the unipolar world.

The focus of this chapter, therefore, is not so much on the role of Ukraine, Russia, Iraq, or the United States in particular, but on *us*, i.e., the West. A West that professes the defense of an international system based on the rule of law and that undoubtedly supports Ukraine, despite history showing how the West has violated the same order it claims to protect.

#### **4.2. From Iraq to Ukraine: tracing international alliances and responses**

Moscow's invasion of Ukraine sparked a rare unity among Western democracies not seen since the first Gulf War. In fact, before 2022 skepticism towards U.S. commitment to European security raised considering American pivot to Asia. However, following the Russian invasion, the Alliance rediscovered its fundamental mission of collective defense (Polyakova, et al., 2022).

The West expected that Russian violation of a sovereign territory would prompt a global condemnation of Russian aggression and that all the countries would have imposed on the Kremlin various legal, economic, and military measures to counter the invasion of Ukraine. Hence, the West, led by a "revitalized transatlantic alliance" (Alden, 2023, p. 2) offered extensive support to Ukraine, imposed an unprecedented set of sanctions against commercial activities with Russia and the European countries provided shelter for Ukrainian refugees.



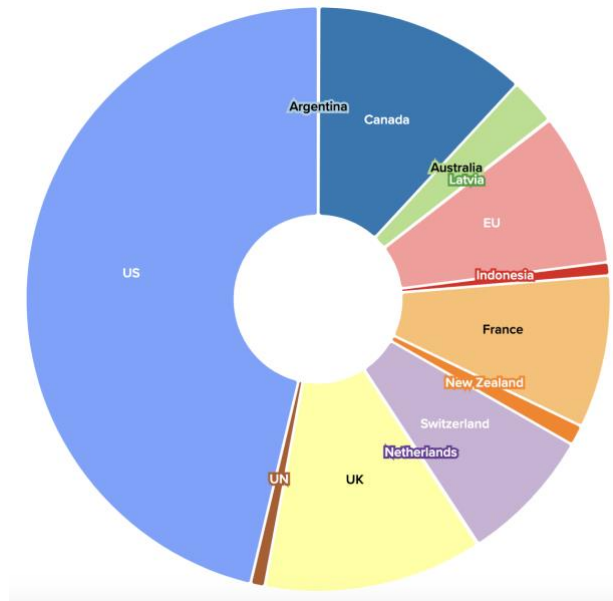


Figure 3 Countries that sanction Russia. Source: Atlantic Council (2022)

Some have critically analyzed this geopolitical situation as an event embedded in a broader context of reconfiguration, as for the past thirty years Western leaders operated believing, mistakenly, that the Russian Federation and China were aligning with the West's vision of global order. Nonetheless, we witness a decline in Washington's influence and the rise of new challenges. Namely, the US-EU coalition in general, and the Atlantic Alliance in particular, today are facing unprecedented threats. Putin's invasion of Ukraine demonstrates that deterrence failed in Europe and the invasion also coincides with a transition of power from the U.S. to Beijing, as we are witnessing China's rise.

Therefore, there are grounds for arguing that the U.S., thanks to the support of its Western allies, is using the situation in Ukraine to pursue economic and geopolitical goals. On the one hand, the Russian invasion unified the transatlantic alliances which expanded further by including Finland, the latest country to join in April 2023. Other countries formally applied to join NATO, like Sweden, displaying that the collective defence of Europe is a common objective to pursue and a tool to defeat Russia. The current interest in supporting Ukraine underscores that "Europe is not secure if Ukraine is not secure, and the United States is not secure if Europe is not secure. Failure in Ukraine is not an option for the United States and its allies" (Polyakova, et al., 2022) This reflects the interconnectedness of global security and emphasizes the Western interest in ensuring Ukraine's stability. On

the other hand, it seems that the U.S. is taking the war in Ukraine as an opportunity to also hinder China's economic influence globally and regain control over the dominance of the U.S. This is because failure in dealing with the situation in Ukraine would determine the end of U.S global leadership and have negative consequences for the US deterrence of China. The only successful way, for the West, to deter China would be succeeding in countering Russian actions in Ukraine. Or better, to give Ukraine the equipment needed to do that: the U.S since the invasion took the lead to support Kyiv with military equipment, training, economic aid, diplomatic support, and intelligence. As Polyakova, et al., (2022) underline,

