

Lund University
Department of Political Science

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Annika Bergman Rosamond
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The tenability gap

A study of Just War Theory and intervention justifications in Syria.



LUND UNIVERSITY
Faculty of Social Sciences

BY

Sofia Wennberg

ABSTRACT

Moral and ethical considerations have always been important in discussions about warfare and the development of the international community and body of international humanitarian law, laws whose fundamental ethics that can be attributed to *Just War Theory*. With the changing nature of conflicts and due to the lack of internationally declared principles of just and unjust wars, this thesis argues that there is a gap which creates difficulties in intervention justifications of contemporary conflicts.

The aim of this study is to describe, explain and analyze the flawed tenability between the classic *Just War Theory* and its implementation in actual conflict justifications. In order to do so, the study conducts an argumentation analysis on France, the USA, and Russia's justifications for their involvement in the Syrian conflict to identify the argued *data*, *warrants*, *claim*, *qualifiers*, *rebuttals*, and *backing*. Afterward, the premisses of the justifications are related to the theoretical background to identify what it is that creates the lacking conformity.

The key finding of the study is that it is the different designs of the justifications that create the gap. Hence, the difference of basing ones' justification on generally accepted warrants or allowing the warrants to establish themselves by the logic link between the *data* and *claim*. Due to this difference in the argumentations, the thesis argues that there needs to be a separation between legitimate justifications and lawful justification.

Keywords: *Just War Theory, Syria, military intervention, justification, jus ad bellum, jus in bello*

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ABSTRACT

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1. INTRODUCTION AND AIM OF THE STUDY

Moral and ethical considerations have always been important in discussions on warfare, but the crucial moral and ethical principles have varied throughout history. The *Just War Theory* draws from Christian moral values and ideas of pacifism and expounds on the interstate ethical obligations in its aspiration to regulate reasons for war and the violence used while waging it. (Hutchings, 2010, p.138) As a result of industrial innovations and developments during the 19th century, warfare changed, and the materialistic and humanitarian costs increased even further. During the same period, the international community and the body of international humanitarian law began to emerge - new treaties, resolutions, and laws all of which shared a common source and fundamental ethics that can be attributed to *Just War Theory* (Walzer, 1977, S.21). However, today there is no generally accepted definition of just or righteous warfare and, consequently, no international consensus describing just and unjust wars. Instead, wars end up in a gray area between the classic *Just War Theory* and its implementation in international law and conventions, (Aggestam, 2010, s.10-11) where there are gaps in the logic behind the intervention and there is no regulations on how to deal with such warfare.

... the media are omnipresent, and the whole world is watching. War has to be different in these circumstances. But does this mean that it has to be more just or only that it has to look more just, that it has to be described, a little more persuasively than in the past, in the language of justice? (Walzer, 2004, s.11)

Since 2011 Syria has been ravaged by violence and instability resulting in immense human suffering and an extensive refugee situation. Numerous parties and international players have participated in the crisis, and Terry D. Gill has pointed out that the international interventions on several occasions have been without the permission of the Syrian governmental power. (Gill, 2016, s.355: U.N. Doc. S/2015/718)

The aim of this essay is to explain and discuss the lack of conformity between the theoretical backgrounds of just or righteous warfare and its present implementation in practice in many parts of the world.

This essay will focus on the ongoing and multifactorial conflict in Syria and the many criticized and questioned interventions carried out recently in this area. Hopefully, this interdisciplinary essay could contribute to our understanding of the complex events of conflict prevention and conflict management.

1.1 RESEARCH QUESTION

Based on the proposed study aims, the following research question has been formulated:

By looking at the tenability in Russias', the US, and Frances' intervention justifications in Syria, how can the gap between the classic Just War Theory tradition and its implementation in practice be understood?

2. THEORETICAL FRAMEWORK

2.1 THE JUST WAR THEORY

The *Just War Theory* is based on traditional western moral values, Christian thoughts of pacifism and ideas by thinkers like St Augustine. From its pacifist foundation, the Just War theory postulates some violence could be justified with the right moral claims. The modern design of the theory are linked with the creation of the nation states and expounds on the interstate ethical obligations in its aspiration to regulate the reasons to conduct war and the amount of violence required. The tradition, therefore, calls upon cosmopolitan views to limit the harm done to others as well as autonomous rights as self-defense. (Hutchings, 2010, p.138: Höglund, 2004, p.26-27)

Theoretically, the “Just War” tradition is divided into two sets of principles: ‘the just cause of war’ (*jus ad bellum*) and ‘the just conduct of war’ (*jus in bello*). (Hutchings, 2010, p.138: Shapcott, 2010, p.151-2: Höglund, 2004, p.26-27) For a long time, ‘just war’ thinking was solely a part of customary law or ethical codes in different cultures. It was during the late nineteenth century that the theory started to become codified and a part of treaties and formal agreements, e.g. the right to self-defense and banning of different types of weapons (i.e. Non-Self-Destructing landmines). (Shapcott, 2010, p.154: Dower, 2009, p.81)

2.1.1. JUS AD BELLUM (JAB)

JAB consists of six formal criteria that are clearly linked to moral and ethics. The principles of JAB are the following:

- I. Just Cause
- II. Last resort
- III. Proportionality
- IV. Probability of success
- V. Legitimate authority
- VI. Rightful Intention

According to James Turner Johnson, the first three are the key criteria that must be met; this does not mean that the remaining three principles are unimportant, only that their significance is secondary in tradition. (Johnson, 1999, p.41-42)

2.1.1.1. Just Cause

Anna T. Höglund presents the three forms of war that traditionally could be justified: (1) restorative, (2) retributive, and (3) corrective wars. Since late sixteenth century, only war in self-defense is considered a legitimate cause and it is included in the UN Charter where it is declared that: "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security..." (UN Charter Chapter 7 Article 51).

2.1.1.2. Last resort

War should simply not be "...the continuation of policy by other means" (Clausewitz, 1968, p.119) so to make a war legitimate; all peaceful alternatives must have been exhausted. This principle stipulates that peace is preferred over war, namely due to war often results in more suffering and harm than peaceful methods. Given the great costs, it is clearly better to avoid it. (Hutching, 2010, p.140: Dower, 2009, p.92)

Even though the idea of 'last resort' is quite simple it is in practice often difficult to assess when a situation has reached the point of no return. Furthermore, possible peaceful options might have consequences that need to be included in the calculations. (Hutching, 2010, p.140: Dower, 2009, p.92) For example, economic sanctions can affect the lives of all the inhabitants of a country while a war might only be fought in a part of that country and hence only affect the residents in that region. (Dower, 2009, p.165)

2.1.1.3. Proportionality

If one chooses to "do harm" by starting a war, one should restrict further damage by applying proportionality thinking. In other words, States should only fight wars where winning them will not be outweighed by the harms done while fighting them. This forces the actor waging war to keep the aims within reason, and the judge of reason in most cases is the universal cosmopolitan view or the UN. (Hutching, 2010, p.141: Dower, 2009, p.163-164)

2.1.1.4. **Probability of success**

This principle serves the purpose to prevent irrational resorts to force and arguing that so-called 'noble wars' with a low chance of success should not be fought since the costs (human and material) of fighting them probably will be too grave. (Hutchings, 2010, p.141; Dower, 2009, p.166)

2.1.1.5. **Legitimate authority**

The war must be declared by the legitimate authority, in the case of nation-states, this is usually the national government. This is because the state from a social-constructive perspective, has the monopoly of violence and in the case of democracies represents the will of the people. By restraining declarations of war to legitimate authorities, this principle helps prevent private wars or wars between organizations. Furthermore, no state that has signed the UN Charter has the right to wage war without the permission of the UN Security Council. Moreover, the security council of the UN also has the right to invoke military action when needed in line with chapter 7, article 42 in their charter. However, on several occasions, member countries have acted directly against the UN recommendation or without their permission such as in Serbia 1999 and Iraq 2003. In contemporary debate, this principle has been widely discussed since sometimes rebel groups can be considered more legitimate than the government. Not classifying some organizations as legitimate can create problems with individuals that are fighting on their behalf are to be viewed as prisoners of war or not. Some researchers argue that organizations with political goals which have the popular support can be considered legitimate. Though, this creates further problems with e.g. terrorist organizations that might have wide public support and fundamental political aims. (Shapcott, 2010, p. 166; Hutchings, 2010, p.140; Dower, 2009, p.84-85; UN Charter 7(42); Höglund, 2004, p.32)

