Critiquing Just War Theory: *An Examination of Arguments and a New Approach*

By

Dylan E. Grove

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Department of Political Science and International Studies (POLSIS)

School of Government

College of Social Sciences

University of Birmingham

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Abstract

Over recent years, contemporary political, international and moral theorists have neglected to defend the relationship between morality and war, terrorism and violence. The assumption has largely been that the application of morality to warfare (primarily thought the JAB/JIB) has been a universally good thing and has helped restrain the worst excesses of violence. This thesis examines this assumption more closely, looking at three major critical perspectives of morality in conflict: Machiavelli and realism, Schmitt and Legalism and Nietzsche and Amoralism. For each tradition, I look closely at the critique of JWT, LOAC and morality to offer a critique of the dominant moral theory of conflict, just war theory. As such, the thesis is a genealogy of the main amoral approaches to conflict and their key conceptual criticisms of morality, with the aim of reflecting more critically on the relationship between moral principles and their application in conflict and to highlight the validity of a new approach to conflict: the aesthetic approach, found in the continental tradition, is as a better explanation of conflict than morality while creating the beginning of a different philosophy of conflict, beyond realism and just war theory.

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Contents

Introduction

"Europe needs not only wars but the greatest and most terrible wars"

-Nietzsche (HH, p.230-231)

"People speak sometimes about the "bestial" cruelty of man, but that is terribly unjust and offensive to beasts, no animal could ever be so cruel as a man, so artfully, so artistically cruel."

-Fyodor Dostoyevsky

Conflict is essential to the creation of culture. Or at least, this is what Nietzsche argued about war. Europe needs wars, not because wars are morally good, but because war will enable the creation of grand cultures and civilizations. War is therefore, on this account, a temporary lapse into barbarism, for the purposes of a new, brighter future. What is distinct about this account of war is its overt *amorality*. For many who question the place of morality in normatively evaluating conflict, Nietzsche represents the beginning of an epistemological critique that questions the reliability of moral values to provide useful advice to combatants or political leaders. For Nietzsche, this was because of the innate debt philosophy owed to Plato, believing that all moral philosophy has essentially misunderstood the rich and diverse nature of ethical values and characters; we would do well, he contended, to listen more to Thucydides than to Plato; what he called his 'cure' to Platonism (Geuss, 2005 p.219; TI, 'What I Owe to the Ancients' S. 2 p.118). As such, to offer useful ethical advice at all, Nietzsche argued for a 'revaluation of all values', to begin a new way of both 'grounding' claims in a reliable epistemology and to think, and most importantly '*feel'*, differently about ethical problems (TOI, 'forward' p.31; D, S.103 p.60). Indeed, even the term 'ethics' does not truly encapsulate Nietzsche's radical break with morality. Nietzsche aimed at destroying the inherited principles of moral philosophy and ethics, and unlike many in the 20th century who have taken inspiration

from Nietzsche, he radically broke with both the normative qualities of morality and, perhaps more crucially, its *language* (MacIntryre, 2007 p.258). Nietzsche presented normative disputes as irrational, recasting them as 'clashes of will', so that any language of normative value is essentially redundant as it depends on that individual's particular irrational commitments – feelings of good or bad, aversion or compulsion, are only *feelings*, on which normative (especially moral/ethical) philosophies cannot be reliably based (Leiter, 2019 p.109). Conflict, therefore, to Nietzsche, has no normative evaluation in the traditional sense. As such, even if one feels war to be wrong intuitively, this does not constitute a moral truth, or, add weight to a distinctly 'moral ought'. To attain civilisation (over the barbarism of war) was not a normative good for Nietzsche *per se*, but a way for Nietzsche to emphasise that both the destruction and creation of culture have a dependent relationship, and when one civilisation is destroyed it often gives birth to another, built in its ashes.

The redemption of war that Nietzsche theorised was indicative of what many scholars have called his 'aesthetic redemption of life'. Nietzschean aestheticism is predicated on perspectivism yet is a deeper philosophy than postmodernism – 'aesthetic theory' attempts to understand normative prescription as individual expressions of 'imitation, representation, expression, emotion and form' (Vacano, 2007 p.5). In this respect, for Nietzsche life was about imitating the qualities of art in that our lives are largely creations, imaginative constructions of value, that are rooted in our deeper natural (or psychological) drives which dictate a sense of value in life. In this sense, life is essentially performative: it imitates each other, it represents one particular psychological drive to the world, it expresses a particular emotive feeling, all of which, underpins our thinking towards ethical life. In effect, the way we express values is not conditional on shared feelings, it is just individuals acting out life, in the form of will and effect. In this sense, there is a certain fatalism to Nietzsche's epistemology. Much of human life is

simply trying to make sense of our deeper, underlying motivations and then expressing them on the stage of the world and in this sense, Nietzsche posited, 'life can only be justified as an *aesthetic phenomenon'* (BT S.5, p.8). Hence, Nietzsche's understanding of a phenomenon like war is an aesthetic understanding. It is not that wars *should* motivate cultural reinvention, neither is it a 'reality' of war, it is an epistemology based on performativity. Epistemologically, human beings are in a tragic, agonistic, clash of wills that define our engagement with one another. If no real normativity exists, then there is no reliable way of making a normative distinction between acts of violence. As such, I contend our ethical valuations depend on a limited relationship to the *aesthetic character of the world*. Human evaluations of the world are more similar to art than many suppose. Human beings imitate the narratives attached to art, they express it and emotionally react to it, but there is no universal judgement that can encapsulate all these forms. Likewise, the aesthetic approach also emphasises that when we make evaluations they are made without with perfect (sensory) knowledge, but on the collective interchange between all of our own individual perspectives and thus, the narrative and performance associated with an act of war or violence is what our ethical evaluation is predicated on. We cannot reliably perceive the way others will perceive things and therefore, evaluations are fated to act-out as clashes of will, which on occasion and for a variety of reasons, result in conflict.

Nietzsche's aestheticism constitutes a radical break with 'morality', defined as an attachment to 'normative ethics'. He is responding to a particular kind of Platonism which asserts objectivity and moral universality (Vacano, 2007; Villa 1992). The central claim I advance in the thesis is that this particular kind of normative ethics and moral philosophy is inadequate to either understand the clash of conflict or to mediate that clash effectively. In this thesis, I will focus my examination on the broader epistemological and metaethical foundations

on which the morality of conflict has been based. Many accounts of the potential harm of morality have already been made, predominately by realist thinkers, though not enough attention has been paid to the broader epistemological problems of morality. Nietzsche in this respect represents a particularly radical break with morality, suggesting the problem lies at the root of any kind of normative evaluation. Combined with the philosophies of Machiavelli and Schmitt, I contend that at the heart of the problem of morality is attachment to normative philosophising. I propose that to avoid this, we need to begin to construct an aesthetic theory of conflict, built on aesthetic political theory, which moves beyond normative philosophy towards an aesthetic basis of values. If morality is particularly ill-suited to understanding the dimensions of conflict or providing meaningful (moral/ethical) regulation, then how should we understand conflict and is regulation possible are central questions I will ask. The problem that I centrally explore therefore is, within philosophical moral and ethical theory, there is a predominate approach that seeks to answer the question 'what I ought to do', particularly emphasising the 'moral ought' which could be unreliable either as an understanding or regulation of conflict (Macintyre, 2006). What happens if that question of 'ought' cannot be authoritatively determined? If there are no reliable criteria for the moral/ethical evaluation of phenomena, then how can we respond differently to the problems that arise from war, terrorism and violence?

Though this has not been the only objection to morality and normative ethics, a number of different thinkers have questioned the status of moral claims, particularly with association to 'philosophical ethics' (MacIntyre, 2007; Geuss 2008; Gray 2002; Rorty, 1993). To question morality in this way may seem unusual and perhaps even dangerous. Rodin (2009), along with many other moral philosophers have often noted of the need to respond to 'dangerous. . . Nietzschean immoralism' (p.7). When faced with scenes of horrific violence, genocidal dictatorships, and blatant violations of basic human dignity, the human instinct is to intervene

and prevent such deplorable actions. As Walzer (2006) questioned, it is 'enough' that 'the zealots and the bigots have done their filthy work', continuing, 'whenever filthy work can be stopped, it should be stopped. And if not by us, the supposedly decent people in the world, then by whom?' (p.81). For many moral philosophers, questioning morality in conflict is often used a licence to behave immorally, as an excuse to commit moral crimes for personal gain, or worse, a sign that someone is lacking basic empathy.[1] One of my primary contentions however, is that this attitude towards morality as a 'given' for 'good' or empathetic human beings has led many moral philosophers to dismiss or ignore the question of their own moral foundations. Like Nietzsche, I argue the 'value of our values' must be brought into contention.

Our responsibilities as human beings, to the world and each other, should not be monopolised by moral philosophy. As Satkunanandan (2015) illustrated, thinkers such as Nietzsche attempted to teach that 'morality' is only one form in which individuals take 'responsibility' for the world, and in this sense a very limited responsibility because morality limits our 'attentiveness to calculation' and constrains a broader responsibility to the world (p.27; p.30-31; p.195). Questioning the relevance of morality to our broader responsibilities is a vital and important question to pose and, like Satkunanandan, I agree that morality does not have the monopoly on 'thinking ethically' that it purports to. Normative ethical and moral philosophers have been allowed for too long, particularly when it comes to violent conflict, to assume that amorality is synonymous with irresponsibility and dangerous self-service; both human intuition and the world are infinitely more complex. Other thinkers, like John Gray, have gone further still and argued that, from the stone axe to the Kalashnikov, 'humans have used

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[1] See for example Shelly Kagen's (1998) book *Normative Ethics*, where she gives an example of setting a child on fire, saying this invokes an instinctual repulsion and, if that isn't shared by her reader then that person need not read on any further (p.2). The main implication here being that, if the instinctive feeling isn't felt then that person is lacking something and this feeling is, essentially, the moral instinct.

their tools to slaughter one another'; continuing that mass-murder and 'a hope for a better world' are inextricably linked (Gray, 2002 p.96-97). A problem, he also argues, derives from epistemological problems regarding an overreliance of moral philosophy on 'moral intuition', as Gray put it, followers of 'justice', 'avoid inspecting their moral intuitions too closely' (Gray, 2002 p. 102).[2] Thinkers like Gray, Satkunanandan and others have attempted to show that morality does not necessarily make us less violent, more responsible or more humane when engaging in conflict. These problems are rooted not just in the potential harm in the application of moral principles, but in deeper rooted issues with how moral principles are formulated.

I want to provide greater clarity in how far we should move beyond morality and normativity in conflict. Over the course of the thesis, I will examine four main propositions; the just war tradition (chapter 2); Machiavelli and realism (chapter 3); Schmitt and legalism (chapter 4) and; Nietzsche and amoralism (chapter 5). Each of these traditions of thought have a different relationship to morality and/or ethics and are organised into an increasingly radical break with morality. In each case, I will provide a genealogical root of the tradition, specifically focussed on key moral and/or ethical claims/critiques, to assess how each view the role of morality in conflict. Ultimately, my central claim I will advance is that the epistemological issues with morality derive from its normative evaluation. By looking at the critique offered by Machiavelli, Schmitt and Nietzsche, I conclude that Nietzsche's particular understanding of aestheticism helps to break from these normative commitments while retaining a connection to ethical life and broader responsibility to the world. Breaking from this normative philosophising, particularly in the form of morality, and moving towards an 'aesthetic political

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[2] John Gray directs his attack on justice to Rawls' views specifically. However, the view is also extended to just war theory. See his books *Black Mass* (2007) or *Al Qaeda and What it Means to be Modern* (2003) for example, that try to illustrate how modernity and morality are equally problematic as a motivation to violence.

theory', would help to better ground ethical issues in the complicated and contextual nature of the world.

What is 'Morality'?

Almost everyone has some notion of what it means to be 'moral': some are informed by religion, some by their gut-feelings, and others by their experience or attachments. Yet, 'morality' has a long and multifaceted history and for centuries moral philosophers have debated what it means. Today, a wide variety of moral approaches exist, each respectively attempting to create a definitive account for the application of moral judgement. In this respect, morality is an ever-evolving conversation, from a variety of traditions, each of whom have very different definitions of what it means to be moral. As a result, moral advice to combatants is not straightforward and usually begins with an exploration of 'morality' as a basis for regulating and humanising conflict. Throughout the thesis, I will refer to 'morality' as pertaining to a particular branch of 'normative ethics', usually associated with an analytic approach to moral/political philosophy. I will take an orthodox definition of morality, as accepted by most moral philosophers, to mean the distinction between 'good and evil' and 'morals', also in the orthodox sense, as 'usually taken to refer to rules about what people ought to do and what they ought not to do' (Hinde, 2002 p.3). As such, I define morality in this thesis in a standard way as pertaining to 'good vs evil' distinctions that are 'a *system of demanding, more or less universal, rules or principles that dictate how one should and should not act*' (Satkunanandan, 2015 p.11; author's *emphasis*). I will refer to claims, such as 'killing is a particularly grave prima facie wrong' as a statement of moral wrongness, meaning a referral to this idea of 'evil' associated with normative morality/ethics. In this sense, I also assume that morality refers to, even minimal, constructions of universal morality that emphasises either common ethical

intuition or a common standard of rules. This is particularly common to moral approaches in conflict, who largely assume that certain acts of killing or violence are intuitively wrong to almost everyone and, therefore, constitutes a good foundation for thinking morally.

Intuitive feelings of (moral) right/wrong are often the metaethical basis on which morals are predicated. As Kagan (1998) illustrated, moral philosophy can be divided into three parts: 'metaethics, normative ethics and applied ethics' (p.2). The distinction between them is largely one of focus. Normative ethics is concerned with questions like 'is killing always wrong, or must an exception be made for self-defence' or 'who, exactly, is it wrong to kill?' (Kagan, 1998 p.4). Metaethics is concerned with more foundational questions than normative ethics, such as what key terms like 'wrong', 'good' or 'bad' mean for moral evaluation (Kagan, 1998 p.4). As such, arguments in moral philosophy are usually predicated on intuitive feelings of right or wrong as a groundwork for thinking normatively about ethics. In this sense, ethics is defined simply as the question 'what ought I do?' and has been often taken by advocates of 'normative ethics' to have an intrinsic relationship to 'morality' (Geuss, 2005 p.2; MacIntyre, 2011 p.259; Kagan, 1998 p.2). As such, a moral philosopher might contend that killing is morally wrong but killing in self-defence is morally acceptable as otherwise, an individual would be forced to value the life of their attacker over their own. This view can then be contested, and debates have focussed on the appropriate application of normative questions and the nuances involved with normative evaluation.[3] I am primarily concerned with metaethical questions on how we can consider intuitions constitutive of broader normative evaluations. In this regard, when I refer to 'moral foundations' I am primarily concerned with how we situate broader metaethical

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[3] In this regard, I agree with Kagan (1998) that the distinction between 'normative' and 'applied' ethics is minimal, as both depend on one another to make strong moral arguments; this is not necessarily the case with 'metaethics' as this concerns the ability to make normative evaluations (p.2-5).

questions in relation to normative claims. If something like killing is *prima facie* wrong, then I contend this needs to be adequately determined as 'wrong' by more than just intuitive feeling. Therefore, I wish to ask how we can reliably make moral judgements at all and, in absence of moral/ethical judgement, can we make normative evaluation on acts like killing at all? As such, I will pose questions about how we can reliably discern 'good' from 'evil' claims and relate this to broader normative concerns that arise from the ethical problems of conflict.

Morality however should be distinguished from 'moralism'. Critics of morality often use the term 'moralism' to denote broader problems with morality. It can be hard to define 'moralism' as so many different objections currently exist. In highlighting this point, Coady (2005) traces a variety of 'moralisms', which are: '*Moralism of scope'* (p. 125); '*Moralism of imposition or interference*' (p.128); '*Moralism of abstraction*' (p. 129); '*Absolutist Moralism*' (p.131); '*Moralism of inappropriate explicitness*' (p.131) and finally; '*Moralism of Deluded power*' (p.132). Each raises different concerns with moralism, such as with the 'moralism of scope', where he utilises Machiavelli in a limited sense, to question 'the boundaries of morality and morality's claims to dominance and comprehensiveness' (Coady, 2005 p.125). He is referring specifically to Machiavelli's famous advice to princes to 'learn not to be good', precisely to avoid the vice of moralism in their attitudes to war and conflict with other states (Coady, 2005 p.129). Each type of 'moralism' represents a different critique, not of morality, but of the attitudes associated with its advocates. As such, moralism can be seen as an objection to a particular perversion attributed to morality (Satkunanandan, 2015 p.11). This can include insisting on the independence of politics from morality, to highlighting the deep fear or detachment from the world than 'morality' promotes, to the objection to rules and certainty that morality promotes. Particularly with regards to conflict, moralism is largely focussed on the problems of (miss-) applying morality to conflict, which distorts the ability to make effective

decision making and, in some cases, escalates violence and destruction caused by violent conflict. Many of the criticisms of morality presented as 'moralism' pertain to attitudinal problems that arise from overstretching the role of morality and in particular, a criticism of its 'rule-bound' rigidity and, as Satkunanadan (2015) rightly noted, do not focus sufficient attention to 'morality's underlying view that responsibility is calculable' (p.11).

Satkunanandan (2015) makes an important contribution to this debate by noting that 'responsibility', defined as 'certain demands upon us that requires a response', does not require the monopoly of morality/moralism to move towards an 'ethos of attentiveness to calculation' to the world and its ethical challenges (p.8; 23). Morality, in this respect, is only one form of (calculable) responsibility and is insufficient at promoting a broader responsibility and attentiveness to the world (Satkunanandan, 2015 p.17; 22-23). This challenges the status of morality and, uniquely for a charge of moralism, contends that the demands of morality are actually too limited and narrow our conceptions of responsibility. Satkunanandan makes an important contribution to the debate, and I will draw on her idea of responsibility to highlight the narrowness of morality regarding conflict. Though in this respect, moralism still ultimately doesn't make epistemic criticism of morality and is largely focussed with the attitude it promotes. In this respect, the distinction between morality and moralism changes the emphasis of the critique. Moralism is primarily concerned with the rule-bound nature of moral philosophy, while criticism of morality more generally focusses on the capacity to know moral truths at all. I will move from criticisms of moralism which I address in chapter 3, focusing broadly on the harm caused by applying morality to conflict, to broader epistemological criticism of morality. My contention is more broadly with morality than the vice/s of moralism, however, the arguments against moralism (such as Satkunanandan's) are also pertinent to epistemological criticism of morality that I advance. I will particularly address this *per*

Nietzsche in chapter 6, who makes a more radical break with morality by challenging the normative basis of ethics and remodels it as an aesthetic approach to life.

A further, final, distinction to make is between morality and 'ethics' – terms which are often used interchangeably though have distinct meanings. Morality, as I have discussed, is particularly interested in a set of determinable rules or principles that constitute a 'moral ought', *i.e*., we can answer the question 'what ought I do?' with reference to morals. Ethics on the other hand, is rooted in the ancient Greek '*ethos'* or *'ethikos',* which can be translated 'individual character' and implies a more subjective basis, emphasising the importance of location and cultural context. In this sense, ethic can refer to a more individual sense of normative (or non-normative as Nietzsche would contend) value that is attached to a particular culture. '*Ethos'* too in this sense can be taken to mean a general sense of spirit in which an ethical or normative evaluation can be attached to politics in a nonmoralised way. For morality in conflict, it is important to note that 'normative ethics' is particularly associated with moral philosophy and emphasises the 'moral ought', *i.e*., ethical principles are discernible and can be converted into a distinct set of rules, and this has been the guiding principle on which moral and ethical rules for conflict have been determined. Though, it is uncontroversial to suggest that 'ethics' cannot be monopolised by a distinct 'moral ought'. One can reasonably ask the question 'what ought I do?' without necessarily referring to specific moral ought (Geuss, 2005 p.54). The degree to which we escape this 'ought' has been the subject of many different thinkers that Geuss (2005) termed in an essay (titled) 'outside ethics'. One of the key questions I will pose is how far beyond morality should we be willing to go with regards to conflict. There have been numerous thinkers, including political realists like Geuss (2005; 2008) or Williams (2005), 'ethicists' like Anscombe and communitarians like Macintyre, who have argued that asking questions about the 'moral ought' is actually the problem with morality, particularly in a modern setting, opting

instead to see ethics in the traditional sense and drawing on Aristotle's 'virtue ethics' to dispense with what Anscombe called the 'divine' root of modern ethics' (Anscombe, 1958 p.6-9; MacIntyre, 2011 p.259-261). All of these approaches attempt to define ethical life as detached from the remit of morality and the 'moral ought'.

Bringing this criticism of morality into closer attention with the moral and/or ethical precepts of conflict is the central aim of the thesis. In doing so, a further question I pose of each of the 'amoral' perspectives (Machiavelli, Schmitt and Nietzsche) I analyse is how far beyond ethics, in both the normative and original sense, do each orientate themselves and the particular reasons for doing so. All of them make epistemological breaks with morality in conflict, though each move beyond ethical (and for Nietzsche, normative) thinking to a differing degree. I will assess these epistemologies and critics across the thesis, but Nietzsche is the only thinker to move entirely 'outside ethics' by asserting an entirely naturalistic outlook (Geuss, 2005 p.53-55). For Nietzsche, we move entirely beyond 'normativity' and 'ethics' because we are not in possession of a 'free will/will-in-bondage" and so life ultimately culminates in will, the effects of will and, inevitably, a 'clash of will' (Geuss, 2005 p.54-55; Leiter, 2019 p. 109). For Nietzsche therefore, strength of will is what determines our reaction to ethical life: for people of strong will they won't feel the need to use morality/ethics to guide them and assert value for themselves ('masters') and for people of relatively weak will ('slaves'), 'the question of what you ought to do will be generally pointless, because if you are weak there will be no significantly different alternative open to you anyway' (Geuss, 2005 p. 55). Though I think Geuss is right to note that Nietzsche's thinking can lack conceptual clarity at times, it is noteworthy that Nietzsche situates claims to value as part of human existence, they do not require codification or evaluation, yet are a large part of being human. I will explore Nietzsche's naturalistic criticism of morality and ethics in further detail in chapter five, along with the

master/slave relationship as a way of analysing and evaluating conflict, and as I construe it, Nietzsche's naturalism can ultimately underpin an aesthetic approach to conflict that moves beyond morality.

What is 'Conflict': Defining War, Terrorism and Violence

The word 'conflict' can be used in many different ways. Some use conflict as a means to further competition, others, see it as a product of the irreconcilability between human ideals. For war, terrorism and violence, they are all forms of conflict that are defined by their relationship to killing. Yet, in recent times, the rise of cyberwarfare and intelligence, as well as the application of 'soft power' means that conflict has become increasingly more difficult to define. For the purposes of ascertaining the ability to moralise conflict, it benefits to use as broad a definition as possible. As such, I take conflict specifically to refer to instances of lethal force. However, with the rise in increasingly complicated forms of conflict, physical violence is often not a country's or NGO's only resort. Therefore, when I refer to conflict, I will refer to this simply meaning a clash of groups, specifically cultures, with some intent to induce harm on another distinct group. This may be constituted either, or as combination of, war, terror or violence. With reference to morality however, there are far fewer objections to the employment of cyber-tactics than there is to the notion of permissible killing. This is a mistake of moral philosophy, which is made purely so suit their own assumptions about the morality of killing. A cultural definition of conflict however, allows for a better conceptual analysis. Rather than simply looking at the ethics of killing, it allows for a more nuanced understanding of what conflict is and how it should be conceptualised. To define conflict as war, terrorism and violence therefore requires an explanation of their specific relationship to culture. By 'culture', I mean culture as a dialogue on which our most fundamental commitments to place can be

understood. Though, culture can be a difficult concept to define and has many broad definitions in moral and political philosophy. For my purposes, I am largely interested in culture as the defining context for political life, which then has a subsequent understanding in war. In particular, it has been defined in the context of democratic, and agonistic thought (which I draw on in chapter four on Schmitt and again for the 'aesthetic approach') which can help provide some context to 'culture'. Tully (1995) provides a working definition for culture that I will draw on as: '*continuously contested, imagined and reimagined, transformed and negotiated, both by their members and through their interactions with others*' (p.11). The subject of the reformulation of these attributes is further expanded on by Benhabib (2002) as, 'experience their traditions, stories, rituals and symbols, tools, and material living conditions through shared, albeit contested and contestable, narrative accounts' (p.2). As such, I take war to largely be a formulation of all these things, in so far as we can speak of a distinctly cultural dimension to war.

War specifically has a cultural dimension which is crucial to understanding how we conceptualise conflict. On the practical level, war involves a *violent interaction*, for a variety of motivations, between two or more opposed groups, which involves *armed conflict* and mobilisation (Orend, 2019 p.7-8; 17). This further assumes that the violence must be *intentional* and *widespread* (Orend, 2019 p.9). These groups can be internal, creating a civil war, or external, creating an international war. Recognition of either party to the existence of the opposing group/s is irrelevant. Asymmetric warfare is common in the contemporary world and therefore necessitates that any definition of conflict between groups must also acknowledge, at least ontologically if not normatively, the existence of smaller, non-state actors. There is no boundary to the possibilities of these groups, which may include militias, terrorists, armed revolutionaries, internal dissidents but by no means is limited to these possibilities (Orend, 2019

p.14-16). A non-state actor refers simply to any organisation not part of, or recognised by, an official government (Orend, 2019 p.13). Yet, while this defines what war is on an ontological level, it says little about the more nuanced, epistemological definition of war. This is of vital important to re-examine the relationship between war and morality. Numerous ideologies within political theory have tried to account for what war is on this normative level, each with their own respective definition.[4] This allows each to have a unique understanding of, and justification for, war, and therefore, posits an immediate concern when trying to find criteria for a justified war. For example, a Marxist understanding of a revolutionary war may be that the war is justified because capitalism is morally evil. If it is not morally evil however, then the war couldn't possibly be justified and would cease to be a revolutionary war and become simply be a civil war or a *coup*. Yet any specific understanding of war that is ideological, is also highly contentious. A cultural definition, however, is more nuanced. It allows for war to become a product of intense disagreement based on international cultural diversity. There is no one, universal way to be human and therefore, we have produced a variety of diverse cultures that in turn, have led to a clash between them.

The definition of war I employ therefore, has one primary normative assertion that war is a product of culture, and indeed, the inevitable clash between them. This builds on Keegan's understanding of war, that it '. . . embraces much more than politics: that it is always an expression of culture, often a detriment of cultural forms, in some societies the culture itself"

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[4] Though this posits a simple, yet altogether more difficult question, of how we account for the existence of conflict at all. To answer this question, there have been numerous attempts: Realism and 'the quest for power'; Idealism and the 'clash of values'; Nationalism and 'elite manipulation'; Materialist understandings of capitalism and imperialism; Feminist analysis and simply, a reading for conflict as irrationalism (Orend, 2019). While all of these theories are in of themselves important for understanding what conflict means, because each implies a unique understanding of violence and spatial order, none are intrinsically moral. To understand why this is relevant to morality, we need to first understand why morality is relevant for the cause of war. As such, when defining war, being as broad as possible allows for different philosophical discussions to be brought into common discussion.

(Keegan, 2004 p.12). This is in contradistinction to the realist assertion, from Clausewitz, that 'war is a continuation of policy by other means' and the moralist assertion that war is an undesirable, evil, occurrence that requires moral justification to even exist. War will exist regardless of our judgement, however necessary that judgement may prove to be, ergo we need to define war in a way that better accepts, and conceptualises, it as a phenomenon. It also better allows for a broad examination across different worldviews. As JWT, Machiavelli, Schmitt and Nietzsche all conceptualise war very differently, a cultural definition allows for broad possibilities in terms of moral or amoral justification. If war is a clash of culture, it does not immediately follow that one side could not be a more just culture. Likewise, if war is simply a politicised struggle for power, it does not preclude this involving a competing arena of nations. The advantage of the cultural definition of war, therefore, is both its broad applicability and its nuanced conceptualisation of conflict. As such, building on the ontology of war as an intentional use of violence between distinct 'groups', I will employ a cultural understanding of these 'groups' as culturally and politically distinct groups which are part of a broader clash of culture. War, therefore, is the *in extremis* response to cultural diversity where one group/s can no longer reconcile their differences with another to the point at which a violent interaction now emerges between these cultures. I take this to be a product of history, where we have continually created a 'special and separate category of otherness' which promotes a clash of cultures and 'invalidates our expectations of how our own world will be tomorrow' (Keegan, 2004 p.4). War is part of this cultural clash on the epistemological level, and by using this definition of war, allows for a reasonable investigation into its relationship to moral ideas either for a positive or negative effect. The advantage of this definition also means we are not forced to make moral, political or even cultural assumptions prior to understanding war; we merely need to accept cultural diversity and war as a product of irreconcilable differences.

If war is defined as an expression of a culture, predicated on the notion of diversity in the human condition, then this implies that terrorism and political violence also have the same broad cultural definition. Terrorism is perhaps the most obvious demonstration of culture clashing. This may be motivated by a desire to gain independence from a larger state/group, or to gain better recognition of rights within the same state. It none the less involves important culturally defined differences that motivate an extreme act of violence. If we begin to see terrorism as emerging from political or religious grievances, each terrorist as a representative of an 'alien religion or ideology', then this at least leaves open the possibility that acts of terror could be used as tactics, however dubious they might be, amongst other possible forms of conflict (Coady, 2008 p.155-156). The ethical argument this presents is something I will address latterly, however, in terms of its definition, it makes a distinct point about how to conceive of terrorism. If we assume, as many moral philosophers have done in the contemporary debate, that terrorism is always immoral (Coady, 2008 p.154-155), then this means we are already making moral assumptions from the outset that need further examination. Therefore, like with war, a cultural definition allows more possibilities for an examination of its normative conceptualisation. This however has posed some issues in defining terrorism ontologically, at least from a legalistic perspective. There has been a lot of disagreement trying to find a universally applicable definition of terrorism for international law. One important aspect of terrorism is that it 'is also perceived as distinguishable from private violence due to its political or public motivations', which in a large part, has motivated international law to define terrorism as 'a grave affront to fundamental human rights and freedoms, state authority and the political process, and international security' (Saul, 2008 p. 317-318). For the purposes of international law, any definition must ensure that terrorism isn't confused with 'legitimate forms of violent resistance to political oppression' and further guarantee they are not 'internationally

criminalized' (Saul, 2008 p.317). As such, forms of terrorism are also applied to the moral criteria of legitimate action; assuming we reject pacifism (Saul, 2008 p.317). Morality has therefore become intertwined with trying to understand what an act of terrorism constitutes, yet as a consequence, also makes a number of assumptions about legitimacy that may prove to be dubious.

The interwoven nature between terrorism and morality has been called 'moralistic name-calling' by its critics (Saul, 2008 p. 319). The distinction between legitimate and illegitimate forms of terrorism is itself problematic, yet also reveals the unique difficulties in understanding terrorism. As a tactic, terrorism may be prudent, but 'one thing on which almost everyone agrees is that 'terrorist' is a pejorative characterization' (Finlay, 2015 p. 4). The delineation between legitimate and illegitimate forms of terrorism is itself indicative to what we understand terrorism to be. In effect, the only practical definition of terrorism one can employ would be as 'indiscriminate violence'. This can mean a number one of two things:

> *"First, it can refer to a failure to discriminate at all, that is, a use of violence that reflects no particular standard about who might or might not be a legitimate target. More often, however, it refers to the deliberate or reckless infliction of harm on individuals who are regarded as immune from offensive attack in armed conflict"* (Finlay, 2015 p.5).

The target of violence in terrorism is particularly important here because it determines the criteria of legitimacy. However, for the purposes of examining the relationship between morality and terrorism, assuming the former of these two cases of indiscriminate violence becomes necessary. The second, that people can be 'regarded' as being illegitimate targets also presents an important dimension. It is not critical that people are right or wrong to regard some targets as having moral legitimacy, usually non-combatants/civilians, but it is important that for distinguishing between terrorism and violence generally, that it is conducted against people who we perceive, even falsely, to be an illegitimate target of violence. As such, I will proceed

assuming terrorism is a case of 'indiscriminate violence', as the broadest definition that still allows examination into the normative aspect of the phenomenon. Though, along with accepting some distinction between legitimate/illegitimate targets is necessary, it is also beneficial to define this culturally rather than morally. As such, the perception of legitimacy is more important for its definition than its actuality. Terrorism, like war, is bound up in the clash of culture, and the culturally conditional context of perception of legitimacy is important to this definition, even if it is not the case that it is objectively true. Ergo, I define terrorism as indiscriminate violence, with public or political intent, which is motivated by a broader clash of culture.

As I conceptualise it therefore, violence emanates from cultural diversity in the human condition that causes antagonisms which cannot be reconciled, thus resulting in the intentional use of violence. This has two specific forms I am interested in examining, which are war and terrorism. Each present unique examples of violence which presuppose unique moral criteria which need to be further scrutinised. As such, I define war as being a violent interaction between two or more groups that involves armed conflict and intent to harm and terrorism as 'indiscriminate violence' with a political objective. Each produced by a continual clash of culture which, in of itself, explains why violence occurs. It may still transpire that morality has an important role to play in the normative aspect of violence. The advantage of the cultural definition, however, is its amorality. Which is to say, it doesn't preference one culture over another, or one notion of 'right action' or 'justice' over a competing definition. The values we hold become contextual, located in specific worldviews where no one conception claims dominance. If morality could present strong reasons for preferring one particular morality, then it could still be the case one war is just and another unjust, it would simply recognise more acutely that by preferring one morality to another they are also preferring one cultural tradition

of philosophy over another. It simply helps to define and explain the existence of violence and allows for a more productive conversation than assuming *prima facia* that specific types of violence are inherently moral/immoral; which would rely on an ethical and cultural universalisation which is yet to be established. As such, references to terrorism or war will proceed from the outset that the usual assumptions about killing, ethical precedent and intuition are still subject to debate. All references to conflict I employ, refer to violence through cultural clashes which are simply, at least for today's world, embedded into human societies. I leave open the possibility this could change, and new cultures could emerge, but simply note the intense role culture has played in shaping war and terrorism so far. Using a cultural definition also implies certain premises and methodological consequences, which must be further embellished upon.

Methodology

Many political theorists openly claim to have no precise method whatsoever, and thus, a diverse range of methods have appeared which are easily contrasted and combined (Leopold and Stears, 2008 p.2). These methods vary from outright historical approaches to realism, continental, post-Rawlsian, pluralist or analytical methods, all with different theoretical positions (Floyd and Stears, 2011 p.1). For my thesis, I will focus on methods largely deriving from the 'continental' school of philosophy. Continental philosophy creates the methodological grounds most closely associated with questioning the place of moral principles, which is the aim of this thesis. Like their counterparts in the historical school, they emphasise the historical relativism and its role in shaping our values and actions. Considered from this perspective, philosophical problems do not arise 'magically from the sky' but emphasise their relationship to our 'historically and culturally imbedded life' (Critchley, 1998 p. 8; p.12). Normative

concepts, in this case like morality, are defined according to its cultural and contextual formulation (Critchley, 1998 p. 8; p.12). The approach I take in this thesis is a conventional approach to continental philosophy, namely genealogy combined with elements of conceptual analysis. As *per* continental philosophy, I focus on the 'conceptual and historical presuppositions of thought' (Chase and Reynolds, 2010 p.44), in this instance, the conceptual and historical (genealogical) presuppositions of morality when applied to conflict. As such, I will employ a continental philosophy as a genealogy while also using a critical, conceptual look at morality as a concept, or series of concepts, and a series of critical critiques grounded in historical figures. This constitutes a 'method of sorts', which is not a precise methodology but does outline a general approach to theory which 'undergirds large parts of contemporary continental philosophy' (Chase and Reynolds, 2010 p.130).

Part of what contributes to my thesis is the general division between analytic and continental philosophers. As some like Rorty (1984) have argued, analytic philosophers,

> *"take the finished first-level product, jack it up a few levels of abstraction, invent a metaphysical or epistemological or semantical vocabulary into which to translate it, and announce that he has grounded it."* (p.729).

Therefore, when criticising either the application or the concept of morality, a natural method arises from the continental tradition. Indeed, as Leiter (2007) has also noted, the continental traditions of 'morality criticism' are now becoming more notices and, with particular pertinence to conflict, many moral theories (the largest being JWT) have been left uncriticised by continental traditions, and as such, I agree 'the time now seems ripe to integrate the Continental critique of morality into the mainstream of moral theory' (Leiter, 2007 p.754). To provide this morality criticism for conflict, I will use genealogy in the more general conceptual sense because, like with Nietzsche, it allows for a through reconstruction of the main criticisms of

JWT and morality in conflict (realism, legalism and amoral (or critical/radical) philosophy by tracing them to key thinkers that have defined a particular school of thought.

Each of the chapters I outline will employ this method, first examining their 'critique of morality' as a predicate for that particular school of thought's thinking. As a result of continental philosophy focusing on cultural context over timeless 'truths', the nature of this inquiry will naturally be interpretative (Chase and Reynolds, 2010 p.132). Each thinker I take will involve a specific interpretation of their ideas to establish a particular critique which has emerged across the literature. I do not claim that this is the only way to see each thinker, or even a comprehensive account, but rather I take from each one a perspective which is fundamental to understanding a particular critique of JWT/morality. As such, it is a genealogy in the sense that it 'affirms the marginal and the discontinuous and traces their impact on the present, and this knowledge is itself explicitly affirmed as a perspective' Chase and Reynolds, 1998 p.140). From each critical perspective and JWT, I will thus use this to create a new approach to conflict which combines elements of each particular thinker. In essence, a genealogy of the 'moral concepts' and their criticisms, similar to Nietzsche's concept of genealogy, to reveal a new approach. JWT will be the main tradition I will criticise, particularly its underlying moral premises, by looking at three well-established critiques: realism, legalism and amoralism. I look at key foundational thinkers that have motivated their specific critique of JWTLOAC and morality, then at their alternative approach, to provide a critique of JWT from a variety of different perspectives. Each critical chapter is organised to present a key thinker (therefore, their texts) as part of the foundational 'supposition' or 'understanding' that founds a particular understanding of morality in conflict, from which, I will draw a respective ontology/normativity of conflict (Chase and Reynolds, 2010 p.134). Then, working through each different critique, I will trace the relationship between conflict and morality to get a more

critical, deeper understanding of the human relationship to war, terrorism and violence. It is in effect a 'destructive retrieval' of philosophy, to work through each perspective, and look in turn at the history of the moralisation/practice of conflict, to deconstruct our intuitions and values thus, should they prove desirable/feasible, construct them on a more cultural and historical grounding.

As an approach to continental philosophy, it is not a 'pure' genealogy in the sense Nietzsche or Foucault meant it. It is rather styled on the more contemporary approach in political theory/philosophy of odelling genealogy with an approach to concepts, for example Satkunanandan's (2015) *Extraordinary Politics* or Urbinati's (2006) *Representative Democracy*. In this regard, modern genealogies have a deconstructive element, which seeks to breakdown or critically analyse certain dominant presuppositions or principles (Chase and Reynolds, 1998 p.142). In my case, the dominant understanding is JWT and the presupposition of morality, which I deconstruct across the three traditions I have outlined. Genealogy contributes to this method by supplying a sense that ideas are temporal. If we are to properly understand them, then we need to understand their context in history. Ideas, and especially moral ideas, have an openly acknowledged 'long' or 'obvious' history which makes them initially appealing to philosophers. Genealogy stipulates that understanding this history is key to understanding what an idea means. In effect it reveals 'hidden history, a hidden psycho-physiology' which is integral to every perception of the world (Chase and Reynolds, 2010 p.137). Therefore, to understand philosophies, we must understand where they originate, how they have developed, what causes them to develop and why they are so important. For example, one issue I will analyse is the idea of a 'just cause'. *Justa Causa*, as Cicero called it, is an idea which has had several meanings attributed to is, from Cicero through to the Christian 'holy war' through to today's secular, ethical conception of justice. Each meaning was effectively

temporal. By looking at how this concept has evolved, and how conflict has changed with it, revels a history of the idea itself and helps understand, and critique, the application of normative principles. Revealing this historical contingency highlights the cultural context in which all ideas are constructed and repositions our 'modes of thinking and evaluating' less like rational constructions and more like 'symptoms, either of a given culture, or of the healthy or the diseased, active or reactive types.' (Chase and Reynolds, 2010 p.137). This is achieved by a process of genealogy to understand and reverse traditional oppositions to understand their 'roots'. This has obvious implications for a moral analysis of war, which depend too uncritically on these oppositions and consequently, have formulated an uncritical relationship between their ideas and their application in conflict. To correct this, one must first reveal the context of JWT and begin to look at its potential problems as highlighted by the critical accounts of Machiavelli, Schmitt and Nietzsche.