the shock of the Russian invasion of Ukraine offers the possibility of revitalizing the Western vision and changing the post-Cold War pattern of complacency, greed, and appeasement. Success or failure in this will define not only European but US and global security for decades. At worst, defeat in Ukraine could mark the “end of the West.” At best, renewed geopolitical credibility and legitimacy of its values, norms, and institutions, extending from the “old West” to the countries of the “Global South” would mark the end of what the historian Anne Applebaum has called the “Twilight of Democracy.”<sup>6</sup>

However, a successful outcome can be achievable only through a geostrategic competition that sees also other countries aligned with the US-led alliance. Therefore, the countries of the Global South – i.e. “developing countries and emerging powers who share the historical experience of Western colonialism and imperialism, and a set of shared post-colonial challenges around nation-building and development, Global South geography spans Asia, Africa, Latin America and the Caribbean as well as the oceanic island states” (Alden, 2023, p.3) – play a key role.

The Indiscriminate bombings of civilian targets and abuses of human rights by Russian forces intensified the outrage of the West who relied on a similar response of other states' too. Contrary to Washington, Brussels and London's assumptions, the Global South reacted differently, not meaning that these countries supported the Russian

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<sup>6</sup> Democratic decline and the rise of right-wing populist politics with authoritarian tendencies

invasion, but they preferred to abstain and keep their economic interests in Moscow intact. Therefore, non-Western states continued their trade with Russia and declined to join the West in implementing a sanction-based system against Moscow. (Alden, 2023).

To demonstrate the “universal” condemnation of the Russian invasion, Western leaders adopted alongside the United Nations General Assembly a Resolution “*Uniting for Peace*” in March 2022 – the UN General Assembly intervenes with a special emergency session to provide urgent and relevant recommendations for the maintenance of international peace if the Security Council is unable to act due to a lack of unanimity in adopting containment measures. This was also the case in March 2022 as Russia is a permanent member of the UNSC and exercised its veto power. The Resolution ES-11/1 reflected widespread concern about the situation in Ukraine and demanded that Russia “immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders” (UN News, 2022). It was sponsored by 96 countries and passed with 141 votes in favour. However, over 40 member states of the UN abstained or voted against condemning Russian actions. Namely, five countries voted against—Belarus, North Korea, Eritrea, Russia, and Syria—while 35 others abstained, including Algeria, Bangladesh, China, India, and South Africa. Despite many countries in the Global South voting in favour of the resolution, condemning Russia’s aggression, those who abstained were only countries from the African (17), Asian (14), and some from South America (4) continents. Therefore, it can be observed that the Resolution was supported by Europe, the Americas, and Western allies such as Australia, Canada, New Zealand, Japan, and South Korea but found less support in the Global South, which diverges from the Western position.

In April 2022, the UN General Assembly reunited and adopted the Resolution ES-11/3 to suspend the rights of membership of the Russian Federation in the Human Rights Council, which received 93 votes in favour, 24 votes against and 58 abstained from the process. The votes against and abstained were cast by numerous African, Asian, Middle Eastern and Latin American countries that if on the one hand, they emphasised the urgent need to halt the conflict, on the other hand, they did not focus on its origin and conduct.

In addition to the two Resolutions, as mentioned in the preceding chapters, in March 2023, the International Criminal Court (ICC) issued an arrest warrant against President Vladimir Putin following an investigation into war crimes, crimes against

humanity, and genocide. In this case, as well, support for the investigation is easily traceable to Europe, with the final declaration signed by European states, the USA, other Western allies, and Mexico. Hence, it can be affirmed that support for the Ukrainian legal case against Russia is limited to 45 states, all of which are not part of the Global South, and among the latter, many have neither imposed economic sanctions nor offered military assistance.