2.1.1.6. **Rightful intention**

At all times, when war needs to be waged it should be done so with rightful intentions and on the right moral grounds. Originally, the demand for rightful intentions aimed to restrict individual state leaders to start a war without proper reasons or to accomplish personal goals. Therefore, in war situations, the underlying intention and motives must be proportional to the consequences of actions. (Höglund, 2004, p.29-30; Hutchings, 2010, p.140; Dower, 2009, p.161; 163; Johnson, 1999, p.43)

2.1.2. JUS IN BELLO (JIB)

JIB is about rightful conduct of war, and researcher means that the separation between JIB and JAB are logical in two ways: Firstly, a war that is fought unjustly can never be legitimate just as a war that is justly fought but for the wrong reasons can never be just. Secondly, States are more likely to agree to restrict *how* they fight than they are to renounce the right to conduct war. JIB's most crucial point is civilian immunity making a distinction between who and what that is a legitimate target. (Dower, 2009, p.168)

2.1.2.1. Discrimination

In war, there should be a clear distinction between civilians and military actors. Collateral damage with civilian casualties or loss of innocent civilian lives can never be justified (Hutching, 2010, p.141-142) Distinction between military combatants and civilians are made from the assumption that war is an irregularity, an exception to normal life and rules. Actors who actively engage in wartime hostilities should, therefore, lose their civil immunity, once removed from the field of combat they regain their status as civilians. (Dower, 2009, p.170)

This principle also introduces the so-called 'double-effect doctrine' which acknowledge that sometimes it might be permissible to cause harm an unwanted negative side effect while aiming to do good. (Hutching, 2010, p.141-142)

2.1.2.2. Proportionality

Any damage or harm resulting from military activities must be proportional to the strategic gain and importance of the operation. (Hutching, 2010, p.141-142)

2.2 PREVIOUS RESEARCH ON THE SHORTCOMINGS OF JUST WAR

Steven P. Lee writes that after the Thirty Years War (1618–1648), the Treaties of Westphalia symbolizes a milestone in the evolution of the international community by its introduction and fortification of state sovereignty, limiting the “legitimate actors” that had the right to wage war. (Lee, 2011, p.57) Even if the theory adopts a realist way of thinking in limiting the legitimate actors, there is a problem with the State centered perspective, (Lee, 2011, p.58: Hall, 2014, p.53) Hugo Grotius captures the essence of the problem when stating that "for a king or state with sovereign power, nothing which is in their interest is unjust" (Lee, 2011, p.56). Pacifists criticize the theory arguing there is no legitimate reason for war. Walzer responds to the

criticism claiming that the theory is valid anyway because wars are going to take place whether we like it or not and, consequently, it is better to have laws of war than no laws at all. (Shapcott, 2010, p.183; Walzer, 1977, p.339-340)

In the late 18th century technological development changed the way wars were fought and made them more destructive. As a consequence, a series of treaties based on JWT thinking emerged within the body of international humanitarian law, i.e. The Hague Peace Conferences, Geneva Conventions and one of the more influential on JWT is the 1945 prohibition of aggression in the UN Charter. Thus, the notion of just war was not limited to only just cause, but also incorporated just cause of self-defense. (Lee, 2011, p.62-65)

Recently, several authors have pointed out difficulties and problematic areas related to the JWT. David Fisher writes that with the creation of the nuclear weapons the nature of war changed, that today they are fought by non-state actors targeting civilians and civilian areas. He argues that wars today are fought by choice rather than of necessity and that this change in conflict nature has resulted in challenges for JWT. (Fisher, 2011, p.155; p.162) Cécile Fabre argues that today's cosmopolitan view and the changing nature of conflict demands researchers to study the JWT with a new definition of legitimate actor that includes larger groups fighting for social and political ends. (Fabre, 2012, p.2)

Alex J. Bellamy indicates that one potential problem with the Just War Theory is that it can be used as a checklist to justify actions of war. Richard Shapcott reaffirms this criticism and adds the observation that JWT becoming a part of the military machine. Shapcott cites Anthony Burke who exemplifies with the principles of proportionality and double-effect is "... remove[ing] thousands of people from the space of moral concern" (Shapcott, 2010, p.185). Steven Lee writes that IHL made wars less about being just and more about being in line with treaties. Yet Lee means that ethics of the JWT helps to understand the law as a whole and not only as points that need to be crossed off a checklist. (Lee, 2011, p.67) Correspondingly Bellamy explains that the JWT provides the international community with a shared vocabulary about just war and moral judgments to be used when arguing about war. (Bellamy, 2008, p.24-25) A shared vocabulary, Shapcott continues, means that the most common interpretation of JWT does to some degree hinder states from waging aggressive and unprovoked wars. (Shapcott, 2010, p.186)

Another part of the contemporary debate on JWT revolves around the legitimacy of preventive warfare. Several scholars' writes that the problem with preventive warfare is that one needs to be certain that an attack will befall, and there is an obvious problem achieving this unless an act of aggression has not already occurred. Additionally, preventive warfare could mean that war no longer would be the last resort, but the first option, leading to countless and unnecessary wars. (Dower, 2009, p.165: Höglund, 2004, p.29; 31-32: Walzer, 2015, p.77) Hoping to counteract the practice of preventive warfare the UN General Assembly 1970 Resolution 2625 was created, declaring that "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or its political, economic and cultural elements are in violation of international law." (UN Resolution 2625).

In recent years, the addition of *jus post bellum* (JPB) has been discussed. JPB refers to the responsibility states towards the other State and its population to stipulate a just peace. A JPB would be helpful in the assessing of humanitarian interventions since it would demand the constitution of a post-war settlement that promotes political reconstitution (Shapcott, 2010, p.151: Fisher, 2011, p.67; p.237)

2.3 THIS STUDY AND JUST WAR THEORY

Alex J. Bellamy and James Turner Johnson claim that most States, as well as political and social leaders today, accept the basic principles of the just war tradition (Bellamy, 2008, p.53: Johnson, 1999, p.7). Furthermore, as outlined in the previous section (2.2), the JWT provided the international community with a mutual vocabulary on just wars meaning it is the common foundation for the analytical units in their arguments to justify the military involvements. In addition, it is this collective acceptance that makes the just war theory central to the present study since all discussions regarding justifications of military involvements are built on this vocabulary.

Since the focus of the present paper is just cause to war, JIB will be secondary in the analysis of the statements.

3. RESEARCH DESIGN

The study has a qualitative ambition to explain the lack of conformity between the theoretical tradition of just war and how it is implemented in practice. The method used to conduct the study will be Stephen Toulmin's version of 'argumentation analysis'. An argumentation analysis can be done with three purposes: 1) to describe a series of arguments, 2) to show if the arguments are in line with specific norms, and 3) to determine the tenability of the arguments used. Since the purpose of the study is to evaluate the argued motives in relation to JWT, the method will be used in line with its third purpose - to determine tenability. (Bergström & Boréus, 2012, p.92-93) Toulmin's argument analysis consists of six building blocks:

- I. Claim
- II. Data
- III. Warrant
- IV. Backing
- V. Qualifier
- VI. Rebuttal

Data is the premiss (statistics, examples, expert opinions) that the statement builds upon and can be found by asking "What does the author say to persuade the reader of the claim?". *The claim* is the main point one are arguing for and can be found by asking the question "What is the author trying to prove?". *Warrants* are the underlying assumptions or presuppositions of the argument and explain how and why one can argue for the statement in a specific way. *Warrants* link the *data* to the *claim* and can be found by asking "What's causing the author to say the things he/she does?". Toulmin divides arguments into two categories based on how *warrants* are used: "Warrant-establishing" and "warrant-using" arguments. Warrant-establishing arguments are when the *data* and *claim* have been independently verified, and there is a logical link between the premiss that by itself establishes *warrants*. Warrant-using arguments are about establishing *claims* by basing it on *warrants* whose acceptance is taken for granted. (Toulmin, 2003, p.90-91; p.111-112; Bergström & Boréus, 2012, p.107) These first three building blocks (*data*, *claim*, and *warrant*) are the main blocks that need to be present if an argument should be called an argument at all. (Bergström & Boréus, 2012, p.108)