This 'method of sorts', provides a means with which to analyse moral principles in conflict in a historical, yet critical and philosophical, manner. Critics of morality in the continental tradition have largely fallen into two camps. On the one hand, there are 'direct' critics of morality, such as Nietzsche, who believe that an individual's acceptance of morality constates a problem 'in of itself'; while on the other hand, there are 'indirect' critics of morality who believe it sustains ideologies of socio-economic 'obstacles to human flourishing' (Lieter, 2007 p.712). Machiavelli, Schmitt and Nietzsche are critics of morality 'in of itself', and therefore, the continental method I apply here constitutes itself in this tradition of 'morality criticism'. It is primarily the effect of morality on people, be they combatants fighting or political leaders deciding on a declaration of war, that I am primarily interested in analysing. Hence, by looking closely at the history of conflict combined with a genealogy of ideas, I will present a critical reading of morality in conflict. This assumes that 'morality' is a particular

understanding, temporally conditional and integrated with its own genealogy. At least for continental philosophers, there is a fundamental belief that philosophy 'has certain constitutive blind spots', and by paying closer attention to history through deconstruction, highlights and alters our thinking according to its observations of humanity, history and culture (Chase and Reynolds, 2010 p.141). It can be described as occupying 'the margins of philosophy: not wholly outside philosophy, but not quite within it either." (Chase and Reynolds, 2010 p.141). Indeed, moral philosophers are becoming increasingly attentive to the challenge of morality criticism, consequently furthering the belief that returning to the foundations of moral philosophy is of vital importance to construct a reliable theory. The purpose of this thesis is to take several critics of morality, from thinkers each of whom have been important to the continental tradition, and use this to highlight the problems and flaws of morality in conflict. By combining each of the methods above, and building on the methodological assumptions of the tenuous nature of perception, I will advance a critic of morality through a wide variety of thinkers to critically analyse the relationship between war, terrorism and violence to morality.

Structure of the Thesis

The path of the thesis works through four major approaches to morality in conflict, each of whom have a distinct relationship to morality. I have not organised the thinkers and traditions chronologically, but according to the degree that they challenge the normative basis of morality/ethics. I begin with an examination of JWT, which has a close connection to morality and seeks to provide a criterion for navigating war and violence according to principles of justice. JWT makes a good beginning point for my examination of morality in conflict. JWT is an attempt to find good moral reasons why killing is sometimes permitted for an overall morally justifiable benefit. In JWT, 'killing is a particularly grave prima facie wrong', therefore, if any

form of killing could be justified, it must serve some greater moral purpose to prevent greater 'evil consequences' that could possibly be produced by not intervening (Finlay, 2019 p.24). The advantage of JWT, over other types of morality, is its pragmatic approach to morality. JWT is a 'middle ground' approach to morality in conflict, avoiding the more overt idealism of pacifism, aiming to pragmatically apply moral rules for greater moral benefit while also taking into account proportional and contextual nuances (Orend, 2019 p.3). In this respect, 'JWT therefore, necessarily presumes that pacifism is a moral good (though false) and that, if two nations are at war, at least one side must be 'unjust' (Frowe, 2011 p.51). This is the basis on which just war theorists have engaged with the tradition and provided a variety of different accounts about how we should think about moral rules associated with the laws of armed conflict (LOAC). They predicate this reflection on basic moral intuitions towards *prima facie* moral wrongs (PMW/s) that demands attention and acts as a reasonable basis for thinking normatively and universally about war, and subsequently, informing (and reforming) the LOAC to better reflect moral theory (McMahan, 2008 p.42). As such, JWT has developed a particular relationship to moral philosophy which, as I address in chapter 2, can be seen increasingly as an assumption that the more aligned JWT becomes to principles of analytic moral philosophy, the more human and civilised war has become.

JWT in this respect makes a natural beginning point for an investigation into morality. It should be noted that there is no singular JWT, it is a tradition that begins with Cicero and continues on to this day in the form of Revisionist JWT. On one level, JWT is a natural beginning point due to its dominance in the debate about war and armed conflict. In this chapter, I explore morality from the perspective of the just war tradition, who have adopted a series of moral rules regarding conflict which are predicated on moral theory more generally. In this respect, JWT is not an absolutist moral theory like Pacifism, but a 'middle-ground' approach

that attempts to find strong moral arguments for committing otherwise 'evil' acts. Their grounding of this claim in broader normative and metaethical debates varies between just war theorists. Early theologians predicated it on the 'divine law', others like Walzer (1977) on a 'common morality' and revisionists on the basic assumption of human rights (*see* McMahan, 2008; Fabre 2012; Finlay, 2019; Orend, 2019). I will explore all these commitments to the justification of war and explore firstly if JWT is successful in its aims of restrained warfare and secondly, and more importantly, how this relationship can be sustained in terms of a broader 'grounding' of their moral claims. By 'grounding', I essentially mean how do they defend their fundamental (moral) commitments as the appropriate, maybe even only, grounds on which to normatively evaluate war. While the traditionalist account of Walzer aligns closely with the LOAC, and indeed as some have contended has something of a 'realism' itself about it which revisionists criticise, his commitment to the 'common morality' or 'deep morality of war' is difficult to sustain, even for revisionists (Lazar, 2017 p.41-42). This has led to a number of revisions in JWT, to alter the main normative arguments surrounding the moral equality of combatants, non-combatant immunity, self-defence and proportionality all of which revisionists argue, in some way, unwarrantedly privileges the 'moral community' or is incompatible with our basic human rights. I will explore these in detail in chapter 2, to see how the foundational normative arguments of JWT are constructed and how an increasing reliance on 'morality' and analytical (abstract) philosophy has only worsened, not improved, the argument for just war.

The heart of the problem I exemplify with JWT and morality generally therefore, is that normative philosophising, particularly when constructed as a 'morality', is unreliable as a guide to action in conflict. In this sense, especially revisionists, have diminished the concept of just war by expanding its precepts to be more aligned to morality, which only further abstracts aways from the real issues of conflict and provides increasingly less plausible, and potentially

quite harmful, theories. One of the primary claims I advance in the thesis, as Geuss (2008) highlighted excellently, is that,

> "*Two thousand (and more) years of moral preaching have not seemed to provide much evidence that this is an effective way to improve human behaviour, and training children properly self-evidently does not require we have the correct "ideal theory"."* (p.101).

Morality, in this sense and as I construe it in chapter 2, has little utility for understanding conflict or more generally human beings. Realists have long since problematised the moralism and potential harm resulting from JWT, though I will situate this critique into a broader critique of morality. As I see it, the problems of JWT are not simply in their rejection of *realpolitik* and the resulting problems of moralism, but they are associated with their commitments to (often poorly substantiated) moral philosophies.

In chapter three, *Machiavelli and Realism*, I move on to explore the first amoral critique of morality presented by the realist school of international relations. From the outset it should be noted that realism can be divided into two subgroups: classical and neo-/ realists. Both varieties of realism have a considerable degree of overlap, equally challenging the usefulness of morality to conflict. Realists of both varieties are long-standing critics of morality, who emphasise the independence of international politics from morality. Morality, simply put, isn't relevant for realists. Morality only becomes relevant to a state when it is specifically in their interests to become moral (Coady, 2008 p.52). Even then, when they do adopt a moral position, it is usually to promote their own 'soft' cultural and economic power as a means to promote their own interests without need for coercion (Kinsella and Carr, 2007 p.14). Realists therefore contend that the 'reality' of international politics is that states will prioritise their own interests above all other concerns. This is necessary because international politics is effectively anarchic, where states compete against one another to prioritise their interests and ensure their continuing sovereignty (Morgenthau, p.240; Waltz, 1979 p.102; Coady, 2008 p.52). Faced with this

'reality', realists contend that moral theory cannot be relevant to international relations, which is governed solely by states pursuing their interests under the conditions of anarchy. All states can realistically do is pursue their respective agendas as effectively as possible. As such, realism stresses that *realpolitik* is the only option for states who wish to operate effectively, indeed behaving morally may result in harm to that state. In the 'real world', realists insist, states do not (or *should* not) behave morally. As such, realists argue that morality and politics are separated and governed by different norms and distinctions.

The critique presented by realists of morality constitutes the first half of chapter three. In particular, I want to stress that classical realist objections to morality, most notably Machiavelli's objections, are more pertinent to an epistemological critique of morality. This is because classical and neo-/ realists emphasise different critiques of morality. Classical realists, like Thucydides, Machiavelli or Hobbes, argue that human nature is fundamentally flawed. Human beings are prone to violence, and morality cannot regulate human beings effectively as it cannot account for the brutality of human nature. Neorealists on the other hand, argue that the international system is inherently flawed and conditions of (international) anarchy prevent morality from being effective in interstate relations. In the chapter I argue that classical realism is a stronger, epistemological critique of morality because it challenges the basis on which moral judgement is formulated. Neorealism, however, is only focussed on the *current* socioeconomic order, they have no means of accounting for change in that international system nor any firm, epistemological, grounds on which to base their own 'reality'. The classical realist objection is more fundamental because it contends that morality is not just ill-suited to the current socioeconomic order but is ill-suited to *any* possible socioeconomic order. As I construe it, the classical realist objection is stronger because it challenges the basis of moral distinctions in the human condition. In the second half of the chapter, therefore, I begin to look at

Machiavelli specifically as a particularly interesting, as well as foundational, classical realist thinker. By returning to a Machiavellian conception of politics, I argue we should categorise Machiavelli as a realist of a different kind, what Viroli (2013) called an 'imaginative realist' (p.55). In this respect, Machiavelli introduced to international relations the idea of an 'aesthetic' conception of politics, which focused on the *performance* and *style* of leadership as an 'art' rather than a science. Machiavellian imaginative realism thus differs from other realist thinkers' by virtue of his *idealism* (Viroli, 2014).

There are, however, some problems with the realist analysis. Realists do not account for the origins of their 'reality'. *Realpolitik*, though avoids many of the traps of moralism, retains a normative philosophy at its core. As Geuss (2008) has rightly noted, 'even "efficiency" is a kind of normative concept', in this case, to argue for effective navigation of the international political arena is still a normative philosophy of a kind (Geuss, 2008 p.99). As such, there is a danger that the realist perception of 'reality' self-confirms its own existence: they create a series of 'norms' internationally then offer advice according to their understandings of those norms. Even an 'imaginative realist' like Machiavelli still believes ultimately in this principle of efficacy, which, is a kind of ethical advice with a new dynamic. In many ways, Machiavelli pre-empts the acceptance of realist principles as a normative theory of international relations, which emphasises the importance of tragedy in realist theory (Hutchings, 1999 p.15; 24). I offer a reading of Machiavelli therefore that emphasises his role as an aesthetic political theorist that complements his realism. For Machiavelli, the normative aspects of international politics are embodied by the aesthetic construction of the 'princely hero', defined by his *virtu* and always dealing with the challenges of tragedy (*fortuna*). This conception is ultimately a normative one, offering specific advice to princes, as it perhaps best surmised in his 'exhortation' at the end of *The Prince*, where he called for the reunification of Italy (the first 'unification' being Ancient

Rome) which ultimately, used the word 'Italy' as a single country which, at that time had never been realised (Viroli, 2014). Machiavelli's imaginative realism is an important aspect of his thinking that I will ultimately draw on for an aesthetic approach to conflict. Machiavelli makes many contributions to an amoral theory of conflict. He breaks with morality by recategorizing conflict as a political phenomenon, then defines this arena of value-conflict as understood as an 'aesthetic' conception of politics.

Machiavelli, far from wishing to abolish morality from life, wished to see broadly 'good' people rule and to teach those morally principled people how to get their 'hands dirty' and commit 'evil' acts for the greater good of the state (Walzer, 2004). Ultimately, Machiavelli, I contend, many realists too, therefore have a problem in their rejection of morality. Firstly, they conflate morality (or moralism) with normativity. Secondly, they have focussed their criticism of morality as a problem of application, rather than more fundamental critiques of morality. The problems associated with morality, as I construe them, are much deeper than the potential harm caused in their application but lie in their association to normative theory. As such, I will focus on Machiavelli as having a particularly strong challenge to morality and for his aesthetic political vision. In this sense, Machiavelli moved beyond ordinary realist objections to 'moralism', offering a more fundamental shift from normativity to aesthetics. In this regard, Machiavelli made important contributions to understanding and regulating conflict. Introducing the language of 'aesthetics' is particularly pertinent to the critique of morality that I present. Machiavelli taught that politics is largely a work of construction and that war, as far as it serves a purpose, is the space in which different political regimes come into conflict. War and violence in this respect are part of a tragic cycle of life, which he correlated to '*fortuna*' and counteracted with '*virtu*'.

In chapter four, *Carl Schmitt and Legalism*, I will continue to expand on the idea that conflict is a uniquely political phenomenon. Unlike realism however, Carl Schmitt used his own understanding of 'the political' to make more fundamental criticisms of morality. 'The political', for Schmitt, is the friend/enemy distinction, giving weight to the idea that conflict has a fundamental political character. From Schmitt, I will particularly focus on his political conception of the friend/enemy relationship as the basis for a firmer critique of morality. The change in understanding for Schmitt averts the dangerous aspects of applying the moral distinction to conflict. To Schmitt, moral distinctions had no concept of legitimate enmity. Without a sense in which the enemy has an equally valid right to determine friends from enemies, and therefore recognising the rights of other states to do the same, then a potentially unlimited war could occur from global conceptions of good and evil. In effect, the enemy now is reclassified as 'evil' and therefore, a war against 'evil' is subject to a continual escalation of violence in the name of combating a (morally) unacceptable enemy. The political distinction, however, has the advantage of being spatialised, which limits the jurisdiction of a state and therefore, its motivation for war is contained.

Though Schmitt's view is ultimately a political one, there is a significant legalism to Schmitt's theories. In a sense, Schmitt offered a legalistic definition of the JAB. The right to declare war was the existential right that confirmed a state as a state. He understood power as an 'independent reality', above even Nietzsche's 'will to power', as something 'set against everyone, even the holder of power' (Schmitt, 2015 p.47). This power, as he termed it, is ultimately confirmed by the ability to declare 'the exception', i.e., the political authority to suspend law when faced with existential threats, like a war, confirmed their authority to impose law in a given territory. International politics for Schmitt, was the arena of conflict in which a state's only right to legitimacy is defined by the ability to declare a JAB as the only legitimate

power within a state able to (Schmitt, 2007 p.25-27; Vinx, 2016). The JAB grants statehood by solidifying the authority of the state to make the ultimate decision which even law cannot account for in of itself. Thus, he argued 'a people' cannot 'hope to bring about' a purely moral or economic condition 'of humanity by avoiding every political decision' (Schmitt, 2007 p.53). In the end, we have to make decisions and he believes morality is a poor way to inform those decisions and crucially, when it does, it promotes a distorted view of 'humanity' that justifies and promotes ever-escalating warfare. As such, a war doesn't require a moral analysis or justification; it is part of the spatial order. The right to war is part of a state's, or indeed a 'people's' existential existence and cultural identity.

What Schmitt's view amounts to is an international agonism of states, competing with rules defined in law, to regulate conflict. If Schmitt is right, and the *nomos of the world* is the defining factor in the ability to regulate war, then this would create a purely legal grounds for the JAB/JIB. Law, and specifically, a state's ability to impose law, becomes the only possible regulating factor. As such, some like Mouffe have seen Schmitt as promoting a 'multipolar world' to establish a 'true pluralism' between nations against the dangers of a 'unipolar world', or as Schmitt himself famously put it: 'the political world is a pluriverse, not a universe' (Mouffe, 2007 p.150; Schmitt, 2007 p.53). Schmitt is essentially encouraging us to abandon any kind of universalism; be that liberalism, communism, capitalism or indeed, morality. For Schmitt, any account of conflict would be integrated with his rejection of 'Humanity' as a single phenomenon. Instead, all of our collective societies are reflective of a unique way of being human and, as such, are not subject to any one single collective judgement. Power is the only reality between them, and if we wish to regulate this, we need to subject ourselves to legally derived states who are capable of declaring war. Applying morality here could have a devastating effect. It is not that if a nation applies morality it is going to be destroyed but that

it would make the war itself more destructive. Here Schmitt differs from realism significantly, in that he believed morality has an escalating effect on violence. By applying moral concerns to international conflict, we would create a 'war of annihilation', which is a war that uses morality to clearly identify a morally 'evil' enemy which must be totally destroyed. Contrary to a war of annihilation, Schmitt believed a 'regulatory war' could emerge, between competing legal states, which would be far less destructive than morally justified conflicts. In effect, he makes important critiques of morality which realism does not: that morality, even if we could apply it, has harmful effects on our conduct in war.

While Schmitt made many important breaks with morality, there are still some questions which Schmitt himself does not answer. Rather than just claiming morality is impractical, Schmitt changed the emphasis of the debate to an analysis of morality's effects. If, as Schmitt contended, moral ideas, both as an understanding of human beings and as a motivating factor for violence, are unreliable than this makes important claims about the relationship between conflict and morality. However, Schmitt also ignores some of the fundamental attributes of morality which may still be pertinent. Because he grounds his politics on the practical dimensions of the law, there is a structural rigidity to Schmitt's view that is arbitrary. I take from Schmitt important lessons about politics and the agonism of states, while maintaining that a further 'aesthetic turn' in politics is still required. The friend/enemy distinction, while extremely important and the contribution of 'the political' helps define the existential conditions of conflict, Schmitt had little to say about politics in a broader contest; that is, beyond the political. I think Schmitt's view needs still more additional developing to constitute a critique of morality as a normative enterprise. As such, I will progress to the view of Nietzsche, to better outline the overall dimensions of political and ethical life. As I will construe it, the agonism of Schmitt complements and builds on themes in Machiavelli and realism (the political nature of

war and aestheticism in particular) that complement an 'aesthetic approach to conflict' as derived by the philosophy of Nietzsche.

In chapter five, Nietzsche and amoralism, I will explore Nietzsche's separation of 'life' from moral/ethical valuation entirely. Nietzsche breaks with the idea of normative philosophising, by which, he did not mean that normative evaluation plays no role in life. For Nietzsche, there can be no 'real normativity', *i.e.*, no normative truths that consist of a set of rules to guide life (Leiter, 2019 p. 109). Human beings are left to their own devices to interpret the world and, as Satkunanandan rightly noted, take responsibility for it. In this chapter, I emphasise that there cannot be a normative guide to action and therefore no reliable way to normatively evaluate life beyond what Nietzsche called his 'aesthetic redemption of life'. In this sense, Nietzsche was not advocating that everything historically deemed as 'morally good' or 'evil' is mistaken, but that like with the practice of alchemy, he denied their moral premises as legitimate beginnings for thinking about normative judgements of life (D, S.103 p.60). Rather than making moral judgements on the 'right intentions' or as a way of evaluating actions, Nietzsche encouraged his readers to think (or more accurately, '*feel'*) differently about ethical problems (D, S.103 p.60). Though we cannot reliably know the *right* course of action, Nietzsche encouraged people to express their will regardless, as he put it, 'man would rather will nothingness, that not will at all' (GM, III S.28 p.136). This is what is termed Nietzsche's 'naturalism', which complements his aestheticism. I agree with Leiter's (2019) definition of the 'naturalist view' which he outlines as the following:

> "*. . . real normativity does not exist: that is the entire upshot of the naturalist view. There are no reasons whose existence and character is independent of human attitudes; there are only human attitudes which lead us to "talk the talk" of reasons, to feel that we should act one way rather than another. And if real normativity does not exist, if only feelings of inclination and aversion, compulsion and avoidance, actually exist, then that means that all purportedly normative disputes bottom out not in reasons but in the clash of will or effect*" (Leiter, 2019 p. 109).

If we can take this naturalistic view of normative values as true, then this has immediate effects on how we view conflict. As I construe it, Nietzsche is right to use naturalism as his epistemological critique of morality, which I explore in the first section of chapter five.

Nietzsche, therefore, offered an epistemological critique of morality which problematised the idea of intuitions, or overt (moral/ethical) intent, as being a reliable basis for making moral judgements. On this basis he concluded the '*value of life cannot be estimated*' (TOI 'The problem of Socrates' p.2), by which, he meant that there are no reliable moral valuations, *i.e.*, no way to measure the intrinsic moral rightness of a particular action. This poses an epistemological challenge to morality and would change the way we normatively evaluate, or ethically navigate, conflict. Though Nietzsche is certainly not alone in challenging the epistemological foundations of morality, his particular means of doing so are particularly interesting when thinking about the morality of conflict. By radically breaking with morality, he is challenging more than the usual critiques of morality that question the potential harm caused by moral/ethical principles when applied to international relations, and towards a deeper epistemological criticism of morality as misunderstanding how human values are formulated and as ill-equipped to offer any valuable normative prescription for regulating conflict. In the second section, I return to his 'aesthetic redemption of life' as an aesthetic approach to conflict, as a way of navigating the crisis in values that Nietzsche, rightly, noted.

The ultimate point of Nietzsche's 'redemption' is that it redeems life from an inherent fatalism, which is an acceptance of our 'terrible existential and moral condition' (Leiter, 2021). Because values are determined by naturalistic drives, *i.e.*, they are psychological/naturally/biologically ordained and not a product of free moral choice (Leiter, 2019 p.109), then life can only be redeemed as an aesthetic phenomenon – all of our beliefs about ordinary life are essentially 'illusory' and all out moral beliefs 'are based on lies and

falsehoods' (Leiter, 2021). Yet Nietzsche takes up the challenge of trying to find justifications for our existence. Given the terrible truths about the human situation, especially the unreliability of moral/normative 'truths', we should redeem ourselves from this terrible fate by embracing our 'emotional or affective attachment to life' by living, or experiencing, life purely aesthetically as though 'life were worth living' (Leiter, 2021). As such, Nietzsche's aestheticism is one that is focussed on the individuals' ability to face the challenge of amorality. For a theory of conflict, I contend, Nietzsche is offering the basis of an aesthetic approach to politics which could offer important ethical advice without the use of normative philosophising. As such, I argue that the aesthetic nature of values reattunes us to the world by accepting its conditionality and contextual character. War is undoubtedly a tragedy resulting from the terrible existential truth of the human condition, i.e., the clash of 'will and effect' that inevitably leads to a clash of values. We can redeem this tragedy, indeed attempt to mediate and control it, by learning to accept the *agon* of values and, as Machiavelli too emphasised, as a 'process of forming (as in art) to people, states and oneself through the activity of politics' (Vocano, 2007 p.34). As such, we can say that 'war is essential to the creation of culture', only in the sense that the immediate tragedy (barbarism) of war, which is inevitable, can be redeemed through a process of formulation and creation as political action.

The aesthetic approach, therefore, I argue is the beginning of a new approach to conflict that can better understand and mediate conflict. In the sixth and final chapter, *Conclusion*: *Towards an Aesthetic Approach to Conflict*, I will explore the potential of the aesthetic approach as an altogether different attitude to ethical life. By 'aesthetic' I do not mean 'art', though many of the same similarities occur. The definition of 'aesthetic' I employ is centred on the importance of sense perception and the limits it places on our normative evaluations. The aesthetic moves the conversation away from imagining 'beings whose determinations about the

nature of the world come from pure reason abstracted from the sense', and towards a 'worldly, corporeal basis for our understanding of our surroundings and our lot' (Vacano, 2007 p.2). In this sense, aesthetic political theory is focussed on how the world works and not on how it 'ought to work', it is a theory that moves beyond 'normative philosophising' and accepts that not everything in the world can be overcome (Vacano, 2007 p.2). For advocates of aestheticism therefore, two significant challenges present themselves: the 'clashing of value systems' and the subsequent 'inevitable tragedy of strong military action' (Vacano, 2007 p.192). In this sense, the aesthetic approach draws on some fundamental components of realism (the focus on the 'real world', power and politics) while also drawing on some elements of the *agon* (the tragedy of conflict, ethical/political pluralism) and elements of perspectivism (the conditionality of belief, the limitation of sense perception, the rejection of normative philosophy) to establish a distinctly aesthetic approach to political action (Vacano, 2007 p.2-3;35;155-156). By combining elements of the amoral thinkers I outline, my central claim is that the issue with morality/ethics is rooted in normativity, not just in codification or its overextended remit. In the conclusion, I will explore a potential alternative to 'normative philosophy' in the 'aesthetic approach'. A number of political theorists have written about aesthetics and its relationship to political theory, including Vacano (2007), Strong (2015), Villa (1992), Kateb (2000) and Ankersmit (1997); Plot (2014). I too will attempt to contribute to this 'aesthetic turn' in political theory, specifically by focussing on how an aesthetic political theory can create the basis for a new approach to war, terrorism and violence.

Just War Theory and the Problems of Morality

"One must pay dearly for immortality; one has to die several times while still alive."

<div align="right">-Nietzsche (EH, p. x)</div>

"Between two groups of people who want to make inconsistent kinds of worlds, I see no remedy but force."

<div align="right">-Oliver Wendell Holmes Jr.</div>

The early part of the twentieth century could be seen as the rise of realist thought in international affairs. Prominent realists, like Morgenthau, E. H. Carr or Schmitt, dominated academic and public debate on conflict and cast numerous dispersions on the use of morality to understand, or indeed regulate, interstate relations. To them, morality was just a sideshow, applied only domestically, if at all, and fundamentally misunderstood the deep motivations rooted in human nature that lay behind war. The political left of the time however, in the context of the Vietnam war during the 1960s/70s, were looking for a moral language with which to challenge the injustice of the Vietnam conflict (Walzer, 2005 p.7). Walzer, very much a part of this political movement, therefore concluded that in his search for a 'common language', which the left could utilise and challenge the dominance of realism with, the only one he could find was 'the language of just war' (Walzer, 2005 p.7). Walzer's efforts popularised and re-invigorated JWT for modern audiences. Since then, many have revised his account to conform more closely to analytical moral philosophy, prominent theorists like McMahan, Rodin and Fabre have all offered very different theories and foundations for JWT. All, however, are predicated upon the same basic tenets and principles found within the long and multifaceted history of the just war tradition. This can be traced as far back as Cicero, making the language of the 'just war' seemingly the 'obvious way' of reflecting normatively about conflict. Walzer

called this the 'triumph of just war theory', referring to its now widespread dominance in the field of political theory and philosophy and it has subsequently become the established way to think normatively about war. There is a degree to which this cannot be helped. Philosophers who tend to believe in the validity of morality will do so regardless of moral scepticism, the arguments for which they are familiar with already, with the knowledge that they are talking to an audience which shares their belief in morality. It was of little doubt to Walzer that those who read his work were largely those such people and he is under no illusion that others will find it 'incomprehensible and bizarre' but are not 'likely to read' his book (Walzer, 1992 p.20). As such, from the outset JWT is attached to the idea of morality as an independent evaluation, a 'world' of its own in which humans can both access this world and use it to discern reasonable, morally guided rules for war and violence. In this chapter, I want to bring closer attention to the relationship between how JWT has premised its arguments on its relationship to morality and how it has affected our normative evaluations of conflict. The aim, therefore, is to bring closer attention to how morality and the 'moral world' have informed a theory of just war.

Since Walzer there have been a number of 'revisionist' accounts, which have made a number of challenges to the traditionalist account by Walzer. To take account of the volving nature of JWT, I will split the argument into three sections. The first will explore the history of JWT to provide a genealogical root to JWT and to show how its relationship to 'morality', and in particular Christian universalism, has informed the secular account. I will then progress to Walzer and the traditionalist account and how the initial 'historical' account by Walzer secularised and popularised JWT. Finally, I will address the revisionist account of JWT and its increasing reliance on morality and analytic philosophy, showing how as JWT has abstracted away from core (ethical) intuitions, it has become a more detached from the world and misunderstands the core dimensions of conflict. Though at the heart of my contention with JWT

is that this assumption between the 'moral world' (*i.e.*, 'morality' as I define it) and the 'real world' of conflict is hard to sustain. This point has been popularised by realists however, they have largely focussed on the potential harms of the application of this (moralising) theory of just war, particularly with regards to the application of universal humanity or human rights as a predicate for the JAB. Over the course of the chapter, I will show how this problem is rooted in morality, not only an attitudinal problem that detracts from the political nature of war (moralism), though I also contend this is true, but that morality promotes epistemological problems with understanding conflict which, as JWT has aligned itself closer to analytical moral principles the more exacerbated the problem becomes.

Before moving to the broader history of the just war tradition and the formulation of the key principles of the JAB/JIB, I will briefly outline the key components of JWT. As a theory of conflict, the just war tradition has positioned itself in a 'middle ground' between pacifist idealism and realist *realpolitik*. For just war theorists, pacifists are too idealistic in their application of absolutist moral principles and seek a pragmatic application of morality to conflict, while realists are too dismissive of morality and the pursuit of national self-interest has led to a disastrous series of violent, unregulated wars over history (Orend, 2019 p.4). As such, JWT attempts to find moral reasons for the permissible use of force. To do this, they outline two key moral conditions for the justice of war: the JAB and the JIB. The JAB has six key criteria for the overall justness of a war, built around the LOAC and the history of the just war tradition:

> i. "*Just Cause;*
> ii. *Legitimate/Competent Authority;*
> iii. *Right intention;*
> iv. *Last Resort/Necessity;*

v. Proportionality;

vi. *Prospect of Success*" (McMahan, 2005 p.4; Finlay, 2019 p.29; Fabre, 2012 p.5; Orend, 2019 p.82).

An additional condition, necessitated by the LOAC, is sometimes included as '*the public declaration of war*' (Orend, 2019 p.82; Frowe, 2011 p.50). Three further conditions are generally agreed upon for the JIB:

i. "*Discrimination;*

ii. *(in bello) Proportionality;*

iii. *(in bello) Necessity*" (Finlay, 2019 p.31; Fabre, 2012 p.5).

This JAB/JIB makes up the primary way in which just war theorists have considered the criterion for a morally justified war. In recent contemporary accounts, some have also added a third *jus post bellum* (JPB) that focusses on the justice after war and in particular, how a defeated aggressor should be treated by a just victor (Frowe, 2011 p.209-210). For the purposes of an investigation into the morality of conflict, I am largely interested in the parameters of the JAB, though I will also focus some arguments on the JIB – particularly when they are pertinent to the concerns of the JAB.

The conditions of the 'just war' are debated and argued, as each just war theorist has their own prioritisation of the relevance criteria (above) and weight each accordingly. A war can meet several of the criteria for a just war and still fail one or more of the additional criteria. As such, the conditions for the just war are to at least some degree a judgement call. As such, the relationship between JWT and morality is a pragmatic one, where the morality is brought into closer contention with the LOAC. Indeed, of the criteria for the JAB:i, iv and v all derive and have been incorporated into the LOAC (Orend, 2019 p.82). As such, JWT is a pragmatic approach to morality in conflict, seeking to find strong moral justifications that consider

conditions of proportionate use of force for a just cause. In an interview with the Council on Foreign Relations, when asked about how just war theorists balance the apparent subjectivity in JWT, he responded,

> *"Yeah, I want to pick up the word "subjective." There are no certainties in politics or morality. All our calls are judgment calls. But they're not subjective, or at least they're not merely subjective because when we make judgment calls, we have to give reasons to other people. And it's very important what kind of reasons we can give. And there are criteria that are widely accepted which we are required to appeal to."* (Walzer, 2017).

Walzer here I believe surmises the just war tradition's relationship to morality well, it is in effect an attempt to take 'widely accepted' criteria and translate them into universal moral rules for the regulation and mediation of conflict. I contend it is particularly important to ask these questions as they are largely assumptions and have been given little attention, where just war theorists of all kinds simply assume that this 'moral world' is both accessible to us and has, at least, the potential to 'humanise' or restrain conflict. Though from the outset, JWT makes a salient beginning because of its pragmatic and multifaceted relationship to 'morality'. To be sure, it is the closest relationship to morality that I explore, but none the less attempts to provide a pragmatic and careful account for the rules of and in war. I will look at the moral theories of JWT, to provide a clearer, genealogical, perspective of JWT. This must begin by tracing the just war tradition through history to getter a better sense of JWT as a tradition, with various essential components that have been reinvented throughout a long history.

The History of the Just War Tradition

We getter a better sense of the just war tradition when we return to its essential components as constituted in the history of ideas. The just war tradition is traceable back to the Greco-Roman period, to thinkers like Cicero (Finlay, 2019 p.5). Cicero first encapsulated the

ne of the core principles of JWT when he proclaimed in his work *De Republica* that: 'Those wars are unjust which are undertaken without cause. Now without a purpose to punish wrong or to beat back an attacking enemy, no just war can be waged' (Cicero in Harrer, 1918 p.27). Cicero introduced the idea that a war should not be fought without first having a *justa causa.* The introduction of the just cause (JAB:i) has been 'by far' the most important criteria for the justness of a war and 'sets the tone for everything else that follows in wartime' (Orend, 2019 p.82). Two millennia have since elapsed and JWT has undergone a countless number of revisions and changes since Cicero. Many just war theorists since Cicero have been Christian theologians, who proponents of JWT contend the tradition 'flourished' under 'Christian theologians and lawyers' (Finlay, 2009 p.5; Walzer, 2017; 1992).

Early thinkers, Ancient and Christian alike, predicated their views on deeply held beliefs about the world; it made sense a criteria for justice could be applied so readily because it was grounded on the certainty of religious belief. This has always been a part of the tradition of JWT, even before the emergence of Christianity. Continuing with Cicero as an example, he demonstrated a firm belief in the role the Roman pantheon played in his ideas of the just war, but also, how his belief in 'natural law' (which would latterly be revived by the Christian tradition by Grotius) created a firm, indeed empirical, grounding for his moral criteria. He premised his notion of the just war in *De Officiis*, by arguing that mankind, while being natural, is also distinguishable from 'beasts' in two important ways: he is firstly separated by his capacity for *reason,* specifically, the ability to determine the cause and effects of our actions, and secondly, by the creation of 'common bonds of speech and life' (Cicero, 1911 I:11-12).Wars can, therefore, be 'just' or 'unjust', according to Cicero's specific criteria for war, because mankind creates moralities and duties by having the unique reason to question individual actions. This is all made possible by the 'natural law', and Cicero specifically

emphasises the constitutional role of the *fetiales* in shaping this process into international law (*jus gentium*) (Stewart, 2017 p.14). The *fatiales* were a religious council of priests which were part of the early Roman constitution. They primarily delt with matters of international affairs as a matter of Rome's defence and determined if a war was sanctioned by the Gods (Stewart, 2017 p.14-15). In line with the traditional Roman pantheon, Cicero understood mankind as having a unique, yet divinely authorised, relationship to nature which meant justice was possible.[5] Cicero's JWT is, at its core, an interesting tension between justice and necessity (Stewart, 2017 p. 15), and he distinguishes between wars of 'supremacy', fought between 'rivals', and wars of 'survival', fought by smaller powers, thus, justifying a more intense conflict for the purposes of their defence and even, their very existence (Stewart, 2017 p. 14).[6] Though Cicero also established another important aspect of contemporary JWT, by rooting his morals in the idea of 'social virtue' and seeing no distinction between domestic and international morality, his view on the just war neatly surmised as:

> "*in one sense, a radical separation between justice and necessity; but in another sense, they come together in the virtue (specifically, the wisdom and prudence) of the ideal statesman. . . Justice is the supreme social virtue for Cicero, rooted in the natural law and forming the very basis of society, whether national or international*" (Stewart, 2017 p. 17).

Taking Cicero as a beginning for JWT, it sets the scope for much of the theory to follow. It was a philosophy of natural law, grounded in deeply held moral and religious beliefs, which

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[5] This is summed up well by looking at Cicero's summation of this view: "*As for war, humane laws touching it are drawn up in the fetial code of the Roman People under all the guarantees of religion; and from this it may be gathered that no war is just, unless it is entered upon after an official demand for satisfaction has been submitted or warning has been given and a formal declaration made.*" (Cicero, 1911 I:36). Clearly here, Cicero tied the decision to invoke the JAB to divine authority.

[6] For Cicero, the *jus gentium* only applied to states which had achieved a relative amount of civilisation, therefore, any regime which had not yet secured domestic law and statehood, could not be bound by the laws of justice.

transposes into a theory of justice that constrains and regulates our actions according to moral *virtue*.

Raising Cicero's views at this point is not simply to say they are similar or different to its modern proponents. The views of the Greco-Roman world, like much of what followed it, would justify many wars of expansion and aggression that a modern audience would not countenance. Arendt (2006) makes this point, noting that it was only after the First World War that, with the influence of modern technology, did the destructive nature of war motivate a shift in attitudes away from aggressive wars, and towards wars that are only justified in the name of some broader matter of defence or self-interest (p.3). Before this, wars of aggression and expansion were more commonplace. Cicero's view of the just war encapsulates this notion as much as it did the idea of a morally justifiable war. His view on the destruction of Carthage demonstrates this well, where he supported this act of destruction for moral reasons that modern JWT would question. For him, Carthage violated the *jus gentium*, the international law between nations, which subsequently justified its total destruction; the harshest possible response (Stewart, 2017 p.15). We can say this logic has been replicated in modern JWT simply in the sense that it invokes the same moral reaction. A violation of international law, when posing a great enough threat, justifies the resort to war. In another sense, Cicero clearly based his morals on very different beliefs. Cicero differs from modern accounts in two notable respects. Firstly, he thought war is an inevitable part of life, even a tool for the 'Roman commonwealth', to defeat her enemies and spread her values (Stewart, 2017 p.15). Secondly, by linking his conception of justice to glory, he opens the possibility of anticipatory wars being fought on the grounds of justice and 'just peace', enforced by the Roman Empire as the universal standard of civilisation (Stewart, 2017 p.15). Moral authority and a grounding in civic republicanism led Cicero to believe in the transformative power of an active politics. His morality, therefore,

stemmed from this context. It also offered a philosophical grounding which contemporary proponents did not have in the form of 'natural law'.

Natural law would continue to play an influence on the way Christian theologians perceived the world, and thinkers as varied as Aquinas, Vitoria and Grotius all claim to have a particular theory of 'natural law'.[7] Yet the priority for JWT now is to understand 'natural' as God's creations and thus, subject to God's laws. For example, when St. Aquinas, justifies the authority of states to conduct war and its agents to kill according to the Apostle's command to extract revenge 'upon him that doeth evil' (Aquinas, 2002 p. 66), he does so because he is invoking a moral criteria laid down for him by the divine authority of God. Though, the primary purpose of this theory was to challenge the prominent pacifism of early Christianity. In Augustine's words, the new 'Christian Solider' should 'reluctantly', and 'without anger or lust' be willing to fight wars 'for the sake of peace' on behalf of the 'worldly city' (Walzer, 2005 p.3). His justice, in other words, was for a Christian combatant to challenge his own commitment to pacifism found in Christian teachings. It was a direct attack on the pacifism of 'primitive Christians', which even Walzer conceded, was little more than an excuse to promote war (Walzer, 2005 p.3), and introduced to the debate a clear enemy in the form of anyone who violated Christian teachings. The just war was, hence, the holy war. Indeed, St. Aquinas even argued, in a section called '*Whether It Is Lawful to Kill Sinners*', that it is permitted to kill a sinner, as his relationship to the community means he will become an 'evil' or burden and thus, can 'be slain in order to preserve the common good' (Aquinas, 2007 p.68). This early

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[7] I do not mean to suggest here that all Christian thinkers have the same JWT. The development of JWT, from St. Augustine, through to Gratian, Thomas Aquinas, Christine de Pizan, Vitoria, Hugo Grotius and many others is not constitutive of a single JWT. Each have their own unique take and have many divergences from one another. Here, I simply mean the influence Christianity had on the just war tradition. In this regard, there is no such thing as a single just war theory, but only a 'just war tradition, a set of theme and tropes' (Clark, 2015 p. 33), Christianity being just one of these themes, that has had a profound impact on JWT. Hence, I refer to a series of just war theories, not with the intent to unite them, but simply to explore a common influence.

theological view of just war contributed little to the lasting arguments of JWT. Most simply view it as a revision for Christians to reconcile themselves to war, though praise it for its priority to 'defend the innocent and challenge injustice' (Finlay, 2019 p.6). To Christian JWT, and consequently one of the few lessons modern just war theorists take from this part of the tradition, is a moral commitment to pacifism, unless a war is sanctioned by some other greater moral injustice (Fisher, 2011 p.64; Anscombe, 2006 p. 644). As such, for a thinker like St. Augustine, 'Non-violence (*mansuetudo*) had been appropriate to the age of the Apostles; now, in these 'Christian times', there is a 'prophetic sanction for the use of force on Christ's behalf' (Markus, 1983 p.9). JWT was endowed by early Christianity with the moral requirement to prevent injustices.