Also, the International Court of Justice<sup>7</sup> (ICJ), the UN's judicial institution, has been demanded by Ukraine in February 2022 to indicate provisional measures and to proceed against the Russian Federation as "the Russian Federation has falsely claimed that acts of genocide have occurred in the Luhansk and Donetsk oblasts of Ukraine, and on that basis recognized the so-called 'Donetsk People's Republic' and 'Luhansk People's Republic', and then declared and implemented a 'special military operation' against Ukraine". As Ukraine denies such genocide, there is the ground to establish that Russia had no legal basis to invade the country. Moreover, in front of the ICJ Ukraine contended that the Kremlin was planning "acts of genocide in Ukraine" and Russia "is intentionally killing and inflicting serious injury on members of the Ukrainian nationality - the *actus reus* of genocide under Article II of the [Genocide] Convention" (Ukraine vs Russian Federation, 2022). The ICJ rejected Russian *just causes* and assessed that there is an undeniable dispute and as such it has jurisdiction to proceed against Russia (Ukraine vs Russian federation: 32 States intervening, 2023). Significantly, 32 Western states<sup>8</sup> intervened during the hearing to support Ukraine's position and reject Russian war justifications.

In general, we can observe a North-South divide, thus labelling Russia's isolation from the international community seems exaggerated, as such a declaration is only made by the United States and Western allies. Certainly, as argued by jurist Kai Ambos (2022), a significant factor influencing the distinct stance adopted by some Global South countries concerns their perspective that the Western response lacks sincerity. With that being said, it is essential to recognize that not all states in the Global South denying

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<sup>7</sup> The difference between the International Criminal Court (ICC) and International Court of Justice (ICJ) is that the former prosecutes individuals accused of war crimes, crimes against humanity and genocide, whereas the latter is a civil tribunal that deals with disputes between countries.

<sup>8</sup> Austria, Czechia, Liechtenstein, and Slovakia (jointly), Belgium, Croatia, Denmark, Estonia, Finland, Ireland, Luxembourg, Romania and Sweden (jointly), Canada and the Netherlands (jointly), Germany, Australia, Bulgaria, Cyprus, Spain, France, Greece, Italy, Latvia, Lithuania, Malta, Norway, New Zealand, Poland, Portugal, the United Kingdom and Slovenia.

support for Ukraine do so solely based on Western hypocrisy. For some, the Russian-Ukrainian crisis is just a European affair, whereas alternative reasons are intertwined with their authoritarian governments, which disdain the rule of law and human rights. This aspect warrants further in-depth research in the future.

The position taken by most Global South's States can be linked to historical facts that testify how the West also broke the rules of international law, the same it now claims to be defending or better is leaving Ukraine defend on its behalf. They not only refer to the colonial history when Western countries occupied territories considered *terra nullius*, we do not need to go back in time to find a hypocritical stance, but also to more recent breaches of international law led by the U.S and allies such as the unlawful invasion of Iraq. A war that was unjust both concerning the *jus ad bellum*, which was not supported by all NATO members, was condemned by the United Nations, and violated human rights in its conduct. Also, the general "war on terror" launched after 9/11 in Afghanistan and Iraq can be regarded as a breach of international law, especially due to the violation of the *jus in bello*.

U.S President George Bush before invading Iraq tried to garner global backing from the international community, especially seeking the support of Western allies. Despite the lack of authorization of the UN, Bush Administration proceeded with war and declared that not only the US but a big Western coalition<sup>9</sup>, a total of 49 states, was going to intervene against Baghdad:

"Following the U.S. media, you might think that only American forces are stationed in Iraq, with perhaps a sprinkling of Brits in Basra. It is therefore something of a shock to find oneself among a multi-ethnic crowd, reminiscent more of a U.N. general assembly than what is supposed to be an exercise in unilateralism. Immaculately groomed Spaniards rub shoulders with compact Thais in Rambo-like bandannas. Brisk

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<sup>9</sup> Afghanistan, Albania, Australia, Azerbaijan, Bulgaria, Colombia, the Czech Republic, Denmark, El Salvador, Eritrea, Estonia, Ethiopia, Georgia, Hungary, Iceland, Italy, Japan, South Korea, Latvia, Lithuania, Macedonia, the Netherlands, Nicaragua, the Philippines, Poland, Romania, Slovakia, Spain, Turkey, the United Kingdom, Uzbekistan Costa Rica, the Dominican Republic, Honduras, Kuwait, the Marshall Islands, Micronesia, Mongolia, Palau, Portugal, Rwanda, Singapore, Solomon Islands, Uganda Panama Angola, Tonga and Ukraine.