Backing is used when the *warrant* needs support, hence, how valid and what you are basing your *warrant* on. *Rebuttal* is about considering different points of view and dealing with them in a fair manner by answering questions and objections raised. *Qualifiers* are expressions like possibly, rarely, and many instead of certainty, always, and all and are used when an argument is about possibilities or probabilities. Toulmin divides the probabilities into two categories: improper claims ("He claimed to know so, but he did not") and mistaken claims ("He thought he knew, but was mistaken") arguing that in the case of *qualifiers* one must sometimes consider why an argument is made. These remaining three (*backing*, *qualifier*, *rebuttal*) are only needed if the main blocks need support. (Toulmin, 2003, p.93; p.55; p.96: Bergström & Boréus, 2012, p.107-108)

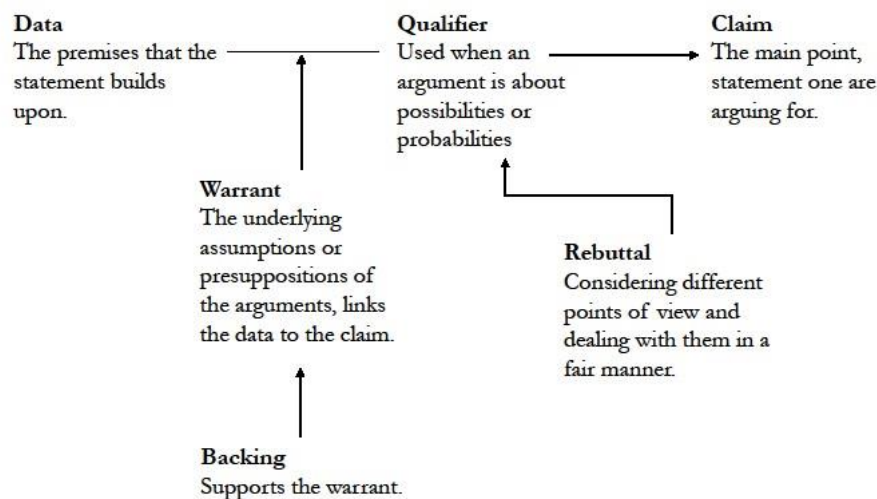


Fig. 1. Illustration of how Toulmin's analytic models building blocks relates to each other.¹

When assessing the tenability or the probative value of an argument one can look at three factors: the backing and relevance of the argument, if there are arguments of relevance that have been left out or the probative value of each argument individually and of all the arguments together. (Bergström & Boréus, 2012, p.126-128: 130)

In this study, the analytic tool will be applied to statements made by the head of States and senior officials within the government of the analysis units. Structuring the statements is important as rhetoric and logos are present in statements. To assess the tenability of the

¹ All figures included in this dissertation are made by the author.

arguments the probative value of all the arguments together will be studied. By doing so, the *data* and *warrants* used will be highlighted. By structuring the arguments in such a way, it is then easier to identify how the arguments relate to JWT and then be able to study the gap. The choice of method was made to ensure a higher level of validity and intersubjectivity in the study and enables one to work solely with the statements and their tenability by focusing on what is being said with the argument, not the world surrounding it. The study will work mainly with quotes from the statements since it is what is said that is to be interpreted. Thus, for reliability and validity reasons it is of great importance to display the actual quote.

3.1 CRITICISM OF THE RESEARCH DESIGN

A possible weakness of the methodology used is that it sometimes requires the user to make daring assumptions when structuring the arguments. However, by structuring and arranging all statements, the prerequisites become equivalent before doing the theoretical analysis. Another disadvantage with argumentation analysis is that some information will be implied or unspoken, some may be understood by using logic while others demand contextual knowledge. These unspoken messages can be used to make the audience to perceive certain facts as obvious or as an escape for the speaker to not address certain premisses for a statement. A conscious use of implied or unspoken premisses is often used in politics. (Bergström & Boréus, 2012, p.116)

Kristine Höglund and Magnus Öberg writes that "Truth is often said to be the first casualty of war" (Höglund & Öberg, 2011, p.3), which embodies the problem of the chosen research design very well. In an ongoing conflict as complex as Syria, trying to assess the underlying intentions would be questionable from an intersubjective perspective. This highlights the importance of the theoretical framework with clearly stated principles that are present and acknowledged in the international community. In the present study, the methodology applied equalizes prerequisites for the included analytical units which will increase the validity, reliability, and inter-subjectivity of the study as well as the possibilities to interpret the results obtained correctly.

3.2 MATERIAL

In the present study, the materials used in the analysis was retrieved mainly from primary sources such as official statements and publications collected from official channels and websites of the different analytical units, as well as the United Nations Official Document System (UN ODS). To locate statements made in an international context where the principles

of the previously described theoretical framework most likely have been respected, the UNODS has been used. Examples of data sources used are the White House President Barack Obama archives, archives at the French embassy in Washington and statements from the Russian governmental or presidential websites (all internet based archives). In the search for material the keyword Syria was used and then all the material was systematically reviewed to find the statements related to the intervention decision.

A major challenge for the study is language barriers. For some of the selected analytical units, there is no guarantee that the material is originally published in English but translated by the publisher. This means that a source may not be reviewed in their original form or must be omitted altogether. To ensure that the required parts/dimensions of the arguments according to Toulmin's method were correctly identified and analyzed, and to strengthen the reliability of non-original language sources, triangulation will be performed. In other words, use several statements to identify the premisses will be presented in chapter 4.2.

3.3 LIMITATIONS AND RESTRICTIONS

In the present study, statements made between January 2011 and December 2015 have been included. This time period was chosen since the conflict in Syria began in 2011 and since some of the included analytical units underwent major political changes in late 2015 rendering their factual positions unclear or significantly changed. In addition, in conflicts, it is often considered more relevant to study the pre-conflict phase and the first stages of military involvement compared to later stages of continued or established military engagement.

The second limitation concerns the analytic units. These units are all important players/actors in the conflict but with different backgrounds, positions, motives, and considerations to why they are involved and why they are intervening. The difference is important since it is the theory and the hypothetical gap between theory and practice that are to be examined. If the units were chosen on a "most similar" basis, the result would only tell us that in this particular case and due to these specific reasons, there is a gap, not explain how the potential gap is to be understood.

As described in section 3.2, an additional restriction to the study has been language barriers. As an example, due to the lack of reliable English translations of key documents Iran had to be omitted from the study.

4. EMPIRICAL BACKGROUND AND APPLICATION OF THE ANALYTIC MODEL

In this chapter, international involvements in the Syrian conflict, as well as statements made by the analytic units, are summarized contextually. All countries involved will be presented separately, and in chronological order from 2011 to 2015. The parenthesis following the quote, containing a letter and a number refers to which country and which statement it is being treated. The references are named in the same way in the bibliography (chapter 7) to facilitate reference management. In chapter 5 the result of the application of the analytic model will be analyzed in relation to JWT. In this study, the analytical units (i.e., heads of states, governmental officials, departments, and ministries, etc.) are evaluated collectively and sometimes referred to as "they". In-depth presentation of the background and actions taken will not be included since the purpose of this study is to analyze the justification of actions in Syria provided by the countries.