It wasn't until the sixteenth and seventeenth centuries that jurists like Francesco de Vitoria, or the lawyer and theologian Hugo Grotius, returned to a revised 'natural law' that was applicable to everybody, not just Christians (Fisher, 2011 p. 65). The theologian Francisco de Vitoria unites Aquinas' theory of 'natural law', and the religious teachings that accompany it, with Roman *jus gentium* into a single theory (Reichberg et. al., 2011 p. 290). The lasting effect of this, was that Vitoria began to question the basis of JWT up until this point: that aggressive wars can be justified if motivated by the promotion of 'civilisation', in the form of the 'Roman commonwealth' or in spreading Christianity. He argued 'those like us', by which he means fellow Christians and Spaniards, 'have no warrant to question or censure the conduct of the government in the Indies irrespective of whether or not it is rightly administered. . .' (Vitoria, 2011 p.291). In his view, 'Roman Catholic authorities had no legitimate temporal jurisdiction over these non-Christians' because they were, by and large, self-governing (Reichberg et. al., 2011 p.290). Therefore, it was not legitimate to occupy these territories either because of the 'right of discovery' or the fact they were not Christian (Vitoria, 2011 p.294-295). This was an

important change in thinking, which not only greatly influenced secular accounts of JWT to come, but also began to question the right of Christians to spread their ideas by force. This was the most lasting and salient effect of Vitoria was the emphasis that a just war should be restrained, 'rather than self-righteous and fanatical', in pursuit of its aims because it is equally possible that both sides have a just cause or it may even transpire, that 'you were the side in error' (Finlay, 2019 p.7). As such, Vitoria has been very influential in establishing the JIB. To Vitoria, he questioned the certainty and fanaticism of imperial expansion on the grounds that both sides may have an equal claim to a just cause (JAB:i). Even if one side was (objectively) certain it has grounds for a just war, Vitoria posited it is likely the other side may have a reasonable case too and, if this was possible then the reverse is also possible: that the side with the supposedly just cause transpired to in fact be the unjust aggressor (Finlay, 2019 p.6-7). War therefore should be fought with restraint (the JIB) and with modesty in their aims (Johnson, 1975 p.20).

Vitoria's influence on the JIB has been of particular pertinence for the establishment of JIB:i/ii. The use of proportionate force and discrimination of targets help to satisfy the overall condition of JAB:v, *i.e.*, 'the wrong of non-resistance must be greater than the wrong of fighting' (Finlay, 2019 p.32). Vitoria's influence on this principles also extends to moving from a consideration of the 'worldly Christian' and towards considering everybody equally. By arguing for restraint and the mutually recognisable right to the JAB, the 'natural law' argument of Vitoria, but also to Hugo Gortius, meant that 'every rational human being' now had access to the principles of the just war (Walzer, 2017). As such, the 'natural law' argument has apparent parallels to the 'common morality' or 'common human intuition' argument applied by traditionalist and revisionist JWT alike. For Vitoria, his own *lex naturalis* (natural law) was a 'common natural law', shared by all peoples and 'reinforced through the mediums of travel and

trade' (Reichberg et. al., 2011p.299), which also led him to declare many reasons why a just war could be fought. What is common to all these points, is that Vitoria emphasised the 'common morality' of natural law, of the *jus gentium* and its ability to enforce 'binding rights' (Vitoria, 2011 p.302). It was this belief in the binding rights of a common natural law, developed by this early catholic doctrine, that the notion of commonly held rights defined the parameters of the just war. As such, Vitoria added immensely to the just war tradition and has influenced the now more popular arguments *per* 'common morality' or 'human rights'. This early catholic doctrine of just war was argument the first 'complete account' of JWT and has had a sizeable impact on the formulation of the JAB/JIB. What is particularly of note where reliance on morality is concerned is the shift in emphasis from Cicero. He broadly approached JAB:i from a sceptical account of morality, where he saw the *jus gentinium* as been located at the bounds of Roman civilisation. In other words, it was a much a spatial conception of law as it was a 'moral theory' *per se*. Progressing from Augustine to Vitoria, shows how JWT is steadily developing into a universal doctrine of rules which apply to everyone universally not by virtue of the objectivity of Christianity but by common humanity.

While Vitoria's influence on the tradition was notable, Hugo Grotius perhaps had a more sizeable impact because he, more than Vitoria, secularised the debate. In particular, Walzer and other traditionalists credit him with developing secular conditions for the JAB. It is not that Grotius, or indeed Vitoria, were secularists themselves (both were theologians), but that their JAB no longer only applied to Christians, but to everybody equally (Fisher, 2011 p.65).[8] Grotius

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[8] Grotius predicated the moral authority of his 'natural law' JWT on God, as he makes clear at the beginning of *The Rights of War and Peace*: "*Natural right is the dictate of right reason, shewing the moral turpitude, or moral necessity, of any act from its agreement or disagreement with a rational nature, and consequently that such an act is either forbidden or commanded by God, the author of nature. The actions, upon which such a dictate is given, are either binding or unlawful in themselves, and therefore necessarily understood to be commanded or forbidden by God.*" (Grotius, 2005 X). Therefore, because nature is endowed by God, it is the basis of the natural

saw himself as having a morality still grounded in religion and natural law, but now, the tradition invoked a legal, rather than theological, understanding of just war (Finlay, 2009 p. 8). Grotius set the tone for modern JWT by completing the tradition's transformation from a Roman expression of civilisation, into a distinctly legal theory, secular in application though, informed by religious morality. His sentiments are expressed well in this now famous passage:

> "*He who wills the attainment of a given end, wills also the things that are necessary to that end. God wills that we should protect ourselves, retain our hold on the necessities of life, obtain that which is our due, punish transgressors, and at the same time defend the state… But these divine objectives sometimes constitute causes for undertaking and carrying on war… Thus it is God's Will that certain wars should be waged… Yet no one will deny that whatsoever God's will, is just. Therefore, some wars are just.*" (Grotius in Miler, 2011).

Grotius's provided a long list of just war and many of them have subsequently informed the debate and had considerable influence on how Walzer revises the debate for modern audiences (Walzer, 1992 p.xxviii). I think the most salient lesson to draw from his work, however, is the notion that the JAB may be invoked for reasons like defence of the state, or to punish and remove 'evil' wherever it was found, or even to defend 'chastity'; yet more importantly still, that these rights were secured by *the right of states* and the moral certainty of the Christian faith (Miller, 2011). By 'reframing' the debate towards legal codes, Grotius changed the emphasis of JWT that latterly informed traditionalist accounts of JWT.

Before moving to the traditionalist account of JWT, it is worth noting at this junction that JWT up until this point had a fairly clear grounding for their moral principles. The metaethical conditions of Christianity were rarely questioned and informed a clear basis for

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reality which is understood as a moral reality. Nature and God are, in effect, interdependent pillars of his theory. While this theory does apply to everyone universally, Christian or not, its basis in divine authority is ultimate where Grotius took his morality from and therefore, the accuracy of his claims still depends on God's revealed moral truths.

moral judgement. For the most part, early just war thinking was predicated on the universality of God and then reworked to be part of the 'natural law', which itself derives its authority from a particular 'divine law'. The natural law undoubtedly makes JWT more accessible to a global audience. It suggests there was something innately natural about morality, that it was simply expressing God's will or our naturally endowed reason. Historical just war theorists had moral certainty, a trait which has disappeared from the modern debate. To be sure, moral certainty (or absolutism) by no means improves the conduct of war and Vitoria was right to criticism the fanaticism of early JWT accounts. It does, however, leave open certain metaethical questions in the absence of God. Secular accounts of JWT predicate a normative philosophy on different grounds, as I will explore in the following section. The rejection of the Theological account on the grounds of moral absolutism is, probably, an uncontroversial statement though the Nietzschean challenge of morality in the crisis of the 'death of God', I believe, is still of central importance. The metaethical question of 'why is killing *wrong*?' is more difficult to answer without a particular set of (universal) moral beliefs to underpin it. In the next section, I will sketch out the primary components of traditionalist and revisionist JWT to see how the JAB/JIB has further been codified into a distinct set of morals and how they justify this on secular accounts.

Traditionalist JWT: Walzer's Historical and Legal Account

Grotius was predominately writing in the seventeenth century, though by the time of the mid-twentieth century, 'the increasingly elaborate legal codes of the *jus in bello* would be counterbalanced by what was in effect a legal *jus ad bellum*' (Finlay, 2019 p.8). At this juncture, JWT begins to take its contemporary shape. The disparate and multifaceted collection of thinkers were constituted into a single, historical and legal account, by Michael Walzer. In this

section, I will map how Walzer's historical account has fed into revisionist accounts and begin to discuss the differences between them. Walzer's impact on the debate cannot be underestimated. Walzer reintroduced the language of the just war as a response to realism in 1977 with his now famous book, *Just and Unjust wars*. He was looking for a language to challenge the dominance of realism and that the only 'common language' he could find, was 'the language of the just war' (Walzer, 2005 p.7). Walzer wanted to use this language to resurrect 'arguing' in 'moral terms' and demonstrate that justice as a 'moral and political theory' is inextricable with history (Walzer, 1992 p.xxvi-xxx). He looked back at the 'religious tradition' of 'Maimonides, Aquinas, Vitoria and Suarez – and then to the books of writers like Hugo Grotius, who took over the tradition and began to work it into secular form' (Walzer, 1992 p.xxvii),[9] concluding from it, that the reality of war (through history) was inextricable from morality. *Just and Unjust Wars* is a 'book of practical morality' (Walzer, 1992 p.xxix), carefully working moral observations of the previous JWT into an historically coherent account of the JAB/JIB. War is, therefore, always 'judged twice', first, as the right to fight a war (JAB), secondly, as the moral laws regarding conduct of combatants in war (JIB) (Walzer, 1992 p.21). Importantly for him, the JAB and the JIB are logically independent of one another (Walzer, 1977 p. 21). A war can, therefore, be fought justly by complying to the JIB while still being an unjust war for failing to meet the criteria of the JAB; or vice versa. The duality of the JAB/JIB was therefore solidified for the first time by Walzer, building on the formulation of those principles across the history of the just war tradition.

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[9] Walzer does not devote large amounts of time to discuss Grotius, though his lack of acknowledgement that his secular JWT was still predicated on God's laws and commands, and drew its ultimate authority from Christianity, is unusual. It is definitely secular in the sense his theory applies to all, irrespective of faith, however all of his conditions for the just war, are moral principles taken directly from Christianity and his understanding of 'natural law'.

For the first time in the just war tradition, Walzer formulated just war principles and stipulations into a coherent, historical and legal account of what he termed 'the moral reality of war'; its focal actor (and only actor) being the sovereign state (Walzer, 1992 p.41; Finlay, 2019 p. 9-10; Lazar, 2017 p.38). Walzer therefore invokes a moral communitarianism for states. The early just war thinkers largely argued from an analogy between the individual and the state, assuming some degree of overlap between a individual and a state's rights (Finlay, 2019 p.9). Walzer takes from this a particular importance on the moral and political community of states and argued that individual citizens have a *real* interest in protecting their own livelihoods and defending themselves against attack and therefore, the rights of states derive from their protection of the individual's right to life and liberty. Traditionalist JWT's central commitment is to those states and the interaction between them. In this regard, 'its central commitment is to provide moral foundations for international laws' and he concluded that states have the right to war (JAB) 'only for national defense, defense of other states, or to intervene to avert "crimes that shock the moral conscience of mankind" (Lazar, 2017 p.38; Walzer, 1977, p. 106-107). By setting states as the central focal actor of moral judgement, Walzer was creating a moral theory to inform the emerging body of international law at that time, which was increasingly emphasising the rules of conduct and agreements between states to respect each other's rights (Orend, 2019 p.81). Traditionalist JWT therefore, has a particular relationship to the emerging LOAC that states were developing, with the Kellog-Briand Pact (1998) and the Charter of the United Nations (1945), Walzer compiled the criteria for the JAB on the understanding that states were beginning to take the LOAC seriously and enshrined, as part of article 51 of the UN Charter, the resort to war as a right of national self-defence (Finlay, 2019 p.9). As such, Walzer theorised his own account of war in the context of an increasingly prominent body of international concerned with the *legitimate* use of force on the basic intuitive commitment of

the right to define oneself against aggression – this he contended is a basic facet of moral intuition and provides the basis for a moral justification for a war of self-defence.

These legal changes created a context from which Walzer began to think about what impact the moral dimension could have on the new international legal order and the LOAC. He observed that this new order emerged from the change in attitudes after witnessing the destructiveness of the First World War, which in turn, led to a 'ban on war and a code of military conduct' which was recognised by the UN when they replaced the word 'war in the UN charter with 'aggression', 'self-defence' or 'international enforcement' (Walzer, 1992 p.41). Indeed, JAB:i, iv and v (as well as the 'public declaration of war') all derived from the LOAC emerging at that time and were incorporated into Walzer's thinking on the just war (Orend, 2019 p.82). The LOAC had emerged as a consequence of the destruction and damage of the First and Second World Wars, which had altered the (Western) public's attitudes to war and motivated the creation of the LOAC. The legal dimension of war therefore was closely aligned to how Walzer approached his argument, complemented by his historical recounting of the 'language of just war' to begin to develop a moral dimension that complemented and clarified the relationship between the LOAC and JWT. The public's changing attitudes to war, following the changes in lethal potential modern warfare, seemed to reflect a desire for restraint. To enforce restraint, Walzer contended, we would need firm commitments to a moral criterion. War, he accepted, was a 'legal condition' between two states, but crucially for him, also a 'moral condition', which was formed in accordance with 'ordinary moral judgement' (Walzer, 1992 p.40-41). As ordinary moral judgement altered, so too did the conditions for the JAB.

Walzer (1992) justifies his commitment to morality by demonstrating that the reality of war is identical to the moral reality; one entailed the other. Moral language amounts to a *real* description of war, that doesn't merely reflect upon combat, but acts as 'descriptive terms' for

the 'real world' (p.14). As such, he contested that without common morality, 'we would have no coherent way of talking about war: it is why we describe 'soldiers moving away from the scene of a battle, marching over the same ground as they did yesterday, but fewer now, less eager. . . as a 'retreat'; or why we call 'soldiers lining up the inhabitants of a peasant village. . . and shooting them down' a 'massacre' (Walzer, 1992 p.14). This reflected for Walzer the deep morality of war. The moral condition for war was more than a detached moral principle but arises from ethical intuitions towards violence and a descriptive capacity to understand the reality of warfare. Walzer (1992) therefore does not argue that his own personal moral commitments are universal, rather that:

> "*The moral world of war is shared not because we arrive at the same conclusions as to whose fight is just and whose unjust, but because we acknowledge the same difficulties on the way to our conclusions, face the same problems, talk the same language. It's not easy to opt out, and only the wicked and the simple make the attempt*" (p.xxviii-xxix).

Walzer's moral foundations therefore are rooted in the real and actual experience of war as providing a series of common ethical problems and have facilitated a (near) universal 'common morality' shared by all human beings. This allows a real conversation to emerge about the normative aspects of war. Was can now be judged according to a common language of the just war. This basis led Walzer to establish moral principles like the 'moral equality of combatants', which states that soldiers on any side of a war can absolve themselves of the 'crime' of that war, fight with 'freedom' and, expect a rule-governed JIB to ensure minimally decent treatment (Walzer, 1992 p.36-37). This moral equality is shaped by people's general attitudes to war, exploring how they might expect to be treated and minimising the horrors of war.

Traditionalist JWT therefore builds on the core principles sketched by Vitoria or Grotius who extended the principles of the JAB/JIB to all people based on their (natural) rights as human beings. Walzer departed from theological JWT of the 'natural' or 'divine' law however,

and supplicated them with a new attitude, not fixed by combatants or political leaders, but by the attitudes of 'mankind' generally (Walzer, 1998 p.15). States conform to this because they can be regulated by the same *basic moral instincts* as individuals (Finlay, 2019 p. 10). The job of moral theorists, he contended, was to understand the 'whole pattern, reaching for its deepest reasons', a pattern which, despite having a wide variety of 'religious, cultural and, political, as well as legal' motivations, reflect a deeper whole that will reveal the 'moral reality of war' (Walzer, 1992 p.45). This morality is grounded in the 'common morality' which informs every other moral standard, albeit in extreme circumstances, and as Walzer says, 'war is the hardest place: if comprehensive and consistent moral judgements are possible there, they are possible everywhere' (Walzer, 1992 p.xxxi).

The question is if we can use this common language to ground our reflections of war, terrorism and violence. Its perceived benefit is that if we better incorporate moral language into a restraint of war, this will greatly improve the conditions of war. Walzer does not wish to ask, or answer, this question. The tendency of JWT to detach the question of moral foundations from their practical application to war also originates with Walzer. Indeed, he does not think they are necessary. For him, the demands of 'practical life' outweigh the 'apparently unending controversy' of moral foundations (Walzer, 1992 p.xxix). Such enquires, 'often miss the immediacies of political and moral controversies and provide little help to men and women faced with hard choices' (Walzer, 1992 p.xxix). It is simply intuitive to think this way, therefore, traditionalists contend that philosophy regarding combat should be premised on those intuitions. It is not surprising therefore, that Walzer concludes, in our world today, 'practical morality is detached from its foundations, and we must act as if that separation were a possible (*since it is an actual*) condition of moral life' (Walzer, 1992 p.xxix; my emphasis). It is unclear however, why the 'moral life' he alludes to is the only constitutive reality that can make

normative evaluations. Indeed, Walzer in this regard seems innately disinterested in where our intuitions come from. This lack of metaethical grounding may be irrelevant for the conditions of 'practical morality' as an exercise, however, it seems pertinent to ask why the 'moral life' is so all encompassing and universal.

Despite the pertinence of these broader metaethical questions, Walzer (1992) declined the challenge to build his worldview 'from the ground-up', dismissing the idea of doing so because it is likely to fail if he tried and, for him, it is just not of importance (p.xxix). It is not unreasonable to suggest there is wisdom and knowledge in the reflections of war, even when expressed morally. However, it is another entirely to suggest that the universality of the problem, *i.e.*, war, and the similarity of difficulty and emotional reaction, is in and of itself a justification of *any* possible moral approach. Humanity does not reach 'the same conclusions', and though Walzer says that asking the question 'what is this morality of *yours*?' is ultimately missing the point (Walzer, 1992 p.xxviii, author's emphasis), it is actually, precisely the point. War itself may be a universal problem, indeed its frequency is quite striking, but the fact humanity cannot agree, even on the most basic points about morality, is very telling. Even views across the western tradition, as I demonstrated in tracing JWT, vary radically in terms of moral beliefs; what is common to them is similarity in challenges *and foundations* (natural law and divinity). For Walzer, it is the commonality of human experience that unites us, the fact that we all feel 'agony' at the harsh choices imposed by combat, and crucially, it is *enough* that we share this impulse to begin to think morally about the world (Walzer, 1992 p.15). This assumption is predicated on our ability to think morally as a natural predicate of human life. Humans are capable of a vast array of intuitions, making sense of them requires careful consideration about what they mean. Just war theorists wish to simply take human intuition, entirely without consideration for our complicated psychology, extract a series of abstract laws

and rules from them, without any critical consideration for what they might mean, then announce they have revealed the *right morality* to apply judgement.

If our response to soldiers shooting innocent civilians is as a 'massacre', it equally requires an intuition for violence to conduct a massacre, which is then mediated or understood by in a moral language. Given the frequency of war and violence, indeed of massacres, genocides and all manner of human 'atrocities', it suggests at the very least, that mankind has a tendency towards violence. It is, therefore, not surprising that the 'moral language' mirrors this; one entails the other. Here, Gray surmises the tendency well by noting theories of justice 'avoid inspecting their moral intuitions too closely' (Gray, 2002 p. 102). Gray argued instead that, from the stone axe to the Kalashnikov, 'humans have used their tools to slaughter one another' (Gray, 2002 p.92). Human history is just a long history of inventive violence, where acts as barbaric as genocide are simply 'as human as art or prayer' (Gray, 2002 p. 91). Humans have, and always will, invent new ways of killing one another. It is not that the LOAC are nately bad because they lack a grounding in moral truths but that the 'common morality' that Walzer relies on can, and should, be epistemologically questioned. If it should transpire that the 'moral reality' is in fact a moral illusion, this would have mor than just an intellectual impact but a real dilemma in how we respond to ethical challenges without any sense of uniformity or guidance. As such, I do not dismiss that war presents real ethical challenges but rather, I contend that neither normative evaluation nor ethical life are co-dependent on Walzer's 'moral reality'. It is not that these human intuition counts for nothing, but to question why they have such a powerful hold on normative philosophy of war when is seems dubious that human intuitions are even 'whole', which is to say, they are contradictory. I will pick this theme up again with Machiavelli in chapter three, but at this juncture I would contend that the reality pf war is likely to be as

contradictory and complex as the reality of human intuition and would defy any criterion for right action.

Though, one aspect that Gray does seem to overlook, is that as war has become more destructive, the more robust the law restraining it has become. Walzer was writing his work in the context of a new nuclear age, where the destructive capacity of mankind reached such a terrifying level that the whole of humanity could be destroyed. If we assume that nuclear weapons are the deadliest of human weaponry, they are also the most prohibited. Fear of this destructive capacity, has led to nuclear non-proliferation treaties, strict regulations on which nations can have nuclear weapons, a strict 'no first strike' approach held by all those that are in possession of them, and no continued development on bombs since the 1950s. No weapon ever has commanded this level of legal restraint. Is this however, a moral restraint? Walzer contends that the possibility of a limited nuclear war is highly unlikely because it would be impossible to prevent escalation through restraint and is impossible to retract (Walzer, 1992 p.278). This precludes any nuclear war between the great powers, and presents a paradox that, while we cannot use these weapons, some utility may come from possessing them in the form of deterrence, though, 'it is immoral to make threats of that kind' (Walzer, 1992 p.278). Walzer does however, accept the lesson from 'strategists' that: deterrence promoted by nuclear weapons is likely to deter any conceivable war between the 'great powers' (Walzer, 1992 p.278). Ultimately the moral dimension is of the most importance for Walzer and therefore concludes, 'Nuclear war is and will remain morally unacceptable and there is no case for its rehabilitation' (Walzer, 1992 p.283). While possession of nuclear weapons may be necessary 'for the moment', necessity is, as he rightly notes, subject to historical change. He hopes for a change in world politics to make these weapons redundant, however, as long as they remain, he believed 'readiness to murder is balanced, or should be, by the readiness not to murder, not to

threaten murder, as soon as alternative ways to peace can be found' (Walzer, 1992 p. 283). On one level, Gray is right to note that nuclear bombs are no different, morally speaking, to stone axes. They are part of a long chain of human inventions, becoming gradually more destructive. Yet on another level, Walzer is right to note that the destructive capacity has motivated a strong desire for restraint; indeed, using these weapons seems unthinkable to most people.

Walzer suggests that the only possible way of restraining nuclear weapons is to understand the moral reality of their use and impose the strongest possible moral restraint on leaders with these weapons at their disposal (Walzer, 1992 p.282-283). Gray on the other hand, seems to suggest using a nuclear weapon, if not advisable, is not morally different to using a stone axe. While I am inclined to agree there is no metaphysical moral difference, it is ultimately a weapon amongst many, it is hard not to conclude that some ethical precedent has been set for restraint of their use; even perhaps, total abolition. Satkunanandan presents a theory of 'calculable responsibility' which provides a way of thinking about ethics without recourse to morality or hard relativism. She notes that 'attentiveness to language seems to offer a path from morality to a broader attentiveness to the world' (Satkunanandan, 2015 p.190). This she understands as 'calculative responsibility and calculative thinking more generally', which would make us more responsible to ourselves and the world alike (Satkunanandan, 2015 p.185). The ethic of calculative responsibility allows for a more attentive attitude to weapons like nuclear bombs. We can responsibly acknowledge the strategic impediment to possess nuclear weapons as an insurance to peace, while simultaneously, opposing them because their use would be thoroughly irresponsible. One of the advantages to this approach, is that it is also unimportant if any single person is right about their ir/responsibility. Though Walzer dismisses their use, it is none the less the very practical concerns of escalation that motivates his conclusion that they are 'morally impermissible' (Walzer, 1992 p.283). Two points can

immediately be raised here. Firstly, the question of morality in Walzer's deliberations seems wholly misplaced, indeed somewhat forced, because of the incomprehensibility of the act. It seems that the language of morality can easily be replaced with responsibility and by doing so, is more persuasive. It relies less on the idea that there is a proportional scale between destructiveness and immorality, which without any obvious grounding, really cannot possess the kind of universal authority JWT intends. Following on from this, the second point is that using morality, especially without firm grounding, invites disaster. Walzer may conclude against their use, but other moralities could easily argue that, faced with an evil enough threat, using nuclear weapons is preferable to the injustice of that regime. The assurances of moral certainty are far more likely to motivate nuclear war, indeed, have motivated (even on Walzer's account) the only use of nuclear weapons as a way of shortening the Second World War (Walzer, 1992 p.269). We don't have to make bold conclusions or declare their use 'immoral'. Not doing so leaves open an attentiveness to the world, along with responsibility to ourselves and others, as a permanent task for us all and as means of restraint on our actions. The potential use of nuclear weapons is better understood as a question of responsibility (i.e over who possess them or what their potential uses are) than as a moral question, which without the guarantee of firm universal morals, is forced to make unsubstantiated normative judgements which are ultimately, irresponsible in of themselves.

This problem of calculation seems to be a broad trend across JWTof both the traditionalist and revisionist variety. Asa final point and as a way of showing how we are less responsible to ourselves the more we accept universal moral truth, I will end the section with an exploration of humanitarian intervention. Walzer was keen to emphasise the need to

intervene to prevent serious atrocities.[10] Though broadly committed to the idea of self-determination, he nonetheless concludes, 'noninterventionism is not an absolute moral rule: sometimes, what is going on locally cannot be tolerated' (Walzer, 2005 p. 69). The case for non-intervention is strong, both morally and politically, and thus would require a strong logic of exceptionalism to justify intervention. The approach Walzer takes is to say that it prevents 'some inhumanity', or simply, to remove a 'tyrant' (Walzer, 2005 p.70). Therefore, Walzer contended that:

> *"And it isn't enough to wait until the tyrants, the zealots and the bigots have done their filthy work. . . whenever filthy work can be stopped, it should be stopped. And if not by us, the supposedly decent people in the world, then by whom?"* (Walzer, 2005 p.81).

Despite the demands of practicality however, Walzer offers no reason why the criteria for intervention and the JAB are so limited. JWT may note certain regimes are immoral, but the specific criterion is not if they are immoral but are they *immoral enough* to justify invoking the JAB. In order to invoke the JAB, and leave behind the principle of noninterventionism, he places particular importance on honouring 'its exception', though he also noted, 'it is true that right now there are a lot of exceptions' (Walzer, 2005 p.81). The frequency of these interventions 'by exception' wasn't enough to make Walser question the reality of the human proclivity to violence and likewise, it seems to violate at least some of the conditions for the JAB. I think this shows how, when face with a 'moral evil', criterion like JAV:iv become less relevant as what seems to actually motivate Walzer is a desire to remove the 'evil' regimes of the world.

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[10] By 'Humanitarian intervention', I mean the standard definition as supplied by the International Commission on Intervention and State Sovereignty as: *". . . the use of military force by a state or group of states, in the territory of another state, in order to halt or avert the large-scale and severe abuse of human being, which is usually being committed or sanctioned by the de facto authorities of that state"* (Heinze, 2005 p. 168).

In this regard, it is likely that moral theories of war act as a legitimating discourse for violence. It is likely that there will be many more 'exceptions' to Walzer's morality and unless that morality is shared globally, which even on the most intuitive level this seems unlikely, it can only ever be a matter of coercion to impose one set of moral ideals upon another regime. This commitment therefore to the 'moral reality' and to 'knowable evils' is likely to perpetuate or even, if Schmitt is right, exacerbate the ferocity of violence. I will particular take this criticism up further in chapter four per Schmitt, who I think rightly notes that a 'just cause' is more likely to motivate and legitimate a war than it is to prevent one. Nevertheless, as a matter of Walzer's own moral theory, I think he is likely creating terms that will inevitably be violated. In this regard, the 'moral reality' is more accurately a 'immoral reality', in the sense that morals seem to react against *prima facie wrongs* that are always counteracted y an equal intuition for the wrong itself. As it were, the human condition is contradictory and not universal. As such, just war theorists like Walzer will find that transgressions of the criteria for just war are continuous; irrespective of how many interventions have already occurred to prevent injustice in the past. In this example, the moral criteria for the JAB seems irresponsible because it is unrealistic. The more complicated and developed just war theory becomes, the more transgressions will inevitably occur. Indeed, this is the effect of universal morality predicated on human intuitions. As long as people in the world disagree about politics, culture, religion and morality, injustice will always be found. To declare one version of this, again a version without any real universal foundation, as the most objectively moral, is to invite the conditions for the legitimation of war at the outset.

Humanitarian intervention demonstrates this effectively, but also, furthers the case for responsibility over morality. It is the relative nature of JWT here, that makes the concept of

intervention discreditable, and has left open the use of intervention purely as a matter of national interest, disguised as morality. As Jamison points out, in numerous cases, that:

> *"there had been only a very delayed response to genocide in Bosnia, and no effective response to genocide in Rwanda and Southern Sudan, or to immense humanitarian crises, caused by failure of government, in the Congo and Zimbabwe. The fact that interventions have been conducted selectively, and sometimes seemingly in the strategic interests of the intervening powers, so that some human rights abuses and genocides have gone unchecked, has helped to discredit the concept of intervention"* (Jamison, 2011 p.366).

It should be noted that imperfect adherence to the JAB by political leaders is possible here. Yet, the moral case presented by the Bush and Blair governments seems broadly in line with JWT parameters. Blair's views mirrored those of his major ally Bill Clinton, who also believed: 'Where our values and our interests are at stake, and where we can make a difference, we must be prepared to do so.' (Jamison, 2011 p. 365). This, though perhaps said insincerely, mirrors the sentiment well and yet, in the cases above where intervention occurred, or didn't occur, doesn't seem to have been substantively improved by this moral guidance. It also makes several irresponsible assumptions. The first assumption is that the West can act on behalf of the world, when in reality, it was NATO, not the world, actually acting (Chesterman, 2001 p. 220). Second, it assumes doing something is ethically better than doing nothing. Finally, it dismisses any diplomatic solution 'other than that which followed guns and bombs' (Chesterman, 2001 p.221). In Blair's words, the world faced a choice between 'do something or do nothing' (Chesterman, 2001 p.220), a sentiment echoing Walzer, yet not only were many wars of humanitarian intervention broadly a failure, which doesn't fault the intention *per se*, it could be the case that morality, especially a flawed one, is propelling political leaders to action which ultimately, may not have occurred. An *ethos* of calculable responsibility, however, would not preclude intervention, but would dismiss the idea that doing so is ostensibly moral. It is not that morality has nothing to tell us but, drawing on Weber, Satkunanandan says Walzer is right to

note that morality refers to the real world, but that it is essentially an 'ethic of conviction', which may sometimes informs a political decision but not *always*, but more fundamentally still, that 'responsibility to the world grounds the need to consider and take account of morality as an always existing claim on us' (Satkunanandan, 2015 p.167). The important part is to note that morality is not the only claim acting upon us. When we allow morality to become the only vehicle by which we make evaluative judgements, then we are in effect creating the terms for legitimating one set of morals and one way of life over another. The JAB per Walzer, while being grounded and more practicable than those of the theological persuasion, still makes the error of aligning the principles of just war to morality. When we allow ethics of conviction to inform our decisions, we become too narrow in our focus and ignore our broader responsibilities to the world. In the case of Humanitarian interventions, this seems to be a prime example of when ethics of conviction distort our ability to make responsible decisions, motivating irresponsible interventions justified by an ungrounded conviction of the 'evil' enemy.

Humanitarian wars are treated as an exception, working with rigid moral categories, though they actually detract from our ability to make responsible choices. As noted by the consequentialist Heinze, 'virtually none' of the literature 'has sought to reveal the precise underpinnings of the argument for humanitarian intervention'; going on to say it has simply been treated as an 'assumption' (Heinze, 2005 p. 169). This assumption has led to an ever-escalating series of modern humanitarian interventions, and while the atrocities are no less frequent, our willingness to intervene has increased substantially. Though this cannot be only attributed to Walzer, but to the array of revisionist just war theorists who promote a substantially more cosmopolitan, rights based JWT, which has led to this escalation. Though, at least as far as the just war argument has been explored thus far, an ethic of responsibility appears to be closer to the reality of conflict than morality. Morality was adopted by Walzer as a way of

recovering restraint in war, but in doing so, replicated the mistakes of Christianity redressed as a new 'common morality' indicative of the real dimensions of war. Indeed, the danger of traditionalist JWT as its dominance outside of philosophy continues is that it institutionalises the idea of 'common morality' so widely that, inevitably, the frequency of 'exceptions' and 'just wars', legitimated by both JWT and the LOAC, are likely to increase. Moralities, of any kind, are 'ethics of conviction' because they blind us to any other possible way of looking at the world, and when this happens, the propensity to violence is never far behind. As Gray reminds us, it is the hope of a better world which motivates violence (Gray, 2002 p. 96-97). Traditionalist JWT is this sentiment transformed into a moral theory of the JAB/JIB which is institutionalised though the political community (the state) and the LOAC. As I have construed it, the JAB *per* Walzer could only act as a legitimation of war. Although I have some sympathy for the grounding in history and the rejection of absolute morality that traditionalist varieties of JWT adopt, ultimately the adoption of any 'common morality' seems little better at understanding the motivation for conflict or mediating violence. I will now proceed to look more closely at the revisionist account of JWT, to demonstrate how the problems that begin here with Walzer are even more exaggerated, and potentially more prone to violence, previous theories of the just war were.

Revisionist JWT: The Analytical Account

Proponents of revisionist JWT have further extended the reliance of JWT on moral principles and rules by bringing the scholarship of JWT into closer alignment with analytical moral principles. Indeed, Revisionists have been particularly critical of many of Walzer's arguments, including his commitment to the 'deep morality of war', focussing instead on commitments to human rights and basic moral intuition (Finlay, 2019 p.18). In this respect,

revisionists have challenged many elements of traditionalist JWT. As such, the 'triumph' of JWT that now exists outside of philosophy departments has become contentious within them, as many moral philosophers now reject the core principles of traditionalist JWT (Lazar, 2017 p.38). Many of the revisionists are 'moral revisionists only', they 'reject traditionalists' attempts to morally vindicate the LOAC, but they agree with traditionalists that we could not secure widespread agreement on any more restrictive changes to the laws of war.' (Lazar, 2017 p.38). The primary challenges revisionists have made of traditionalists are as follows:

"*(a) challenged the permissibility of national defense, and the moral standing of states more generally; (b) argued for expanded permissions for military intervention; (c) questioned civilian immunity; and (d) argued that combatants fighting for wrongful aims cannot do anything right, besides lay down their weapons*" (Lazar, 2017 p.38).

Revisionists have therefore outlined a series of moral philosophies, each with their own unique normative arguments that have altered the core components of JWT. In this sense, most revisionists follow a normative approach to ethics based on Rawls' 'reflective equilibrium', where they 'develop moral arguments by making our considered judgments about the permissibility of actions in particular cases' and attempt to draw from them unifying principles to inform 'considered judgements about those cases', subsequently amending those judgements in light of 'our judgements and our judgement in light of our principles' (Lazar, 2017 p.38; Finlay, 2019 p. X; Fabre, 2012 p. 12-13). This is far removed from the 'common' or 'deep' morality of war that ground the historical/legal account of traditionalist JWT. Given the grounding of revisionist JWT in this approach to normative ethics, it is somewhat surprising that many that revisionists have offered few arguments in defence of this approach. Walzer, perhaps because of the fact he was responding to the triumph of amoral realism rather than (his own) traditionalist JWT, was keen to ground his own moral theory into real and historical cases of conflict to bring his own theory closer to the realities of war. Revisionists have criticised this approach to war, though they offer few reasons in favour of their own approach. Many willingly

admit their 'reliance on moral intuitions' and 'hypotheticals' is 'unappealing for many' and that their moral theories do require this grounding; though rarely seem to address this point (Fabre, 2012 p.13; Rodin, 2009 p.8; Finlay, 2019).

Crucially, this argument continues to be built on the assumption that moral thinking aligns with a 'a 'shared moral outlook' and by asking questions about our most intuitive responses to war, this reveals in turn the beginning point for philosophising about war (McMahan, 2005 p.4; Rodin 2009 p.8; Finlay, 2019 p.22-23; Fabre, 2012 p.18; Frowe, 2011 p.2). In effect, it is a rather simple and a *prima facie* uncontroversial claim: thinking about war should reflect our broader thinking on moral values. It acts as the justification for every condition of the JAB/JIB that revisionist JWT bases itself on. We object to unjust wars because they involve killing, and because we wouldn't accept killing without good moral reasons otherwise in our private lives also becomes a requirement for the just war. As such, revisionist JWT is predicated on a number of convictions rooted in basic human intuition. To proceed with some degree of clarity therefore, I will first offer some core, intuitive principles on which JWT is based to better explore their moral arguments. In this respect, Finlay (2019) has asked 'is just war possible?' and identified three core convictions that I think surmise the commitment to 'widely accepted' moral intuition, which have subsequently come to define the morals of revisionist JWT:

> (i) *"war is a great evil that should be avoided in all but the most extreme circumstances,*
>
> (ii) *war might nevertheless be justified when faced with evils of a certain types,*
>
> (iii) *war ought to be fought with considerable restraint."* (p.20-21).

Though, these convictions are most likely informed by 'another, deeper and simpler set of assumptions' (Finlay, 2019 p. 23), which defines their commitment to morality more generally,

which they understand to be predicated on moral/ethical intuition, though are not listed or explored. Despite this, the three core convictions (i-iii) are then expanded upon for the following *prima facie* moral wrongs (PMW/S) that underpin the 'assumptions' that revisionists proceed with to demonstrate the logic of the convictions:

1. *"That killing is an unusually grave prima facie moral wrong (i.e there are moral reasons not to kill that are usually compelling);*

2. *That letting grave injustices such as unjustified killing pass without serious attempts (where possible) to impede or prevent them is wrong;*

3. *That attempts to perpetrate grave injustices are likely to remain a feature of human history for the foreseeable future (perhaps in perpetuity);*

4. *That sometimes the only means (or the means with the fewest evil consequences) of impeding or preventing grave injustices threatened by others requires killing;*

5. *That sometimes the wrong of failing to impede or prevent injustices threatened by others would be greater than the (prima facie) wrong of those killings that impeding or preventing them would require*" (Finlay, 2019 p.24).

Revisionists proceed therefore with these fundamental core assumptions. Some further overlap can be ascertained by the revisionist commitment to 'the primacy of human individuals, on the importance of their most fundamental interests and on the idea they ought to be protected by rights' (Finlay, 2019 p.17). These relatively simple commitments are what define revisionist JWT and, as Finlay (2019) freely admits, 'If just war is impossible, it will be because one or more of these assumptions is untrue' (p.32).

The reliability of the 'simpler' moral (or indeed metaethical) convictions that underpin the other assumptions are, however, questionable. Presumably, they are commitments to the knowability of moral truths and the value of moral wrongness. In this sense, were those facets of our condition is some way unreliable, it would further undermine the idea we should proceed with the convictions (i-iii) or the PMW(1-5) as a basis for moral reflection. Though I am willing to grant that, especially for war and violence, this can be a 'tough ground' for moral critics; some basic underlying commitments towards killing seem deeply ingrained (Lazar, 2017 p.114). After all, Lazar rightly asks,

> "*Is there any question that it is wrong to intentionally kill children to coerce their government into political or territorial concessions? Though we cannot make much progress by focusing on such easy cases alone, we also cannot vindicate the deep moral revulsion that such scenarios inspire without acknowledging some objectivity in the morality of war.*" (Lazar, 2017 p.114).

In this sense, PMW:1 seems reasonable in one sense, that I think few would attempt to justify killing innocents for political gain. Though the view that this confirms some objectivity to the morality of war is questionable. I think too that the reliance on intent can also be brought into question.

One of the problems with the PMWs is the tendency to conflate responsibility with morality. As Satkunanandan notes, an ethic of calculable responsibility can already assume this task, indeed it is likely already informing the existing laws on war, whereas an ethic of conviction, requires all instances to be reducible to a moral calculation (Satkunanandan, 2011 p. 167). While its 'continuing claim may thus act as a powerful, though not inviolable, constrain on political violence' for the 'Weberian political leader' (Satkunanandan, 2015 p. 167), it does not have a monopoly on this process. In essence we have a competing choice between an ethic of conviction and responsibility (or calculation), which each in turn, have their own distinct utility. The ethic of responsibility creates an attentiveness to the world which is 'not

recognizably moral' and yet, helps us all attain 'a deeper kind of attention though attentiveness to the sway of calculation' (Satkunanadan, 2015 p. 195). In effect, individual reactions to phenomena are not solely understandable as moral, simply because they promote restraint or abstinence from violence. Further still, the 'ethic of conviction' that morality promotes could be seen a licence to further perpetuate violence. The 'ethic of conviction' can act as a legitimating discourse for violence, who now receive the 'enemy' as 'evil' (or at least 'unjust) and thus act less responsibly, kill with less restraint and fight with more ferocity. As I see it, it is as ethically relevant to ask, 'is it *responsible* to intentionally kill children for political or territorial concession?' as it is to insist on the moral dimension. There is no distinct reason given why this is a uniquely moral consideration, it is merely assumed that morality is the only form of responsibility human beings have when considering ethical calculations. Indeed, one of the realities that emerges from the history of violence is that those with endowed with moral certainty, could use this as a means dehumanise their enemy and legitimate the use of violence. If war is indeed 'evil' (assumption:i) and therefore is only justified faced with a greater 'evil' (assumption:2), then how far are we willing to go, *i.e.*, just how much restraint (asuumption:3) should we enforce to save the world from a particularly 'evil' threat?