Bangladeshis serve perfectly decent food at the canteen. Squat Mongols seem to strike primal fear in the locals. And everybody stares after the tall Lithuanian girls, who look particularly fetching in tight desert uniforms. Altogether, 25 nations make up the division, and recruits from Georgia and South Korea are on their way” (Sikorski, 2004)

The major allies that formed the also called the *Coalition of the Willing*, have been the United Kingdom, under Prime Minister Tony Blair, Australia, and Poland, which provided different degrees of military and political support to the US. The importance of this big coalition is linked to the fact that having the support of so many countries it appeared as if the war had *international legitimacy*. In fact, lacking an authorization from the UN Security Council, the military intervention against Iraq faced skepticism from several countries. Therefore, the U.S. began seeking alternative methods to garner support. From the list provided in the footnotes, we can notice that among the 49 states, most were small, poor countries that had no obvious interest in the war and therefore their participation seemed controversial. Randall Newnham (2008), in one of his articles, argues that the participation of these small states was linked to economic and financial reasons. Indeed, the U.S. provided them with economic and military aid, trade and investment and many other economic instruments in exchange for their verbal support. Their inclusion was also based on the fact that the U.S. wanted to demonstrate that intervention was supported by a large coalition and that it would gain legitimacy. Some states joined just to have U.S. support against their enemy, for example, the Baltic States tried to win American support for possible conflict against Russia in the future. However, the U.S. made use of the same instruments in reverse, sanctioning states that were unwilling to participate. Diversely, other states joined because they were convinced that the U.S. was right, for instance, Tony Blair’s administration provided *The September Dossier* (UK Parliament, 2003), a document in support of the U.S. stance that detailed the threat that Iraq represented to the international order. Not only Great Britain but also the then Italian Prime Minister Silvio Berlusconi agreed with the American statements as did the Spanish leader Jose Maria Aznar. Both leaders visited President Bush and assessed that terrorism had to be fought by any means and that WDMs’ proliferation was a threat to the entire international order.

The escalation in concerns about terrorism and the fact that governments worldwide were aware of the risk that opposing Washington could be, the U.S. military intervention garnered widespread support. Nevertheless, it is important to emphasize that the approach of offering economic assistance proved ineffective in certain states. Nations such as France, Germany, Canada, New Zealand, Turkey, and also Russia opted not to engage in the military intervention, strongly opposing it. This not only led to a fracture in the Security Council after a decade of cooperation but also resulted in a division within the Atlantic Alliance and among European Union countries (Croci, 2003). However, no countries sanctioned the U.S. and allies after they invaded Iraq.

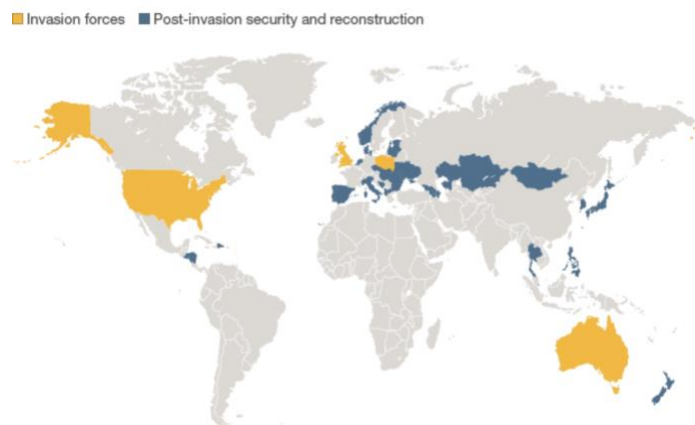


Figure 4 The coalition against Iraq 2003. Source: VOX: 27 maps that explain the crisis in Iraq