4.1 A SHORT SUMMARY OF THE SYRIAN CONFLICT AND INTERNATIONAL INVOLVEMENT

Ever since November 1970, the Asad² family has governed Syria. In 2000, following the death of his father Hafiz al-Asad, Bashar al-Asad claimed the presidency. Importantly, the Asad family belongs to the Shia sect Alawites, which constitutes a minority of the Syrian population (e.g. 12%). During the Asad rule, Alawites have received increasingly preferential treatment, i.e. elite recruitment to senior positions within the security apparatus

The first clash between security forces and protestors took place in the city of Dera'a when the regime forces used lethal force to control the demonstrations. Later in 2011, the uprisings spread to Homs, Hama, and other provincial capitals. In the cities of Latakia and Tartus, where the majority of the Alawite population lived, security forces established military checkpoints. As violence worked to settle the protests in Dera'a, the same method was used in other cities but rather than mitigating the protests, both the size of the demonstrations and the use of government violence escalated. In June 2011, armed rebellions started to take place, which

² In this thesis the author will use the spelling 'al-Asad', some quotes contain the spelling 'al-Assad', but they both refer to the same individual.

Elizabeth O'Bagy means, were the beginning of the increasing militarization of the crisis. (Holliday, 2011, p.13-14; p.19: p.21: p.23: O'Bagy, 2012, p.1)

Samer Abboud describes that, during the conflict, the regime's armed forces have retreated from large parts of the country, mostly due to military setbacks in the encounter with opposition rebel forces and Daesh³. As a result of retreating regime forces, a power vacuum has occurred since no other group has been able to seize authority clearly. Instead, the country has fragmented into geographic, political, ethnic, tribal and administrative zones controlled by competing groups of authority (Abboud, 2015, p.340-341: Aaron Reese p.13: 15-16: Christia, 2013, p.8). Even so, Bashar al-Asad remains in power and control of the governmental apparatus and armed forces as well as the capital city Damascus (Gill, 2016, p.355).

In August 2013, the chemical gas sarin was used in an attack in the Ghouta district outside Damascus. The condemnations from the international community were quick and strict, referencing the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases. A UN investigation began swiftly but many states, especially the US and some EU countries, were quick to blame the Asad regime for the attack. However, until today The UN has not managed to determine who the perpetrator was. (Phillips, 2016, p.168: UN Investigation, 2013, p.5)

Jane Kinninmont writes that traditional allies of Syria, i.e. Iran and Russia, have supported the regime since the beginning of the conflict. Russia considers the regime the only one able to stop Daesh, and according to Hugo Spaulding et al. Syria is also of vital strategic military importance to Russia in the Mediterranean region (Spaulding et al. 2015, p.1-2; p.8: Cafarella, 2015, p.1: Kagan et al. 2016, p.29)

Western States quickly sided with the opposition yet were in the beginning, unwilling to intervene militarily. (Kinninmont, 2014, p.48) Today, both France and the United States are actively engaged in the 'Anti-ISIS' coalition and are conducting operations within Syria. (Gill, 2016, p.361) Among the EU states, France is probably the country most deeply involved and opposes any form of future involvement from Bashar al-Asad in Syria. (Black, 2015)

Following the terrorist attacks in Paris in November 2015, France has intensified their military efforts in Syria even more. (Black, 2015: Shaheen et al. 2015)

³ Daesh is the Arabic acronym for The Islamic State of Iraq and the Levant and the term that will be used by the author in this thesis. Some quotes refer to ISIS or ISIL; these are synonyms to the acronym employed by the author.

Aaron Reese writes how secularism and secular values have been used to contrast parties from each other, i.e. calling the opposition ‘moderate’ or one's opponents ‘extremists’ or ‘fundamentalists’. (Aaron Reese, p.13) The same method, Kagan et al. writes, is used by Russia to label armed opponents of its allies as terrorist, in Syria's case including the Syrian opposition. (Kagan et al. 2016, p.28)

4.2 APPLICATION OF THE ANALYTIC MODEL

4.2.1. FRANCE

In February 2011, the spokesman for the Ministry of Foreign and European Affairs recapitulated the aims and initiatives of France on the matter of Syria. This is early in the conflict, so the *claim* is that diplomatic measures (sanctions, creation of the Friends of Syria Group (FSG), and pursue the issue in the UN) need to be taken to hinder “...the atrocities committed by the regime...” (F1). The *data* presented in this statement draws on *warrants* that violence used by the regime towards its people is wrong, and through stating that France needs to “...respond to the humanitarian emergency” (F1) the Ministry emphasizes a *warrant* about joint responsibility. (F1)

In 2012 the former Minister of Foreign and European Affairs Mr. Alain Juppé spoke directly to the Syrian people. He states that the “...regime has lost all legitimacy” (F2) and must be held accountable for their actions (*claim*). Mr. Juppé references to a list of cities that has been subjected to regime attacks, that children are being murdered, that the regime is trying to ignite an inter-faith conflict and support extremist movements, and that actions made by France this far have been a factor in the weakening of the regime's power. In these statements, the *data* are used to vitalize *warrants* as wrongful use of violence monopoly and joint humanitarian responsibility, strengthening them by using the concept and notion of “legitimate” (F2).

In June 2012, the former Minister of Foreign Affairs Mr. Laurent Fabius announced that France needs to “...strengthen her stance to oppose this regime of blood and death” (F3) by increasing sanctions and international dialogue. Mr. Fabius refers to other international parties *backing* the *warrant* ‘joint responsibility’ with an argued collective perception on what needs to be done. He also states that “... France intends to be in the vanguard of actions against Bashar al-Assad and against the crimes for which he will be held accountable.” (F3). The use of the word “crime” is *backing* the *warrant* that the regime is in the wrong and needs to be held accountable. It

makes the *data* more likely to convince someone since it might be easier to relate to the concept of criminal actions than the complexity of international law and politics. (F3)

France's Permanent Representative to the United Nations Security Council, Mr. Gérard Araud tells the UN Security Council in July 2012 that: "...we've done everything possible to ensure the emergence within the international community of a concerted approach capable of responding to the legitimate aspirations of the Syrian people for democracy, the rule of law and the respect of their fundamental rights" (F4) and lists the increased number of deaths in the conflict. In the UN this plays of contextual *warrants* as human rights but also addresses a *warrant* that democracy should be the preferred state system. He also states that "... provisions adopted by this Council have been systematically violated by the Syrian regime" (F4) and exemplifies what type of violence the regime has used against the civilians ("heavy artillery shelling, under attacks by combat helicopters." (F4)), hinting to treaties about civilian discrimination in wars (*warrant* and *backing*). Five months later he reaffirms the *claim* that international support is needed and states that France recognize the right for the Syrian people to defend themselves and that they are going to "provide increased assistance to the Syrian people," (F5).

From 2013 and onwards, France argues two lines of military involvement – one against Assad and one against Daesh. The *claim* for involvement against Daesh is based on three principles: "to protect our territory, prevent terrorist actions and act in self-defense" (F6). Mr. Fabius states that "The best way of fighting Daesh [...] to conduct practical operations." (F7) and emphasizes the *warrant* that terrorism is wrong and we need to show that we are against it when he says "... if we want to show specifically that we're against terrorism and against Daesh, we must engage practically in the fight against Daesh." (F7) but that it is to be within "the self-defense framework of United Nations Charter Article 51." (F7).

In the case of Bashar al-Assad, Mr. Fabius states that as "far as morality is concerned, there is nothing to discuss. Bashar al-Assad has been described by the Secretary-General of the United Nations as a criminal against humanity." (F8). He also states that "the Daesh terrorist group has thrived, with, in reality, the complicity of Bashar al-Assad's regime." and that the Syrian people "... fate cannot simply be a choice between two horrors: a criminal regime versus barbarous terrorism." (F9), linking the argument to fight the regime to the self-defense against terrorism. Mr. Fabius also says that diplomatic and military operations are "... aimed at achieving a political transition that does not keep Syria's executioner in power but makes it possible to bring the Syrian people together at last." (F9).

At a press conference regarding the Syrian situation Mr. Fabius states:

Once we have identified – a training camp in this case – elements for which all the evidence is that France may be targeted, given that, the right of self-defence applies. Naturally, maximum precautions – and I stress this – are taken to ensure that no civilians are killed. However, I fully agree that it is difficult to make distinctions between people, particularly the terrorists of Daesh, who are people who think ahead and seek to mix with the civilian population. We do everything we can therefore to avoid that, but at the same time it cannot lead to a paralysis of action that would allow Daesh to advance and to destroy us without our having been able to take action. (F9)

Notably, in this statement Mr. Fabius use the *qualifier* ‘may’ (F9), meaning he is talking about probabilities. In a meeting with the French Defense Council on November 5th, 2015, President Hollande declares that the guiding principles of all French involvement in Syria must be “combating Daesh and stopping the bombing of civilians. Bashar al-Assad can in no way be Syria’s future.” (F10)

In figure 2 and 3 a visualization of the most common analytical premisses is presented, structured after Toulmin’s model of argumentation analysis. The arguments are presented as separate figures due to the *warrants* and *data* differs when arguing for military intervention against Asad or Daesh.