The answer to this may lie in the JAB:v/JIB:ii, or 'proportionality'. This criterion is important because it prevents the just war from becoming unrestrained in its moral ambitions. As such, a general approach to proportionality adopted by McMahan and others is that the use of force should be proportionate to the necessity of achieving its aims and against the gravity of the evil faced. As such, we may say that of the revisionist account that this condition is particularly important and has been used as a way to criticise combatant equality and the targeting of non-combatants, which in turn presents a question: if 'unintended non-combatant deaths are permissible only if proportionate to the military objective sought', then that would

dictate that a degree of suffering, even of civilians, is at least justifiable then as a balance we must ask if a military objective is worth suffering (Lazar, 2017 p. 116). As such, McMahan, among other revisionists, contend that,

> "*Proportionality is about weighing the evil inflicted against the evil averted. But the military success of unjust combatants does not avert evil; it is itself evil. Evil inflicted intentionally can only add to, not counterbalance, unintended evils. Thus, combatant equality cannot be true. All war involves unintended innocent deaths. If these deaths cannot be justified, then fighting is wrong. And if you advance only wrongful aims, then you achieve no good that can justify these deaths. The laws of war cannot be directly grounded in objective moral norms*" (Lazar, 2017 p.116).

Part of this is down to the revisionist separation of the LOAC from their moral reflections. I want to look at the charge of an 'ethic of conviction' from two angles, first the separation of the LOAC from the 'morality of war' and then subsequently the 'moral equality of combatants' to show that he unnecessary classification of 'good v evil' distinctions, is itself, and unreliable and (at times) potentially a facilitating discourse to promote war.

The separation of the LOAC from general moral rules is a revisionist alteration from traditionalism, which as I have established, largely seeks to make moral rules to complement the LOAC. Part of the reason for this is the increasing focus of revisionists on individual rights and the rejection of the nation state as the only morally relevant actor. Take for example McMahan's elaborations on the proportional account of JAB:1 (just cause). For him, a just war is distinguishable from a morally justified war (McMahan, 2005 p.1). A just war stipulates specifically that it must not simply 'have a just or worthy goal', but that the just war tradition assesses 'the independent *jus ad bellum* requirement of proportionality' (JAB:v), which means, 'the relevant bad effects attributable to the war must not be excessive in relation to the relevant

good effects' (McMahan, 2005 p.3).[11] Therefore, a war on McMahan's account of the just war, is only just when it firstly has a continuing good reason to carry on the war, subject to constant revision as the war progresses to ensure the continuing relevance of the just cause as justification for the resort to war (McMahan, 2005 p.2-3). Secondly, when the resort to war is proportional to the initial offence, and the war ceases, when a more morally palatable option emerges which, while not necessarily being just, at least removes the graveness of the initial offence and removes the satisfaction for a JAB (McMahan, 2005 p.3). Proportionality is therefore a fundamental part of a moral justification of war, though likewise, it is an important criterion for the LOAC (Orend, 2019 p.82). As such, McMahan argued that law can never assume the full demands and responsibilities that morality can. Yet it is significant that the law sought fit not to do so, as it recognises its unfeasibility in even trying to ascertain these standards and then apply them. To enforce a morality of law, he proposes a legal solution in the form of a new 'body of law about what constitutes a just cause' that could be 'supported by philosophical argument' (McMahan, 2008 p. 42). Such a law could then be enforced procedurally, where judges would provide a carefully considered judgement about which side was just and thus bring the principles of the JIB 'into greater harmony with the morality of war' (McMahan, 2008 p.42). This builds also on the co-dependence McMahan stipulates of the JIB to the JAB. As such, a just war can only be fought if it also fought justly and therefore, meeting the criterion of JIB:ii. The requirement of proportionality therefore would require restraint in both war as a means to achieve a particular just cause and restrain in the conduct of that war. The justified use of force increases as necessity (JAB:iv) dictates, so the more resistance or

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[11] This view McMahan articulated is resisted by many other theorists, which he omits himself, who largely regard JAB:v as being a separate clause which invokes the scale of the war as a necessary reason to consider its initiation, where McMahan sees it as relevant to the kinds of war that it is permissible/impermissible to fight (McMahan, 2005 p.2-3).

military power a particular 'evil' might present, the necessity of force increases. Likewise, JAB:vi would also suggest that declaring a war with little to no chance of success, i.e., a particular evil presents too great a threat for a declaration of war, is too taken into account.

In this respect, they have a different relationship to the LOAC. This evidenced in what McMahan calls the 'two-tiered morality of war'. McMahan sees a distinction in what he calls the 'law of war' (which includes the LOAC) and the 'morality of war'. For him, there are 'largely pragmatic reasons' why 'the law of war must be substantially divergent from the morality of war' (McMahan, 2008 p. 19). Morality for McMahan operates on its own tier distinct from law, thus positing that the morality of war is a separate entity from international law; though both attempt the same goal of restraining and controlling war (Shue, 2008 p. 88). It is important that McMahan, along with most other revisionists (Fabre, 2012; Rodin, 2009, Finlay 2019) sees these two spheres as separated. For Walzer, the moral actor was the state and many of his moral arguments (moral equality of combatants, non-combatant immunity, self-defence etc.) are predicated on the political community as the key actor in international affairs. While I have contended that the moral criterion applied to this is largely problematic, the grounding in the political and moral community gives Walzer's views a particular basis in the political realities of the international order. Many revisionists, however, seem to recognise no difference between war as a 'special moral case' and domestic standards of morality. Shue for example, argues instead for a 'morally justified set of laws' because the distinction between 'ordinary life and war' is much greater than McMahan 'assumes' (Shue, 2008 p. 88). This point is particularly important. As many political realists have contended, the reality of war often defies a clear moral interpretation. A point, McMahan seems to recognise in his separation of the LOAC from the moral law, yet it is disputable that the moral laws he describes are even

suitable to the political dimensions of war. To further demonstrate this, I will explore the requirement of proportionality in the form of the moral (in-)equality of combatants.

The requirements of proportionality necessitate a degree to which we take into account the 'relevant costs' of war (Finlay, 2019 p.52). The requirements of proportionality go some way to promoting restraint in achieving moral ends and avoiding the charge of absolutism. Though as I shall now demonstrate, the requirement of proportionality is often undermined by the determination of JAB:i, and its overarching importance to JWT generally, which when constitutes as an 'objective' moral truth can be understood as an 'ethic of conviction with real potential to act as a legitimation of violence. Take, for example, McMahan's criticism of the moral equality of combatants. This view *per* Walzer was sensitive to the condition that combatants often believe themselves to be just, and so, they should be treated as morally equal in the legitimate arena of war; subject to the requirements of the JIB. Hence, Walzer (1992) sustains the logical independence of the JAB from the JIB. A combatant who fights according to the JIB is still a 'just combatant' (p.35-36). By questioning this, McMahan makes some coherent revision normatively speaking, however as I see it, also exacerbates the problems of JWT. He contended that unjust combatants are liable to attack because they wavier their rights by participating in an unjust war, regardless of adherence to the JIB. This, he further extends, by saying that,

> "*Not all combatants are a legitimate targets of attack in war. Unless they fight by wrongful means just combatants do nothing to make them morally liable to attack. They neither wave nor forfeit their right to not be attacked.*" (McMahan, 2013 p.204).

This seems, at best, an ambitious demand on combatants. Participants in combat serve for many different reasons, some motivated purely out of patriotism and others out of a sincere (if mistaken) belief in their cause. Though McMahan (2013) is not insensitive to this. He accepts, 'despite the epistemic failures of the argument for the moral equality of combatants' that some

combatants fight with a 'subjective justification' which 'alters their moral status' (p.65). He goes on do call this an 'excuse, rejecting Vitoria's 'subjective justification' for participation in an unjust war and argues it is a conflation of 'subjective' and 'objective' permissibility, i.e., an excuse is not morally equal to justified permissibility (McMahan, 2013 p.110-113). The upshot of which is, for McMahan, even if their status as 'criminals' can be refuted, their status as unjust combatants still dictate their moral liability for participation in an unjust war and therefore, their moral status cannot be identical to a just combatant (McMahan, 2019 p.115).

This is an example of how the closer JWT gets to 'objective' moral ought/s, the more problematic the theory becomes. The first point is that 'objective' moral rules, deriving from assumptions of core convictions, seems to already overstate the case. This is uniquely insensitive to combatants who may, indeed like many other moral philosophers, disagree with McMahan on the justness of their cause. Who, exactly, should determine the just from the unjust combatant? Can we really say with any certainty that a cause is objectively just and thus, declare with certainty that combatants have differing 'objective' moral statuses? On one level, it is worth noting here that neither an international conception of justice, nor an institution capable of enforcing it, actually exists today (Welch, 1995 p. 209). Though, on a more fundamental level, the question of a combatant's rights are not so easily detached from the political community as McMahan seems to suggest, nor, is it clear when they have a just/unjust cause (JAB:i). Take for example the Falklands/Malvinas conflict. The Argentine use of force to reclaim the islands was undoubtedly an act of aggression (Welch, 1995 p. 208). Yet, neither international law nor the United Nations at the time had any formal way of determining who the islands belong to, has no formal categorisation of self-determination at all and, to make it even more convoluted, also had an outright ban on colonialism (Welch, 1995 p. 208). It could be argued persuasively that the initial invasion of the islands was unjust, and therefore,

Argentina had a just cause in reclaiming them. Even though it is hundreds of years since their colonisation, there was little to no chance of JAB:vi being met until recently and even today, the status of the Falkland/Malvinas Islands is a morally charged matter, causing tension between both sides; so much so they cannot even agree on a name.

Fabre might present one solution by detaching moral rights from their respective nationality. On the cosmopolitan account, it is up to the people of the Islands to determine their own rights and, in a referendum in 2013, 99.8% of people (only 3 ballots were cast against the motion, or 0.2%) voted to remain part of the UK (Final Report, 2013 p. 18). Which side therefore, is just? Both sides clearly have some grounds for the JAB. McMahan seems to suggest it was not a just war because the just cause would be 'too trivial' and is totally disproportionate given the relative unimportance of the islands (McMahan, 2005 p. 4). It seems unlikely on any revisionist account that the Argentinian side was just, it arguably was disproportionate (violating JAB:v), lacked a just cause or good intention due to the political leadership of Argentina at the time (violating JAB:i/ii/iii) and was not entirely necessary (violating JAB:iv) and yet, strong political arguments could be made to suggest the initial act of colonialism was inherently immoral and could easily contend it is grounds for war. To make this matter yet more complicated, in 1982, Britain and Argentina 'shared a conception of justice' and further agreed that any violation of national sovereignty was unjust because it violated legitimate entitlement; both sides simply couldn't agree which side was just in this instance (Welch, 1995 p. 196). The Argentinian people and government alike, at the very least, might be unpersuaded by JWT arguments and consider the war as just, while conversely, sharing a criterion for justice more generally.

As such, one of the advantages of the moral equality of combatants was that is guaranteed that each side's respective views on justice were respected. While I have already

contested the problems of this view, it seems the issue only gets worse when considering the revisionist theory. Indeed, even Victoria's 'subjective permissibility' seems more in line with he actualities of justice. One of the things Welch notes is that the 'justice motive' its itself a motivation to war (Welch, 1995 p. 20-21). The reality of what he calls 'moral diversity', in fact, uses justice to promote, 'in an international well-ordered society', competing visions of legitimacy which, when looked at closely, rarely provides a clear criterion for which theory of justice is the right one (Welch, 1995 p. 194-197). Morality, like responsibility, is an impulse common to all (as JWT constantly reminds us) yet this impulse has produced a remarkable diversity of opinion; what we might contend is an ethical pluralism in justice. When these opinions are expressed as ethics of conviction, it becomes irresponsible because it can no longer accept the possibility of error. It could even be dangerous in the context of war, leading to conflicts to correct *prima facie* wrongs without ever taking the time to question our moral judgements thus, proceeding with an inappropriate certainly. While the conditions of proportionality go some way o removing the danger of a war based on moral absolutism, the revisionist tendency to ground their moral theory in 'objective' morality leads to potentially dangerous situations like depriving allegedly 'unjust' combatants of their rights (which they apparently wave just by participating in an unjust war) when, in reality, any universal standard of justice and shared moral principles are largely non-existent. In the end, revisionist JWT can only be a matter of coercion, legitimated by the objectivity of their claims and enforcing a global standard of justice which ignores other, potentially starkly different, moralities.

To further demonstrate this, I will now look at some other broader commitments to human rights. The idea of subjectivity of justice, as we have seen in the permissibility to fight an 'unjust war', is a particular tenet of early JWT that revisionists are keen to amend. One way they have tried to broaden our moral commitments is to refocus the debate towards the

universality of basic human rights. Rodin and Fabre have both respectively tried to ensure the core convictions (i-iii) are defensible by broadening the scope of argument to include individual rights as a beginning point for considering ethical challenges. Rights can only be withdrawn, Rodin tells us, on the basis of something that individual does 'as a moral subject' (Rodin, 2009 p. 88). Fabre takes this even further, by defending her view of rights against those who insist the political community is constitutive of proscribed rights, which she defends by asking us to imagine a hypothetical where we had a choice to save one of two people from a burning building (Fabre, 2012 p. 38). To Fabre, it is 'indefensible' to imagine we would save the compatriot, for the virtue of the fact he is a compatriot, over the foreigner and thus, 'individuals' basic rights' are not dependent upon national membership and in effect, she rejects 'the patriotic objection' (Fabre, 2012 p. 38). As such, an act of war cannot remove an individual's moral rights, unless some grave circumstance permits it, to maximise the overall good. For example, Fabre notes that, imagine 'members of community V are victims of serious rights-violations', and that the community itself is unable, or their regime unwilling, to prevent this violation then, 'under those conditions those individuals have a (*prima facie*) right to kill wrongdoers. . . and the (*prima facie*) power to authorise potential intervening parties' (Fabre, 2012 p. 175). Intervention (*i.e.*, to invoke the JAB and legitimate killing) therefore is justified because of this rights violation and those individuals involved in the violation forfeit their own right to life, or at least justifies soldiers provided by the intervening party to take their life, on the grounds they have committed some other, more serious, *prima facie* wrong (4). Fabre even defends this point (4) by questioning the right of self-defence as an automatic *prima facie* justification of war as reflected by the human intuition to defend ourselves, and instead, sets terms for any act of war in defence of a nation's sovereignty as being only defensible as individuals' defending their

rights, and by doing so, they define their collective right to self-determination (Fabre, 2012 p. 95-96).

Justice here does more to confuse the issue than clarify, let alone reflect some kind of 'objective morality'. Justice, if it amounts to anything *real*, clearly changes and adapts over time (Welch 1995 p. 210). 'International justice then', Welch contests, 'can only mean what international actors agree it means' (Welch, 1995 p. 214). Revisionist JWT attempts to act as though rights are so universally accepted, that they warrant the ultimate protection: war. However, a Welch notes, even the right of self-determination is a relatively recent edition to our considerations (Welch, 1995 p. 208), which of course leaves open the highly likely probability that in the future, it may be no consideration at all, in the same way as the natural law of Grotius has now been abandoned to history. Indeed, the justice of the future, as Latin American powers grow in economic size and political influence, may well evolve to include wars to reclaim colonial territories irrespective of their inhabitant's rights or wishes. Strong political arguments continually motivate this, and if the former colonial powers refuse to adapt, they may find themselves being considered the unjust party that legitimates a JAB against them. In effect, our rights as moral subjects are as exposed to the changes of time as conceptions of justice are. Even the most obviously heinous regimes like the National Socialists, had a conception of justice. The metaphysical reality of Nazi morality was the concept of *volk*: it exemplified the 'basic principles of Nazi medical ethics' and became the single biggest consideration in law, politics and economics throughout the National Socialist regime (Burns, 2014 p. 215). The National Socialist German Physicians' League specifically criticise 'Christian charity' which they thought had 'stolen away. . . all feeling for the value of strength, health, beauty and youth' (Bruns, 2014 p. 216). As one lecturer of 'hygiene' in 1939, Joachim Mrugowsky, put it: 'the eternal belief in our people is our world view' (Bruns, 2014 p. 234). In

effect, they sought to 'improve' humanity, though a series of what they thought were natural expressions of humanity that have been in some way perverted by modernity. The enforcers of this new humanity were by the National Socialists' key military and political organisation, the *Schutzstaffel* (SS). What they came to embody was everything the Nazis believed to be moral and good, their own competing definition of justice. This constituted a 'Nazi notion of the Good' which was defined by 'the nation's grandeur, militarism, claim to *Lebensraum* and racial purity' (Minaeu, 2014 p. 308). This became spearheaded by Heinrich Himmler, who 'saw himself as a clever skilled moralist' and saw the SS as a 'necessary accomplishment of a moral system' (Minaeu, 2014 p. 308). In philosophical terms, the SS theory of ethics 'revolved around duty, the common good and virtue' as a perfectionist project, with startling parallel to existing morality (Minaeu, 2014 p. 310).

McMahan, along with all just war theorists and probably most people alive today, would rightly reject this morality as illegitimate, predicated on pseudo-science, and thinly veiling an illusion of racial supremacy. I do not mean to suggest for one moment that Nazi morality is legitimate. Though, I would contest, it is illegitimate for the same reasons as all morality is: it lacks proper grounding, it demonstrates illusions of humanity and it likely motivates violence. McMahan dismisses the idea that a Nazi soldier could not possibly justify participation in the Second World War because the end victory would have no value, and if he believed that it did, 'he is mistaken' (McMahan, 2006 p. 29). While this is most likely true, it was at least in part because of the ethic of conviction that is morality, that such a political regime was possible. They, like all regimes, had a distinct theory of justice for themselves. This is also why Rodin feels he 'must' conclude that fighting wars against regimes like Nazi Germany or Stalinist Russia is itself compelling but 'if we do so, our action cannot be conceived in terms of right and justice' (Rodin, 2002 p. 199). For Rodin, even self-defence remains a highly problematic

concept for morality and, ideally, it would be substituted by a framework of international law (Rodin, 2002 p. 198-199). Yet, this returns the obvious problem that all regimes, all people, think this and yet no universal conception of international justice exists. Gray notes that, 'In expecting a final struggle between good and evil forces, medieval millenarians harked back to this eschatological faith, as did modern totalitarian movements' (Gray, 2007 p. 69). The similarities of all types of morality, even the most obviously repugnant like that of the National Socialists, in using the same language or even predicating it on intuition, cannot justify a resort to war because no such language could ever have that authority. A moral perspective has a 'view of the cosmos' as being 'ordered in accordance with their ultimate value' they can 'depersonalise' their actions accordingly to focus purely on their intentions; as opposed to the responsibilities they have to the world (Satkunanandan, 2015 p. 155). Through this depersonalised or unpolitical standpoint, they can 'act violently', the '"last use of force to end all force"', while also retaining 'their sense of separation from the ethical and material consequences of violence' (Satkunanandan, 2015 p. 166). Morality, in whatever form it is constructed, is more likely to further a war, or at least give legitimacy to a war, than it is to restrain war itself. Every conceivable power that has ever reached a certain point of political and social development has crafted some kinds of justice, unique to its own political situation. With the lack of a universal justice, individual JWTs are more likely to begin wars than prevent them.

To end this section, I will discuss how the lack of epistemological foundation in broader metaethical considerations is what promotes the moral conviction which can act as a legitimating discourse for violence, as with traditionalist JWT, but in an exaggerated form. Rodin (2009), like Fabre, has criticised relying too readily on any single moral or ethical philosophy. For Rodin, 'the more we are able to base our reasoning . . . on deeper moral

responses, the more universally acceptable our conclusions will be' (p. 8). One way he tries to supply evidence for a 'common morality', is by presenting manslaughter as a universal crime in 'almost all' cultures (Rodin, 2009 p. 8). Though he accepts much of his theory is based around the 'western tradition', Rodin emphasises that universal reactions to manslaughter demonstrate 'moral concepts and judgements' which are greater than just a particular tradition of philosophy, therefore, to commit 'intentional killing' any individual, in any culture, must provide some 'very strong considerations' to justify the act (Rodin, 2009 p. 8). Rodin therefore mounts a defence in favour of JWT's core convictions (i/ii) and the PMWs (1/5). The more our theories of the just war respond to these 'deeper moral responses', he believes, 'the more universally acceptable our conclusions will be' (Rodin, 2009 p. 8). Again as with traditionalist JWT, it seems that the universality of the aversion to killing is matched only by the human proclivity towards killing. Social roots, as a predicate of our even deeper psychology and biology, undoubtedly buries within us a firm intuition against killing one another in order to make forming societies in the first instance possible. Paradoxically, it also endows us with the intuition and means to kill. Human beings have common traits, that go well beyond the aversion to killing, though not all of them could be described as moral. In this sense, killing is no different to, for example, human creativity. Inventiveness in art and culture are staples to every culture, we do not however, usually talk about a universal culture as having the same set of bound rues to determine how to create art. Indeed, such a universalism would be considered detrimental to the process and, as I shall contend for the remainder of the thesis, is unnecessarily restrictive towards life.

Even if impulses or intuitions are shared universally, the result of them is an innate plurality in form and representation. In fact, laws against manslaughter are universal but the conditions on which individuals can be prosecuted, or the terms of its justification for killing,

vary across culture both now and historically. Root impulses, in this sense, don't guarantee universal outcomes any more than it does with any other living creature's impulses. According to Gray (2002), by citing Freud, he argues that many of our attributes associated as 'good' are themselves psychological and determined beyond our control by birth and genetics thus, to be 'good', would become little more than a lottery for the 'right' mentality which itself, is not indicative of a positive ethical choice that moral theory requires (p.104). If we do lack any sense of moral autonomy in this way, it would create a serious epistemic problem for advocates of morality. I will explore this further in the Nietzsche chapter as a consequence of his naturalism, though as a critique of JWT, I think Gray's view here complements the critique (via Weber) presented by Satkunanandan that I have levelled against morality in both traditionalist and revisionist JWT. The problem with JWT is that is assume its moral theories are indicative of broader moral truths about the world. Though, if Gray (or indeed Freud and Nietzsche) are right about the human situation, then we cannot rely on PMWs grounded on intuitive responses to killing. As such, as I contend it, the core convictions and PMWs of revisionist JWT are untenable and constitute an 'ethic of conviction'. The closer JWT has become to reliance on moral philosophy and normative ethics, the more pronounced and less justified this has become.

The Problems of Morality in JWT

As the just war tradition has evolved, in many ways, it has ironically become less persuasive. At the end of this examination, it is worth briefly returning to JWT as understood by Cicero. His just war was one innately bound to the Roman Republic, to a naturalised understanding of humanity, and sensitive to the realities of necessity. While inappropriate for today's times, as a theory based on 'glory' and wars of expansion are unlikely to find a receptive

audience, it was nevertheless a grounded theory in political and social life of the time. Indeed, it is likely that conceptions of justice and ethical life are likely to have a continuing hold on decision making in perpetuity. Acknowledging this, however, is another thing entirely to then attempting, through either a legalist or a rights-based theory, to create an entire philosophy which can justify or condemn every conflict and act of killing. In Weber's words, 'no ethic in the world can say when and to what extent, the ethically good can 'justify' the ethically dangerous means and its side effects' (Satkunandan, 2015 p. 173). It is more than just impossible, it is in my view, to misunderstand the basis of conflict. The language of morality is a totalising language, which far from understanding the reality of conflict, distorts it in a way that could possibly promote violence. We could rightly understand this as 'the politics of conviction'. In Weber's terms, the 'conviction politician' can 'betray their ethic and start making means-end calculations to justify the use of force on moral grounds' (Satkunanandan, 2015 p. 166). This applies equally to religious disposition of Christian pacifists, to JWT, to Hitler, and to morality generally. A 'conviction politician' may 'feel morally superior to their opponents because of the 'nobility of their ultimate intentions'' (Satkunanandan, 2015 p. 153).

As I have tried to illuminate across the chapter, the charge of moralism against JWT is strong, but often, a deeper critique is required to challenge its more core convictions. This challenge I will progress across a series of 'amoral' perspectives that are equally critical of morality and moralism to further the critique into JWT and morality itself. Emerging from the examination of JWT therefore, I see four major problems reoccurring throughout the tradition that I shall pick up on in later chapters:

    (a) JWT, particularly the JAB (Finlay, 2019 p. 37), relies on ungrounded moral principles and is therefore groundless;

(b) morality distorts our ability to understand either the social demands of justice or human psychology in times of war;

(c) morality hinders our responsibility to both ourselves and the world;

(d) JWT acts as legitimation, rather than a restraint, for war, violence and terrorism.

Each of these conditions are a resulting factor of morality itself. To develop each of these critiques in further detail, I will proceed to look at these four primary objections to JWT in subsequent chapters: *Machiavelli and Realism*, *Schmitt and Legalism* and *Nietzsche and Amoralism*.

To end discussion of JWT, as with all the chapters I outline, it is important to ask if anything important could be learned from JWT about conflict. Many of the observations about human intuition or of war in general are not without merit and, as even Satkunanandan and Gray concede, morality does act as a practical ethical guide to our lives with consistent claims on decision-making, either as practical guidance/'know-how' or to promote general 'attentiveness' to the world (Gray, 2002 p. 112-113; Satkunanandan, 2011 p. 167; 185). While I can agree with this to a certain extent, a more general worry about morality is, as Nietzsche said:

> *"Everywhere today the foal of morality is defined in approximately the following way: it is the preservation and advancement of mankind; but this definition is an expression of the desire for a formula, and nothing more."* (D, S. 106 p. 61).

While morality may act as one kind of understanding, its history and normative power, at least as it currently stands, may mean it acts as a distorting influence or guidance rather than a helpful one. Morality, as Nietzsche puts it, is 'sign-language', 'one must already know *what* it is about to profit from it' (TOI, p. 66). In this sense, morality may help us in a limited way when not expressed as a totalising formula. If we already know what our moral prejudices are, then it

may help us have a coherent conversation, but it won't necessarily reveal any deeper, moral truths. Morality is a language in this sense, but like all languages, one must learn to speak it before it can be understood. That however is the key, it is *learned* behaviour not *intuitive* behaviour. It may even be helpful in places, but so long as morality demands of itself it become a 'cogent whole', a totalising system of conviction, it will always, through applications like JWT, enforce its laws even in the most extreme circumstances. The main problem with the just war tradition, despite all its intelligent observation throughout its long history, was and remains thus: 'the problem of morality was missing; there was no suspicion it might be something problematic' (BGE, p. 75).

Machiavelli and Realism

"Machiavellianism pur, sans melange, cru, vert, dans toute sa force, dans toute son aprete, is superhuman, divine, transcendental, it will never be achieved by man, at most approximated"[12]

<div align="right">-Nietzsche (WP, p.304)</div>

"Scratch an 'altruist' and watch a 'hypocrite' bleed"

<div align="right">-Michael Ghiselin</div>

Realism is the most established critique of the LOAC/JWT. As a theory, it has received widespread influence from political and diplomatic figures to academics and journalists, all of whom seek to show that morality does not apply on the international stage. Crucially, this is a rejection solely of the idea morality is a feasible restraint, not necessarily a total rejection of morality as a concept. Realists essentially maintain that moral philosophers make a 'category mistake' in assuming the moral dimension of conflict has any realistic effect on how war is conducted (Orend, 2005), only citing relative scales of power to determine when and how wars are fought. This view can be traced back to Thucydides and Machiavelli, two 'classical realists', who sought to emphasise the imperative of necessity. For classical realists, all of politics (understood as power and security) was indicative of the competitive human spirit which means violence between states is inevitable (Donnelly, 1992 p.85). Power is the key to winning conflicts of any kind and, therefore, for realists today and the past alike, morality is a hindrance on making effective and prudent calculations attentive to the socio-economic power dynamics of the world. Over the course of this chapter, I will examine the realist objection to LOAC/JWT by tracing the root of this objection back to Machiavelli. Realist critiques of morality have shifted over time, moving away from more fundamental attacks on the roots of morality towards

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[12] Translated: *pure, without any mixing, crude, green, in all his strength, in all his ruggedness*

critiques of 'moralisation'. Beginning with neo-/structural realism, I look at how contemporary realists have criticised morality as a beginning in the literature. Moving then to trace this to Machiavelli, this reveals both a 'harder' criticism of morality while also revealing some of the wisdom of classical realism that has been largely overlooked by realists today, which may answer some key objections just war theorists have raised against realism. Unlike neo-/realists, classical realists like Thucydides or Machiavelli saw realism as an ontology of the world which if understood, facilitates, rather than dismisses, change. Modern proponents of realism, however, have become dependent on empirical claims about the world structure, never demonstrating how that structure might change or how it came to exist. For the first half of this chapter, I will look closely at this claim by breaking down realist assumptions and criticisms of morality. In the second, I look at the 'aesthetic', or in Thucydides' case 'proto-constructivist' (Lebow, 2003 p.113), element found in classical realism, to look at their potential alternatives and/or revisions to morality to make it more plausible as an effective restraint on conflict than JWT. In this regard, Machiavelli, more than any other realist, was highly imaginative and hopeful for change, he tried to alter the way we think about the world, human beings and politics.

Despite his association with realism however, Machiavelli can be challenging to understand. The substantial number of views about Machiavelli's writings, ranging from an unscrupulous realist who embraced evil to a 'gentle republican' (Femia, 2004 p.vii), alters his relationship to morality and becomes obfuscated by *prima facie* inconsistencies between the texts; accompanied by an array of explanations for the alleged inconsistences. Some explain his view as a 'restoration of antiquity' that saw morality as being rooted in the political community rather than in abstract ideals (Benner, 2013 p. xxii; Viroli, 1998 p.1; Skinner, 1981 p.49), others have sought to emphasise his commitment to 'pagan' or 'aesthetic' morality (Berlin, 1972 p.45),

indeed while others still see him as a realist promoting power-politics and international anarchy (Forde, 1992a p.389; Waltz 1979; Booth 1991 p.119; Viroli, 2013 p.55). Over the course of this chapter, I will address some aspects of this debate with respect to advance a specific reading of Machiavelli, advocated by Gramsci (1971), Pitkin (1999), Viroli (2013), Vacano (2007) and others, that emphasises his commitment to aesthetic political theory and redemption. In effect, we might say of Machiavelli he was certainly a realist, but an intriguing one, 'a 'realist with an imagination' (Viroli, 2013 p.55). Over the chapter therefore, I will emphasise that Machiavelli does belong to the tradition of realism by contributing three important criticisms of LOAC/JWT: (1) the priority of necessity in determining the logic of war; (2) how our perceptions of vice/virtue are contextual rather than intuitive; and (3) that fortune and tragedy are unavoidable and necessitates a fatalistic ontology for war. Unpicking each of these three criticisms outlined by Machiavelli, reveals the core challenge of realism to the precepts of JWT by questioning the relevance of morality to warfare. To realists, morality and justice can only ever be contextual domestic concerns that have no intellectual value when looking at conflict. Unlike neorealism however, the 'imaginative realism' of Machiavelli is similar, though distinct in important aspects, to the aspirations of classical realists. If this criticism of LOAC/JWT and its 'aesthetic' alternative is enough however, is the primary question I wish to pose throughout this chapter, beginning with unpacking the realist critique of morality.

Machiavelli's Critique of Morality

To many realists, Machiavelli, along with Thucydides, was the founder of realism and introduced a 'scientific approach to international relations' which extended the plea of self-defence to the aggressive war (Forde, 1992a p.373; 377). In this regard, decisions made in the

international realm are not affected by morality, they are only the product of scientific calculation. Machiavelli is often portrayed therefore as an 'extreme realist', arguing that anything is permitted in war (Forde, 1992a p.389). One could even conclude that Machiavelli is a 'realist in its purest form', endorsing 'imperialism, the unprovoked subjugation of weaker nations by stronger, without reservation and without limit' (Forde, 1995 p.152; 1992b p.64). A reasonable amount of textual evidence for this can be found, particularly if focusing almost exclusively on *The Prince* and assuming a degree of inconsistency in his writings. Yet, this is not Machiavelli's whole theory. Machiavelli did focus on necessity, historical/empirical observation and unrestrained violence, making him appear like a realist who rejected the limitations imposed by morality. Yet, where the realist understanding is flawed, is by presuming there was not any *normative* aspiration in Machiavelli's writings. The realist critique of morality, indeed often including their reading of Machiavelli, is not really a critique of morality or JWT but rather an objection to the use of moralism in international affairs (Coady, 2005). While this is true of neorealism, classical varieties of realism, such as Machiavelli's, often demonstrate a theoretical subtlety lacking in modern varieties. One of the key lessons Machiavelli tried to demonstrate was to not accept the traditional classification of 'vice' and 'virtue', but to contort them, offering a revised understanding of cruelty, reputation, honour and glory so that a prince may utilise both vice and virtue to his benefit (Skinner, 1981 p.45-46). In other words, Machiavelli continues to shape ethical precedents, though presents them very differently to JWT. He doesn't offer a scientific, calculable, approach to politics and international relations but rather tried to show how ideal realities can only be achieved with great difficulty. In this regard, he 'reground' ethics from intuitive principles and PMW towards historical and empirically observable realities, not for its own sake, but to demonstrate how greater things could be achieved if only good people learned to win. In this sense, his ethics

were 'aesthetic': meaning they were grounded from observable reality and context (Vacano, 2007 p. 97; Viroli, 2013 p.28). To look more closely at Machiavelli's critique of morality therefore, I will divide classical from neo- realism, defining both, and analysing the difference between the two different critiques. For classical realism, I will focus specifically on Machiavelli because of his 'foundational' status to modern realism but also, to reveal key differences and advantages of the classical position.

The Realist Critique of Morality

Realism is divided into two broad schools of thought: classical realism and neo- or structural realism. One way to describe the difference between them is: 'classical realists believe that "human beings suck", whereas structural realists think that "the world sucks"' (Orend, 2019 p.33-34). The distinction between a flawed world and a flawed human nature is subtle but substantive when we consider a critique of morality. Realists of all kinds have much in common, however, the subtle difference in emphasis changes the extremity of their critique. For example, all realists believe the resort to war stems from the anarchic conditions of the world order and therefore, morality is only relevant when directly in the interests of that state to be seen as moral (Orend, 2019 p.7; Morgenthau, 1978 p.240; Coady, 2008 p.52; Donnelly, 1992 p.101). Why they believe the world order takes precedent is dependent on their existing ontology of war. Classical realists, like Morgenthau, Machiavelli or Thucydides, would contend that the world order stems from the flawed nature of human beings, as summed up by Morgenthau, 'politics, like society in general, is governed by objective laws that have their roots in human nature' (Morgenthau, 1978 p.4). The world order, therefore, has constrained potential due to these flaws. Power is the only principle which governs politics, which applies both

domestically and internationally, as competing factions/states vie for influence and control. Neorealists, like Waltz, Kennan or Coady, do not necessarily maintain human nature is flawed, at least, not to the same extent. The problem emerges like the Hobbesian account of the state of nature- without a firm guiding 'leviathan', anarchic conditions produce and replicate violence. It is the anarchic structure that promotes warfare. Though both object to morality as being an irrelevance, the difference in emphasis between structure and humanity produces different criticisms of morality. Objecting to morality because of fundamental laws rooted in human nature is a more fundamental criticism, because it suggests there is no possible way to change human affairs. Whereas objecting to morality because of systematic socio-economic flaws with the global order suggests other orders are at least possible, they simply haven't yet been realised. Hence, as Waltz (1979) argued, 'Because some states may at any time use force, all states must be prepared to do so- or live at the mercy of their more militarily vigorous neighbours' (p.102). Only when the socio-economic parameters of the global order change, can any change a state's propensity to, or behaviour in, war also change. As such, the realist tradition presents two critiques of morality: the classical objection that humanity's flaws cause wars, and the structural objection, that international structures cause wars.

Focusing on neorealists, conflict cannot be understood morally because they assume that international anarchy between states prevents morality from having any importance. In effect, they argue morality and principles of justice are unfeasible and just war theorists have continually misunderstood this fact. In response to JWT, prominent neorealists like Waltz (1979) have sought to show that, 'Among states, the state of nature is a state of war' (p. 102). They define international anarchy as a Hobbesian state of nature, 'identified with chaos, destruction and death', distinguished from the 'national order' by the absence of a legitimate wielder of violence (*i.e.*, the state) (Waltz, 1979 p.103-104). With the absence of a legitimate

entity to wield violence to prevent chaos, states exist outside of moral constraint because the international arena is a system of 'self-help' (Waltz, 1979 p.104). Hence, neorealists are primarily concerned with the empirical dimensions of international relations to document how states interact and demonstrate inter-state politics as a 'competitive realm', where states seek to balance power against one another (Waltz, 1979 p.127). In a world dominated by competitive struggle, war would be a continuous danger that states must prepare for and cannot, indeed would not, conform to restraint imposed by JWT or international law. When neorealists consider the possibility for peace or restraint, they do so only in the context of the international system. War is not a moral good for neorealists, only unavoidable under conditions of international anarchy. Some restraint or sustainable periods of peace might be achieved, but only by altering the 'balance of power', making war and violence too great a risk for each state. Within a competitive, multipolar world, states inevitably find an inequality of power, which itself is both inevitable and virtuous- it promotes both strength and tenacity among states but ensures violence between unequal states is a permanent danger likely to occur (Waltz, 1979 p.132). Inequality, the balance of power and multipolarity is also for neorealists the only conditions which 'at least makes peace and stability possible' (Waltz, 1979 p.132). By accepting inequality, working to the limits of one's own power and conforming to international norms, neorealists like Waltz contended that working within the parameters of this structure is by far the best way to constrain violence. JWT/LOAC simply misunderstand the political reality, opting instead for a series of largely abstract moral formulae which if ever followed, would destroy the state in question.

The structural objection to JWT is a 'weaker' claim than some classical realist variants because their criticism is not of morality, but of the application of morality blindly to conflict, without adequately understanding the context. Their main response to JWT therefore, is to

accuse them of 'moralism' rather than to attack morality. Neorealists focus on the 'vice of moralism' to highlight problems with morality when applied to the international arena, which can be defined as an attitude associated with the application of morality, which promotes universalisation, abstraction and, to a large degree, delusion (Coady, 2005 p.125). The 'vice of moralism' is an important distinction from morality on Coady's account and is defined specifically by attitudinal, rather than philosophical, criticism. As such, it can be described as a 'vice' and has a detrimental effect on conflict:

> "... that the vice of moralism often involves an inappropriate set of emotions or attitudes in acting upon moral judgements, or in judging others in the light of moral considerations. The moraliser is typically thought to lack self-awareness and a breadth of understanding of others and of the situations in which he and they find themselves" (Coady, 2005 p.125).

If the structural objection is correct, and only the parameters of international politics prevent the need to invoke the JAB/JIB, then morality itself is not the problem but rather the world is. The 'vice of moralism' therefore, ultimately amounts to a criticism of moral philosophers or just war theorists and specifically, the mindset they promote. JWT promotes moralism which, according to neorealists, is indicative of their misunderstanding of conflict. Effective restraints of conflict must be filtered through the context of the existing international political order. Moral restraints and JWT, according to this critique, are too abstractly formulated to be sufficiently grounded in international politics. They instead focus on normative concerns about the moral status of violence, which consequently, misunderstands the realities states must endure to survive, and indeed, survival is the highest priority for realists.

When responding the challenges presented to JWT from structural realism, Orend (2019) observed contained within their theory of international relations is a 'strange hope' that a better world order is possible; though moralism may prove a hindrance to realise this goal (p.22). This is essentially the problem with structural realism, that it is in danger of promoting

a worldview that is self-confirming. Insisting upon power-dynamics governing a world of anarchic conditions and inequality also potentially ensures a different world is impossible. JWT, for all its flaws, at least tries to actively shape this world according to its own definition. Realism, however, seems to offer no real vision of a future political realm beyond an unfortunate state of war between states. If there are no deeper objections to the use of morality to restrain war, only objections in how it has been applied, then even if they are correct that 'moralism' is largely delusional, this would only require that JWT adapts to the lessons of realism. Indeed, Orend (2013) has also argued that JWT has already adapted, especially on the revisionist account, thus realism constitutes a 'healthy and needed antidote' for JWT (p.269). By including considerations of necessity (JAB:iv/JIB:iii), proportionality (JAB:v/JIB:ii) and the prospect of success (JAB:vi) into their considerations of the 'just war', there is some degree of evidence that this is largely true of JWT. Particularly with JAB:iv/vi, JWT seems to demonstrate that just wars are not fought blindly, but include real concerns about achievable strategic goals and the need for states to observe caution. Even if Coady is right by contending that JWT demonstrates an inability to comprehend the complexities of the international system, this would still only require further revision of their principles. Otherwise put, morality isn't really the problem for realists and therefore providing philosophers emphasise practicability, there are no other objections to the use of morality to shape the international order; a provision JWT has arguably already met.