Even if we don't take into consideration the false *jus ad bellum* argued by the Coalition of the Willing, if considered the violation of the *jus in bello* it is concerning that no legal proceedings occurred about crimes against humanity reported in Chapter 4. In this case, there are inconsistencies also in the International Criminal Court's stance as the only investigation carried out against the perpetrators of war crimes was a preliminary examination of war crimes (murder, torture, and outrages upon personal dignity) committed by the United Kingdom's military forces. This preliminary investigation has been closed for lack of admissibility as the available proofs did not constitute a reasonable basis for continuing the procedure (Situation in Iraq/UK - Final Report, 2020). Despite the criminal responsibility Bush Administration, there has not been any investigation against them as the U.S. is not part of the Rome Statute, namely the Statute that allows the jurisdiction of the Court only over signatory States as enshrined in Article 12(1) of





even in the face of Russia's violation of the most fundamental international law such as the one enshrined in Article 2(4) or the UN Charter.

Considering the significant difference between liberal democracies, such as those in the United States and the EU states, and Putin's authoritarian regime, it is deemed necessary for democratic states to aspire to greater compliance with international law (Ambos, 2022).

With that being said, it is essential to recognize that not all states in the Global South denying support to Ukraine do so solely against Western hypocrisy. For some, the Russian-Ukrainian crisis is just a European affair, whereas for others there are alternative reasons intertwined with their authoritarian governments, which disdain the rule of law and human rights. This aspect requires further in-depth research in the future.

The current situation where the West has aligned itself with Ukraine raises questions about the nature of international alliances and the motivations behind such positions. It can be argued that the fact that the West has chosen to support the *just* side in this war cannot be solely attributed to the principle of justice. Therefore, the question arises as to whether, in a hypothetical scenario, a U.S.-Russia alignment would have brought greater advantages to the Western alliance and whether the West would have still chosen to support Kyiv.

This chapter aimed to highlight the intricacies of geopolitical dynamics and the strategic considerations that influence the decisions of Western nations, as we have seen how international alliances often hinge on a combination of economic, political, and national security interests. Therefore, also in today's context, the decision to back Ukraine might be the outcome of a broader evaluation of the advantages and drawbacks that it would entail. Hence, examining the changing alignment of international actors prompts inquiries and questions about the coherence of the international community.

## CONCLUSION

In recent decades, Westerners have observed numerous conflicts with a detached perspective, merely watching from a distance and passing judgment on them, considering these conflicts as mere violations of international law and the articles prohibiting the use of force in the Charter of the United Nations. Always wearing the same judicial attire, global leaders such as Washington, Brussels, and London condemned wars taking place in the most remote places in the world, either deeming them as affronts to the liberal and democratic principles they have exported worldwide or completely ignoring the event. However, the illegal war of aggression that the Russian Federation has been waging against Ukraine has brought back to the West the threat of war and armed aggression. The West reacted to the Russian unprovoked war, first in early 2014 when Russian President Vladimir Putin annexed Crimea and, later, in 2022, invaded the southeastern Ukrainian region of Donbas by claiming to be a defender of the rights of Russian-speaking Ukrainian citizens, by strongly condemning Moscow and by implementing a system of sanctions to isolate the state from the rest of the world to weaken Russia and to stop the invasion. Of course, the Western leaders strongly condemned the Russian invasion deeming it illegal under international law. They used a united and powerful voice, attempting to garner the support of as many states as possible, both allies and those in the global South. However, this time the Global South opposed, showed indifference, or almost legitimized Moscow. The states of the Global South, for centuries, considered inferior populations to be “civilized” and to be potential recipients of the West’s ambitions to export democracy, have not forgotten the past of the old colonizers. They remember it well, especially when abstaining or voting against a resolution against Russia at the United Nations Security Council. They remember it when they did not impose sanctions on Moscow and continued to trade with it. Surely, the West has not forgotten its colonial past, but its more recent past seems blurred.

When Washington and London condemn Moscow, have they perhaps forgotten the wars perpetrated in the Middle East in the name of the “war on terror”? Let’s not confuse things; the condemnation of Moscow is more than justified, but it seems like a situation where a guilty party accuses another of the same crimes. In fact, after the 9/11 attacks that caught the United States by surprise, causing a sense of fear never experienced before, President Bush did not hesitate to adopt a strong and assertive doctrine of foreign

and national security policy. First in Afghanistan to avenge the attacks, and then in Iraq for many other reasons, the United States and its allies attacked other sovereign states. While the use of force in Afghanistan could be justified, albeit disproportionate to the goal, the same cannot be said for the Iraq War in 2003. As we have seen in the chapters of this research thesis, the United States deemed its military intervention as necessary and *just*. *Just* because from their unique perspective the use of force was legitimized by Article 51 of the United Nations Charter, which allows sovereign states to defend themselves if an armed attack occurs on their territory until the UNSC decides how to proceed. *An armed attack on their territory*.