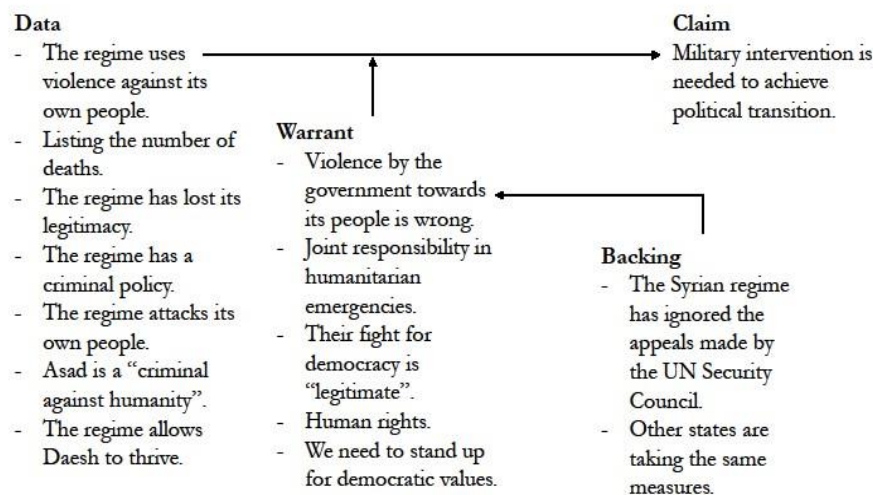


Fig. 2. Visualization of Frances argument for military intervention against Asad.

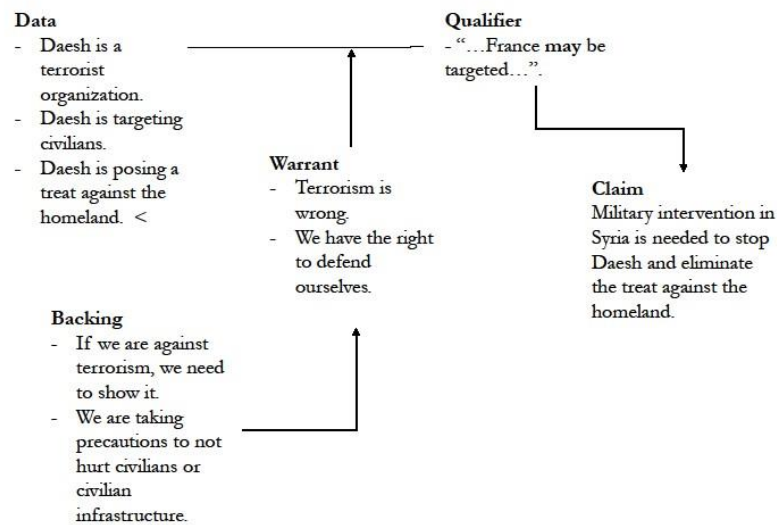


Fig. 3. Visualization of Frances argument for military intervention against Daesh.

4.2.2. THE UNITED STATES OF AMERICA

In the early stages of the conflict, President Barack Obama stated that he "... strongly condemn the abhorrent violence committed against peaceful protesters by the Syrian Government today and over the past few weeks." (U1). With this *data*, the *claim* was that "...arbitrary arrests, detention, and torture of prisoners that has been reported must end now" (U1). President Obama enumerates freedoms such as "...freedom of expression, association, and peaceful assembly; confidence in the rule of law and the equal administration of justice, and a government that is transparent and free of corruption." (U1) and continued with "These rights are universal, and they must be respected in Syria." (U1). Consequently, actualize *warrants* connected to the belief in universal rights, the international community's endeavor, and functioning state systems.

After the attacks in Hama, the violence was used as *data* to "demonstrate the true character of the Syrian regime." (U2) and the regimes lacking ability to "respond to the legitimate grievances of the Syrian people." (U2). President Obama also proclaims that Bashar al-Asads use of "torture, corruption, and terror puts him on the wrong side of history and his people." (U2). The *claim* develops into one of 'need of international involvement' when he declares that "the United States will continue to increase our pressure on the Syrian regime and work with others around the world to isolate the Asad Government and stand with the Syrian people." (U2).

In August 2011, President Obama declared his support for the "Syrian people's pursuit of a peaceful transition to democracy" (U3) attaining *warrants* such as the preference of peace over violence and the preference of democracy over autocracy. He also says that "For the sake of the

Syrian people, the time has come for President Asad to step aside" (U3) and by stating that "the United States will support is an effort to bring about a Syria that is democratic, just, and inclusive for all Syrians. We will support this outcome by pressuring President Asad to get out of the way of this transition and standing up for the universal rights of the Syrian people along with others in the international community." (U3) the *data* is linked to the *claim* through the *warrant* 'belief in universal human rights' and *backing* this with reference to other states, in other words, the presumed collective perception on what needs to be done.

After the clash between protestors and the regime in Homs President Obama used the violence to consolidate that the US stand against Asad stating:

Every government has the responsibility to protect its citizens, and any government that brutalizes and massacres its people does not deserve to govern. The Syrian regime's policy of maintaining power by terrorizing its people only indicates its inherent weakness and inevitable collapse. Asad has no right to lead Syria and has lost all legitimacy with his people and the international community. (U4)

This invokes *warrants* about governmental responsibilities, the concept and notion of 'legitimacy', and the risk of the creation of a failed state. He also indicates that the UN Security Council has a responsibility to "demonstrate that it is a credible advocate for the universal rights that are written into the U.N. Charter." (U4).

In August 2013, the *claim* developed into one including military action against the Syrian regime. Obama declares that "I have decided that the United States should take military action against Syrian regime targets." (U5) and that it is to be "an open-ended intervention." (U5). He argues this on the *data* that the Syrian Government was responsible for "the worst chemical weapons attack of the 21st century" (U5) and emphasizes that the attack is "an assault on human dignity. It also presents a serious danger to our national security." (U5). Disregarding the need for UN Security Council permission the President states: "... I'm comfortable going forward without the approval of a United Nations Security Council..." (U5). With this in mind, he goes on to create an ultimatum through the *data* "What message will we send if a dictator can gas hundreds of children to death in plain sight and pay no price? What's the purpose of the international system that we've built if a prohibition on the use of chemical weapons that has been agreed to by the governments of 98 percent of the world's people and approved..." (U5) continuing with "... I believe, that our security and our values demand that we cannot turn away..." (U5), calling on *warrants* of responsibility. In true American patriotic spirit, he is

backing the warrant and states that "... we are the United States of America, and we cannot and must not turn a blind eye..." (U5).

In September 2013 Obama once again states military involvement in Syria and continues to explain why it is needed:

If we fail to act, the Asad regime will see no reason to stop using chemical weapons. As the ban against these weapons erodes, other tyrants will have no reason to think twice about acquiring poison gas and using them. Over time, our troops would again face the prospect of chemical warfare on the battlefield. And it could be easier for terrorist organizations to obtain these weapons and to use them to attack civilians.

If fighting spills beyond Syria's borders, these weapons could threaten allies like Turkey, Jordan, and Israel. And a failure to stand against the use of chemical weapons would weaken prohibitions against other weapons of mass destruction and embolden Asad's ally Iran, which must decide whether to ignore international law by building a nuclear weapon, or to take a more peaceful path.