One way in which the neorealist argument might be recovered, is by delineating between types of realism that are 'descriptive' and 'prescriptive'. Descriptive realists believe that states, as a matter of fact, either do not (because they lack the motivation) or cannot (because of the struggle in anarchic conditions) behave morally, and 'thus moral discourse surrounding interstate conflict is empty, the product of a category mistake' (Orend, 2013 p.252-253; Orend,

2005). Orend (2013) is keen to highlight how descriptive criticisms of JWT are weaker because in reality 'we can, we ought and we actually do make moral judgements' of violence and 'of war in particular' (p. 257). *Prima facie*, this seems to be a broadly reasonable objection. Just war theorists like Tesón (2018) apply considerations of JAB:v to conflicts, such as in Syria, by arguing disarmament might be morally 'second-best' but, considering proportionality restraints, it may prove the more just course of action nonetheless (p.53-55). What Tesón and other just war theories try and establish with cases like the internal conflicts in Syria is to show how JWT is actualy a practical and adaptive theory, particularly due to JAB:v or the commitment to 'the last resort' because ultimately, JWT seeks to minimise harm among as many people as possible and acting disproportionately is counterproductive and morally worse. The desire to depose authoritarian regimes and enact a regime-change, or at least support those who are trying to in places like Syria or Israel, may be morally defensible but are not necessarily the most just course of action (Tesón, 2018). In this sense, JWT is often subtler than its critics believe. Continuing with Syria, one example of this restraint might be their scepticism regarding intervention with ISIS. Even with such a perceivably 'immoral threat', many just war theorists oppose intervention and JAB:v continues to restrain their ambition when considering the strategic prudence of intervention, particularly regarding the possibility of military intervention and minimising the resulting harm caused (Tesón, 2018 p.60). Descriptive neorealism relies on states confirming to the facts of interstate relations however, even if those facts were demonstrably true, it only prevents states from behaving morally if philosophies like JWT are guilty of 'the vice of moralism', completely uninterested in the empirical reality. At the least, this is untrue of all just war theorists and indeed, most seek to show how the just course of action is constrained by practical concerns. It is thus difficult to dispute Orend's argument that states could at least try and conform to the parameters of JWT, if it is also true, that only the

international system prevents morality being feasible and that considerations of this realism are incorporated into JWT as it currently stands.

Prescriptive realists may recover the realist argument in some form. They believe that states 'cannot afford' to be moral in the international arena, that 'nice guys finish last' and therefore, 'states *should* only care about maximising what they consider to be their own enlightened self-interest' (Orend, 2005; Orend, 2013 p.257). This claim may be more plausible, as it doesn't rely on proving that states do consider morality and that it is capable of realistic decision-making. Prescriptive realism relies on the idea that behaving morally puts nations at a disadvantage. Therefore, navigating anarchic conditions and avoiding the 'vice of moralism' becomes imperative if that state wants to secure its safety and prosperity. Unlike descriptive realism, it doesn't rely on states always ignoring morality as a matter of fact and because it relies less on empirical claims, its theory rests more on the notion that states who do behave morally, especially in perilous conditions where their statehood is threatened, are at a disadvantage. Consequently, because they are disadvantaged, they are unlikely to behave morally at all or at least, are unlikely to use the moral criteria of JWT to determine legitimate from illegitimate wars. Prescriptive realism, despite being a more easily defended claim than descriptive realism, still seems a relatively weak criticism of morality. Just war theorists, such as Orend (2013), have responded to descriptive realism in a number of ways, by arguing moral interests are self-interests (p.259); by contending that other wrongful behaviours by states doesn't justify a/immorality (p.260-261); and finally, by arguing it has no way of ruling out 'blatantly immoral' acts (p.262). The first two of these responses seems more pertinent, as realists don't have to rule out blatant immorality if morality is a 'category mistake' anyway. If, however, moral and political interests are aligned, this would create a strong realist argument for states observing the criteria of JWT. Another form of realism, which is still a form of

prescriptive realism, is 'moral realism' that has pursued this point. Moral realists like Kennan have argued that it is in the state's interests to prioritise its safety or interests because that is the moral course of action (Orend, 2013 p.258). This also offers some justification for states behaving a/immorally because, much like as JWT sees war as justified for the greater good, moral realism sees states pursuing their self-interest as being for the greater good. If it is the moral course of action for states to pursue their own interests, this view would also allow the moral principle of proportionality to apply with the goal giving realists both the language to rule out blatant immorality and reconcile moral with political interests. The problem with this view is evident if one considers morality itself a problem, it is too weak a criticism of morality and essentially can act as a form of moralism itself. While it deals with challenges about morality's feasibility in conflict, if morality remains a desirable facet of modern warfare, then there are strong reasons to begin to incorporate stronger moral claims, even as national interests, which potentially exacerbates an existing problem.

Looking closely at neorealism, it becomes apparent that as a criticism of morality, it is a relatively contained one. It makes few, if any, real contentions with moral principles or JWT and many of its objections are relatively easily incorporated into JWT. Orend, amongst other just war theorists, have responded quite successfully to many of these claims and for the most part, JWT seems to have tried to shape its moral criteria carefully to incorporate hard political lessons of realism. Ultimately, neorealists do not have the language to rule out blatantly moral behaviour far more than immoral behaviours because their reliance on states observing certain patterns is dependent only on the fact, they seem to do so in history; which is a poor argument for suggesting they always *should* behave that way. As a theory of international relations therefore, I would contend that realists need a stronger grounding to justify the behaviour of states and in particular, need deeper criticisms of morality if they wish to prove strategic

imperatives trump morality. One solution to this may present itself by returning to the roots of neorealism in classical realism and in particular, to Machiavelli. Unlike neorealists, classical realists root their criticism in human nature and consequently, can maintain morality is a 'category mistake' because the conflict between humans is rooted in their nature itself. In effect, the tradition embraces 'tragedy'- which emphasises a flawed human nature and the bounded context of ethics (Lebow, 2003 p.283). Classical realists challenge JWT not just as a type of 'moralism' but as an irrelevant abstraction, impossible to realise and potentially deadly. Ethics and justice, for classical realists, are bound to the political community (Lebow, 2003 p.257-258) and therefore, morality cannot regulate warfare because it exists between communities and therefore guarantees consistent disagreement on standards of justice. It is the human tragic fate to create values and communities and therefore, creates the groundwork for continual conflict. Morality, isn't just irrelevant to rules between states, it is simply irrelevant per se and only really serves a subservient role to the political values of the community. Turning at this point to Machiavelli, as I shall now go on to argue, he is very much the 'root' of this particular critique of morality that I contend is the stronger critique within realism. Machiavelli contributed to realism a series of pertinent critiques which, when applied to JWT, begin to challenge the fundamentals that predicate morality.

Machiavelli and the Classical Realist Critique of Morality

Machiavelli presented a theory which challenges the main precepts of JWT that I outlined in the previous chapter (Chp' 2). Turning to the main precepts of JWT (JAB/JIB and PMW) one thing becomes clear: realism holds that the 'just war' is a fictitious concept and that war, contrary to JWT, is a product of competitive struggle for power. This is true for classical and neorealists alike, though for different reasons, which leads realists to claim war is purely

an expression of power and can only be understood on political, rather than moral, grounds. By focussing their theories on a flawed human nature, they have questioned the basis of JWT/LOAC in human intuition. War cannot be just/unjust if humanity is too deeply flawed to create reliable moral formula altogether. As such, to Machiavelli, anything was justifiable that secured both the 'security' and the 'liberty' of the state:

> "*where the ultimate decision concerning the safety of one's country is concerned, no consideration of what is just or unjust, merciful or cruel, praiseworthy or shameful, should be permitted; on the contrary, putting aside every other reservation, one should follow in its entirety the policy that saves its life and preserves its liberty.*" (Machiavelli, 2008b III:41 p.350).

Human nature creates a propensity to violence and therefore to defence. Machiavelli believed this innate flaw meant states cannot afford to be moral, especially in war, and thus political actors must be willing to limit their moral inhibitions to act effectively (Walzer, 2004 p.168). Walzer called this the 'problem of dirty hands'. Machiavelli's works attempt to persuade a good man of moral character to engage in immoral acts, the rewards he promised were eternal praise (glory) and political power (Walzer, 2004 p.175). Of all the immoral acts deemed necessary to Machiavelli, war and violence were the most necessary and the political actor who was capable of protecting the state from aggression was guaranteed the largest share of power and glory.

The first contention Machiavelli raised therefore, was the priority of 'necessity'. Most sections of his writings attempt to show why certain courses of action are justified by lessons learned from history. The most famous reference to this is the oft quoted advice to princes that they must 'learn how not to be good, and to use or not use it according to *necessity*' (Machiavelli, 2008a XV p.53, my *emphasis*). The justification for immoral acts, like killing (PMW:1), is that the context of history shows that humans tend to react the same way (his tragic fatalism) and therefore, what constitutes as a vice/virtue is dependent on necessity. War is a clash of competitive polities, without a willingness to do immoral things then the

security/liberty of that state cannot be guaranteed. As such, for classical realists like Machiavelli, anything is permitted in defence of the polity, indeed, immoral or 'evil' acts are necessary to maintain the security of the state:

> *'Those cruelties are well used (if it is permitted to speak well of evil) that are carried out in a single stroke, done out of necessity to protect oneself, and then are not continued, but are instead converted into the greatest possible benefits for the subjects."* (Machiavelli, 2008a VIII p.33-34).

It is noteworthy here that Machiavelli contends immoral behaviour is to the benefit of everyone, not just the prince himself. The morality of the political community comes first for Machiavelli, and those cruelties done for their benefit are those he considers the most justifiable acts. To defend his view, Machiavelli offered many examples of necessity overruling any other priority for the state. In *The Prince* for example, he encourages cruelty out of necessity and self-defence (Machiavelli, 2008a XIII p.33) or encouraged the utilisation of fear 'sustained by a dread of punishment that will never abandon you' (Machiavelli, 2008a XVII p.58). This is also no different in *The Discourses*. There are numerous examples of necessity being shown here, including, but not limited to, showing how it is necessary to kill 'the sons of Brutus' to maintain a republic's liberty (Machiavelli, 2008a III:3 p.252-253), [13] or in showing how it was important to win battles, stipulating that generals inspire confidence in their men and in themselves (Machiavelli, 2008a III:33 p.332-334). In effect, Machiavelli filters every ethical precedent through a filter of necessity, which is why he contended that anything is permitted in defence of a polity's security or liberty.

Over the course of his writings however, it is vital to note Machiavelli was reluctant to 'speak well of evil'. Indeed, it is precisely because Machiavelli recognised the importance of a

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[13] This is meant as a metaphorical point, essentially meaning to kill 'the sons of Brutus', or any would-be dictator, to ensure a grievance cannot be redressed by their inheritors and subsequently threaten the security of the state for a second time.

kind of ethics that he thought necessity is so important. For Machiavelli, virtue/vice are not universal concepts, but depended on the context in which they are employed. Necessity increases with importance, 'where choice has less authority' and therefore represents, 'what is humanly necessary, as opposed to what is necessary to the fulfilment of human nature' (Mansfield, 1996 p. 15; p.55). It is because every human society wants the same things, as a by-product of their nature, that the impediment of violence is always there as part of competitive struggle and why, 'it always follows the same conflicts arise in every era' (Machiavelli, 2008b I:39 p.105). In effect, Machiavelli contends that because we are ultimately trapped in a world where what is 'humanly necessary' will always involve conflict as part of the human diversity of multiple states, then humans are also creating the pretext for warfare between states. What constitutes a 'virtue' therefore, is what is necessary to preserve that state; in effect, 'necessity makes virtue' (Mansfield, 1996 p.15). Though Machiavelli does not believe ethical valuation arises from necessity alone, as Walzer (1973) has rightly noted, 'We know whether cruelty is used well or badly by its effects over time. But that it is bad to use cruelty we know in some other way' (p.175). Machiavelli's consistent use of terms like 'good and bad' suggest Machiavelli maintained moral standards (Walzer, 2004 p.175), he merely believed the best course of action for good people was prudence and a willingness to engage in immorality for the greater good. Actions of violence or war, therefore, are immoral acts that have a *telic* justification, they are justified by the overall good, they produce, which consequently retains moral standards.

Though while Machiavelli viewed *telic* considerations as paramount, other classical realists like Thucydides emphasised a 'casual' necessity, to show the 'law-like' nature of politics (Matsumoto, 2020 p. 1059). Though both Machiavelli and Thucydides also emphasized the importance on creating new and imaginative solutions to problems they faced (Lebow, 2003

p.113), their different conceptions of necessity changed the way they emphasised the process of change. For Thucydides, his scientific realism led to the conclusion that scientific laws explain the past and shape the future, removing moral conceptions of what 'ought' to have happened and exclusively focussing on the resulting effects of politics and conflict (Matsumoto, 2020 p.1088). JWT has focussed on moral obligation to understand and regulate conflict, but for Thucydides, the world itself produces the laws of necessity which shape our predilections towards moral intuition, in effect, the necessities of the world shapes how we think about the ethics, politics and conflict. Though for Machiavelli, he didn't believe necessity created laws. By constructing a *telic* end for immorality, Machiavelli attempts to redeem conflict by giving the tragic impulse towards violence purpose. If violence and conflict can be justified by the ends they achieve, then this challenges the idea of predicating restraint on PMW. Even with basic instincts, like PMW:1, Machiavelli would contend any course of immorality improved the probability of achieving morally justifiable end goals. The question for Machiavelli, is ensuring the right people take power to ensure the best overall good. Therefore, *telic* necessity is when 'an action is justified only when it is essential to the achievement of its end, that is, when the end will not be achieved unless a specific action is taken' (p.1089). Unless that achievement can be furthered by an act of violence, then Machiavelli would not applaud the use of violence. Machiavelli demonstrated this in several ways. Even the principles he most cherished, like liberty, could only be realised if they met certain conditions. In Ancient Rome, a society Machiavelli drew much inspiration from, he contended it was necessary that princes (or in Rome's case 'the Kings') fell from power *before* the general citizenry are corrupted (Machiavelli, 2008b I:17 p.65). For Machiavelli, history teaches us that 'a corrupt city living under a prince can never regain its liberty', even if they removed corrupt princes, it would simply be too late for a general culture of liberty to emerge (Machiavelli, 2008a I:17 p.65).

Even though Machiavelli thought anything was permitted in defence of liberty (Machiavelli, 2008b III:41 p.350), certain conditions still had to be met before it could realistically be achieved. As such, if a political actor found himself ruling a corrupt state, even though republics living in liberty are ideal, what is necessary at that time is always the most prudent course of action so, where liberty cannot be restored, it should not be (RFG, p.107). Every course of action therefore, especially during wartime, can be justified only when that action is necessary. The problem for Machiavelli, is that war and violence are constant realities.

The just war tradition seeks to find the rules of conduct irrespective of necessity. This critique is deeper than just the accusation of 'moralism' because it attacks the epistemic, rather than attitudinal, aspects of morality. Neorealists focus largely on a structural critique, but Machiavelli and the classical tradition emphasise the epistemic problem of creating ethics abstractly. Though the inclusion of JAB:iv or JIB:iii does take into account of necessity, it conceptualises necessity as a condition of an abstract formulae, solely to determine the legitimacy of war and violence. War is always a 'last resort', a necessary show of force, in JWT and means all other options must be exhausted before the resort to war (Frowe, 2011 p.62). Yet for Machiavelli, this is counter-productive because necessity shapes the ethical course of action more than any other consideration. Vice/virtue are not abstract qualities for Machiavelli, but real and practical responses to events. As Machiavelli put it, 'something which appears to be a virtue, if pursued, will result in his ruin; while some other thing which seems to be a vice, if pursued, will secure his safety and his well-being' (Machiavelli, 2008a XV p.54). Necessity shapes the decision according to Machiavelli, so much so, that necessity also shapes conceptions of vice/virtue; abstract formulations of vice/virtue however, distract from necessity presenting an immediate danger for political leaders with moral intent. Just wars, therefore, are those which seek to promote the collective good by any means necessary. Abstract moralities,

that are humanist or universalist, misunderstand the importance of necessity in shaping ethical values. For Machiavelli, it is never moral to pursue an abstract good before the general welfare of the state and people. Real vice/virtue should emerge from the world itself, the lessons of history acting as a guiding force for prudence and the good life. In this regard, Machiavelli encouraged princes to avoid the 'vice of ingratitude' by using war as a tool for their own popularity, to accompany their troops into battle, and ensure gratitude is given only to the prince (Machiavelli, 2008b I:30 p.86-87). Likewise, in a republic, he encouraged his readers to follow the example of Rome and ensure both 'plebs and aristocrats' took part in military victories, shared in 'decorations', and ensured trust between otherwise suspicious divisions in society; this meant even when a Roman aristocrat achieved the role of dictator that 'they gained greater glory the sooner they gave that office up' (Machiavelli, 2008b I:30 p.87-88). These examples teach princes and leaders how and when to employ vices and virtues, indeed determine what courses of action are considered virtuous at all and to use this to its full effect.

By contorting vice/virtue to the parameters of necessity, Machiavelli questioned the basis on which reliable moral formulae could be utilised, or even understood. An intuitive response rooted in PMWs is simply not enough grounding for Machiavelli, who believed people were subject to change and ultimately, fickle in their preferences. Necessity in this regard is the overarching criticism of morality in Machiavelli's writings. It both determines prudence and ethics simultaneously as interlinked concepts, informing one another over time. He attempted to demonstrate this in numerous examples. One is found in the chapter '*of generosity and miserliness*', showing how excessive quality in each case could result in a shortened rule- either through bankruptcy or mass discontentment (Machiavelli, 2008a XVI p.54-55). Indeed, as highlighted, his approach to cruelty highlights this clearly; for Machiavelli, cruelty should be judged on how 'badly or well used' that act was (Machiavelli, 2008a VIII p.33). Ethical

valuations are still retained separately to necessity, but necessity shapes the right course of action. JWT/LOAC therefore, are reduced to an irrelevance. It is not all ethics and morality is itself redundant, but that they cannot determine the prudent course of action. Any injuries or cruelties that become necessary during that war, should be done according to Machiavelli without restraint, they 'should be inflicted all at once', without restraint, to reduce the time such cruelty is necessary and ensure any resulting benefits were distributed widely, 'a little at a time, so they may be fully savoured' (Machiavelli, 2008a VIII p.34). While good/bad conceptions of ethics are retained by Machiavelli, vice/virtue becomes distorted according to necessity. We know what actions are right and wrong, though Machiavelli has little to say on how we know this (Walzer, 2004 p.176), but we determine what actions are prudent by looking towards history. Ancient prudence reveals the priority of 'civil society instituted and preserved upon the common right and interest (Viroli, 1990 p.144). This should be the priority, and whatever constitutes as vice or virtue cannot be determined by an abstract moral calculation, it must be determined by necessity. What is constituted as a vice/virtue according to Machiavelli is therefore dependent on the context of the times, he in effect, encouraged political actors to be attentive to their circumstances and prudent in their decisions, irrespective of the moral consequences, so long as the (*telic*) ends themselves are more ethically justifiable.

Machiavelli's understanding of ethical precedents, therefore, were bound up with the interests of the state and the ability of political actors (princes) to exemplify *virtu*. War, therefore, provides a unique context for shaping ethical decisions. While the usual realist contention is that his realism 'extends to a denial of moral principles altogether' (Forde, 1992a p.387), precedents produced from necessity have an important role in his own critique. As he said about 'deceit':

> *'Although employing deceit in every action is detestable, in waging a war it is, nevertheless, a laudable and glorious thing, and the man who employs deceit to overcome the enemy it to be praised, just like the man who overcomes him by force'* (Machiavelli, 2008b III:40 p.348).

Force and deceit share an equally dubious moral status for Machiavelli, leading often to corruption of states and oppression. Yet in war, a unique context emerges to give a different evaluation. The context of war removes the imperative of morality, offering political actors with good intent a chance at glory and power. Machiavelli contextualises this when considering the battle between Pontius (the commander of the Samnites) and the Roman army, who were successfully deceived by Pontius thus, defeated (Machiavelli, 2008b III:40 p.349). Though, Machiavelli did not believe any use of this deceit is 'glorious', because it doesn't always lead to the right (*telic*) ends:

> "*This victory, obtained by deceit, would have been most glorious for Pontius if he had followed the advice of his father, who wanted the Romans either be allowed to survive in liberty or all of them to be massacred and to avoid choosing a middle path, 'which wins neither friends nor enemies'. Such a path is always pernicious in matters of state*" (Machiavelli, 2008b III:40 p.349).

The end goal of liberty and security are always prioritised for Machiavelli, which allows him to begin to talk about 'glory' and '*virtu*' as supplicants to morality. The decisions we make in war should always occupy a secure and obstinate course, either to remove a potential threat altogether or make an ally of that threat by preserving that former threat's liberty; a point he makes above (Machiavelli, 2008b III:40) and, as he acknowledged, earlier in the *Discourses* (*see* Machiavelli, 2008b II:23).

Distorting vice/virtue to the demands of necessity, gives a unique character to Machiavelli's critique of morality. Certainly in the case of the JIB, the only condition that Machiavelli would countenance is JIB:iii, which on Machiavelli's understanding is differentiated by his linking of virtue/vice to the conditions in which they are expressed. For

JWT, necessity refers to the conflict being unavoidable, or at least, to avoid it would involve greater immoral consequences than fighting that war would entail. For Machiavelli, war is necessary *per se*, not in defence of morality, but because war is part of the tragic condition of mankind. Wars do not promote morality. They are instead opportunities for princes and generals to excel, through their own *virtu*, but are not, in of themselves, tied to moral justification. It is because of the overreaching principle of necessity, that shapes vice/virtue, that morality cannot (and should not) apply. However, the reason it shouldn't apply to war, is because humans are tragically flawed and cannot rely on their moral intuitions of vice/virtue. In his *Discourse on Remodelling the Government of Florence*, Machiavelli makes the point that while republics are, generally speaking, preferable to principalities: what determines if a state is a principality or a republic is dependent upon context of those particular people, a specific history, the relative corruption of the body *politic* and her relative power dimensions, among many other practical preconditions, which determines what type of government (republic/principality) is required (Machiavelli, 1989a p.105-107). Necessity overrides not only Humanist morality, but even his own preference for republics and liberty. Idealism cannot be our sole guiding force for Machiavelli, not just because it threatens the security of the state, but because the security of the state is always threatened by other states and the recourse to violence is rooted in human nature. As Machiavelli put it in the section '*Men very rarely know how to be entirely good or entirely bad*': 'men clearly do not know how to be honourably bad or perfectly good, and that when an evil deed contains in itself some grandeur or some generosity, they do not know how to carry it out' (Machiavelli, 2008b I:27 p.81). Being 'honourably bad' is perhaps the best phrase to describe Machiavelli's philosophy of conflict. Machiavelli was dismissive of ethics/morality as guiding principles of conflict but was far more interested in supplicating those theories with his own idea of *virtu* (Wood, 1967 p.168). Just war theorists of all

persuasions have relied on the idea that the most moral course of action is the one we should always try to take, but Machiavelli tried to teach that morality should impact our intentions, not our decisions. Prudence has greater importance for Machiavelli than morality.

The final element of Machiavelli's critique is his commitment to tragedy, it demonstrates Machiavelli's commitment to the limitations of humanity. According to Machiavelli's account of humanity, history reveals that humans repeat themselves in a tragic cycle of the same challenges and solutions:

> "*Anyone who studies current and ancient affairs will easily recognise that the same desires and humours exist and have always existed in all cities among all peoples. Thus, it is an easy matter for anyone who examines past events carefully to foresee future events in every republic and to apply   the remedies that the ancients employed, or if old remedies cannot be found, to think of new ones based upon the similarities of circumstances*" (Machiavelli, 2008b I:39 p.105).

Circumstances dictate the available course of action ('remedies') because humans are predictably flawed. The tragic condition of humanity means that war is inevitable because, in certain circumstances, war is necessary in securing liberty. Therefore, *virtu* is required to counteract this tragic condition, it cannot be avoided only 'redeemed'. In the preface to the second book of *The Discourses*, Machiavelli re-enforced this point when considering 'ancient v. modern times', and concluded there is, contrary to many views at the time, little to separate them and the world continues to follow the same predictable paths:

> "*As I reflect upon how these affairs proceed, I conclude that the world has always been in the same   state, and that although there has always been as much good as evil in it, this evil and this good vary   from province to province; this can be seen from what we know of ancient kingdoms that differed from   one another according to the variations in their customs, while the world remained as it always had been.*" (Machiavelli, 2008b II:*Preface* p. 150).

The Romans overcame this fate with their *virtu*, which for Machiavelli, even justified their expansive empire. For Machiavelli, those wars which offered some 'redemption' from this tragic fate were the most necessary wars. War, however justified, is part of this fated circumstance, it cannot be avoided. Only with 'Fortune or *virtu'* can a state succeed, though he was keen to note, it is better to succeed with *virtu* than fortune (Machiavelli, 2008a VI p.21).[14]

Fortuna is a tragic principle employed by Machiavelli to explain wars as a facet of human history and consequently, of the human condition. States acquired solely through fortune are the least reliable of states because they fail to produce *virtu* in their citizenry (Machiavelli, 2008a VII). Struggle and strife, fighting to acquire possessions and facing one's political enemies are essential for the production of exalted and excellent people capable of leading a polity to glory. States born only through good fortune, for example those inherited through aristocracies, required too little effort to acquire but infinitely more to maintain and therefore, this fortune is a testament to tragedy (Machiavelli, 2008a VII p.23-24). Those states who failed to secure themselves through their *virtu* were destined to eventually fail, either from corruption or from destruction. Virtuous princes ensure that the 'art of war' is their primary concern, to both ensure the longevity of the state and his own rule (Machiavelli, 2008a XIV p.50). Rome was a 'perfect republic' because it mixed both the aristocratic authority of the senate with the democratic authority of the people, which to Machiavelli, constituted a glorious government (Machiavelli, 2008b I:I p.26-27).[15] Rome produced enough men of *virtu* to ensure its glory and

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[14] Sometimes, this is translated as 'ability', particularly of military ability (*see* Gilbert, 1989a *ed. The Prince*), which is broadly encapsulated by the more common translation as '*virtu'*, which is Machiavelli's way of encapsulating a sense of strength and competence in rulership; usually associated with masculinity (*see* Wood, 1967; Pitkin 1984).

[15] In an 'ideal republic' (again, words unlikely to be used by a realist) there was 'a principality, an aristocracy and a democracy, one keeps watch over the other' (Machiavelli, 2008b I:I p.26), and in the case of Rome: "*fortune was so favourable to Rome that although this city passed from a government of kings and aristocrats to a*

success, they were in effect, able to counteract fortune with *virtu*; though not eternally, as both the fall of the Republic and then the Empire demonstrates to Machiavelli that inevitably *virtu* is not bound to one set of people, even one as successful as Rome and in fact, shares a long and multifaceted history with many people capable of demonstrating *virtu;* though inevitably, all those civilisations decline then fall. (Machiavelli, 2008b II:*Preface* p. 150). Fortune is therefore part of this tragic principle, even Rome required both 'good fortune' and 'exceptional ability' to thrive (Machiavelli, 2008b I Chp. 20 p.73), that can even bring down the most virtuous of states and can only ever be combated with *virtu*. War is a testament to how states can produce *virtu* through struggle. Hence, as Wood (1967) has pointed out, the more states that exist both more 'conflict and contention, the struggle for existence' is ensured combined with increased opportunities to display *virtu*, because '*Virtu*, therefore, is the consequence of the necessity of war and defence, which, in turn, results from the great number of republics' (p.168).

For Machiavelli, war could not be understood morally because morality itself misunderstood human nature. Classical realism, embodied here by Machiavelli, demonstrates the tenuous nature of human society and the inevitable resulting conflict. The values that humanity requires to navigate this world are not moral values, but the practical vices/virtues from context. By establishing the priority of necessity, Machiavelli tried to show how morality cannot guide virtue, but is in fact itself a vice with regards to effective rule. Mastering this moral impulse is for Machiavelli of paramount importance because if one a political actor followed a strict moral criterion like JWT, they would be unable to realise their own objectives. Some problems for however emerge with this view, one being raised by Orend earlier: those realists of this kind are reliant on the world/human nature being proscribed and fatally flawed, which

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government of the people. . . the Kingly authority none the less was never entirely abolished to give authority to the aristocrats, nor was the authority of the aristocrats completely diminished in order to give it to the people, but since this authority remained mixed, it created a perfect republic" (Machiavelli, 2008b I:I p.27).

itself, restricts the possibility of improvement and might suggest any ethical precedents in war should be impossible; though recent times may suggest this is untrue. Though Machiavelli, unlike other realists, was particularly sensitive to constructing the right circumstances to affect change. As Viroli (2013) has noted, Machiavelli believed in the triumph of 'redeeming princes' and 'armed prophets' (p.28-29), which acted as a case for genuine 'political and moral reform' (Viroli, 2013 p.103). The point of calling into question the basis of vices/virtues, of pointing out the tragic cycles of man and the necessity of war and violence, are constantly mitigated by 'exhortation' to the 'ideal reality', so much so, that a conclusion might bet that, 'The thinkers who really understood and refined Machiavelli's teaching were not the champions of political realism, but those who stressed that alongside the 'effectual reality,' there is also 'ideal reality' (Viroli, 2013 p.103). Unlike for realists, war for Machiavelli was not only a tragic circumstance of power-relations, but also a real opportunity for moral and political reform, essentially it is Machiavelli's 'imaginative realism'. Machiavelli's realism, common to the classical tradition, still views justice and laws as extremely important for the political community (Lebow, 2003 p.257-258; Walzer, 2004 p.176), indeed make no real fundamental attacks on the idea of 'good/bad' but seeks to show how politics itself is a contained realm, navigated by aesthetic visions for society and the state. Over the next section, I will seek to show how Machiavelli's aesthetic theory of politics shapes his alternative to JWT and creates a dynamic for political and social foundation and/or reform.

Virtu and Fortuna: Machiavelli's Imaginative Realism

The classical realist objection to JWT is more nuanced than many modern realists today acknowledge. Lebow, in *The Tragic Vision of Politics* (2003), shows how classical realists, like Machiavelli (p.283), are not entirely realists and how Thucydides, Morgenthau and Clausewitz

all emphasise 'tragedy', by which he means, they encouraged us to 'learn from history' the limits of human action (p. 203-209). As such, morality and the JAB are redundant because war is a product of tragedy. This tragedy is, according to Morgenthau's Nietzsche-inspired perspective, 'a quality of existence, not a creation of art.' (Lebow, 2003 p.209). Likewise, Lebow emphasises that Thucydides, much like Machiavelli, was not a realist in entirety, but was 'equally sensitive to a range of non-power-based motives and causes', including 'domestic structure, culture and identities and the idiosyncrasies of leaders', all of which are all overlooked by neorealists (Lebow, 2003 p. 113). Classical realists, therefore, show a proclivity towards imaginative solutions located outside of traditional morality, but firmly rooted in necessity and possibility. Realists like Machiavelli and Thucydides sought to demonstrate how the political world constrains possibilities, but through effort, and with imagination, polities that learn how to navigate this difficult world. Those that best learn these lessons, can affect the most far-reaching and long-lasting change. Justice for realists thus becomes a bounded political principle, attached to domestic affairs and the political community, which is used to convert 'power into influence' (Lebow, 2003 p.257-258). Though, principles of justice are also, for classical realists, the foundations of 'viable political communities'; failure to adhere to these principles is what leads to abuses of power and 'overexpansion' (Lebow, 2003 p.257-258). Machiavelli, more than any other realist, was sensitive to this condition of politics and morality. He dismissed justice as a constraint for war due to his commitment to civic patriotism and the 'love of one's country' (Machiavelli, 2008b III:41 p.350), though equally, he despised the injustice of corruption (Machiavelli, 2008b I:18 p. 68; I:43 p.113) or tyranny (Machiavelli, 2008b I:7; III:3; III:49) in domestic politics. Though, for classical realists like Machiavelli, it was the practical dimension of human nature that made standards of justice necessary on the domestic level, as Machiavelli put it, those that study lessons from history will be 'more quick

to restrain human appetites and to derive people of all hope of being able to do evil without impunity' (Machiavelli, 2008b I:42 p.113). On an international however, the embrace of tragedy and the reworking of moral categories to necessity, means that war is fatefully unpreventable between states. So long as a multiplicity of standards of justice exist, then war between them is inevitable.

In terms of the restraint of conflict, contrary to the popular Machiavellian moniker, he did not condone the sentiment of the 'means always justify the ends'; all is not necessarily fair in love and war. Unlike many other realists, Machiavelli was prone to idealism, so much so, that other realists of his era thought Machiavelli was too idealistic in his aspirations for Italy or republics (Viroli, 2014). For him, states shouldn't pursue blind power rather, they should aspire to glory. Anything may be permitted in pursuit of glory because it may be used to the betterment of the state and all involved. Anything was permitted in defence of that state and its liberty (Machiavelli, 2008b II:2 p.156-161) because without the state, there isn't a viable way to achieve justice itself. It is because Machiavelli believed necessity creates precedents, that he retains a way of ruling out 'evil' or creating ethical precedents in war. Machiavelli often criticises excessive cruelty in war, arguing that one may achieve power that way but not 'glory' (Machiavelli, 2008 S. VIII p.31). Even in his endorsement of imperialism and conquest, there is a fatal tragedy to it. He believed acquiring new territories was 'natural' rather than justified, it was in other words, part of the tragic human nature that also makes everyone susceptible to corruption, greed, tyranny, and other forms of injustice. Necessity in this sense cannot be changed, the world is to a certain degree, irredeemable. Therefore, Machiavelli tries to find ways of redeeming human beings from their own nature, in the form of heroic princes and 'armed prophets' (Viroli, 2013 p.28-29). War is a tool these redeeming figures may use, indeed must use, to inspire *virtu* as a way of counteracting *Fortuna*. The world will not get any less

violent, tragic as that may be, and threats to the security and liberty of the state will always exist and therefore, Machiavelli believed we only have a limited number of options available to us. Allowing chance and goodwill to govern a sate's international policy is simply dangerous, preparing for war and being able to win wars and subjugate others was, for Machiavelli, necessary. The defining nature of war, indeed of all politics and conflict, was *virtu* which is itself, intrinsically bound to force (Pitkin, 1999 p.25). Conflict, which is the basis of politics and war, inevitably necessitates *virtu*.

Machiavelli's *virtu,* therefore, supplicates morality for an ethic focussed on glory. What I have called imaginative realism, though Lebow calls this in the case of Thucydides 'proto-constructivism' (Lebow, 2003 p.113), is a particular perspective that derives from classical realism, though has been largely forgotten by contemporary realists. Due to the tragic inevitability of conflict between states, the only means to 'peace', or the cessation of hostility, would be through the enormous effort of extraordinary individuals. These individuals use war as a means to defend the state and to instigate political and moral reforms, as Machiavelli called them, the '*grandissimi esempli*' (greatest examples), who were leader capable of achieving *glory* (Viroli, 2013 p.30). Contrary to his popular image, Machiavelli did not encourage leaders to seek and maintain power by any means necessary. He instead encouraged his readers to use power to pursue glory and the broader interests of the state, in a competitive *agon* of states where only their relative *virtu* can decide the victor. Tragically, humanity cannot change itself or its reality, as Gramsci (1971) elucidated, Machiavelli never sought to change reality, only 'showing concretely how the historical forces ought to have acted in order to be effective' (p.173). What 'ought to be' is therefore emerges from the world itself, it is 'concrete', 'indeed, it is the only realistic and historicist interpretation of reality, it alone is history in the making and philosophy in the making, it alone is politics' (Gramsci, 1971 p.172). The realist account

of Machiavelli only utilises him to show how wars are 'necessary', but Machiavelli actually emphasised the importance of the 'effectual reality' as a way of shaping change and counteracting (miss-)fortune. Machiavelli's realism, therefore, is an imaginative realism, as Viroli (2013) has sought to show, 'He surely was a realist, but a realist of a special sort— let's call him a *realist with imagination.*' (p. 55; my *emphasis*). Imaginative realism is a theory which seeks to conceptualise ideal or moral realities as experiential, in this sense, Machiavelli's ethics are aesthetic: it judges experiences for their performance and representation in the world itself.

Virtu contra Fortuna: Machiavelli's Aesthetic Redemption of Conflict

In the opening chapter of *The Prince*, Machiavelli delineated between republics and principalities as the only two viable forms of government and of the latter, he further delineated between those principalities that are 'hereditary' and those that are 'new' (Machiavelli, 2008a I p.7). New principalities are either acquired by the 'arms of others' or 'by one's own', 'ether through Fortune or through virtue' (Machiavelli, 2008a I p.7).[16] By chapter six, Machiavelli puts aside the historical analysis of states, and begins to ask what kind of principalities are better and why. He concluded that those acquired through 'one's own troops and virtue' were more glorious, ensuring their leaders remained 'powerful, secure, honoured and successful' (Machiavelli, 2008a VI p.20-23). *Virtu* was a way for great redeeming princes to recognise an opportunity presented to them by 'Fortune', 'whereby their nation was ennobled and their citizenry became extremely happy' (Machiavelli, 2008a VI p.22). At the end of *The Prince*, Machiavelli called upon great 'redeemers', promising them gratitude and glory, if they could

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[16] Fortune and virtue refer, respectively, to *Fortuna* and *virtus*, which are derived from ancient Roman gods where they sought to understand the twin forces of fate or fortune (*Fortuna*) and manly excellence, courage, strength, and determination in the face of strife (*vitrus*). *Fortuna* was the Roman god of fortune or luck. *Virtus* was the roman conception of *Virtu*, or literally 'manliness' or 'man', and was usually associated with Roman emperors or heroes.

ever achieve the enormous challenge of creating a united Italy (Machiavelli, 2008a XXVI p.90). Up until this point, no such feat was ever achieved and represents a perfect example of Machiavelli's imaginative realism. Viroli (2014) has noted that arguably Machiavelli was too much of an idealist, that despite his attempt to be realistic, in the end Machiavelli had the 'heart of a poet' and tried to use realistic lessons to achieve the unachievable. Power, therefore, is not the ultimate ambition of (*telic*) necessity; glory is the ultimate ambition (Viroli, 2014). Likewise for war, terrorism and violence, Machiavelli presented them as products of interstate relations which could not, realistically speaking, be controlled by morality however, they could be used as tools to create new polities. In effect, he was a realist who sought to redeem conflict, which could be described as an *aesthetic redemption*.

War, therefore, is a potential redemptive tool; indeed, other forms of violence like terrorism may also serve this function. It is necessary that princes learn to use war for the (*telic*) end of glory. Peace, however, should always be a preferred state, hence *Fortuna* is a tragic principle that *forces* princes into learning the 'art of war':

> "*I have never practiced war as a profession, for my profession is to govern my subjects, and defend them, and in order to defend them, I must love peace but know how to make war*" (Machiavelli, 1989b p.579)

Though subject to the fate of *Fortuna*, excellent men can use their own *virtu* in a redemptive or 'reforming' capacity, to inspire *virtu* in others but also, in the sense of 'foundation', to supply new institutions and new political policies that invigorate *virtu* in the state (Pitkin, 1999 p.53). One example at the end of chapter VI reveals this 'redemption' well, as Machiavelli gave us of this is the 'lesser example' of Hiero of Syracuse, who was virtuous because he 'received nothing from fortune but the opportunity' (Machiavelli, 2008a VI p.23). He went on to use his *virtu* to

rise from a private citizen to the king of Syracuse, using his rule to construct new and more stable alliances and building up a new standing army; this demonstration of *virtu*, Machiavelli concluded, meant it would take 'little effort' to maintain his reign and that he could 'construct whatever he desired on such a foundation' (Machiavelli, 2008 p.23 S.VI). This construction is not just physical. Machiavelli believed secure and practical foundations, particularly in matters of defence, allowed princes more opportunities to instigate moral and political reforms. In this respect, a sense of justice might emerge naturally from the political community, though innately bound to it, as an aesthetic. This means it is entirely constructed, a product of imagination and the *virtu* to realise it however, tragically temporary.

Hiero, for all his quality, is still resigned as a 'lesser example' of *virtu*. Though doing everything Machiavelli expected a good ruler to do, he still didn't receive the amount of praise he reserved for figures like Borgia. Hiero, unlike Borgia, did not try and create a 'new imperial city', nor did he seek an 'unrestrained- one man rule or new dynasty' thus, showed his quality in a different manner (Benner, 2013 p.85). Machiavelli used him to show how people who are not yet princes, like the 'young Medici' *The Prince* is dedicated to, can still show *virtu* in private facets of life. They may yet deserve to rule, but this implies that all people express *virtu* to differing degrees (Benner, 2013 p.86-87). *Virtu* therefore is constitutive of 'force', in the sense that it involves physical violence and conflict but also, implies the ability to enforce ones will and ideas upon the world, as a 'founder' of new institutions or a 'redeemer' of declining states through a combination of 'force and ability' (Pitkin, 1999 p.25; 52). Showing degrees of ability and force is therefore also possible, the greater the threat to the state or glory to be obtained, the more *virtu* required. Great redeemers are portrayed as not needing 'others, having ties to no others, acting without being acted upon', whereas private citizens reveal their *virtu* collectively, with a 'collective autonomy, a collective freedom and glory' (Pitkin, 1999 p.80). Hiero

demonstrated exceptional *virtu* by rising in status, also demonstrating that when *virtu* is fostered in a general society, it creates more *virtu* overall. Hence, Machiavelli put so much praise into Rome and its ability to subjugate even other virtuous states; the ability to do so demonstrated extraordinary *virtu* that was rooted in the body *politic* and the republic (Machiavelli 2008b, II:I p.154-155). *Fortuna*, the name Machiavelli gave to 'historical contingency' and thus to the tragedy of the world and human nature, is then counteracted by the 'princely hero', who controls *Fortuna* with active contention (Vacano, 2007 p.47-48; Pitkin, 1999 p.144). Of Rome, he eagerly emphasises their conquests owed little to fortune and demonstrate their exceptional *virtu* (Machiavelli 2008b, II:I p.155), thus demonstrating, how Machiavelli created an aesthetic, indeed moral, redemption of conflict. From Hiero, to Borgia, to the Roman Republic, Machiavelli always praises those people able to reimagine the political machinations of their time and war, tragic though it may be, is an essential part of how this can be achieved.