Using the framework of the Just War Theory, this research thesis interrogated the reasons and moral justifications for military intervention against Baghdad and Kyiv, raising questions about the legitimacy of the actions taken by Washington and Moscow. Moreover, the present work analyzed the conduct of war adopted by the countries and, when possible, assessed whether post-war justice was adequately applied.

We have seen how the Coalition of the Willing Intervention not only violated international law but also the principles of the Just War Theory. Indeed, the reasons claimed to intervene in Iraq lack a *just cause*, because all of them have proved to be fake and exaggerated. There is no evidence to support the American theory of Iraq owning WMDs and there are even fewer proofs determining that Iraq posed an imminent threat to the West. Even if the “responsibility to protect” doctrine (humanitarian intervention) may legitimize the intervention in Iraq, because Saddam’s regime failed to protect its citizens, the U.S. used force for other reasons claiming that the overthrow of Saddam’s dictatorship would have helped to spread freedom and democracy. However, the analysis of the *jus post bellum* provided in the third chapter shows how ineffective the war has been, yielding opposite outcomes and leaving the country in the flames of a civil war.

Waging war by introducing the principle of preemption, the United States sidestepped international law and set a dangerous precedent, contributing to the erosion of fundamental principles. As we know, on the one hand, with the collapse of the Soviet Union, the U.S. rose to global hegemony gaining an unprecedented power. As Professor Tomba argues, we tend to consider right everything that whoever holds power does, namely we share a view where “might is right”. In this sense, strength and power can contradict morality and justice and assert itself as just. This thesis leverages this discourse,

pointing out how the powerful position covered by the U.S. helped Washington legitimize its cause and portray its fight against terrorism and the wars perpetrated with this goal as just.

On the other hand, with the collapse of the USSR in the 1990s, Russia considered positioning itself as an ally of Washington. However, we have seen that the Americans persistently view the state as an adversary, which eventually caused a shift in Russian foreign policy development. Indeed, to create a multipolar world and affirm its influence over the former Soviet area, Moscow reverted to a relentless imperial aspiration. With the Russian World doctrine, President Putin tried to retain Russian speakers communities around the world, especially those residing in the newly independent states that emerged after the dissolution of the USSR. The strategy of creating a Russian world went beyond what one would imagine it became the main justification to wage war against sovereign states like Georgia first and Ukraine then. Claiming that the Russian communities were mistreated and put in a condition of danger, Putin invaded Ukraine in 2022. As in the Iraqi case study, the analysis proved that also the Russian justifications for waging war were false and exaggerated, especially the claim of stopping genocide in the Donbas area proved to be fabricated to portray the invasion as a humanitarian intervention. Therefore, from a Just War Theory perspective also the Russian invasion is illegitimate both for the *jus ad bellum* and the *jus in bello* principles. President Vladimir Putin has been held accountable for his actions by the ICC, which issued an arrest warrant against him for crimes against humanity. However, as argued in the reflective chapter, this stands in stark contrast to the lack of similar scrutiny against former American President George W. Bush, underscoring a hypocrisy of the international community's institutions. It is demonstrated how today's mentality is still influenced by Cold War dynamics that inevitably create a world marked by the enduring dichotomy of the United States as a benevolent actor consistently defending freedom and democracy, and an evil Russia with imperial and undemocratic aspirations.

Having applied the Just War Theory to both wars we see how from this perspective the two case studies are equally unlawful and have both illegitimate justifications. Therefore, they have to be condemned in the same way. One of the main purposes of this research was to ascertain the circumstances under which military intervention can be deemed justified and determine the actor that authorizes the use of force. We have seen

how this role should be in the hands of the UNSC, but in neither case, it played a significant role in authorizing the interventions. On the contrary, when the UNSC issued resolutions against the use of force and in support of diplomatic tools, both countries decided to assume the role of the UNSC and invaded Iraq and Ukraine, nonetheless.