This is not a world we should accept. This is what's at stake. And that is why, after careful deliberation, I determined that it is in the national security interests of the United States to respond to the Asad regime's use of chemical weapons through a targeted military strike. The purpose of this strike would be to deter Asad from using chemical weapons, to degrade his regime's ability to use them, and to make clear to the world that we will not tolerate their use. (U6)

Not encouraging wrongful behavior, protecting allies, spillover effects that might lead to a worsened situation, and threatening homeland security are *warrants* that can be found in this statement. Later on, President Obama says that "...I have a deeply held preference for peaceful solutions. Over the last 2 years, my administration has tried diplomacy and sanctions, warnings and negotiations, but chemical weapons were still used by the Asad regime." (U6) pointing to previous efforts that not have been successful.

In 2015 the focuses of the justifications shift to Daesh, and President Obama informs that "We see a growing ISIL presence in Libya and attempts to establish footholds across North Africa, the Middle East, the Caucasus, and Southeast Asia. We've seen attacks in Ottawa, Sydney, France, and Copenhagen" (U7) and for this reason, President Obama claims military intervention (*claim*) to be necessary to "prevent attacks against our Nation" (U7). This statement builds upon the *data* that "ISIL has been particularly effective at reaching out to and recruiting vulnerable people around the world, including here in the United States" (U7) so the military operations conducted "will continue to target the oil and gas facilities that fund so much of their operations. We're going after the ISIL leadership and infrastructure in Syria..." (U7).

In late September 2015, President Obama explains that the US intervention “is not a conventional battle. This is a long-term campaign, not only against this particular network, but against its ideology.” (U8) and later on “Ideologies are not defeated with guns, they're defeated by better ideas, a more attractive and compelling vision.”. (U8) In December 2015, the objective of the efforts against Daesh has developed into the following *claim*: "hunting down and taking out these terrorists; training and equipping Iraqi and Syrian forces to fight ISIL on the ground; stopping ISIL's operations by disrupting their recruiting, financing, and propaganda; and finally, persistent diplomacy to end the Syrian civil war so that everyone can focus on destroying ISIL." (U9). Lest raise doubts about the legitimacy of the operations he says that they are “targeting ISIL surgically, with precision.” (U9) and gives examples of *data* as operations conducted to destroy “their fighting positions, bunkers, and staging areas; their heavy weapons, bomb-making factories, compounds and training camps.” (U9).

In figure 4 and 5 a visualization of the most common analytical premisses is presented, structured after Toulmin’s model of argumentation analysis. The arguments are presented as separate figures due to the *warrants* and *data* differs when arguing for military intervention against Asad or Daesh.

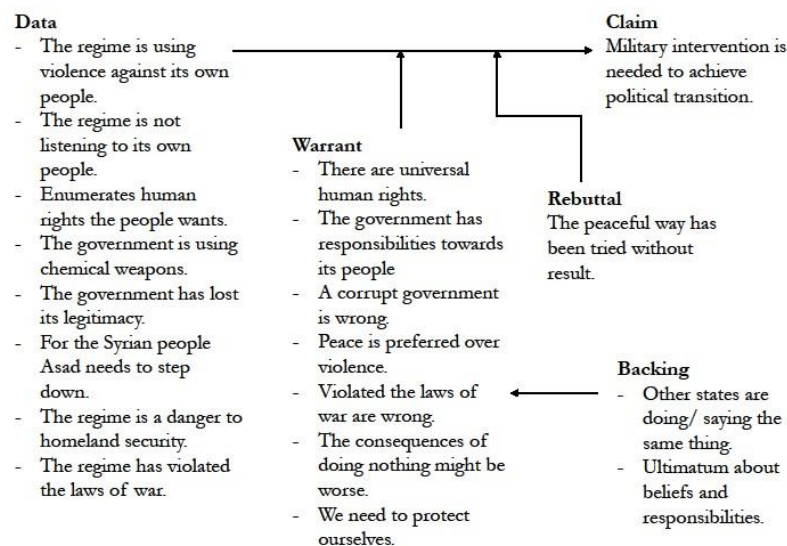


Fig. 4. Visualization of the US argument for military intervention against Asad

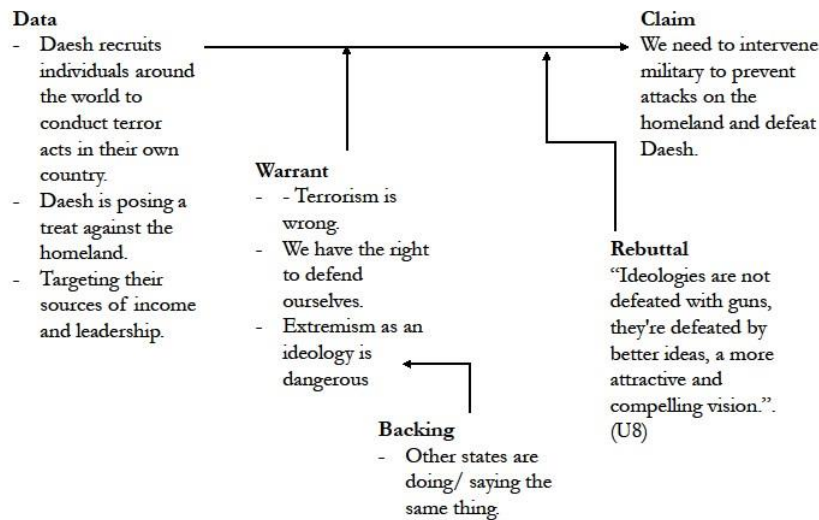


Fig. 5. Visualization of the US argument for military intervention against Daesh.

4.2.3. RUSSIA

In 2011, the former President of the Russian Federation, Mr. Dimitry Medvedev stated that although Russia supports the international demand that the Syrian regime stops using violence against its population, they “oppose imposing sanctions in the form of an ultimatum” (R1). Medvedev's argument (*data*) is that the violence in Syria needs to end and that that might require the deposition of the Syrian government. Nonetheless, this cannot be a decision “for NATO or any individual European country to make, but belongs to the Syrian people and Syrian leadership, who have to realize their responsibility for their country’s future.” (R1). The argument is based on the principle of sovereignty *warrant*, and Mr. Medvedev supports this (*backing*) by referring to NATO's involvement in Libya 1973. He also states that “...Russia will continue to oppose any attempts to use the Security Council to legitimize all manner of unilateral sanctions aimed at bringing about regime change. I remind you that the UN was not established for this purpose...” (R1).

In March 2012, Foreign Ministry Spokesman, Mr. Alexander Lukashevich commented on the FSGs meeting where it “is reported to have called arm supplies to the opposition ‘an excellent idea’” (R2). Mr. Lukashevich responds to this FSG statement claiming that: “Al-Qaeda militants have been proved to form part of the illegal armed groups on the territory of Syria and AlQaeda is known to have been condemned as a terrorist organization by the UN Security

Council, it stands to reason to ask: how such statements of the responsible politicians match with the above-mentioned decisions and international law in general?" (R2). By initially referring to the opposition as "the opposition" and later on as "illegal armed groups on the territory of Syria" (R2) *warrants* related to criminality and confusion on why democratic states would support these organizations are triggered. Mr. Lukashevich *is backing* the *warrants* with the *Declaration on Measures to Eliminate International Terrorism* that says States "must refrain from organizing, instigating, assisting or participating in terrorist acts in territories of other States, or from acquiescing in or encouraging activities within their territories directed towards the commission of such acts" (R2).

After the sarin nerve gas attack in Ghouta 2013, Mr. Lukashevich states that "facts showing that this action was a provocation by the inexorable opposition" (R3) and that other States use this attack to justify their involvement. Mr. Lukashevich argues that those actions that bypass "the UN will disrupt the efforts of the international community to find a political and diplomatic solution to the Syrian conflict..." (R3). Mr. Lukashevich also urges states to stop using "statements containing threats to use force against the Syrian regime" (R3) since it sends signals to the opposition that diplomatic measures are not the preferred alternative.

In an article by Russian President Vladimir Putin published on September 12th, 2015, the main argument to support the *claim* is that Russia is protecting international law and that the law must be followed "whether we like it or not" (R4). President Putin argues that there is a risk that the UN will suffer "the fate of the League of Nations [...] if influential countries bypass the United Nations and take military action without Security Council authorization" (R4) calling on a *warrant* wishing to preserve the international community. Supporting it with *data* about increasing the risk for "more innocent victims and escalation, spreading the conflict far beyond Syria's borders" (R4) if States are allowed to act as they want. *Backing* it when stating that "if you cannot count on international law, then you must find other ways to ensure your security" (R4). President Putin argues that this is no longer "a battle for democracy, but an armed conflict between government and opposition in a multi-religious country." (R4) that is being "fueled by foreign weapons supplied to the opposition" (R4).