This presents an intriguing critique of, and alternative to, JWT. One of the key differences between Machiavelli and neorealism, is the level of 'aspiration' in his writings. One of the remarkable things about Machiavelli is, despite his realist language and the historical conditions of renaissance Italy, along with the warring, corrupt and tumultuous series of states continually fighting against one another either explicitly or duplicitously, he remained attached to republics (Machiavelli, 2008b III:6 p.273), hopeful for a 'united Italy' (Machiavelli, 2008a XXVI p.87) and wrote poetry about 'ideal leaders' and redeeming heroes (See Machiavelli, '*The Golden Ass*' or '*A Pastoral: The Ideal Ruler*' *in* Machiavelli, 1989a, 1989b). By any realist's standards, Machiavelli seems to embody an 'idealism' which contradicts the central precepts of realism. This kind of hopefulness, however, is more common to the 'tragic' perspectives of classical realism because the resort to war is a classic *failing of human nature*, which classical realists try to mitigate with types of 'civic moralism'. As discussed, classical

realism emphasises the importance of civic moralism as a bounded notion of the political community that is conducive to its survival (Forde, 1992a p.387; Lebow, 2003 p.361). Machiavelli develops this theory, in the form of *virtu* and glory. *Virtu* acts as the means and glory as the reward for achieving good (*telic*) ends. Across Machiavelli's writings therefore, he often distinguishes between necessary and unnecessary violence, setting a number of ethical precedents which he believed distinguished power from glory. Of Agathocles for example, though in some ways an effective ruler, he criticised him for his 'various cruelty and inhumanity', which for him, 'along with numerous wicked deeds, do not permit us to honour him among the most excellent men' (Machiavelli, 2008a VIII p.31). For Machiavelli, Agathocles demonstrated that, 'it cannot be called a virtue to kill one's fellow citizens, to betray allies, to be without faith, without piety, without religion; by these means one can acquire power but not glory' (Machiavelli, 2008a VIII p.31). If glory and aesthetic redemption are therefore the ultimate goals of the ideal statesmen, contrary to the popular conception of 'Machiavellianism', Machiavelli attempted to show how ideals and ethics aren't universal, reliable or effective unless they are grounded in the political context from which they emerge.

The context of war emerges out of the diversity of politics and the priority of defence. Much like with cruelty however, wars serve a potential purpose. He defined war as 'the archetypal contest between *virtu* and *fortuna*, between all that is manly, and all that is changeable, unpredictable, and capricious' (Wood, 1967 p.170). Indeed, even politics for Machiavelli was modelled on warfare, the model for a good civic leader being great military leaders (Wood, 1967 p.170). Though this is not to say that the art of politics and the art of war are the same, but that they are modelled on a single philosophical view of aestheticism and are dominated by *virtu* and *fortuna*. Machiavelli states the only 'art' that a Prince should concern himself with is the art of war, thus denoting that, in some respects political rule is like the art

of war, however, remains ultimately distinct (Machiavelli, 2008a XIV p.50; Winter, 2014 p.167-168). The art of war and politics however, both produce, and require, *virtu*. The ability to realise particular prudent courses of action is determined by the ability of a political actor to counteract *Fortuna*. War and violence are one way to realise an aesthetic ambition like uniting Italy or founding a new republic. If war and violence achieve virtu however, it also suggests peace leads to indolence (*ozio*) (Wood, 1967 p.167). Therefore, Machiavelli also necessary conducts a positive account of conflict, which results in more *virtu*:

> *"But that virtu which the writers do not commemorate in particular men, in which they exalt to the stars (skies) the obstinacy which existed in them defending their liberty. It is true, therefore, that where there are many Empires, more valiant men spring up, and it follows, of necessity, that those being extinguished, little by little, virtu is extinguished, as there is less reason which causes men to become virtuous"* (Machiavelli, 1989b p.695).[17]

As such, war is more than just a morally regrettable evil for Machiavelli, but an active way to promote *virtu* through contest. Thus, he linked together the idea that the more contest between empires, the more virtuous they become. In effect, he presents a positive account of war that is justified by the externalities of a continuing *agon* of non-reconciliation. Though glory can be obtained by securing a peace, indeed war is still no a moral enterprise, by creating an aesthetic purpose for conflict, Machiavelli created a redemptive philosophy of conflict which discerns between tragic wars and 'glorious' wars, that aim at the creation of new, better, polities and civilisations.

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[17] It is important to distinguish here between modern or post-colonial understandings of 'empire' with those Machiavelli likely understood, which derived from Roman *imperium*. The key difference between these two concepts, is that *imperium* refers to a body of law and the authority that stems with it, rather than the spatialised conception of empire employed by subsequent empires, including but not limited to the European colonial empires. Indeed, even the Roman word '*provincia'* means 'authority' or 'task' (especially during the Republican period) rather than the modern 'province' which means a territory expanded into. While Machiavelli was not adverse to expansive wars, it should be noted the inclusion into an *imperium*, rather than a colonial empire, entailed, perhaps only subtle, differences to subsequent concepts and regimes alike.

The question of 'glorious' warfare is not unique to Machiavelli. Throughout many centuries, countless regimes have defended war out of 'glory'- either to promote 'God's glory' or the glory of a particular state. Wars in previous centuries, however, were not especially deadly as modern warfare and could be seen as 'duels' between competing power regimes, with relatively constrained casualties on both sides. According to one estimate of cumulative 'war-related deaths' since 3000 BC, only approximately one percent of all deaths related to war occurred before 1500 AD, with 96% of related deaths associated with the 'modern period of history, 1500-2000 AD' (Eckhardt, 1990 p.82).[18] Of all war-related deaths throughout history, 73% have occurred in the 20th Century (Eckhardt, 1990 p.83). Wars are getting more deadly as modern technology has developed, so much so, that the relative deadliness of war when Machiavelli referred back to the glories of Ancient Rome as a means to guide warfare would not have constituted even the largest cause of death at that time. It is therefore relatively easy to see how this kind of aesthetic framework for Machiavelli could have resulted in such a literal view of wars of expansion being capable of promoting a more glorious existence. Even in terms of the cost of life, significant benefits could be bestowed even on conquered peoples that far outweighed the potential destruction of the war to conquer them, simply by altering their domestic structure and removing the antagonisms that existed between them. Machiavelli's 'aesthetic redemption' therefore, if it is to be used at all for a theory of conflict, should be employed to speak to the effectual reality of today's world, rather than Machiavelli's time. No theory of expansive warfare, however well-justified philosophically, will ever appeal to a world where the destructive power of modern technology poses such a severe threat to human life as it does today. One cannot easily escape the conclusion that Arendt reached, where she noted

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[18] This figure takes into account death from famine, pestilence, malnutrition and other consequential deaths related to the outbreak of war (Eckhardt, 1990 p.80).

the modern destructiveness of war has altered the psychology of war (Arendt, 2006 p.3). Since at least the First World War, only those wars which prevented aggression could easily been seen as 'just', and those wars fought for:

> "*Conquest, expansion, defence of vested interests, conversion of power in view of the rise of new and threatening powers, or supports of a given power equilibrium- all these well-known realities of power-politics were not only actually the causes of the outbreak of most wars in history, they were also recognized as 'necessities', that is, the legitimate motives to invoke a decision by arms*" (Arendt, 2006 p. 3).

Machiavelli was, perhaps rightly for his time, invoking conceptions of war which included the parameters of 'glory' as the defining metric of valuation for a war, however, such a value is hard to countenance not just because of its historical nature, but because war itself has changed too much.

One way to recapture the argument, would be to return to the notion that Machiavelli aimed to use conflict to affect moral and political change that spoke to the necessities of the specific moment in history. On Gramsci's (1971) account, only the 'political party' had the social means to transform modern society in the way the 'myth-prince' could for Machiavelli (p.129). This may give a unique application of Machiavelli's imaginative realism for a defence of the revolutionary war. The 'armed prophets' and 'tragic princely heroes' Machiavelli referred to, may become symbols for political transformation, with moral intent. Either acts of war or terrorism may equally be seen in this way, either to promote regime-change or to liberate a people from tyranny; two injustices Machiavelli recognised. Some revolutionary or liberation movements might demonstrate what Machiavelli had in mind for a transformative 'aesthetic' redemption. One example might be South Africa, at one time a nation under the rule of an oppressive tyrant (British and Dutch colonial settlement, subsequent racial apartheid etc.), eventually, with the help of leaders (princes) like Nelson Mandela, enabled motivation for an armed struggle to overthrow a tyrannical oppression and reinvent their political and moral life.

Likewise, it wasn't until the 1970s, when similar Marxist movements in Angola/Mozambique (1974) or in Zimbabwe (1976) emboldened the ANC and PAC towards 'armed struggle', giving them the confidence to instigate radical changes by force and shape a new vision for their country (Younis, 2000 p.127). By carefully uniting different labour movements together in the 1980s, conducting a decades-long violent campaign against Apartheid, and by promoting the rhetoric of 'liberation' or a 'people's war', movements like the ANC were able to effectively transform their circumstances (Younis, 2000 p.142-143). Arguably, few international figures have attained the glory and reputation Nelson Mandela did for achieving what he did, and by founding, or depending on perspective restoring, South Africa to a new and free republic. Mandela exemplified *virtu* and used it to make a 'new' principality of his own, against the injustices of apartheid and towards a new aesthetic future of their own design. To achieve this, organisation and a political party were essential (Younis, 2000 p.144) and shows how we might use a Gramscian reading of the 'myth-prince' as a party to change the way we look at violence. Irrespective of how the conflict should be viewed morally, the party, indeed even perhaps in this case a literal 'prince' in Mandela, allowed the ANC to operate, to build such an aesthetic vision to change their country. Above all, it taught them that practical achievements and a shift in political climate were all necessary to achieve what they wanted; in effect, we might say the 'effectual reality' of the shift in power across Africa from the dissolution of Empire and 'self-rule', in turn, created the grounds for a shift in the 'ideal reality'.

Revolutionary wars/violence, however, are on some accounts 'just wars', in so far as they comply with certain constraints of the JIB/JAB. Finlay (2015) has sought to show how the 'right to resist' amounts to a defence of the revolutionary war, particularly of resistance against oppression, by protecting our basic commitment to human rights (p.41). As such, just war theorists have stipulated that if, as Rawls argued, there is a natural duty towards justice, then

there is also an active impediment to resist *unjust* institutions, at least in so far as they hinder the promotion of justice and promote a 'right... to resist oppression' (Finlay, 2015 p.43). Indeed, this defence of the right of revolution in JWT is also dependent on concerns of 'necessity', stipulating concerns of resisting injustices are mediated by subject to 'certain other prudential considerations' and that the use of violence 'ought to be adopted only if proven strictly necessary' (Finlay, 2015 p.43; 132). The primary difference between these two positions is the emphasis placed between liberty/liberation and necessity. On Finlay's account, justice and human rights amount to a present moral law which justifies the right to resist abstractly, only subsequently considered as a matter of strategic value. On Machiavelli's account, what is necessary shapes the justifiable action. When Machiavelli considered the Florentine republic for example, he argued states should be either a princedom or a republic and even though he preferred republics (*see* Machiavelli, 2008b p. 273 S. III, p.6), the 'just' course of action is determined by necessity (or the effectual reality) and that to ignore this advice, 'is a difficult thing and, though being difficult, inhumane and unworthy of whoever hopes to be considered merciful and good' (Machiavelli, 1989a p.106-107). JWT holds that moral impediment outweighs other considerations of war and, however much they include considerations of necessity or 'last resort', always place an ultimate priority on justice. Machiavelli criticises this by trying to show, in most of his considerations of politics and war, that the ideal reality is always constrained by the effectual reality. What dictates a justified revolutionary war, therefore, isn't a series of rights violations, it's the ability to shape a political climate according to our own (aesthetic) ambitions. In achieving these ambitions, necessity is more than just a qualification, it is the condition through which ideals can be realised.

Conflict, therefore, is situated between *Fortuna* and *virtu*, between fate and redemption. War becomes simultaneously tragedy and redemption. Though it is regrettable that violence

should ever occur, it is nonetheless tragically inevitable, and war, terror or violence may become a necessary way to promote new visons for politics and society. *Virtu* therefore represents a degree of freedom and control over human nature, a limited attempt to make the world a better place, though even those princely heroes cannot escape tragedy and 'the cycle of birth and death' (Wood, 1972 p.47; Hutchings, 2008 p.30). In the end for Machiavelli, 'men who simply behave, and do not act, might as well be the creatures of *fortuna'* (Wood, 1972 p.47). Fortune is distinguished from fate by the exercise of *virtu*, where fate suggests 'the divine will as something fixed and inflexible', *Fortuna* embodies elasticity and unpredictability, it is 'open to influence by human supplication' (Flanagan, 1972 p.130). Thus, *virtu* redeems us from fortune, it promotes foresight, flexibility, and defiance, to envisage new political and moral values and inscribes them into states and communities (Vacano, 2007 p.97). Machiavelli, in this regard, is as must an 'antidote' to realism as realism is to JWT. He questioned the basis on which we can reliably use moral values to navigate politics, while also, questioning the limits of political realism As Gramsci noted, 'political realism' according to Machiavelli:

> "*often leads to the assertion that a statesman should only work within the limits of "effective reality"; that he should not interest himself in what "ought to be" but only in what "is". This would mean that he should not look farther than the end of his own nose*" (Gramsci, 1971 p.171-172).

Though for Machiavelli the clear implication is that people only show their *virtu* when 'encouraged by their sovereign', who is exempt from private morality (Wood, 1967 p. 168); the 'redeemer' becomes the vehicle for reform. In the world today, Machiavelli would likely encourage us to use what tools we have at our disposal, including war, terrorism and violence, to build the world we want to live in without necessarily relying on great princes. He mainly sought to show how the socio-political world was aesthetic and indeed, temporary. It is subject to constant change and renewal, where no one civilisation lasts eternally, but many have shown greatness (Machiavelli, 2008b II:*Preface* p.150). Each act of violence could be valued for its

redemptive quality, its ability to utilise *virtu* against tragedy (*Fortuna*) and use this *virtu* to transform the political and social landscape, to make his 'new' principalities. War, far from being a regrettable thing, becomes the perfect opportunity, even tool, to develop *virtu*.

Imaginative Realism: An Alternative to JWT?

The argument Machiavelli presented therefore has two constituent parts: a political realism that seeks to understand how the world operates and an aesthetic redemption, which seeks to improve human lives and promote the overall good. As such, Machiavelli rejects the central JWT hypothesis that morality is an intrinsic part of understanding or evaluating conflict. Though Machiavelli makes no epistemic attack on the notion of morality as a concept or thought process. Instead, Machiavelli aimed at a different kind of morality, he 'describes a new, if quite harsh, morality (or, more precisely, anti-morality) that, in Machiavelli's opinion, is *required* of the political man. . .' (Vacano, 2007 p.46). As politics is an aesthetic practice for Machiavelli, 'this new morality will shape him into becoming a person who is willing to accept the cruel tenets of politics' (Vacano, 2007 p.46). Politics is also a 'fundamental and universal part of life', that is permanently defined by a warring existential conflict between humans revealing 'man's agony in a hostile world where resistance to his imprint is all around' (Vacano, 2007 p.46-47). If conflict is a tragedy, only redeemed by our own imprint on the world and regulated by our respective *virtu*, then the stipulations of JWT/LOAC are redundant when viewing conflict. Machiavelli demonstrates his criticism by firstly questioning if moral principles accurately understand the reality of the world (political realism) and secondly, by questioning the assumption, long held in JWT, that applying morality has a positive effect. To Machiavelli, not only is JWT making a 'category mistake' by trying to use morality to understand conflict, it is also unaware of the inherent necessity of immorality in politics.

In place of moral principles therefore, Machiavelli encourages political actors to embrace the aesthetic nature of politics and be willing to use any means necessary to impart a political vision on the world. Humanity cannot change itself or its reality, as Gramsci (1971) elucidated, Machiavelli never sought to change reality, only 'showing concretely how the historical forces ought to have acted in order to be effective' (p.173). He sought to show, more than any other realist, how the effectual and ideal realities are interlinked, that effectual concerns lead to ideal solutions that, tragically, can only be attained by employing non-ideal methods. As such, Machiavelli's understanding of war is as a non-ideal means, to achieve ideal solutions. What 'ought to be' therefore emerges from the world itself, it is 'concrete' (Gramsci, 1971 p.172). Gramsci's interpretation of Machiavelli presents an interesting way of applying his thinking today and updates the context of 'glory' and the 'prince' to modern conflict. The tragic fatalism of humans may require necessity and realism, indeed 'Machiavelli is "pessimistic" (or better realistic) when he regards men' (Gramsci, 1971 p.173), however, Machiavelli is also keen to utilise conditions like war to forge new, more complete forms of modern civilisation, as Gramsci put it: 'neither in the form of a cold utopia nor as learned theorising, but rather by the creation of a *concrete phantasy* which acts on a dispersed and shattered people to arouse and organise its collective will' (Gramsci, 1971 p.126; my *emphasis*). In Machiavelli's time, the final 'exhortation of the prince, represents a culmination of his thinking, moving from the hypothetical prince to the actual prince, with an actual aesthetic vision for Italy (Viroli, 2013 p.95; Gramsci, 1971 p.126-127). This vision, three-and-a-half centuries later finally became realised, only when the historical condition (the effectual reality) was finally right (Viroli, 2013 p.96). Either through the political party, the political actors or any other form of organisation, Machiavelli was trying to show that because politics is an aesthetic realm, no guaranteed solutions can ever be found and that if a people want to improve

their lives, they have to improve the state and the conditions in which they find themselves. War, terrorism, or any other kind of violence, is simply a consequence of the human existential condition, trapped in a tragic realism and can only hope to redeem the perpetual conflict.

Machiavelli gave us a useful ontology for war by showing how acts of violence serve an aesthetic function. In effect, use of violence like terrorism can be judged as a performative act, something which seeks to make a statement and elicit negative reactions against enemy citizens as a political statement itself. The events of 9/11, as pointed out by Vacano, mirror our transformation into 'spectacular politics'. The terrorists behind the attack, however 'utterly immoral' they may have been, achieved a 'spectacular' attack, in the sense it was a spectacle, which struck at the heart of US power (Vacano, 2007 p.190). This does not suggest the act was justifiable, but merely reflects that the attack was designed to create an aesthetic statement, demonstrable of power and shock. We are left with what amounts to a 'representational' character to acts of terror, where the perpetrators and victims alike act to ensure their own aesthetic position: the terrorists achieved a 'Hollywood-style' attack that shocked all of America and the West; the West responded with 'shock and awe' against the 'axis of evil' that suited their own aesthetic of power and was constantly reinforced by images of the conflict on news outlets (Vacano, 2007 p.192). The aesthetical quality of acts of terror are particularly pertinent. It demonstrates how acts of violence are committed, often in the knowledge they are 'immoral', to achieve a particular political objective. Indeed, there is also an element of *fortuna*. 9/11 embodies this uncertainty and unpredictability on a human level. It could be argued, that 9/11 was the culmination of many years of political interventionism in the Middle East, which ended in a large, spectacular outburst of frustration and resentment towards the western powers. It was not a random attack, but a calculated one on a power which they perceived to be a threat. The outcome was not entirely predictable, though ultimately, through the West's actions, they

created the next dissenting regime in the form of Islamic State. In this sense, the subsequent retaliations and the way this crisis was managed (largely, by the US/NATO) arguably demonstrates the lack of *virtu* on behalf of western forces, focussing instead on a demonstration of raw power ('shock and awe' in Iraq) while in reality, being permanently restrained by considerations of civilian liability, legitimacy and other staples of LOAC which prevent them from truly enacting major political and moral regime in the Middle East by force.

If therefore, we can understand some acts of violence and war as being indicative of an aesthetic and delineate between good or glorious values and bad values, then we have an evaluative function that supersedes JWT. In this respect, we can say of an act of 'spectacular' politics, that, when it is designed to achieve glory and prosperity, it can be legitimated. It is not that this is 'immoral', but 'amoral', in the sense that it seeks to move beyond ordinary applications of 'good and evil'. Though, in Machiavelli's case, he does not abandon morality's evaluative function. It is not simply about praising or condemning the actions of spectacular and glorious princes, irrespective of their effects. Hence, Machiavelli writes 'If Cowardice and Bad Government sit side by side with this sort of ambition, every sort of distress, every kind of ruin, every kind of ill comes quickly' (Machiavelli, 1989b p.737). This does not negate the actions that a prince, or government, must do in order to assert itself, but provides a means to discern how to judge princes. Indeed, the Prince must still learn 'how not to be good', or, a prince must always conclude, 'it is much safer to be feared than loved' (Machiavelli, 2008a S. XVII p.58). This is not to say that the character and quality of the prince is not to be measured, in fact, the entirety of The Prince is given to discussing good and bad examples of princes, but that only the virtuous princes can be trusted with such responsibility. In this respect, Machiavelli places a great burden on princes. This does not have to mean always excelling at the greatest heights but utilising one's *virtu* to the best possible extent. One example Machiavelli highlights

is Cosimo de Medici. Machiavelli says of Cosimo in the *History of Florence*, that he was 'without learning but very eloquent and abounding in natural prudence'; he shows a compassion to the poor, was 'obliging to his friends', 'cautious with advice, swift in execution' (Machiavelli, 1989c 7:6 p.1344). As such, Machiavelli notes that because of his ability in leadership (his *virtu*) and 'his fortune', he was able not only to win popular appeal and a powerful standing but leave a legacy which 'by their ability to equal him and by their fortune greatly surpass him' (Machiavelli, 1989c 7:6 p.1345). While Cosimo was not in of himself exceptional, he did possess *virtu* in rulership and a great amount of fortune, which, when combined, allowed him to conduct his affair well so that he could leave a long legacy for other to excel. The success of *virtu*, is in creating these conditions generally. The question becomes however, how this relates to a modern theory of conflict.

The nature of conflict has undoubtedly changed dramatically. Increasing destructiveness and the capacity to obliterate entire cities has strengthened the desire for restraint in conflict. Machiavelli was willing to use the context of his own time, with limited destructiveness associated with war, to instil *virtu*. Yet, it seems likely that in today's world, any proper understanding of the demands of necessity would simultaneously demand we alter our perception of conflict. The point of a philosophy like Machiavelli's is not to only speak to a perennial history, but that society changes and implicit in the realisation of creation of states and politics is an unavoidable destruction (Gramsci, 1971 p.129). Though the point of Machiavelli is to alter your values, ethics and politics in accordance to the necessity of the current time. History for Gramsci gave us the 'social organism' of the political party as a meant to organise a collective will in suppliance of a 'myth prince' (Gramsci, 1971 p.129), as a way of recapturing the meaning of Machiavelli's aesthetic redemption for a modern audience. The point for conflict, therefore, is that the war or act of violence is done in accordance with these

broader ambitions, according to the constraints of our time. Those constraints are more widespread than ever before, not because of the success of JWT, but because of the increasing deadly power of modern technology. How would Machiavelli respond to the use of nuclear weapons on Hiroshima and Nagasaki in 1945, or to the use of chemical warfare? It seems these acts of violence have little opportunity, if any at all, to instil *virtu*. Hence, the only redemption an act of violence can have, is in the results it produces. In the case of nuclear weapons, if it 'shortened the war' or even simply ended Fascism, then this might produce a tangible justification on Machiavelli's account. If universalistic morality is inadequate, Machiavelli would likely contend acts of heinous violence produce their own natural restraints according to necessity. In the case of nuclear weapons, this could be the general global commitment to non-proliferation; though also Machiavelli would note how difficult and ineffectual this has been. In the end, tragedy always wins for Machiavelli, so the importance of the party, or another form of aesthetic redemption, is that it gives the endless and continual conflict some broader meaning. Even the most horrendous act of war, done out of the genuine desire to promote real moral and political reform, would do more to tame this endless conflict and improve the life of citizens than morality.

Machiavelli believed in the redemptive power of warfare. Though in his own time he didn't have to confront the realities we do today, he did spend much of his time changing the way Italian city states approached war, for example by promoting the use of standing armies over mixed or mercenary armies (Machiavelli, 2008a XII, XIII). Machiavelli believed in the changing nature of war, as much as he did of politics and ethics. The point of Machiavelli's understanding of war, is to think about the immediate demands of the world as we find it, so that one day, with enough skill, it might be irreversibly changed for the better. Machiavelli, unlike JWT, doesn't define what the parameters of this better world are or even what its core

principles would be, the point of his philosophy was prophecy, because Machiavelli understood that '"without prophetic pathos, without moral renewal, without civil conscience," ideals of political emancipation remain a mere utopia, nothing more than speculations about imagined republics.' (Viroli, 2013 p.103). To achieve these 'imagined republics', war and violence become redemptive tools, that allow destruction to create new polities. Thus, he advised princes to 'not have any other object nor any other thought, nor must he adopt anything as his art but war, its institutions, and its discipline; because that is the only art benefitting one who commands' (Machiavelli, 2008a, XIV p.50). It is not that war is itself the most valuable pursuit, but for any political movement, even today, to be willing to use violence to achieve their objectives becomes a paramount importance for Machiavelli. Not solely as a matter of their survival, as realists usually might contest, but so that political and moral reform can be instigated:

> *'Nothing brings so much honour to a man newly risen up than the new laws and new institutions discovered by him. When these are well founded and have greatness in them, they make a man revered and admirable; and in Italy there is no lack of material for introducing every form there. Here there is great virtue in limbs, were it not for the lack of it in heads.'* (Machiavelli, 2008a, XXVI p.89).

Such systems cannot be simply resurrected by the greatness of one man alone, indeed, he can only preserve his restoration for as long as he lives (Machiavelli, 2008b I:17 p.65). Hence, the importance of the 'founder' becomes apparent, that the purpose of warfare for Machiavelli is to aesthetically redeem conflict for the purposes of renewal. Once a state has been created, survival becomes the key if that state has the *virtu* to maintain it, which eventually, succumbs to a more virtuous and newer state, in an endless tragic cycle of creation and destruction.

Machiavelli and the Morality of Conflict

Machiavelli questioned morality because it was imprudent. Since at least Socrates onwards, philosophers have tried to answer the question 'why be moral?', though Gray (2002) questions this, and instead notes, 'A more interesting question is why anyone should be prudent. Why should I care what becomes of me in the future?' (p. 105). Machiavelli would agree. Writers like Machiavelli sought to show that 'the good life' not only has little to do with 'morality', but it cannot flourish without immorality (Gray, 2002 p.108). Doing immoral things, especially in times of war, are the only means to ensure that the state can continue to perpetuate a decent, peaceful and prosperous life for its citizens. *Virtu* requires warfare and violence, it is an expression of humanity's ability to impose new and inventive solutions to life, in effect, declaring politics to be an aesthetic practice. It is a human endeavour that is rooted in individuals' 'desire to impose their imprint upon particular situations and things' (Vacano, 2007 p.158). Ultimately, every political situation he found he tried to advise a solution with practical lessons from history, usually derived from Rome as an example of a glorious civilisation, as a way of fixing problems resulting from a tumultuous and fractious international political order. He aimed, 'not to leave unchanged or to reproduce this kind of life, but to lift it to a new plane, to rescue Italy from squalor and slavery, to restore her to health and sanity' (Berlin, 1972 p.182). In this regard, for Machiavelli, morality was simply irrelevant. For realists of this kind, immorality is a way of being prudent. It allows princes and states to behave more faithfully in accordance with the demands of international antagonism, which cannot be reconciled through morality. If any lasting solution could be found, it would require ultimately immoral means. Even for Machiavelli, as he noted at the end of *The Prince*, to restore Italy to its former glories and uniter her a one *imperium* again was almost impossible, yet at the time Machiavelli also noticed it would have been impossible if such a prince was not willing to be immoral. Though

he also gives an interesting proclamation in the concluding exhortation, that surmises how Machiavelli viewed warfare:

> "*Although those men were rare and marvellous, they were nevertheless men, and each of them had poorer opportunities than are offered now: for their undertaking were no more just, nor easier than this one, nor was God more a friend to them than to you. This is a righteous cause: 'iustum enim est bellum quibus necesarium et pia arma ubi nulla nisi in armis spes est'*" (Machiavelli, 2008a XXVI p.88).[19]

For Machiavelli, just wars are necessary wars fought out of prudence, where morality cannot be guaranteed and more still, that immoral actions are done out of necessity.

If Machiavelli is right about JWT/LOAC, then one might conclude of JWT, and in particular the JAB, that the criteria for JWT is groundless (problem:a) and as a consequence, distorts our perceptions of conflict/justice (problem:b) and therefore hinders our responsibility to the state/ourselves (problem:c). Realism and Machiavelli are a useful beginning point when thinking about a critique of JWT because they have long emphasised the problems of morality when applied to the 'real world'. What Machiavelli and subsequent neo-/realists have tried to demonstrate therefore, is that morality, despite being an important way humans ascribe value to actions, cannot be applied internationally. In the classical realist tradition, exemplified by Machiavelli, they ascribed greater value to the ability of politics to advance causes for war and violence. Hence, realism is both a critique and an ontology for conflict, simultaneously reasserting the dominance of power-relations as an empirical fact about interstate relations, while criticising JWT/morality for misunderstanding the facts about the international system. The problem of this perspective however, is that like JWT, it relies on its own ontological understanding somewhat uncritically. This is especially true of structural realism, who predicate

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[19] *Translated*: "'Only those wars that are necessary are just, and arms are sacred when there is no hope except through arms" (Bondanella *in* Machiavelli, 2008a p.88).

their views purely on observation of the international system, a system which, by their own omission, is subject to change over time and neorealists seem to lack a language to shape this change. Hence, it is relatively easy to conclude that realism is less an objection to JWT than it is a revision of their approach towards the structural and 'real world' demands of politics. Classical realists go some way to recovering this argument, by rooting their contention in 'human nature'. Yet, realists like Machiavelli or Thucydides spent little time actually discussing the parameters of the human condition. Even for Machiavelli's heroic princes, one of the central concerns Walzer (1973) has noted about these redemptive figures, the 'Machiavellian hero has no inwardness. What he thinks of himself we don't know' (p.18). Indeed, this problem is also replicated about his view of humanity's tragic flaws, we know history reveals a series of vices/virtues to guide us towards prudent courses of action, but as Machiavelli retains morality on a personal level, it is difficult to know how the Machiavellian political hero retains a sense of personal morality while knowingly and willingly engaging in actions he regards as immoral. The effect of which, is likely to erode the original reluctance to commit evil acts and before long, he is likely to 'bask in his own glory' to the detriment of his original moral intent (Walzer, 2004 p.18).

The problems of Machiavelli, at least as I construe it, is that the charge of moralism is insufficient as a critique of morality in of itself. For JWT, while realism does some notable damage to the idea of applying morality without consideration of necessity, prudence and socioeconomic dynamics, it doesn't seem to offer any substantive problems with morality as a normative evaluation. In this sense, realism is not the definitive criticism of morality it often portrays itself to be. The a/immoral critique of morality is subtler than just realism. Indeed, when considering problem:d, realism seems as likely to motivate wars as JWT, if not more likely. Morality still guides decisions for realists, it just doesn't have the same level of

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importance and a reduced impact on their calculations. They in effect, 'put morality in its place' without levelling enough epistemic criticism against morality itself. Though, Machiavelli's perspective can inform a different approach to conflict as a useful beginning. The important lesson from Machiavelli is his aestheticism. Machiavelli sought to show that, "If there cannot be one single kind of taste for a way of life that is protected by a political regime, then multiplicity and diversity are inherent in the very nature of political life." (Vacano, 2007 p.155). This lesson is extremely important when considering the resort to war and is precisely why JWT and realism are inherently problematic. Universal assumptions about the world or humanity are usually unreliable, given that the diversity of politics is ensured by an equal diversity of human needs and wants. Plurality is the defining principle of humanity and this is demonstrated by war and violence more than any other human activity. War in this sense can be a tool, as Gramsci, Viroli and Vacano has all stressed *per* Machiavelli, it can be a way to achieve grander political objectives, but as I have also tried to show, Machiavelli doesn't really give any way of either shaping objectives or discerning between good/bad objectives. In the end, Machiavelli is still tied some degree of normativity as a way of guiding our actions in conflict, though very divorced from showing how or when to fight wars, instead he focussed on why you ought to fight wars to ensure a maximal overall good. This perspective on conflict is consequently dependent on the idea that war instils *virtu* to achieve the right (*telic*) ends, though problematically, never really offer significant revision to how we decide the *right* normative ends.

What the imaginative realism of Machiavelli may alternatively provide, is the basis of a means to understand the tragic nature of war. Using aestheticism and applying Machiavelli's ideas to our own context, an ontology appears of war that is political and contextual, focussed on how to achieve radical change and liberate us from tyranny and oppression. Unlike realists

today, Machiavelli is far more nuanced in how he employs his own realism. The problem with Machiavelli's view, however, is that he is still innately tied to the idea of moral reform. Though he grounds ethics in the firm basis of realism and tragedy, but the problems of morality are individual, as much as collective. Standards of justice may have become essential to the expression of the political community; however, it is also equally possible, that by ingraining ethical precedents into politics, in any context, the same mistakes will be replicated. Tragedy always ensures a fatalistic conflict between competing moralities and while Machiavelli has his own preferences for the kind of republican state he envisaged, short of a new global empire, there is no way on Machiavelli's account to ever guarantee the cessation of hostility. In the end, the reality of humanity ensures the reality of the world is fixed, but Machiavelli doesn't offer a considered theory of human nature. He simply uses history to show how humanity is repetitive however, this in of itself doesn't explain *why*. This seems needlessly normative for an amoral philosophy and doesn't immediate groundhis own thinking any more cealry than morality. JWT is flawed because it seeks universal application of a single perspective, irrespective of the consequence of this and ultimately, either through war, diplomacy or pressure, seeks to enforce its moral law. Such a perspective to Machiavelli is flawed because it was dangerous, though states that promote the just war are today often the most powerful states and are, consequently unlikely to suffer by being overtly moral. In some ways, while JWT is the imposition of an *imperium* and Machiavelli succeeds in showing this as a problem of a moralising attitude. Morality, however, may be a far deeper problem. Exchanging explicit for implicit imperialism is problematic, but realism would lead us only back to explicit imperialism and exploitation. As long as one individual state has the power and belief to impose itself on the world, as Machiavelli taught well, it will do. Consequently, it will use any language to promote itself, including JWT/LOAC. Ethical life cannot divorce itself from human predilections/intuitions

but it will always be contained to a relative political vision. Machiavelli demonstrates this well, and his aesthetic understanding of politics is persuasive, but because morality itself might be the problem, then deeper criticism of morality might allow for an aesthetic view of politics to break further with morality than Machiavelli and realism.

From Machiavelli therefore, we should focus on his tragic perspective of conflict and utilise his theories of redemption in more creative ways. We shouldn't necessarily be tied to morality or to political realism. Realism is rather an antidote to moralism. We should take heed of this advice and accept the political dimensions of war however, the broader break with both morality and normative philosophising is still questionable on realist grounds. Though contrary to realist assertions, Machiavelli showed that one does not have to be a strict 'political realist' to be realistic. Machiavelli's aestheticism provides an excellent basis for considering a critique an alternative conception of political action that could supplicate JWT. Though it should be noted that, by tying justice and morality to the political community and private evaluation, Machiavelli leaves the precepts of morality and normative philosophy uncriticised for their own inherent problems and subsequently, means even imaginative realism often lacks a robust intellectual criticism of JWT beyond recourse to the practical concerns of 'moralism'. To explore a more robust criticism of morality, especially as a regulating factor of international relations, I will look at the critique of JWT/LOAC presented by Carl Schmitt. Unlike Machiavelli, Schmitt did not root politics in the art of ruling or in aesthetics, but instead tries to explain how the diversity of states is rooted in 'the political' and divergent legal systems (*nomoi*). This legalistic critique of morality and JWT moves the argument away from prudence and towards an explicit understanding of power tied to a phycological understanding of human beings. Though in many respects Schmitt is a problematic thinker, he complements any amoral approach to conflict by offering substantive critiques of humanitarianism and furthering a realist

ontology for the world, indeed like Machiavelli's, one rooted in classical Greco-Roman scholarship; one which evolves with changes in law and seeks to understand power as an expression of politics.

Carl Schmitt and Legalism

"The man of knowledge must be able not only to love his enemies but also to hate his friends"

-Nietzsche (Z, X).

In recent decades, humanitarian intervention has been the primary way Western powers have engaged in war. In this regard, just war theorists have responded to this recent trend, seeing it as a broadly positive change in international affairs, by defending several underlying moral notions underpinning these wars, usually a defence of human rights or the promotion of liberal democracy. The intricacies of humanitarian wars, namely calculated decisions about legitimacy, last resort, just causes, civilian consent and strategic prudence mirror the principles of JWT and therefore, appears an ideal justification for these kinds of conflict because they mirror flexibility and 'shades of grey' associated with humanitarian intervention (Brown, 2007 p.57-58). A Machiavellian realist might criticise morally driven humanitarian wars as imprudent, questioning the relevance of these conflicts to state security or even suggest these conflicts reflect state power and as such are not really wars motivated by morality. Schmitt however, focused his critique on the desirability of morality as a motivating factor of war. This largely encompasses the problems I address with JWT (a-c) however, modern critics of JWT like Booth, amongst others, still retain an 'anti-realist' stance yet combine this with criticisms of JWT and humanitarianism to suggest that it escalates, promotes, and honours war; which is antithetical to the strategic aims of JWT and is largely destructive (Brown, 2007 p.57; Booth, 2000 p.314; 324). This embodies the final problem (d) I outline, that JWT intensifies and promotes, rather than restrains, war. The insights of Schmitt provide an excellent complement to this challenge. Schmitt was in many respects a realist and mirrored many of the same critiques and concerns of morality when applied to war, but unlike realists, his theory was centred on the

role of 'the political', law and (international) spatial order. While realists believe the only virtue is prudence, Schmitt grounded his own, more basic idea, within a critique of humanitarianism and morality as undesirable for political matters like conflict (Brown, 2007 p.58-59). The influence of Schmitt for the critique of JWT is well established, with many scholars utilising his ideas, widely across his work, to criticise JWT or Western dominance in international affairs (*see* Brown, 2007; Mouffe 2005, 2007; De Benoist 2013; Slomp, 2009; Agamben, 2005; Ulmen, 2007; Werner 2010). Recently, this has drawn particular attention as a critique of humanitarian intervention because of his powerful arguments attacking universal concepts of 'Humanity'. To Schmitt, and those who have taken influence from him, humanitarian wars are but a symptom of a broader global conflict which has no limitation or end in sight and in of itself, negates the natural plurality of politics.

Over the course of this chapter, I will examine these arguments from Schmitt to specifically build on the realist contentions with JWT, who specifically sought to demonstrate the impracticality of JWT/LOAC but not necessarily its desirability. For realists, morality is undesirable because it is imprudent, but for Schmitt, morality is undesirable also because of the escalating effect it has on violence (problem:d). Morality negates this by supplanting the diversity of political antagonism with a moral universal solution which, especially under the conditions of unipolarity, negates the existential importance of identity that political diversity in states provides (Mouffe, 2005; 2007). The political and its corresponding manifestation as a territorial space was therefore essential to Schmitt's understanding of conflict. Morality and JWT on the other hand, motivate more ferocious and unrestrained conflict because they tend towards universalisation and the negation of the political to the moral. To explore these arguments, I will look closely at Schmitt's arguments across his work, focussing firstly on two central critiques of JWT/LOAC he put forward: the distinct political nature of war as a negation

of moral judgment and the effect of moral judgment as motivating the 'war of annihilation'. To elaborate on Schmitt's critique of JWT, I will take these two fundamental elements of his work to develop and analyse problem (d). The escalating effect (problem:d) was termed by Schmitt as the 'war of annihilation'- otherwise put, the JAB effectively negates the JIB. He therefore supplanted the moral JAB/JIB with a legal JAB/JIB, which derives from the authority of the sovereign and spatial order rather than moral universalism. Though the issue of a just cause intensifying violence is a contentious contemporary issue, with several modern realists (*e.g.*, *see* Booth, 2000) developing and applying many of Schmitt's critiques, and equally many just war theorists responded to this claim, by disputing it both empirically as being simply untrue of modern conflicts and normatively, for making unsubstantiated claims about politics and morality. To assess if Schmitt's contention is defensible, I will analyse his argument *per* JWT and progress to discuss his own alternative in his work N*omos of the Earth.* In this respect, I will focus specifically on these arguments from Schmitt, though other can undoubtedly be made, as the most relevant to JWT/morality and as the more persuasive aspects of Schmitt's theories, beginning with his critique of morality.