The comparison of the Iraq War and the Ukrainian War and the subsequent international response to these conflicts reveals profound complexities within global politics and provides ethical considerations surrounding the use of military force. In general, the comparison served to reflect on the pervasive influence of cultural biases and power dynamics that for years shaped the perceptions of *just war* and international law, leaving the United States the freedom to act not only against imminent threats but also potential and emerging ones. As such, questions arise regarding why other nations, such as Russia in the case of Ukraine, but also other ones like India against Pakistan, and China against Taiwan are not similarly legitimized. The rhetoric of the superior morality of Western principles of defending freedom around the world has contributed to shaping a prevailing consideration that any military decision is rational. Therefore, my intention of putting on the same level these two invasions is motivated by the need to broaden the discourse on the justification of the use of force and the necessity of establishing new parameters to address the fundamental question of when the use of force can be considered legitimate.

However, this research thesis went beyond its scope of comparing the invasion of Iraq and Ukraine through the lenses of the Just War Theory and also served as a reflection on the complexity and uncertainty that characterize the current global context. The perception of stability, security and peace that was once taken for granted has been questioned with the resurgence of geopolitical tensions and the emergence of new actors reshaping the global landscape. The war in Ukraine has heightened the division between the West and East, the Global North, and Global South, highlighting increasing integration between the Global South states, posing a challenge to the entire Western bloc. In fact, in light of recent events in Ukraine, non-western countries emerged as a force that rather than relying on moral consideration, aligned with Russia due to distrust toward the West and its historical past.

Moreover, it is essential to acknowledge certain limitations that have influenced the scope and depth of this analysis. First, the ongoing nature of the conflict in Ukraine

poses a challenge to the comprehensive application of the Just War Theory. The evolving dynamics of the war, coupled with the fluidity of the geopolitical landscape, make it difficult to definitively assess and apply the criteria of the theory in real time. Additionally, the study encountered constraints due to the difficulty of working with materials that are still classified, particularly those containing information that serves to assess the *jus in bello*. Despite these challenges, this analysis strives to contribute valuable insights within the bounds of available information, recognizing the complexities inherent in addressing ongoing conflicts and the constraints posed by restricted access to certain critical data. Finally, it is essential to stress that this thesis leaves a vast gap that further research should cover. This offers opportunities to deepen the understanding of the complex dynamics that surround conflicts and the use of military force in the contemporary area. Indeed, future research should critically examine the efficacy and relevance of the UNSC in authorizing war in the present global context, to assess whether its role remains pivotal or has become redundant. Moreover, future research can delve into the motivations of nations from the global south to align with Russia rather than Ukraine, which could provide valuable insights into the evolving geopolitical landscape. Moreover, investigating the factors driving the U.S.'s strong support for Ukraine, such as potential strategic gains in countering China, is particularly relevant. At last, exploring the applicability of the Just War Theory in the contemporary scenario, particularly in light of the principle of preemption and its impact on the blurred lines between justifiability and illegality, could offer valuable contributions to the ongoing discourse on the morality of armed intervention.

To conclude, this research thesis, considering today's events, sought to open the debate on the general legitimization of war. Indeed, after a long period during which war was deemed amoral and illegitimate, we are witnessing an ambiguous re-legitimization of it, demonstrating that any form of law is incapable of binding it efficiently. Indeed, we have seen how through the humanitarian intervention narrative, the legitimization of war became central, as it is a means of safeguarding and promoting human rights. Also, as the precedent set by the Iraqi war, the fight against international threats like terrorism justifies states' military interventions. In both cases, humanitarian intervention and the fight against terrorism, States that intervene abundantly refer to justice because those who use force recognize the moral obligation of justifying their conduct to others, otherwise their

intervention seems illegitimate. In this regard, the Just War Theory has been amply invoked marking a resurgence of the concept of *just war* summoned in the name of justice, humanitarian emergencies and the defence of global peace.

*“It seems that it is always a sin to wage war.”*

*(Thomas Aquinas)*

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