In a speech to the UN General Assembly in September 2015, President Putin emphasizes that the "The United Nations is unique in its legitimacy, representation and universality" (R5) and reaffirms that "bypassing this procedure [UN Security Council resolution for intervention, authors clarification] are illegitimate, run counter to the UN Charter and defy international law."

(R5) and that in "...the same vein goes the question on the so-called legitimacy of state authority." (R5). Both statements refer to the criteria of territorial integrity and sovereignty, actualizes *warrants* about respecting other countries' borders and the non-interference principle.

President Putin also addresses the issue with trained military combatants returning from the conflict in Syria to their home/native countries stating that: "[The] Islamic State camps train militants from many countries, including the European countries. Unfortunately, Russia is not an exception. We cannot allow these criminals who have already felt the smell of blood, to return back home and continue their evil doings." (R5), hinting to the *warrant* of right for self-defense. President Putin continues by explaining that: "Russia has always been firm and consistent in opposing terrorism in all its forms. Today, we provide military and technical assistance both to Iraq and Syria that are fighting terrorist groups." (R5). Arguing that the only way to solve the Syrian crisis "[...] at a fundamental level is to restore the statehood where it has been destroyed, to strengthen the government institutions where they still exist or are being reestablished..." (R5), and to do so international assistance is needed (*claim*).

In a meeting between President Putin and state officials of the Russian Armed Forces *data* is stated that the operations conducted are "... powerful and precise..." (R6) against "... ISIS targets and other extremist organizations..." (R6) targeting the "...the terrorists' main infrastructure facilities, ammunition depots and manpower locations." (R6). By leaving "other extremist groups" undefined, the receiver is free to interpret the message. Due to one of the most common links to extremism is terrorism, these groups are naturally categorized as the enemy, thereby activating *warrants* about terrorism being wrong. In the closing statement of that meeting President Putin spells out the *warrant* of national service, patriotism, and the right to self-defense by stating "As you perform combat missions to fight terrorists in Syria, you are defending Russia and its citizens." (R6).

Russian Foreign Minister Sergey Lavrov states at a UN Security Council meeting that: "In the vast territory of Iraq and Syria, ISIS has created what is in fact an extremist quasi-state with an efficient repressive apparatus, stable sources of funding, a well-equipped army and elements of weapons of mass destruction." (R7). This *data* is used to activate *warrants* regarding weapons of mass destruction and fear of Daesh accomplishments and future development. He also says that "On September 30, in response to the request of the Syrian leadership, President Putin asked for and obtained the consent of the Federation Council of the Federal Assembly of the Russian Federation to use the Armed Forces of the Russian Federation in Syria. It would consist

exclusively in the operation of the Russian Air Force to strike at ISIS positions in Syria.” (R7). At the same time, Foreign Minister Lavrov clarifies that they have the Syrian regime's permission to conduct military operations on Syrian territory. This also means that a *warrant* of knowing that they have been asked to intervene is present. Foreign Minister Lavrov continues with “We believe it is critical that the initiatives being put forward in this sphere be based on the solid foundation of international law, respect for the sovereignty and equality of states, and non-interference in their internal affairs. One should not go over the heads of legitimate governments while promoting the slogans of the fight against extremism in specific countries.” (R7), once again references the second article of the UN Charter 2(4). (UN Charter)

In figure 6 a visualization of the most common analytical premisses is presented, structured after Toulmin’s model of argumentation analysis.

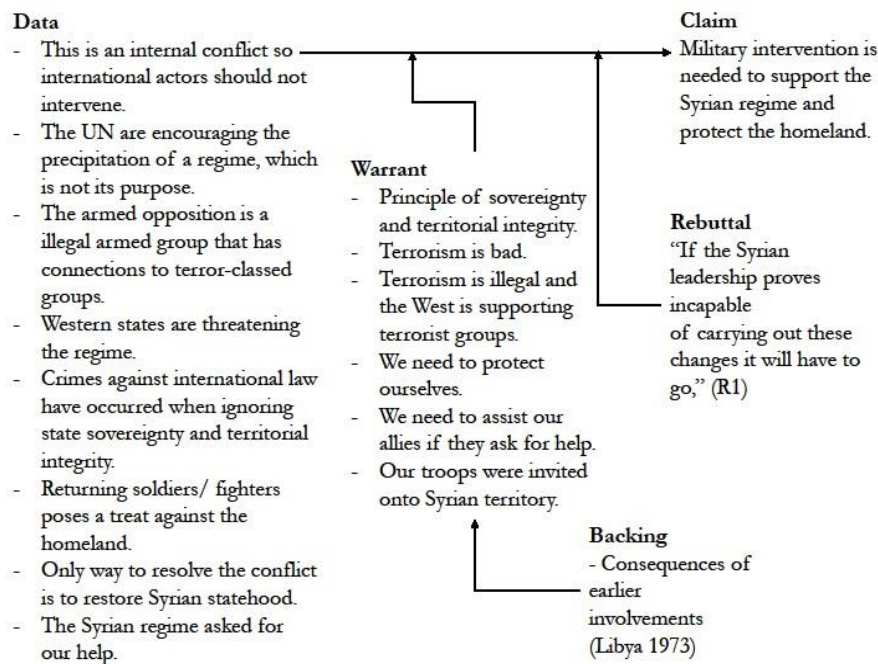


Fig. 6. Visualization of Russia’s argument for military intervention.

5. ANALYSIS

Among the analyzed statements, one can identify several JWT principles - some shared by the analytical units and some that differ. In this chapter, the JWT will be used as an analytic tool in relation to the identified analytic premisses (*data, claim, warrants, qualifiers, rebuttal, and backing*) from the previous chapter. In this section, the analytic units will be grouped together thematically after the JWT principles. Lastly, a concluding analysis will be inscribed.

Just Cause

The first JAB principle is ‘just cause’ and as described in 1.1.1.1, this principle relates to the fundamental reason for going to war. For all the analytic units included in this study, the concept of self-defense has been the main argument. Even so, both the US and France uses *qualifiers* as “may”, “if”, and “could” (F11: U6) which adheres to previous criticisms claiming that the theory has been utilized to justify so-called preventive warfare. As stated in Chapter 1.2, previous research points to the difficulties assessing the probability of being attacked with any reasonable certainty, and to determine whether all peaceful options have been tried out. In contrast to the US and Russia, France could claim just cause based on the terrorist attacks in Paris in November 2015. However, terrorist attacks as "aggression of warfare" falls into a poorly defined gray zone since JWT was originally structured and adopted to define wars between states and not intra-state conflicts or attacks carried out by intra-national groups.

The US links their claim for just cause to intervene in Syria to an alleged deterioration in the international communities’ ability to prevent and ban the use of chemical weapons, arguing for a possible scenario where enemies of the US would be able to come in possession of such weapons. This scenario contains too many unsubstantiated and independent events, this argument for the US interventions in Syria is difficult to support with the principle of just cause, even if the principle had included preventive warfare, making it more of an improper claim than a mistaken one (see chapter 3).

Russia base their claim on the terrorist attacks that has occurred throughout Europe, arguing that there is an increased risk for attacks also on Russian cities. Similar to the US claims, the imminent threat on Russia is difficult to ascertain. In contrast to other analytic units included in

this study is, the Russian arguments on just cause often focuses on alleged wrongdoings by other states and on adherence to international laws and regulations. In addition, Russia has also linked their arguments for just cause to those of the UN in preserving international peace by intervening in Syria.