Schmitt's Critique of Morality

One of the primary assertions that just war theorists advocate is that morality is relevant to conflict and essential to restrain the worst excesses of violence. Without morality, they have contended, political leaders cannot find the right language to justify extreme actions like war. While realists have often contended the impracticality of this in terms of international relations, Schmitt builds on many realist theories to try and show how undesirable it would be to allow political decisions to be subsumed by moral decisions. In this regard, Schmitt presented a more substantive critique of the 'just war', specifically focussing on the escalating effect of wars

fought with a *justa causa* (just cause). Schmitt held that problems (a-c) were all true of JWT,

largely because they misunderstand the political, but crucially, Schmitt worked this problem

(d) to construe wars fought with a just cause as inherently more violent. In this sense, Schmitt

had much in common with classical realists,[20] by insisting that political decisions are

autonomous from moral decisions, but also builds constructively on their critique of JWT and

moved the debate from human nature/international structure towards understanding identity in

a world of plural values. When identities collide, enmity and antagonism are likely, hence,

Schmitt concerned himself primarily with negotiating the political and devising workable

interstate legal solutions to restrain conflict. Antagonism can never be eliminated in this regard,

but it can be tamed if the right legal restraint can be agreed on, but to make this agreement at

all, the right international order must too be found to make the terms of peace possible. Though

peace cannot be achieved by the elimination of the political distinction. The primary issue with

morality is that it tries to eliminate the political and by doing so invokes a universal conception

of 'Humanity'- a concept he saw as emerging from liberal universalism and the liberal concept

of international law as the undesirable successor to European law (McCormick, 2007 p.334;

Brown, 2007 p.57-58). Morality for Schmitt distorts the naturally diverse planet of different

identities, making war an integral part of the human condition (Kumankov, 2015 p.83). War

was the 'extreme' case for Schmitt, but he also maintained only 'real combat' reveals, 'the most

extreme consequence of the political grouping of friend and enemy', which demonstrates how

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[20] Indeed, Machiavelli and Schmitt have some degree of overlap in terms of their critique of morality. In his own note to *The concept of the Political*, Schmitt (2007) quotes Wilhelm Dilthey, whom he claims, 'is unnecessary to differ with': "*Man according to Machiavelli is not by nature evil. . . but what Machiavelli wants to express everywhere is that man, if not checked, has an irresistible inclination to slide from passion to evil: animality, drives, passions are the kernels of human nature- above all love and fear. Machiavelli is inexhaustible in his psychological observations of the play of passions. . . from this principal feature of human nature he derives the fundamental law of all political life*" (Dilthey *in* Schmitt, 2007 p.59).

war is a 'specifically political tension' (Schmitt, 2007 p.35). As such, Schmitt questioned JWT/LOAC not only by saying they are ineffective, but also inherently undesirable when considering their effect on war, terror and violence because of the subversive effect morality has for human motivation.

Schmitt's critique of JWT therefore, is centred on how morality distorts the autonomy of the political and, in doing so, subverts the fundamentally political and legal basis of states. For Schmitt, 'a people' cannot 'hope to bring about a purely moral or economic condition of humanity by evading every political decision' (Schmitt, 2007 p.53). Though Schmitt does not dismiss evil as such, according to Strauss (1995) believed 'man is by nature evil, he, therefore, needs *dominion*' (p.125), and thus does not dismiss morality as a possible distinction, he only questioned the ability of morality to subsume other legitimate distinctions. Schmitt accepted the idea of 'moral baseness' associated with an act of 'evil', while he also rejected the realist thesis that 'evil' is an 'innocent' facet of human nature (Strauss *in* Schmitt, 2007 p.114-115). Schmitt saw acts of evil rooted in 'animality', as morally inappropriate, and did not see 'animality' as a good thing; for Schmitt, realists like Hobbes largely admired a deficiency, *i.e.*, the 'need for domination' (Strauss *in* Schmitt, 2007 p.115). What mattered to Schmitt was the correct distinction that defined the political, which is distinguished from politics in general. The distinction he outlined, to counteract the need for dominion over others, is a bounded legal order of states that distinguished one group of people from another according to the friend and enemy distinction- the friend/enemy distinction defines the political in the way good/evil might define morality or beautiful/ugly might define aesthetics (Schmitt, 2007 p.27). From the outset therefore, Schmitt does not seek to find any meaningful critique of morality as a concept, he is rather focussed on demonstrating the deleterious effects of a moral distinction applied to conflicts between states. The challenge, to Schmitt, was to discern and apply the appropriate

category of distinction to understand corresponding phenomenon. For conflict, the appropriate distinction is between the friend and enemy.

The Concept of the Political and its Relationship to Conflict

The friend and enemy distinction for Schmitt is more than just a political arrangement, it is part of the existential identity of any given group of people strong enough to form a territorial space. Indeed, for Schmitt, the existence of the state itself 'presupposes the existence of the political' (Schmitt, 2007 p.19; 26). As such, the value of the political is both concrete and existential: it provides both the practical means of distinguishing an in/exclusionary principle of association for the state while also providing an existential identity to those who belong to the respective grouping. The ability to discern a credible political enemy therefore is paramount to understanding how Schmitt saw international conflict, as he put it, 'Tell me who your enemy is, and I will tell you who you are' (Schmitt, 2007 p.85). Enmity is what makes both identity and conflict possible. Thus, the enemy is not a 'private adversary', it cannot be held simply a political grievance between one individual against another, but is necessarily a 'public enemy', referring to when a 'collectively of people confronts a similar collectively' (Schmitt, 2007 p.27-28). As such, the enemy, in Schmitt's terms, 'is *hostis,* not *inimicus* in the broader sense*'* (Schmitt, 2007 p.28).[21] It is the distinction between *hostis* and *inimicus* that lies

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[21] Schmitt is referencing Plato's distinction between the 'public' (*hostis*) and 'private' (*inimicus*) enemies, which while interconnected, is an important distinction in the category of war: 'a private enemy is a person who hates us, whereas a public enemy is someone who wants to fight against us' (Strauss *in* Schmitt, 2007 p.28-29). As such, Schmitt's definition of the 'enemy' is integral to his understanding of war, civil wars are not 'real wars' but 'self-

at the heart of Schmitt's understanding of war, it categorises war as a necessarily public, political and inevitability (*internationally*) plural. War and conflict thus become integrated with the ability to discern a friend/enemy, an enemy which 'need not be morally evil or aesthetically ugly' but his is 'the other, the stranger. . . existentially something different and alien' so that, in the extreme case of antagonism between friend/enemy, conflict becomes a possibility (Schmitt, 2007 p.27). It is alienation between competing identities, as an antagonism, that leads Schmitt to conclude that war should be understood politically rather than morally. Only the political distinction can make sense of the existential dimensions of human identity.

Though war is not strictly political, in the sense that logic or strategy of war can be defined by the friend/enemy distinction, rather, the conditions for war in of themselves presupposes the political. As he presented it, 'war is neither the aim nor the purpose nor even the very content of politics' but rather, is an 'ever-present possibility' which 'in a characteristic way human action and thinking thereby creates a specifically political behaviour' (Schmitt, 2007 p.34). War is therefore a distinctly political behaviour because it presupposes antagonism between friends/enemies in an international context. Schmitt here resembles Clausewitz, though not, as he keenly stresses, the misapplied understanding of 'war as a continuation of politics by other means', but in aligning to the more developed view that war is a political tool, a 'mere instrument of politics' (Schmitt, 2007 p.34). Indeed, for Schmitt, 'War as the most extreme political means discloses the possibility which unless every political idea, namely, the distinction of friend and enemy' (Schmitt, 2007 p.35). The uniquely political behaviour of war disregards the possibility of a moral distinction being applied to war. Conflict and antagonism become inevitable consequences of politics. In a world without war, what Schmitt called a

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laceration' and due to war's political nature, war must be fought according to the friend/enemy distinction as an existential quality of any people's existence.

'pacified globe' without the friend/enemy distinction, then politics itself would be impossible (Schmitt, 2007 p.36). War is therefore not only political in nature, but an integral facet of the ability to create and formulate states. Schmitt is not keen to say this is morally good, quite the contrary, he omits that war need not be morally good and, 'in all likelihood', the conditions of modern war are probably not morally defensible (Schmitt, 2007 p.36). Schmitt therefore tried to show that war is political, not moral. Even such motives as pacifism or justice are still political aims, and consequently, require the friend/enemy distinction. A just war, which met the criteria of JWT perfectly, must still make a distinction between friend/enemy, between the moral transgressors and the moral arbiters, to make that war a possibility. A distinctly moral ambition therefore, or indeed an ethical, economic or any other 'antithesis', always converts to a political motive when that ambition is strong enough to group human beings into the friend/enemy distinction (Schmitt, 2007 p.37). The just/unjust combatant is no different. Once the moral ambition is strong enough to create an obvious enmity, at the least, the possibility of war is always a present because war itself is an extreme consequence of political antagonism.

The potential for the cessation of conflict is only possible if the political is extinguished. If such a world were realised, Schmitt argued it would be a less desirable circumstance for humanity. In this respect, if the moral distinction ever subsumed the political distinction, then the world would be deprived of its pluralism. Indeed, as Schmitt famously declared, 'The political world is a pluriverse not a universe' (Schmitt, 2007 p.53). According to Schmitt, 'The world will not thereby become depoliticized, and it will not be transplanted into a condition of pure morality, pure justice, or pure economics." (Schmitt, 2007p. 52) and as a result, war and violence are essentially guaranteed consequences of political diversity. Each state can, will and must fight for its own survival. This is why Schmitt termed the friend/enemy distinction existential. Enmity not only defines collective existential identity, but without the willingness

to kill and die to protect it, then it is inevitable the state will collapse, and some other polity will assume the right of sovereign and that polity's identity would be lost (Schmitt, 2007 p.51-52). On the one hand, Schmitt accepted the general moral unjustifiability of war and violence while simultaneously insisted morality is not the category for understanding and/or evaluating conflict. It is in other words irrelevant if a combatant is just/unjust, good/evil; only the political valuation concerned Schmitt. In *The Concept of the Political*, Schmitt therefore devised an interesting criterion for the legitimation of force:

> "*There exists no rational purpose, no norm no matter how true, no programme no matter how exemplary, no social ideal no matter how beautiful, no legitimacy nor legality which could justify men in killing each other for this reason. If such physical destruction of human life is not motivated by an existential threat to one's own way of life, then it cannot be justified. Just as little can war be justified by ethical and juristic norms. If there really are enemies in the existential sense meant here, then it is justified, but only politically, to repel and fight them physically.*" (Schmitt, 2007 p.49).

The ability to take a human life therefore is bound up in the idea of self-defence, which for Schmitt is not a moral impediment but a political necessity. The JAB therefore is a right of a state's existence, a legal apparatus that confirms a state's right to exist. In the end, for Schmitt, violence and war are as morally unjustifiable as they are to just war theorists, they merely emphasise very different categories for analysing conflict and legitimating violence.

The problem for Schmitt was that by using a moral distinction to legitimate violence, there follows and inevitable escalation of the conflict. Moral distinctions (*i.e.*, good/evil) are not only inappropriate to understand the antagonism between states, but actively encourages what Schmitt called a 'war of annihilation' where, 'in a war between Good and Evil the regulations of *jus in bello* are inevitably ignored' (Schmitt; 2003 p.321-322; Slomp, 2007 p.98). Schmitt believed that when a war was fought with a just cause, it made it virtually impossible to impose JIB:ii/iii because the effects of morality on individual combatants and political leaders alike is to promote the 'enemy' as evil rather than as a legitimate antagonism between

competing values. In effect, the JAB effective negates adherence to the JIB because moral distinctions change the nature of enmity (Slomp, 2007 p.96). A moral distinction is ultimately subsumed by a political distinction when strong enough to motivate enmity, but now the enmity between the just and unjust parties is charged by the categorisation of the enemy as evil. An evil enemy changes the nature of the conflict, essentially invoking a 'civil war' between good and evil, effectively rendering the enemy as 'criminal', the end result of which, is 'the demonisation of the enemy and the rejection of any rule of conduct in war' (Slomp, 2007 p.100-101).[22] What Schmitt emphasised about the political and conflict therefore, it's the only distinction on which war is predicated and further, that wars charged by a moral enmity are innately more violent.

Schmitt presented a powerful theoretical case for understanding conflict between states as a definitively political relationship which motivates antagonism. War, more than any other case, reveals the importance of political distinctions to understand how war is conceptualised. On Schmitt's account at least, politics has an existential function and thus, 'The politics of avoiding war terminates, as does all politics, whenever the possibility of fighting disappears." (Schmitt, 2007 p.35). War is an important part of the human condition for Schmitt and plays an important role in making politics possible. This also confers advantages, in the form of international plurality and the 'contained war' that I will return to after firstly exploring in greater depth the war of annihilation. This concept from Schmitt pertains to problem:d that I highlight, portraying the moral effect on war as motivating, rather than constraining, violence.

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[22] Slomp (2007) breaks Schmitt's argument down into 5 statements: '(i) *no moral idea can ever justify killing';* '(ii) *one's belief in having justa causa exempts one from following the jus in bello';* (iii) *'civil war is the archetype of just war';* (iv) *jus in bello is only adhered to when justa causa has been abandoned;* (v) *just war ideology allows a particular type of weapons technology to develop"* (p.96). The first correlates to the political, arguments (ii)-(v) relate to Schmitt's war of annihilation.

The Just War as the 'War of Annihilation'

Schmitt's critique of the just war pertains to the difference between the 'humanised' or 'contained' war and the war of annihilation (Brown, 2007 p.67). [23] The primary difference between the contained and just war is that contained wars are fought with spatially bound limitations, just wars on the other hand, are global civil wars fought between all 'Humanity'. It is this distinction which is at the heart of Schmitt's portrayal of the just war as a war of annihilation. If it can be assumed that war is an innately political distinction, the effect of morality is to supply a universal set of values for all humanity and by doing so, creates a 'global civil war' with a radicalised conception of enmity. The just war, therefore, utilises a new form of *absolute enmity* which renders the JIB redundant. Absolute enmity emerges from the dissolution of a concrete spatial order (the basis of the contained war and the JIB) into the universalised 'Humanity', the global civil war fought between all human beings, divided between just and unjust regimes. Unjust regimes thus are considered 'evil' and must be destroyed 'by any means necessary'. This is a more radical critique than Machiavelli's, as Schmitt insisted that problem:d emerges naturally from problems:a-c- the lack of grounding, irresponsibility and misunderstanding of the human condition (in this case the political) all constitute towards a radical escalation in violence when a appealing to the authority of a just cause. In effect, as aforementioned, the war of good against evil must have a totalising end, and thus, wars don't cease to be political because they have found a just cause, rather, they invoke a new kind of enmity. This enmity cannot allow for defeat, or likewise, cannot set the terms of

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[23] This is another term for a 'regulated war', or a war fought according to the political logic of the friend-and-enemy as Schmitt intended. The idea is that these wars are considered to be better regulated against excessive violence than the 'humanitarian wars' of the modern day or the 'just wars' that preceded them (Brown, 2007 p.67).

peace. Though according to Schmitt wars have 'decreased in number and frequency' they have also 'proportionally increased in ferocity', which is a direct result of the use of morality at the turn of the twentieth century evolving alongside new ideological developments that radically changed the dynamics of war (Schmitt, 2007 p.36; 2003 p.320-322).

Schmitt clarified his views on this in *Theory of the Partisan*, where he contrasted just wars with earlier combative wars- when recognised powers each had their own *jus belli* that recognised each other as enemies and defined the terms of peace and war (Schmitt, 2004 p.6). This builds on his earlier work in *Concept of the Political*, where Schmitt described the problem of JWT with the imposition of a just cause to warfare:

> *"The war is then considered to constitute the absolute last war of humanity. Such a war is necessarily unusually intense and inhuman because, by transcending the limits of the political framework, it is simultaneously degrades the enemy into a moral and other categories and is forced to make a monster that must not only be defeated but also utterly destroyed."* (Schmitt, 2007 p.36).

In effect, Schmitt argues that certain types of war, motivated by concerns outside of the political, intensify the ferocity conflict by categorising the enemy as evil, which in effect, renders the categorisation of the 'enemy' as 'criminal' (Schmitt, 2004 p.67). Any transgressor to this (moral) law, therefore, becomes a target of annihilation without restrain, as the alternative is to tolerate an intolerable evil. The potential for the escalation of conflict is therefore rooted in morality itself. The justice motive intensifies harm caused because any side that considers themselves to be 'just' necessarily fights a war where defeat becomes intertwined with the triumph of good over evil. Even the drive towards pacifism, which is an important moral contingency for JWT, cannot escape the demands of the political. Even fighting a war to

end war is still a war and importantly, constitutes a 'war against war', which is still political distinction between pacifists/non-pacifists (Slomp, 2005 p.513; Schmitt, 2007 p.36; 2004 p.41). Once an enemy is in violation of a moral principle, either for the JAB or JIB, then the 'supposedly good people of the world' feel justified to intervene and thus create the motivation for an escalation of violence, especially, if more vigorous resistance is encountered than initially expected.

Schmitt juxtaposed 'absolute enmity' with 'real enmity'; though also has a third enmity in 'conventional enmity', which arose from European colonial wars, particularly in the Napoleonic era (Slomp, 2005 p.508). Contained wars were fought with regularity, with uniformed soldiers and adhered to the JIB and thus, invoked a 'conventional enmity' which adhered to strict, observed rules. So, according to Schmitt, the European powers achieved something remarkable with the *jus publicum europaeum*, a JIB (or restraint) for war creating the contained war (Schmitt, 2004 p.6; Slomp, 2005 p.510). The emergence of the *partisan* changed the nature of war significantly. The partisan is defined by Schmitt as an irregular fighter, like the Spanish Guerrillas in the Peninsular War or Russian Cossacks fighting against Napoleon during his invasion of Russia, who doesn't wear a uniform and possessed an intense 'political character', which 'distinguished [*them*] from the common thief and criminal' (Schmitt, 2004 p. 3-6; 10). Further features of the partisan include mobility in combat, dependence on regular organisations (*i.e.,* they cannot exist in 'a political no-man's-land' and is thus subject to the state) and their *telluric* character (Schmitt, 2004 p.11; Ulmen, 2007 p.98-99). The *telluric* character of the partisan is what spatially binds them to a geographical territory and confirms their essentially '*defensive* posture': their spatially bound cause limits the scope of enmity (Ulmen, 2007 p.99; Slomp, 2005 p.507). Schmitt specifically sees the partisan's tie to territory as the primary limitation of enmity, though now a 'real' enmity with a new kind of

eradicative vigour against invaders, the spatial limitation of territoriality limits the scope of the partisan war to the respective territory. As Schmitt put it, the 'tellurian character seems necessary to me in order to make spatially evident the defensive character, i.e., the limitation of enmity, and *in order to preserve it from the absolutism of an abstract justice*' (Schmitt, 2004 p. 13; my *emphasis*). The traditional, autochthonous partisan acts defensively, they have a homeland and are fighting for a physical, tangible and *political* aim. While the partisan defines the terms of modern enmity and conflict, Schmitt contradistinguished the traditional partisan with the revolutionary partisan that emerged from the turn of the twentieth century, when the world was divided between traditional partisans and 'globally aggressive revolutionary activists' (Ulmen, 2007 p.99; Werner 2010 p.361-362; Schulzke, 2016 p.348). It is this division that has defined the character of modern warfare.

The primary distinction between the partisan and the revolutionary activist is their conception of enmity. The 'genuine', *tellurian* partisan largely fought wars against foreign occupation and conceived of the 'real enemy' while retaining spatial boundary; their war was limited to the state in which they resided and thus possessed a unique political character (Schulzke, 2016 p. 347; Werner, 2010 p. 361). The primary distinction between real and absolute enmity, therefore, is the removal of spatialised, political conceptions of international order. Schmitt therefore claimed, 'The real enemy is not declared the absolute enemy, and not *the ultimate enemy of mankind as such*." (Schmitt, 2004 p.66). Absolute enmity emerges when universal conceptions of 'humanity' inform the motivation for war, which inevitably creates the 'last war of humanity' as a global civil war, where the state subsidies and all human beings, become entangled, willingly, or otherwise, in the conflict. A contained war is no longer possible under these circumstances. The primary example of the 'globally aggressive revolutionary activist' Schmitt gave was Lenin. In Lenin's case, by declaring the class war (a war between

proletariat vs bourgeoisie) a global war for all humanity, he was in effect making a new global civil war, an archetype for 'a last war of humanity', where anything which ends the capitalist system is inherently justified (Schmitt, 2004 p.35; 64-66). Once absolute enmity is perceived, the 'good' or 'moral' party must annihilate the enemy, even if initially fighting with restraint and observation of the JAB/JIB, if the incentive for 'absolute war' is strong enough, the supposedly just side will resort to any means necessary to win, to maximise the overall moral good. Schmitt observed this divide as part of the cold war dynamics after the Second World War, seeing the European powers as largely embodying the '*telluric* defensive-type of partisan warfare, whereas the Asian movements adhered to the revolutionary-aggressive type' (Ulmen, 2007 p.99). Figures like Lenin or Castro represented a new kind of absolute enmity, especially promoted by Lenin, which sought to destroy 'the whole Eurocentric world, which Napoleon had tried to save and the Congress of Vienna had hoped to restore.' (Schmitt, 2004 p.37).[24] The *jus publicum europaeum* created the terms of conventional warfare and with it, a legal manifestation of the JIB, a framework Schmitt, along with many contemporary philosophers today, attempted to use as their own inspiration for the new *nomos* of the earth and consequently, restore the legal restraint of war (Schmitt, 2003; Ulmen 2007; Mouffe 2005; 2007).

Schmitt clearly believed in the value of restrained warfare, he merely disagreed with Liberal, Socialist, and other ideologies that he saw as universalising. While it is clear Schmitt disliked domestic pluralism, as discussed in *Concept of the Political*, Schmitt appreciated international pluralism, a 'pluriverse' of competing states (Slomp, 2007 p.116; Mouffe, 2007

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[24] By 'the destruction of the Eurocentric world', Schmitt is referring to his own understandings written in *Nomos*, that the *jus publicum europaeum defined the terms of inter-state conflict which was utterly destroyed by the emergence of universalised conceptions of 'humanity' and thus, create a civil war between all of the world that removes any possibility of the JIB because only the jus publicum europaeum ever produced effective legal restraints for the 'contained war'.*

p.147). The key for making a JIB possible for Schmitt, was the abandonment of any morality/justice thus, the abandonment of universalism. Even the *tellurian* partisan for Schmitt, while praiseworthy in some respects, is still a threat the state's sole legal, or indeed existential, right to wield the JAB. The Geneva Protocol or the League of Nations (henceforth, League) at the turn of the twentieth century represented evidence for Schmitt of a failure to grasp spatial order, accusing the League of a 'ambiguous and internally irreconcilable' concept of 'spatial order' to the world, which has resounding effects on war (Schmitt, 2003 p.243-244; 246). With the introduction of the League, he believed 'The development of the planet finally had reached a clear dilemma between universalism and pluralism, monopoly and polypoly' (Schmitt, 2003 p.243). The danger of universalism for Schmitt is multifaceted, but for the purposes of moralit0y and conflict, Schmitt was keen to emphasise both the deleterious effect of universal morals on war and the political advantages of war to the international system. 'Polypoly' is only achieved by individual states in competition, which is not necessarily a nation-state, operating to achieve a new *nomos* of the earth, capable of reimposing a legalistic JIB reminiscent of the *jus publicum europaeum.*

Without bracketing war into spatialised interstate conflicts, violence intensifies as there are no boundaries, no place of retreat, only a war of total enmity where anything is justified in the pursuit of justice, as Schmitt put it, 'The war of absolute enmity knows no containment. The consistent realization of absolute enmity provides its meaning and its justice' (Schmitt, 2004 p.36). The advantages of a legal JAB/JIB, Schmitt contended, was the containing effect it has on war and violence:

> "*At this point, two facts should be remembered: first, international law sought to prevent wars of annihilation, i.e., to the extent that war is inevitable, to bracket it; and second, any abolition of war without true bracketing resulted only in new, perhaps even worse*

types of war, such as reversion to civil war and other types of wars of annihilation"
(Schmitt, 2003 p.246).

Thus, Schmitt endorses the legalistic JIB because he believed it had significant advantages over any moral conception of JAB/JIB. Wars motivated by a global concern for human rights, justice, or even the belief in a basic universal human intuition are all problematic for Schmitt when applied specifically to war. In such a conflict, there is little chance of terms being found for peace and no real way to negotiate between either side, the war becomes potentially boundless, the means resorted to becoming increasingly destructive over time.

Schmitt therefore questions the moral motivations of conflict when strong enough to motivate the JAB/JIB. To a degree, Schmitt endorses both of these principles when understood as emerging from a legal/political context. The proper course of war for Schmitt was to set the terms of engagement through developments in interstate law. This in turn creates a more concrete basis for the regulation and/or restraint of war. Though Schmitt's legalistic JAB is somewhat arbitrary, namely, it is based on the exercise of a legally unrestricted JAB to confirm the existence of the state in the international system, which itself is predicated on the political distinction between friend/enemy to create identities that define terms of conflict (Schmitt, 2007 p.45-53). Schmitt therefore does believe the right to war is an important political right of states, that confirms their identity, their existence and, crucially for Schmitt, better observes the JIB than other motivations for conflict. His own consideration for the observation of restraint in war is also clearly established, noting from the beginning of *Partisan*, 'In all ages of mankind and its many wars and battles there have been rules of battle and war, and of course disregard and transgression of these rules.' (Schmitt, 2004 p.3). The basis on which human beings should regulate violence is therefore rooted for Schmitt in spatial order. Legal institutions and conventions help shape a workable JIB, and the JAB is confirmed only in the existential right

of a state to assert its own identity. War is the confirmation of identity *in extremis*, it is the ultimate right of the sovereign that confirms its existential place in the spatial ordering of the planet. The war of annihilation only emerges when consideration of spatial boundaries is dispelled to the point where war is fought irrespective of interstate conventions/relations and is entirely focused on correcting a moral wrong according to a universal framework for all 'humanity'. This is necessarily for Schmitt a civil war between all humanity, and in such wars, there is no possibility of a JIB ever being adhered to; the war of annihilation seeks the total destruction of the enemy.

This point has been acknowledged by Booth in his critique of the war in Kosovo (1999), where he accused the logic of just war as being utilised to 'justifying escalation, destroy opponents, promote the militarisation of problems and legitimise war' (Brown, 2007 p.58). Booth (2000) was critical of the just war defence of the Kosovo campaign, and claims that, 'Just Wars can be used to justify anything. . . the combination of militant moralism and democratic desperation was potentially deadly' (p. 315). Indeed, the limit of the extent of annihilation and ferocity on Booth's account appears to know few limits, arguing 'If one's cause is 'just' it seems any level of escalation can be justified, even nuclear armageddon' (Booth, 2000 p.315). The Kosovo (1999) campaign is certainly a good example of how violence is exasperated by the logic of JWT. It also can be utilised to confirm Schmitt's argument concerning the just war. In the wake of the Kosovo (1999) conflict, which was in large part a conflict without established borders, was an existential conflict where the Republic of Yugoslavia fought the insurgent group the Kosovo Liberation Army supported by NATO. At least in Kosovo (1999), there seems to be a reasonable amount of evidence to suggest that the moral certainty of intervening powers had an escalating effect on violence. The NATO bombing campaign caused substantial civilian deaths and was refused UN backing. Indeed, as Booth

notes, 'the Kosovo tragedy revealed that the Anglo-American special relationship did not give priority to human security' (Booth, 2000 p.320). The priority of moral interventions is always to remove its ultimate target and, in this case, the argument to support the Kosovo Liberation Army was one of these causes. Though it can be argued, although the Kosovo (1999) case clearly had complications, it could simply be the case that Kosovo wasn't a just war (Brown, 2007 p.67). Thinkers like Brown (2007) have argued that the historical claim that wars are now more violent 'can be contested', but more importantly, that Schmitt's concept of 'humanized wars' is 'futile and counter-productive' and therefore, 'is a normative position that deserves to be rejected' (p.67).

The primary question that arises therefore, is to what extent does morality promote violence in war. The defence of Kosovo (1999) as simply not being a just war seems somewhat dubious however, largely because it seems the terms of engagement for just war theorists is highly debatable. While Brown has questioned Kosovo as a just war, Walzer (2005) has argued that the intervention in Kosovo was justified by the intensity of killing of civilians (p.102). In this regard, he was clear that he 'can't just sit ant watch', the moral consequences were simply too great and allegiance to 'me and mine', or objections to America as 'the world's firefighters' are simply not relevant when compared to the moral consequences of not intervening in cases like Kosovo (1999) (p.102-103).[25] Though in the case of almost any humanitarian intervention, the terms of the JAB are usually disputed amongst just war theorists, in this sense, 'just war theorists do not promote immutable rules' and rarely, if ever, give clear terms to justify engaging in war (Elshtain, 2001 p.3). The intelligent aspect of Schmitt's criticism is that it only requires a 'just cause' to be perceived as the motivating factor of enmity. As such, it is

unimportant that Brown contests Kosovo as a just war, it matters that the war was fought with moral intentions. In this respect, Walzer's (2005) argument is to send NATO ground troops into the conflict, which was still occurring at the time due to the moral immediacy of the crisis (p.99-101). In this regard, Walzer was clearly encouraging further engagement by NATO powers for moral considerations which is an acceleration of the conflict, at least in literal terms. This acceleration may or may not be justified, but it seems to show an example of how the logic at least encourages war. In the case of Kosovo (1999) even the perception of aiding humanitarian causes was enough to escalate violence.

The perception of justice is enough to intensify violence because it enables a combatant to believe he is fighting a truly evil enemy that deserves no restraint. It in effect becomes the war on annihilation of the enemy's very values and identity. Walzer's defence of Kosovo (1999) has a relatively straightforward and uncontroversial intent of protecting civilian life from atrocious violence. They odd thing, however, is for many just war theorists, the taking of civilian life can be justified on moral grounds. McMahan (2009) for example, promoted the necessity of civilian immunity, not as a moral principle but as a legal necessity:

> "*If the appropriately limited moral permission were to be legally recognised, the temptation to attack civilians in war is so great that just combatants would inevitably abuse the permission, while unjust combatants, imagining themselves to be just combatants, would liberally avail themselves of it as well*" (p.234-235).

The abuse of this principle necessitates legal prohibition, yet McMahan (2009) state the moral case is defensible and does highlight occasions where it would be morally appropriate to attack civilians (p.231). One of the main problems Booth addresses in Kosovo (1999) was that NATO bombing quickly disregarded civilian life, yet the pretext for intervention was protecting civilian life; though admittedly from far worse systematic killing. Just war theorists condemn this practice in Kosovo, but again, it shows how if the moral impediment is great enough then

it can in theory justify violence and, irrespective of how closely states adhere to JWT, actively has done so.

A New Nomos of the Earth: Spatial Order and Multipolarity

Schmitt's contention with JWT/LOAC is that it has an escalating effect that is counterproductive to restraining conflict. Both realists and Schmitt agree that in part this is because it ignores the political dimension of conflict and the relative balance of power between states, but for Schmitt, that balance is not the ultimate reason why conflict exists. Schmitt's specific claim is that the interstate relations between different competing identities inevitably creates a political distinction, from which conflict confirms both the existential right to exist as a state and the ultimate sovereignty of that state. Any *in bello* protections therefore, come from interstate agreement manifested as law. The JIB is essentially a legal principle for Schmitt. If a moral definition of the JIB were to inform 'international law', it would constitute of only a single set of values, universalised into a global body of law as an instrument of power. The diversity of different values embodied in different groups of people was a normative good for Schmitt, that he wrote about extensively in *Nomos of the Earth*. Plurality between states was the predicate for both war and the cessation of hostilities. It effectively 'contains' war by setting the terms of conflict between legitimately recognised states, each recognising the other's right to exist because it is predicated upon their own claim to legitimacy. The possibility of waging war, through the *jus beli*, in turn promotes additional rights of the state to demand of its citizens: 'the readiness to die and unhesitatingly to kill enemies' (Schmitt, 2007 p.46). In effect, the right to war confirms the power and authority of the state and with it, the existential identity of the citizenry. International pluralism is both the cause of antagonism (*i.e.*, *in extremis*, war) and a

normative good- the solution would be to find meaningful 'bracketing' of international antagonism, what might be called an 'agonistic' solution.

Though Schmitt clearly views international antagonism as inevitable, he doesn't normatively embrace antagonism. In fact, Schmitt even claims the material reality of technological development may even provide the means to circumvent antagonisms: 'Natural science today offers any ruler the means and the method to transcend the concept of arms and, thus, also of war' (Schmitt, 2003 p.309). Schmitt's specific claim therefore, as Mouffe (2005; 2007) and others have contended is agonistic. Schmitt saw antagonisms as problematic without the correct means of restraint, which for him, was the interstate legal paradigm of the *jus publicum europaeum* which guaranteed *spatialised* order. To explore this idea in conjunction with Schmitt's critique of morality, I will focus on *Nomos of the Earth*, and his views pertaining to international structure. Though the political is the foundational concept that supplants morality, the spatial order is Schmitt's alternative to just wars as a 'contained' war. Schmitt defined a 'nomos' specifically in spatial terms:

> "*The nomos by which a tribe, a retinue, or a people becomes settled, i.e., by which it becomes historically constituted and turns a part of the earth's surface into a force field of a particular order, becomes visible in the appropriation of land and in the founding of a city or colony*" (Schmitt, 2003 p.70).

In this regard, Schmitt uses *nomos* in the Ancient Greek sense, as a concrete political order that is dependent upon the existence of a state. The nomos thus refers the spatial ordering of the world. Schmitt acknowledged the normative aspects of his thought, as his put it in the 1950 (*ed*.) forward to *Nomos*, 'Human thinking again must be directed to the elemental order of its terrestrial being here and now. We seek to understand the *normative order of the earth*' (Schmitt, 2003 p.39). Schmitt's alternative normative vision to universalist-humanitarianism, therefore, is a spatial pluriverse of multiple entities- a multipolar world with legitimate channels

for disagreement. If morality distorts the spatial order of the planet consideration must turn to the political as a foundational basis for the restraint of conflict.

The Meaning of a 'Nomos of the Earth'

When thinking about the spatial order of the planet, Schmitt was cautious to avoid any new universalising concepts. Even law was not constitutive of a *nomos*, Schmitt in this regard was avoiding, and critiquing, legal positivism (Schmitt, 2003 p.70).[26] For Schmitt, the nomos of the earth was about the acquisition of territory. Hence, a *nomos* refers to the Greek word '*nemenin',* that means both '*"to divide" and "to pasture"*' (Schmitt, 2003 p.70). The original land-appropriation dictates the terms for the political and social order to follow, it is where they become 'spatially visible- the initial measure and division of pasture-land, i.e., the land-appropriation as well as the concrete order contained in it and following from it" (Schmitt, 2003 p.70). Spatially dictated territory also creates plurality by organising into distinct *nomoi*, competing space-appropriations with different 'pasturing', *i.e.,* different social and political orders. The concept of *nomos* was distorted from the beginning however, though according to Schmitt this is not 'abnormal', by the Sophists in Greece, who saw *nomos* as 'mere law', a mistake also made in the 'positivistic' turn in law during the 19th century, which led to the disillusion of the *polis* and meant that sophists or jurists alike had no means to comprehend, or even find the language to express the sentiment of, *nomos* (Schmitt, 2003 p.75-76). Citing

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[26] Schmitt was particularly keen to avoid accusations of legal positivism, which he construed as a largely negative force in legal theory which misunderstood and misappropriated law as the foundation of politics which, as discussed previously, Schmitt thought the political made law possible. As such, he uses 'nomos' to distinguish himself from legal positivism specifically: "*In contradistinction, when I use the word nomos (again in its original sense), the point is not to breathe artificial new life into dead myths or to conjure up empty shadows. The world nomos is useful to us because is shields perceptions of the current world situation from the confusion of legal positivism*" (Schmitt, 2003 p.69).

Heraclitus and Pindar, Schmitt then returns to the Homeric (or pre-Socratic) understanding of *nomos*, which meant the relational and constitutive act of spatial ordering, as Schmitt put it, 'The original act is *nomos'* (Schmitt, 2003 p.78). Spatial ordering happens pre-law for Schmitt- it constitutes the original land-appropriation on which all political or legal development is contingent upon. In this regard, Schmitt emphasises the importance of the spatial order and of the 'ordering of order', the ultimate ability to create international structure/s:

> "*Thus, for us, nomos is a matter of the fundamental process of appropriating space that is essential to every historical epoch- a matter of the structure-determining convergence of order and orientation in the cohabitation of peoples on this now scientifically surveyed planet. This is the sense in which the nomos of the earth is spoken of here. Every new age and every new epoch in the coexistence of peoples, empires and countries, of rulers and power formations of every sort, is founded on new spatial division, new enclosures, and new spatial order of the earth.*" (Schmitt, 2003 p.78-79).

Every international structure Schmitt analysed, from the medieval *respublica christiana* to the *jus publicum europaeum*, all constitute a specific temporally and spatially bound *nomos of the earth.*

Though each individual *nomos* was not equal for Schmitt. Some stages tended toward universalisation, in particular, the *respublica christiana* or the 19th century legal positivistic jurists who sought to appeal beyond spatial order (Schmitt, 2003 p.126-127; 131; 134). Universal theories create a *jus gentium* (international law) yet, this was subverted, in Europe at least, by the creation of the *jus inter gentes* (law *between* states) in the 15th century and solidified over the next 100 years, though remained even until the 18th century, by removing its 'medieval garb' of 'princely houses' or monarchical crowns (Schmitt, 2003 p.129). The creation of the *jus publicum europaeum* was 'nothing short of a miracle' to Schmitt, who credited it for its ability to enforce restrained war and propagate plurality (Schmitt, 2003 p.150-151). Interstate war becomes inevitable between polities. Though, with the emergence of the *jus inter gentes*, this created a real possibility of peace by spatial bracketing war to the contained realm of

interstate relations and the emergence of international law. For Schmitt, 'statehood', in the European sense, was 'not a universal concept, valid for all times and peoples' but rather, 'Both in time and space, the term constituted an historical fact'- namely, the disintegration of the *respublica christiana* through the secularisation of the state into a concrete political and legal order (Schmitt, 2003 p.127). According to Schmitt, the *jus publicum europaeum* was not a universal concept, it allowed for divergence and merely set the terms for a particularly normatively defensible *nomos* of the earth; one which genuinely restrained war. The *jus publicum europaeum* allowed for the creation of legally recognisably enmity, between sovereign states of equal legitimacy (by invoking the JAB) and equal rights in international law, thus creating a *justi hostes*- a legally and morally equal *nomoi*, 'to distinguish between the concepts of enemy and criminal' (Schmitt, 2003 p.147). No state has any more, or fewer, rights and privileges than the next and indeed, even the concept of statehood is normatively imposed and not a universal concept. This in turn reveals the value of the *jus publicum europaeum* for Schmitt, it was a temporally bound concept which successfully created a new kind of warfare that was less destructive than its predecessors. By creating a *nomos* that avoids universalisation, it also avoids new kinds of totalising warfare that pertains to annihilation. The value of the *jus publicum europaeum* for conflict therefore rests on the notion that the contained wars are, firstly, only created by spatial order and secondly, that just wars or humanitarian wars are innately more destructive than contained wars. Some just war theorists like Brown object to the 'shaky empirical base' of Schmitt's critique and while one should 'admire' Schmitt's scholarship in *Nomos*, ultimately, should reject his view that the contained war restrains conflict (Brown, 2007 p.67). Yet, there is some evidence in recent years that Schmitt's critique has some saliency.