Proportionality

As outlined in 1.1.1.3, the JAB principle of proportionality is about putting the objectives and importance of military operations in relation to the harm done executing them. However, this principle is often difficult to assess before the actual fighting is over, and in the case of targeting terror groups also very hard to separate from JIBs principle of proportionality. In contrast to the regular military structures involved in intra-state wars, terror groups often utilize civilians and civilian infrastructure for their own protection as well as asymmetric warfare, which makes it notoriously difficult to determine who will be directly affected by a military intervention. At the same time, to refrain from intervention might worsen the situation for civilians or prolong the war and this uncertainty is also applicable for the interventions against the Syrian regime.

Last Resort

Regarding the principle of last resort, US President Obama states that "...I have a deeply held preference for peaceful solutions. Over the last 2 years, my administration has tried diplomacy and sanctions, warnings and negotiations, but chemical weapons were still used by the Assad regime." (U6). Similarly, France claims that they have "...done everything possible..." (F5). By doing so both the US and France claim that they have exhausted all possible peaceful options and that military intervention, therefore, is necessary as a last resort. However, it is difficult to assess whether all possible options actually have been tried or not. One could easily argue in favor of the UN Security Council to serve this purpose, and that a UN resolution could be considered as a prerequisite for any military interventions.

Interestingly, Russia was asked by the Syrian regime for military support, thus not necessarily required to fulfill the criteria for 'last resort' and able to claim some degree of legitimacy when interfering with the territorial integrity principle.

Probability of success

Regarding the principle of 'probability of success' the international involvement in Syria remains difficult to assess. Russia argues that restoration of the state as well as strengthening governmental institutions (R5) constitutes valid aims. However, they do not define the definite endpoints of 'restoration'. France claims that military interventions directed at Daesh are

required of states that is against terror (F9), but does not define for how long these activities must continue or how much military force that is required to reach the goal.

Similarly, the US states that their military intervention will be a "... long-term campaign..." (U9) and not limited to one particular terrorist network. Furthermore, the focus should be on the ideology behind terrorism, a goal that makes the objectives of intervention impossible to assess. A problem with not defining clear endpoints for an intervention is that there will be no reference point for an evaluation of proportionality. Thus, even if the cause of an intervention is legitimate, the effects and consequences of warfare might not be justifiable.

Legitimate authorities

Every military intervention that was evaluated in this study were declared by the legitimate authorities and/or legitimate governmental officials. Although the declarations made by the analytic units were by legitimate representatives, one can argue that there is a problem with who their counterpart was. Regarding the interventions against the regime, both the US and France states that the regime and Bashar al-Asad "...has lost all legitimacy..." (U4: F3), nonetheless, they state that military intervention is to take place against regime targets.

Not having a legitimate state power in Syria can also be seen as a way to circumvent the problem of territorial integrity. Here, Russia differs from the other analytic units, since it was asked by the Syrian regime for military support (R7). Hence, their military intervention was approved by the governmental power of Syria, an approval that France and the US lack and, therefore, consequently are violating the state sovereignty and territorial integrity. A possible way to bypass the need for a legitimization of the intervention would be a mandate from the UN Security Council, but no such mandate has been distributed. Therefore, and taken together with the relatively weak arguments for 'just cause' of the interventions, the Frances and the US justifications tenability of the interventions can be questioned. Noteworthy, both France and the US use the term 'legitimate' when discussing the Syrian opposition - an opposition that has asked for the US and Frances' support. This could be viewed as one way to surpass the principal of territorial integrity by claiming that there is a new legitimate authority in Syria, who is allowing their presence.

Although Russia does not adhere to all the principles of JWT, they still have the permission of the Syrian regime to act militarily on Syrian territory. Whether this makes their intervention more legitimate is a topic for discussion. In relation to JWT, this situation constitutes a poorly defined area and the difficulty to find a legitimate and internationally acceptable way to combat

a hostile terrorist group on another nation's territory shows that the adaptation of the just war theory to the conflicts of today sometimes is inadequate.

Rightful Intention

James Turner Johnson argues that rightful intention is a secondary principle in the theory of just war (Johnson, 1999, p.41-42). However, this principle is the most prevalent one in the *warrants* of the justifications (i.e. terrorism being wrong or joint responsibility in cases of humanitarian emergencies) and the most commonly found in the *data* (i.e. the regime uses violence against its own people or terrorism poses a threat to international peace). In the justifications, the high prevalence of the principle of rightful intention can be viewed in two ways: 1) rightful intention is a predominant principle in JWT or 2) the principle is the easiest to apply to claim and gain support for a just war. In both cases, it remains difficult to objectively assess intentions and to prioritize between different intentions.

Concluding analysis

The study highlights the difficulties with the JWT in relation to conflicts changed nature. Regarding the principles of just cause and last resort, the study shows that preventive warfare is a highly present factor in the analytical units' intervention justification that the classical theory cannot regulate alone or together with other forms of IHL and UN stipulations. Proportionality is becoming harder to separate from JIB since the applied violence in greater extent affects civilians, resulting in a consideration between the harm done by violence and the harm necessary to reach one's aim with the intervention. This relates to the problem with probability of success. If wars are no longer about territory, but ideologies and other immaterial goals, how do one measure the probability of success?

Another significant problem with JWT and contemporary conflicts is the principle of legitimate actors. In intra-State conflicts a realist perspective of actors is problematic, furthermore based on the justifications in this study when France and the US declare the opposition to be legitimate, one can argue that there is a possibility to self-determine who the legitimate actor is. The problem with not regarding States as the legitimate actor is that JWT needs to define what these new actor's obligations to its surroundings are, how they are to be held responsible for their actions, and how they can be reprimanded for violations.

Lastly, there is an issue with assessing intentions. As the goals for the conflicts change, so does the intentions and tend to be more immaterial (i.e. humanitarian values) and how do you assess intentions without rating them between justifiable and less justifiable intentions?

The above-discussed findings highlight the great difficulty of JWT in contemporary conflicts and the case of Syria. Even if a war can be classified as "lawful" within JWT, it does not mean that it is 'legitimate'. For example, even if France was attacked by Daesh, there is no possibility to declare a lawful war against a non-legitimate actor on another State's territory without violating international laws or principles. Correspondingly, the US cannot prove the imminent threat of Daesh or the Syrian regime without the use of *qualifiers* making the link between the *data*, *warrants*, and *claim* unclear and questionable. The gap between the theory tradition and its application is the result of changing nature of conflicts (Fisher, 2011, p.155; p.162; Fabre, 2012, p.2). To fill this gap, this theoretical tradition would have to make a differentiation between 'legitimate justifications' and 'lawful justifications'. *Legitimate justifications* would mean that the argued justification fulfill most of the principle listed under JAB and that there is a clear and understandable link between the analytic premisses. *Lawful justifications*, on the other hand, would be able to fulfill most of the JABs principles but they do not have a clear link between the analytic premisses. The link is instead unclear and sometimes even questionable. That a division needs to be made can be supported by Toulmin's concepts of warrant-establishing and warrant-using. (Toulmin, 2003, p.111-112) Legitimate justifications would be warrant-establishing in the way that they argue the *claim* for can be independently verified by the JWT principles, as well as the *data* that are used to argue for the *claim*. Lawful justifications, on the contrary, could be considered warrant-using due to using *data* to activate *warrants* that one knows to support one's *claim*.

6. CONCLUSION

The key finding in this thesis is that JWT in its original form cannot compensate for the differences in how an actor argues for their *claim* in contemporary and complex intra-State conflicts, as the Syrian crisis. The different uses of *warrants* are therefore the crucial factor in the, by this study, argued gap. This finding builds upon Toulmin's separation of warrant-establishing and warrant-using arguments arguing that a similar separation needs to be added to the JWT. The study, therefore, introduces the concepts of 'legitimate justifications' and 'lawful justifications', meaning that *legitimate justifications* fulfill the JWT principles and presents an unambiguous link between *data* and *claim*, and thereby establishing the *warrants* the argument needs to be considered valid. A *lawful justification* fulfills most of the JWT principles but lacks a clear link between the analytic premisses. The changed nature of conflict has allowed actors to argue for war, basing their *data* and *claim* on *warrants* they know will enable them to achieve what they are striving for.

Future research is needed to confirm the gap as a reoccurring phenomenon within contemporary conflicts. Continued studies are therefore required to bridge the gap, and thus restricting the practice of war.

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