Scholars have noted the effects that the terror attacks on 9/11 escalated the use of state power and excluded terrorists from the LOAC, effectively depriving them of any legal protection in war and therefore demonstrating the relevance Schmitt's 'state of emergency' (Scheuerman, 2006 p.68; Werner, 2010 p.371; Agamben, 2005 p.3 De Benoist 2013). The state of emergency, according to Agamben (2005) 'faced with the unstoppable progression of what has been called a "global civil war"' has become the 'dominant paradigm' of contemporary nations, citing specifically the U.S Patriot Act in response to 9/11 as one clear example of how the global civil war motivates an acceleration of state power against the norm; as he put it, it is the 'indeterminacy between democracy and absolutism' (p.2-3). The charge being made here specifically referring to conflict is that in the wake of a perceived existential threat to a state's power, the state of exception becomes the only viable way to defend itself and, in the process, confirms the ultimate power of a state rests in the ability for them to declare the exception to ordinary law or precedent. A state of war is one such predicate upon which a state relies on to express its ultimate right of sovereignty, as Schmitt emphasised, the state of exception was only invoked as an emergency, a 'case of extreme peril, a danger to the existence of the state, or the like' (Schmitt, 1992 p.6).[27] The terror attacks on the U.S provide a perfect case for a perceived existential threat from the political leaders across the Western world, particularly emphasising in their narrative at the time as being more than just a political disagreement, but portrayed Al-Qaeda as an existential threat to Western life and even to its culture. If this was ever truly the reality of the case is debatable, but in the wake of this threat it does seem to have been used, at

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[27] The state of exception is another example of how Schmitt tried to avoid legal positivism. For Schmitt, the state of the exception is the exception to law, as he put it, *'The state suspends the law in the exception on the basis of its right of self-preservation, as one would say', thus, he was trying to show how in the face of an immediate, existential danger to the state or authority of the sovereign is always counteracted by suspending ordinary law, thus removing the rule of law liberals often defend, to reassert the identity of the state and prevent its annihilation (Schmitt, 1992 p. 12).* The exception is 'not merely to a construct applied to any emergency decree or state of siege*',* it is an immediate, existential danger (Schmitt, 1985 p. 5).

minimum as an excuse, to deprive the enemy of any protections in international law, or even in U.S domestic law. The enmity invoked was thus absolute, it invoked the 'global civil war', a 'war on terror' which neither side could afford to lose and thus the possibility for peace destroyed. Indeed, the possibility of peace at this stage was no longer considered an option on either side, Al-Queda fighting a war for its own existence and the U.S similarly fighting against what it was as an unjust opponent with an 'evil' ideology that threated the West.

Though the application of Schmitt's ideas to the case is already well documented,[28] there is an interesting parallel between how the state of exception seems to explain the use of extreme powers, but also, in how this has been incorporated into moral accounts of conflict. 'The ethics of exceptionalism', it is often argued, 'torture, assassination, blackmail remain outside the law but are defensible practices *during national emergencies*' (Gross, 2010 p.234; my *emphasis*). Defenders of humanitarian wars, like Gross (2010), assert that military necessity should be put through the 'filter of humanitarianism' (p.242). This ensures that, under conditions of asymmetric warfare, civilian immunity from lethal harm is enforced and that any 'unnecessary suffering and proportionality' are strictly adhered to minimise harm and to approve any military tactic (Gross, 2010 p.242; 246-247). The main objection to this, not unacknowledged by Gross, is the 'slippery slope'- the idea that even if some uses are justifiable, by endorsing the practise it may lead to worse consequences in the long-term. Changing attitudes in the global community, however, may act as some precedent for the use of exceptional means predicated on '. . . the international community's willingness to undertake armed humanitarian intervention on behalf of helpless individuals facing the threat of genocide

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[28] *See,* for example, Agamben's (2005) *State of Exception* where he discusses how the exception now declared by new western norms is a perment exception where the current 'ark of power;' constitutes '*an empty space, in which a human action with no relation to law stands before a norm with no relation to life*' (p.86).

and *crimes against humanity*' (Gross, 2010 p.251, my *emphasis*). The problem with this kind of argument, however, is that it suggests Schmitt was right at least in the sense that moral distinctions can motivate an increased sense of justification in the application of violence which, if adhered to in war, would escalate violence. In order to defend individual rights, as demonstrated by Fabre also, against 'crimes against humanity' the scope of violence is necessarily global, yet the world remains spatial. This at the least creates a disconnect between the way the nomos of the earth is currently structed against the global ambitions of contemporary cosmopolitan accounts of the just war. When a war spans the scope of humanity, the terms for peace becomes highly limited. Indeed, even civilian immunity becomes questioned if the moral demand is great enough, as Gross (2010) also demonstrates:

> "*both sides may target associated targets but not innocent noncombatants. As they do, they must adjust the level of harm they inflict accordingly and use only the minimal harm necessary to disable indirect participants.*" (p.250).

Even the invoking of proportionality here is a somewhat weak restraint, whatever harm is 'minimally necessary' still suggests the aim should be achieved at all costs, even non-combatant 'innocent' lives are sacrificial. Likewise, as the name proportionality suggests, violence is proportional to strategic prudence, but if resistance is strong enough, the amount of force required to attain victory increases and the killing justified therefore increases proportionally. If an evil presented itself that was truly detestable, then in theory, any amount of violence is justified in removing this threat.

Schmitt juxtaposed the value of the contained war against just wars because he believed enmity following the collapse of any real international system of spatial order inevitably created violence. The contained war, that existed as a result of the *just publicum europaeum* being effective at spatial ordering, imposed an effective legal JIB compatible with the existentially important JAB and thus tamed the ferocity, if not the frequency, of war. One recent change-

point analysis of deaths in war may provide some illumination of the empirical reality of this claim, assuming death in war is a reasonably metric of ferocity. Two eras have noted a reduction in 'war-deaths', the 1830s and the 'decline of the so-called congress era' up until the beginning of the 1848 revolutions and the 1990s, following the gradual dissolution of the Cold War era (B.T. Fagen et al., 2020 p.931). This is a particularly interesting finding, as it suggests that the contained war might be possible with the dissolution of global enmity, *i.e.*, the global revolutionary partisan may intensify warfare as Schmitt suggested by invoking universal global conflict and with the cessation of this existential conflict, deaths from war have decreased. Likewise, as Schmitt suggested, some evidence suggests the restraining effects of the contained war seemed to be effective, at least for a small period. Though the 'congress era' was short-lived and it only restrained death from war slightly, questioning its situation as a 'change'-point' at all (B.T. Fagen et al., 2020 p.931). The problem being, there doesn't seem to be any situation apart from the dissolution of the Cold War that suggests war has ever been any more, or any, less violent. While Schmitt may have been wrong about the empirical observation of the contained war however, he may have a point about enmity if we assume violence is inherent to human beings, rather than politics, and thus view enmity as a natural part of the expression of human identity. Though absolute enmity, motivated by morality or justice, create a potential for escalation. As enmity increases, even a 'pure' political enmity, the potential for violence also escalates. Morality, more so than politics, motivates a more extreme type of enmity. This is more demonstrable in the language of JWT as it is of the actions of Western powers, who do not necessarily abide by JWT principles, who consistently phrase their arguments according to the logic of proportionality without ever setting a limit or considering the terms of peace with an intolerable power. In effect, justified or unjustified, a war is more likely to begin with a sense of moral rightness.

This moral rightness to Schmitt did more than just create a strong impediment for war, but actually increased the development of destructive technologies. Slomp (2009) documented this point, as aforementioned as (v), showing Schmitt's Hegel-inspired dialectic between weapons technology and just wars create an co-dependent logic: justice requires effective means for good to triumph over evil and thus encourages the development of weapons of mass destruction (WMDs) while conversely, this requires the enemy to 'be a monster' to justify their use and thus 'reinforces the ideology of just war' (p.105). For Schmitt, this condition only increases under conditions of asymmetric warfare, as is the dominant case with most recent humanitarian interventions, where he argued, this technology is not limited to WMDs, but in any situation where destructive capabilities are radically unequal there is no equal ground for battle either, the weaker side cannot win under any circumstance and thus becomes 'nothing more than the object of violent measures' (Schmitt, 2004 p.320). This is an interesting way of looking at the logic of the use of technology in war. The only use of WMDs by the U.S against Japan is often defended by 'shortening the war', whether this is true or not, the assumption behind it was losing the war was never an option and the triumph of the allies was a matter of moral triumph; they were the defensive party fighting for their freedom against totalitarianism, and in the U.S' case, Japanese aggression. In short, their only use came off the back of the most intense fighting humanity has ever experienced, on a global scale in an existential battle where on the final account, any means necessary could then be justified.[29] The problem however, is that both sides were attempting to develop and use WMDs and as I demonstrated previously (chpt' 2) Nazi ideology is as guilty as of moralising as JWT is. No political ideology ever seems

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[29] *It is odd that Schmitt never discusses this directly, indeed as Slomp (2009) also pointed out, any reader of Schmitt can't fail to notice that in his post-war writings he never once mentioned Nazism, let alone address his own past political alignments (Slomp, 2009 p.111). This case however does seem to be how Schmitt was thinking about the logic of justice and the development of weapons technology and his reluctance to discuss it is possibly due to his general reluctance to discuss the ideational elements of the Second World War at all.*

truly detached from a sense of moral value in this sense and therefore, it is as likely that a political distinction could motivate the development as it is a moral one. Otherwise put, enmity itself motivates destructive capabilities because human being are naturally defensive and therefore, violent.

The argument that JWT specifically motivates the development of destructive technology seems somewhat flawed. While Schmitt's description of enmity seems plausible, I see no meaningful distinction between a moral evil and political enemy- both present a threat to a state, and both could potentially motivate violence. One way to recover this argument however, *per* his critique of JWT as the 'war of annihilation', would be to flip the logic. The resurgence of JWT in the 1960s, as Schmitt reached the end of his career, responded to the realist dominance in international affairs and specifically to ideologies like Morgenthau and Schmitt. Where destructive capability is concerned, I contend that JWT was a response to ever increasing violence and to the technological development of military weaponry like WMDs. While I agree with Schmitt that 'Technical-industrial development has made human weapons into pure means of destruction.' (Schmitt, 2004 p.66; 2003 p.321), this is more part of a general trend in human history than it is of specifically modern times or JWT. What JWT amounts to is a moral response to the destructive power humans had now developed and a fear of their use. Hence, Schmitt was right to say that to use these weapons at all, requires an absolute enemy with moral certification. In the context of a global humanitarian struggle, Schmitt observed 'one half of mankind is taken hostage by the other half, armed with weapons of absolute annihilation', a situation which requires an absolute enemy 'lest they be absolutely inhuman' (Schmitt, 2004 p.66). This is observable in the unipolar system of Western domination of international affairs, where their superior military technology and economic power has placed them at the centre of world order. In other words, they have defined the *nomos* of our times, the

current spatial and legal order. JWT does not motivate the creation of destructive weapons, it only provides terms for their potential use. As military technology has developed, the moral reaction has become more pronounced. The problem however, as Schmitt stressed, is the dehumanising effect of universal ideologies or moralities.[30] The problem is in assuming one morality, in this case JWT, ever really has the authority to speak for humanity as a whole. The world is a series of moralities, the intuitions on which they are based far more contradictory than just war theorists assume. If any power is convinced they are fighting for humanity as a moral impediment, wars are bound to follow where any disagreement emerges not just as political disagreement, but an existential disagreement in moral values.

This is not to therefore confirm the relativist thesis that moral values are subject to culture, but rather to use Schmitt to say that war exists in the nexus between identity (politics) and existential disagreement about moral values. It is most likely the case that secular morality is preferably to theological conceptions of morality, to insist they are culturally equal is not a case to disprove one morality or another. What is does suggest however, is that moral values are always disputed and therefore, it is difficult to invoke a moral authority with those who do not share your values, or even, the means to agree upon shared values. Western powers, adopting a moral stance, if only outwardly, invokes this logic consistently and have placed themselves as the dominant hegemonic power of the last century. This situation, however, is now beginning to change rapidly and moving forwards, Schmitt began to contemplate a 'new

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[30] This view is particularly important for Schmitt, and is the subject of the subsequent quote, worth adding to here to understand the total effect of dehumanisation: "*In a world in which the partners push each other in this way into the abyss of total devaluation before they annihilate one another physically, new kinds of absolute enmity must come into being. Enmity will be so terrifying that one perhaps mustn't even speak any longer of the enemy or of enmity, and both words will have to be outlawed and damned fully before the work of annihilation can begin*." (Schmitt, 2004 p.67). The effect of dehumanisation is to make combatants and civilians alike not only more eager, but more ferocious when conducting war. The enemy becomes a serious, existential challenge to 'goodness' itself, not simply as a competitor of the international realm, but as a evil that challenges everything valuable about a particular war of life.

nomos of the earth' as the end of the Cold War era though, more seismic still, will be the radical shift in economic and political power away from the West over the coming century and our collective challenge now is to consider how the next *nomos* of the earth will be structured.

Agonistic International Order: An Alternative to JWT?

Schmitt concludes *Nomos* with three corollaries, the final one titled, 'The New *Nomos* of the Earth', where Schmitt entertained three distinct possibilities for the next definitive *nomos*. The first was a victory in the Cold War, 'the dualism of East and West' must ultimately lead to a total victory for one side, who would go on to dominate the world in a unipolar system, their military and cultural ideas becoming hegemonic (Schmitt, 2003 p.354). The second, was a return to the earlier *nomos* dominated by England through sea power; though he noted America is the 'greater island' and the only power capable of resurrecting the Eurocentric *nomos* (Schmitt, 2003 p.355). The final, and clearly Schmitt's preferred possibility, was to reorganise the world into a new balance of sea and air power, in 'large blocs' or '*Großräume*' to constitute a new balance of power and influence (Schmitt, 2003 p.355).[31] The third option would effectively restore the conditions for the contained war, moving beyond the dualism of the Cold War era and into a new *nomos* of between recognised and legally instituted states. What happened however, is closer to the first option- a new hegemonic power emerging from the success of the West, particularly the U.S (United States) through NATO, has effectively meant the triumph of Western powers and the new hegemonic unipolarity of the U.S. The challenge

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[31] Defined by Schmitt as 'spheres of influence' (Schmitt, 2003 p.243-244).

of Schmitt, therefore, is to find a new *nomos* to structure the world, one which ends U.S unipolarity and restores the 'pluriverse'.

The value of the multipolar *nomos* is rooted in the claim that the *jus publicum europaeum* was innately better at securing plurality internationally and, in the process, of securing a legitimate ground for *justis hostes*. Though the *jus publicum europaeum* was eventually dissolved, Schmitt understanding of its collapse is particularly salient. Schmitt said the decline of interstate European law was something which went largely unnoticed, however, the main perpetrator was the U.S who could not decide between isolationism and '*universalism-humanitarian intervention'* (Schmitt, 2003 p.227). Schmitt then traces the development of international affairs in the early 1900s, beginning with the Congo Conference in 1885 up until the Second Hague Convention of 1907 where he declares that we have moved from a system of European law, to a system of international law, based on the notion of 'civilised states' which, 'lacked any grounding in space or in land'; defied any concept of homogeneity; and, above all else, was not a 'concrete spatial order' (Schmitt, 2003 p.227; 232-234; 238).[32] The international system we have today, built on international law, human rights and cosmopolitanism, is for Schmitt merely a consequence of a drive towards universalisation, now embodied in a unipolar system, where the dominant power (*i.e.,* the U.S) can dictate the terms of legitimacy for states and conflicts alike. The result of this system is an endless series of more ferocious conflicts. Even if a situation emerges where restraint is shown in terms of total destructive capabilities, Schmitt's central point was that they cannot accept terms of defeat. Ultimately, any power that invokes a just cause inevitably must win by any means necessary.

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[32] He argued that the world was not occupied by 50 'heterogeneous states, lacking any spatial or spiritual consciousness of what they once had in common', which ultimately, he views a dangerously unstable and lacking a concrete formulation of the Political (Schmitt 2007 p.234).

Schmitt therefore considered the *jus publicum europaeum* the only *nomos* that had ever contained successfully contained the aggression of European states (Gottfried, 1990 p.98). A future *nomos* should learn these lessons and take on board the importance of spatiality when considering how to structure the international system.

Few scholars today dispute the unipolar status of the United States. Even at the time Schmitt published *Nomos*, the U.S had already begun to assert its dominance during the Cold War, emerging from it as the undisputed world hegemon. Schmitt, writing in *Nomos*, observed that the U.S dominating the Western world with its economics, 'idea of world order', culture, language and its 'huge military power' and consequently, determines the *nomos* of the world (Zolo, 2007 p.159). This *nomos* of the earth exists today, predicated on international law, human rights and the liberal democratic model; effectively reflecting the liberal values of the West. Using Schmitt, Mouffe (2005) has posited that U.S unipolarity motivates harsh antagonisms:

> "*. . . the fact that we are now living in a unipolar world where there are no legitimate channels for opposing the hegemony of the United States which is at the origin of the explosion of new antagonisms which, if we are unable to grasp their nature, might indeed lead to the announced 'clash of civilizations'*" (p.115).

The saliant point here is that legitimate channels of expression can no longer be found for antagonisms between values, as such, they emerge as new forms of terrorism, as Mouffe (2007) also highlighted:

> "*The new forms of terrorism reveal the dangers implicit in the delusions of the universalist globalist discourse which postulates that human progress requires the establishment of world unity based on the adoption of the Western model*" (p.153).

The problem Zolo, Mouffe, Negri and others envisaged therefore, is that unipolarity inevitably leads to universalism in values. This universalism inevitably negates the plurality of the world and thus, acceptance of pluralism in values means accepting that different regimes will never agree to universal moral codes.

Mouffe (2007) takes influence from Schmitt to respond to universalist world orders and posits that he was right to favour the 'pluriverse' in a global scope, arguing the central problem of U.S unipolarity is, 'that it is impossible for antagonisms to find legitimate forms of expression' (p.152). The pluriverse (or multipolarity) avoids for her the central problem Schmitt outlined in the Cold War, namely the Huntington-like 'clash of civilisations' which 'universalist-humanitarianism' is actively contributing towards (Mouffe, 2007 p.153).[33] The point of world order is to affirm political antagonisms which exist between different forms of human societies and convert them into agonistic conflict, *i.e.*, tamed antagonisms with legitimate channels of grievance to avoid the outbreak of untamed antagonisms. Universalisms of any kind are inherently problematic because they negate the inherent value of legitimate political antagonism expressed in a world of irreconcilable values. The *nomos* promoted in the wake of U.S unipolarity is a cosmopolitan world order, predicated on the liberal democratic model of the West, which as Mouffe (2005) has highlighted, inevitably causes resistance:

> "*Whatever its guise, the implementation of a cosmopolitan order would in fact result in the imposition of one single model, the liberal democratic one, on to the whole world. In fact it would mean bringing more people directly under the control of the West, with the argument that its model is the better suited to the implementation of human rights and universal values. And, as I have argued, this is bound to arouse strong resistances and to create dangerous antagonisms.*" (p.103).

The problem Mouffe, and others, highlight *per* Schmitt is that unipolar world orders rely on universal values and laws, which can only ever constitute one set of values amongst many,

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[33] This is based on an understanding of Schmitt's philosophy of the 'pluriverse'. Because a *nomos* is established through distinct political entities (*nomoi*) then pluralism can only exist between different political expressions, different states, which occupy different ideas. If one state has a heterogeneous approach to politics, *i.e.*, a domestic-level pluralism, it would no longer properly occupy the space of the political. Hence, a plurality of different states is required to make the 'pluriverse', and thus a plurality of human identity, possible. Hence, Schmitt says: *"The political entity cannot by its very nature be universal in the sense of embracing all of humanity and the entire world. If the different states, religions, classes, and other human groupings on earth should be so unified that a conflict amongst them is impossible and even inconceivable and if civil war should forever be a foreclosed in a realm that embraces the globe, then the distinction of friend and enemy would also cease"* (Schmitt, 2007 p.53).

consequently, they resist attempts to assign a moral valuation of those regimes. Any attempt to do so would be to deny legitimate expression, but this is not to suggest there aren't antagonism/s between those states, it is only to value plurality and recognise that to try and remove some regimes on moral grounds, even particularly heinous regimes, is itself to lay the groundwork for the denial of the pluriverse altogether.

The 'Western model' (*i.e.,* universal human rights, international law, liberal democracy *etc*.) has drawn upon JWT, and other moral theories, to gain universal authority for its ideas. For just war theorists at least, it is evident that humans across the world share the same intuitions, thus have the same PMWs and therefore, should share the same moral code. Schmitt demonstrated however this is little more than a hegemony of ideas constituted in a global context, constantly reinforced by institutions and laws created by the powers who embody, or are subject to, those ideas. Diversion from this model is treated as a criminal act, subject to correction not only by the U.S, but from any military power that may seek to uphold this model of values. Evidence of this in JWT at least can be found readily in their writings. Walzer (2005) for example, objects to the Schmittean characterisation of the US as a unipolar hegemon, he insists they are not the world's sole 'firefighters', highlighting other instances where non-Western powers have taken the moral initiative, like 'the Vietnamese who stopped Pol Pot in Cambodia' or 'the Tanzanians who stopped Idi Amin in Uganda' (p.102-103). One immediate objection to this view is simply that the idea of a hegemony in ideas is that the US need not be the only actors, but as their influence grows, others are willing to act on behalf of the hegemon. The fact so many interventions have taken place, morally justified or otherwise, could be construed as alarming evidence of the growing power these ideas have. More critically however, the way just war theorists select wars for being just or unjust reveals much about the damage of universalising logic.

Taking the Invasion of Iraq (2003) as one example, Walzer (2005) argued the *jus post bellum* (JPB) 'can't be entirely independent' of the JAB, essentially linking the justice motive to the concept of 'nation-building' in this case (p.167). He specifically a democratic Iraq, 'or even a stable and more or less democratic Iraq', should be a requirement of the JAB and the Bush administration should be prepared to spend large amounts of money to repair the damage caused from war, commit herself to the 'debaathification' of the country and protect Iraq's different ethnic groups (Walzer, 2005 p.167-168). In other words, commit to the spread of the liberal democratic model wherever possible, even as a very requirement for war. In Iraq (2003) the U.S did not have UN backing, but the moral intent of the war was clear. Both the Bush and Blair regimes at the time had a specifically moral ambition and while not being exact to JWT, none the less is a recognisable morality that informs the war. Gray (2004) summed up the attitude well:

> "*the world-view that seems to unite Blair and Bush is a variation on the Pelagian heresy, which affirms the original goodness of humankind. In this view, evil is an error that can be rooted out; the struggle may be hard, but victory is certain*" (Gray, 2004 p.46).

Gray here is referring to the willingness of both regimes to conduct humanitarian interventions and specifically, their (then) willingness to invade Afghanistan and Iraq, despite the difficulty, to allow a more just, liberal regime in the Middle-East. Though as Gray also noted, their ambitions were always partially motivated by *Realpolitik*. In this sense, both realists and Schmitt were right to suggest that politics never really subsides in the calculable decision of war, but morality may well exemplify the antagonism. Gray and Schmitt also share a similar view of when and how the U.S began to create the current nomos predicated on universality, namely, during the presidency of Woodrow Wilson. Schmitt particularly attributed this to the Monroe Doctrine and exemplified in Wilson and the LoN, led to the 'dissolution into general universality simultaneously spelled the destruction of the traditional global order of the earth'

(Schmitt, 2003 p.227). For Gray (2004), 'The belief that America's mission is to rid the world of evil found expression in Woodrow Wilson's foreign policies', but crucially, he also highlights how that the mission against evil,

> "*recurs in the thinking of the Deputy Secretary of Defense, Paul Wolfowitz. Others in the Bush administration may have seen the Iraq war in terms of weapons of mass destruction or US energy security, but for Wolfowitz it seems to be an exercise in liberal imperialism designed to export American-style democracy throughout the Middle East.*" (p.47).

Iraq demonstrates Schmitt's argument well, as both Gray and Mouffe have argued, because it shows how justice-motives can elongate a conflict and creates no grounds for acceptable enmity. As president Biden ends the wars in the Middle-East, what he termed 'America's longest war', only to see the resurgence of Taliban control, shows how the trillions of dollars spent and lives lost were almost needless because the moral ambition, their JPB and JAB, all relied on the rooting out of evil.

Schmitt noted that when vastly unequal power dynamics (*i.e.*, asymmetric warfare) emerge between the unipolar power and their supposedly unjust opponents, the war loses its political dynamic almost entirely and becomes motivated by moral policing. As he puts it, 'given the fact that war has been transformed into a police action against trouble-makers, criminals and pests, justification of the methods of this "police bombing" must be intensified' (Schmitt, 2003 p.321). Not only in the initial justification for the invasion of Afghanistan and Iraq, but in many subsequent debates about intervention in various states, from the Arab Spring revolutions to 'support the transition to democracy' or in the proposed bombings of Syria or Libya, anti-piracy campaign in Africa, or in what NATO terms 'air policing' since Russia's 'illegal actions', Western powers behave as though they are protecting the world from injustice, as *self-appointed* global police (NATO, 2021). What is intelligent about Schmitt's critique of universalism, is that it isn't necessarily reliant on political leaders being sincere in their moral

ambitions *per se*; though if they are it is likely to be worse. It is that morality has been invoked

to find defenses of killing and violence, though through the moral justification, not on does the

conflict intensify, embodied as a global *nomos* like cosmopolitanism, it will eventually subsume

all its competitors in a never ending global civil war. Schmitt's observation of 'police bombing'

appears particularly long-sighted today, and indeed, he notes the material condition for this

eventuality is 'superior weaponry', which normally acts as 'an indication of their *justa causa*'

and allows them to declare the enemy as 'criminal' and thus justify the intensity of force than

comes from superior technology (Schmitt, 2003 p.320-321). Therefore, Schmitt directly linked

the definition of the enemy as 'criminal' with the JAB, noting just causes, 'run parallel to the

intensification of the means of destruction and the disorientation of the theatres of war'

(Schmitt, 2003 p.321). This is particularly pertinent in asymmetric war, where the supposedly

just party is infinitely more powerful than the enemy.

Agonistic political orders attempt to subvert the global civil war caused by the current

nomos by a return to multipolar *nomos*. As Negri and Zolo discuss this topic in an interview,

they surmise well both the Schmittean perspective and the desire to create international law as

a taming feature of global antagonism:

> "*a multipolar equilibrium is the necessary condition for international law to exercise
> even that minimal function, which is the containment of the most destructive
> consequences of modern warfare. The condition for an international normative system
> to be able to ritualize and contain the use of force (obliging all agents to submit to
> predetermined procedures and general rules) is that no agent in the international order
> should, because of its overarching power, regard itself, or be considered by the
> international community, as legibus solutus. In other words, it is necessary that
> 'imperial constitution' be abolished. Empire and international law negate one another*"
> (A. Negri & D. Zolo, 2003 p.33).

Morality, therefore, is more a tool of empire (or perhaps rightly an *imperium*) than it is a serious

attempt to tame the violence emerging from political or moral disputes. It is an attempt to find

a single, universal system to regulate and evaluate conflict but in the process, creates a foundation for an oppression of ideas and cultural monotony.

Schmitt and the Morality of Conflict

While realists have contended that fighting a war according to moral restraint is imprudent, Schmitt emphasised the undesirability of morality when fighting a war. His critique of just wars, as I have presented here, relies on two fundamental elements: that the inherent political nature of conflict and the escalating effect a just cause has on violence. From these two critiques, Schmitt's alternative is a return to spatial order. It is the spatial order for Schmitt that creates the groundwork for the contained war, which is understood legally as an interstate conflict between mutually recognised states with an equal *jus beli*. The normative aspect of this is derived from the inherent value Schmitt saw the 'pluriverse'. Human beings gain unique existential identities from statehood. These identities are dependent on the friend/enemy distinction and therefore presuppose the possibility of conflict, the enemy may at any time become an aggressor as their values conflict. The political in this regard is inescapable and the plurality of states inevitably creates antagonism. This is true even when moral distinctions influence politics. Moral distinctions only change the nature of enmity by supplying another conflict of good against evil, the political cannot be supplanted by the moral distinction, it simply becomes a political distinction, with the enemy portrayed as evil and the friend as good. In this regard, the nature of the critique changes from the realist critique. Schmitt's argument contrasts with realism in this regard because he didn't suggest morality is dangerous because it

hinders the ability of states to defend themselves militarily, on the contrary, he argued morality makes powers more militarily aggressive and ferocious in the conduct of war. It doesn't impact strategy in the sense it makes war harder to win, it actively encourages excessive violence as the terms of defeat/surrender are too great. The only realistic way to constrain violence for Schmitt was to get states to agree on an interstate JIB predicated on mutual recognition of each other's legitimacy. When the terms of conflict are no longer motivated by a desire to annihilate the enemy, conflict instead is more likely to emerge over clashes of interests which, while being more likely to occur in number, are considerably less destructive than just wars.

Schmitt's critique of JWT seem a broadly justified one. Over the last few decades, the number of humanitarian wars has increased enormously, though while some might see this as progress, the reality has been a series of avoidable conflicts, conducted in the name of 'humanity' or 'human rights', but in reality, has been little other than an imposition of a particular Westernised morality globally. On some levels morality has reduced conflict, in the sense it has narrowed the terms of perceived justifiability for war and therefore the frequency of war- by adding another metric by which politicians must measure themselves, *i.e.*, if it meets the terms of the JAB. This makes is much harder to declare war, yet once war is declared, it adds a reverence for the conflict which, I believe, if ever truly tested by a power equal, or close to equal, to Western powers would easily recreate the extreme violence of the First and Second World Wars. The 'righteous warrior', as Slomp (2007) put it, is endowed with infinitely more confidence if he believes the enemy as 'evil'; indeed, to engage in organised killing on this level may require an individual combatant to believe this to entertain fighting a humanitarian war at all. In this sense, just wars are well-categorised by Schmitt as 'war of annihilation', that seek the total destruction of the perceived evil. Indeed, if JWT's principles were not consistently filtered through the current zeitgeist of *realpolitik* as a requirement for the prudent leader, as

Gray (2004) noted of Bush and Blair for example, I would concur with Schmitt that a purely moral distinction of enmity knows few, if any, limitations (p.46). Just war theorists may contend they are having a meaningful impact on the restraint of conflict but by looking at a critical interpretation of Schmitt's critique, his critique of JWT seems extremely pertinent when looking at the trends of modern conflict. Especially his term 'police bombing' surmises the nature of modern humanitarian interventions well. They are effectively little more than wars designed to protect and promote the liberal democratic ideal, which no doubt in their minds is a more just situation however, defending such an obviously political motivation (as all moral motivation eventually becomes a political one) as a moral distinction, proponents of JWT have, perhaps unwittingly, laid the foundations for an aggressive war likely to offend and alienate many different people, many of whom are not 'evil'.

The problems that emerge with Schmitt are similar in nature to Machiavelli- they are not caused by too little but by too much morality. In Schmitt's case, I argue he has made two mistakes with regard to morality. The first, is that he insists on the autonomy of the political distinction but does not attack the moral distinction. This essentially amounts to a critique of the application of morality, again returning the accusation and critique of moralism rather than of morality itself. By making no conceptual attack on morality, Schmitt leaves open the possibility that the moral distinction is still pertinent. Consider this in the context of the following statement from Schmitt:

> "*The ultimate danger lies then not so much in the living presence of the means of destruction and a premeditated meanness in man. It consists in the inevitability of a moral compulsion. Men who turn these means against others see themselves obliged/forced to annihilate their victims and objects, even morally. They have to consider the other side as entirely criminal and inhuman, as totally worthless. Otherwise they are themselves criminal and inhuman. The logic of value and its obverse, worthlessness, unfolds its annihilating consequence, compelling ever new, ever deeper discriminations, criminalizations, and devaluations to the point of annihilating all of unworthy life [lebensunwerten Lebens]*" (Schmitt, 2004 p.67).

While I agree that morality has the effect of criminalising and dehumanising the enemy, rendering combatant and civilian lives forfeit on the alter of their constructed (*moral*) idols, but why would this be different on other occasions where a 'moral compulsion' is appropriate? The unique political character of war may be one reason he encouraged us to avoid morality in conflict, but Schmitt already omits moral distinctions can, and have, motivated wars and violence. In other words, it is possible to have a moral distinction for war and his arguments rest on just wars being innately more violent than contained wars. As such, Schmitt is already employing a moral distinction of war by insisting in the normative value of the *nomos* and of the contained war regulated through a legally defined JIB. Why prefer the contained war to the just war at all, if not for the simple reason it is less harmful and therefore a more justified war?

Which leads to the second problem with Schmitt, namely, that his preference for the spatially and terrestrially bound *nomos* seems somewhat arbitrary. The two primary advantages of spatial orders, like the *jus publicum europaeum,* is their ability to contain war and allow for pluralism. These are, by Schmitt's own admission, normative concerns. Yet, they also appear innately moral. Why prefer pluralism or the contained war at all, if there isn't something morally better about them? Schmitt never divulges the normative argument for states *per se*, it seems to be implied that there are inherent advantages to political diversity and the contained war however, it seems especially in the case of conflict, his argument relies on certain moral assumptions. The contained war is his way of bracketing war to contain and control war, to agree upon terms for engagement and therefore, to minimise the harm, death and destruction caused by natural disagreements in values. Even if we assume there are political advantages to pluralism that can only be expressed as spatial orders, there is no clear reason to prefer the contained war to the just war unless, as just war theorists stipulate, there is an intuitive desire to restrain violence. Schmitt and Machiavelli therefore, amount to a critique of moralism rather

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than morality. While Schmitt was right to ask the question, 'Certainly no one would be so undemanding that he regarded the intellectual foundation of a moral truth as proven by the question, what else?' (Schmitt, 1985, p.3), and in this fashion provides a well-crafted solution in the political, but he dodges more fundamental questions about morality. Indeed, he did not dispute many of the moral assumptions behind JWT, namely the PMWs (1-5).

To ask more fundamental questions of morality therefore, requires a critique not just of the parameters of JAB/JIB but must criticise the basis of morality. From Schmitt therefore, I propose to take his understanding of war motivating a political distinction (friend/enemy) which is exacerbated by a just cause. This pertains to what I outlined as problem:d, which Schmitt provides a theoretical basis for which appears to have a salient grasp on the course of modern warfare. I secondly agree with Schmitt's critique of universalism, in this sense I agree pluralism is more advantages for humanity however, it seems somewhat arbitrary to require this as a manifested spatial order. Like Machiavelli, I contend that politics is still an aesthetic practice, an attempt to create existential identity but neither a perquisite nor a guarantee. Human beings a malleable in this respect and do not require a universal idea of 'humanity' to begin to forge existential identities not bound by borders, laws or cultures. In this sense, Schmitt places too much weight on the idea of collective political identity and with it, loses the individual human in the process. For Schmitt, statelessness is akin to an existential non-existence, but in reality, states operate on illusions of identity. To complete a criticism of morality in conflict therefore, I will progress to Nietzsche and his more radical amoralism.

Nietzsche and Amoralism

"The mystery of human existence lies not in just staying alive, but in finding something to live for"

- Fyodor Dostoyevsky, *The Brothers Karamazov*

"A great man is hard on himself; a small man is hard on others"

- Confucius

Of all the philosophers covered in this thesis, and perhaps beyond, none were as controversial as Nietzsche. He has inspired countless debates, and uniquely, has had an almost universal impact on moral and political philosophy. Without doubt no thesis about morality and immoralism is complete without reference to Nietzsche. It is often assumed that Nietzsche's 'crusade against morality' results in a 'dangerous immoralism' which should be avoided and, even, feared (Rodin, 2009). This, however, misunderstands the subtlety of Nietzsche. For Nietzsche, the 'dogmatism' of morality is revealed in what he calls the 'amateurishness of their genealogy of morals' in which they cannot 'account for the origin of ''good' as a concept and judgement' (GM, I S.2 p.12) The point of Nietzsche is to understand *where our morality originated from* and why it is we believe what is good is good and, what is evil or bad, is evil or bad respectively. It is this attention to the history of ideas, their genealogies, which makes Nietzsche's arguments compelling. Indeed, even those who wish to argue against this 'dangerous immoralism' do so with a tacit understanding that they must answer Nietzsche's challenge to morality. He challenges the often-assumed timelessness, or universality, of moral principles and in the process, reveals the origin of our most dearly held principles in a genealogy of morality. Only with an understanding of this history, Nietzsche posited, that we can begin to

create a morality at all; or at least, one with any resonance or purpose. This history reveals that morality does not have the special place in the history of philosophy that is claims. The authority of moral claims is put into contention. The assumption that things are either right, or wrong, is reduced to a moral prejudice. The simplicity of a proclamation of right and wrong, good and evil, is for Nietzsche little more than a sign of arrogance, a failure to recognise the delicate psychology that has motivated decisions for millennia. As such, he challenged less the basis of the JAB/JIB directly, but the PMWs on which they are predicated and, by extension, the idea of 'moral autonomy' altogether. Thus, this chapter largely focusses on a critique of PMWs, on which JWT is predicated and, if are proven to be unreliable would undermine the concept of 'just war'.

What Nietzsche observed of the history of morality, therefore, is uniquely pertinent to the morality of conflict. The first observation to make is that nobody can, so far, agree a universal basis for moral decisions. First, we must make a choice, between which of the many moralities available to us. In the end, for Nietzsche at least, most moralities fall short of his high expectations for humanity, and thus, he loses faith in 'morality' as a concept. Though it is inevitable moralities and ideas of justice form, Nietzsche is more concerned *who creates those moralities.* In the end, morality is just a construction of man and therefore, who is constructing that morality is of paramount importance. It reveals the character of the morality itself. He concluded, quite resolutely, that morality is little more than a tyranny on our thoughts and lives. If we wish to be free of this tyranny, we must learn to pursue the freedom to express values as we see them and not as others might demand, what he called a 'healthy' or 'noble' morality. How this tyranny of thought emerged holds the key to understanding how to free oneself from it, crucially, without losing the ability to evaluate life. As such, I will firstly present Nietzsche's naturalistic critique of morality (Leiter, 2019; Hatab, 2015; Lemm, 2015) as a predicate for

looking at how we can use his critique of moral values, especially his genealogy of slave/master values, as a new way of thinking about morality in conflict. Therefore, from this I will then discuss two areas I argue are important for applying Nietzsche's view to conflict, the slave/master genealogy applied to a tragic conception of war. This is in the spirit of what Nietzsche called the 'transvaluation of all values', and in reconstructing how I think Nietzsche would view conflict, we can continue to look for an amoral alternate analysis that began with Machiavelli and Schmitt. Ultimately, unlike Machiavelli or Schmitt, Nietzsche's philosophy amounts to a much more radical break with morality, though also, retaining many of the observations they both made. Nietzsche offers the language and the tools to begin to think for ourselves independently. The consequence of which, for many, is too great a price to pay and indeed, many object to the extremity that Nietzsche employs in this objective. Though in this respect, as Nietzsche said, 'And let everything that can break upon our truths- break! There is many a house still to build!' (Z, 'Of Self-Overcoming' p.139). Nietzsche attempts to offend his readers sensibilities, ignite our prejudices and ensnare our thoughts but ultimately, I will argue, that this reveals both some, perhaps uncomfortable truths, but also a subtle approach to conflict which can act as the philosophical predicate for an aesthetic approach to war, violence and terrorism.

Nietzsche's Critique of Morality

Unlike the previous critiques I have examined (Machiavelli and Schmitt) Nietzsche made fundamental challenges to 'morality' as a way of valuing human actions, fundamentally, because it detracts from a naturalistic understanding of life. Nietzsche declared moral intuition as innately distortive, 'Intention as the entire source and past history of an action: almost right

up into modern times this prejudice has determined how moral judgements have been made on earth, praising, blaming, judging, philosophizing.' (BGE, S.32, p.32). The moral instinct, which is also to say the motive to justice, was little more than a prejudice to Nietzsche, which arbitrarily favours one human intuition over another. 'Is not the suspicion growing' Nietzsche asked in response to morality, 'at least among us *immoralists*, that an action's decisive value is demonstrated precisely by the part of it that is not *intentional*" (BGE, S.32, p.33). Nietzsche therefore questioned if openly stated human intent is even a reasonable metric for determining an action's moral worth. Rather than focussing on intentions, Nietzsche posits that subconscious motives have more of an effect on our decision-making than we realise, therefore also, questioning the existence of moral autonomy. Applied to conflict, this is a particularly pertinent view as it suggests that acts of violence such as killing cannot be judged morally at all, even understood morally, because it represents a naive and blinkered view of morality. Hence, we return to the view that morality, and in this case JWT, is as Nietzsche said, 'the desire for a formula, and nothing more' (D, S.106, p.61). Though unlike with Schmitt, Nietzsche did not believe the formula itself was the problem, but the very desire for one revealed something important about morality - that it doesn't reflect life which itself, is competitive and conflictual.

Conflict and competition in general were a form of affirmation in Antiquity, indeed in Nietzsche's earliest writings he demonstrated a clear affinity for Ancient Greek agonism for its ability to use war (and other means of competition) to its advantage, *i.e.*, the production of the highest men (TGS, p.169-170; HC, p.174-175). In this regard for Nietzsche, conflict produces values and therefore, culture (HH S.444). There is value in this process for Nietzsche but also, a problem, the 'problem of the noble ideal'. In this regard, Nietzsche attributed the creation of values to the 'highest men' while also challenging them to do so without embracing cruelty,

domination and violence (Owen, 1995 p.122). Though as I will also elucidate, this is not another 'moral code' of pro-nature, likewise, it is not a calculable ethics of intention/intuition. There are no laws or codes to follow in Nietzsche ethical philosophy, only a permanent reliant on invention and creation – perhaps best characterised as his 'aesthetic redemption' of life. His view on war and violence was therefore equally nuanced and defies a moral interpretation, it cannot be valued according to 'good v evil' judgments without ignoring the human condition. As such, war is not good or evil for Nietzsche, though it undoubtedly contains opportunities to make ethical decisions. Good v bad judgments are more praiseworthy for Nietzsche and are about the self's relationship to its instincts and desires (or *natural self*), its redemption is aesthetic rather than moral, it is simply a perspective on life being lived out according to a self-ordained ethics (Vacano, 2008 p.132; Strong, 2015 p.28-30; Hatab, 2015 p.46-48; Leiter, 2021). To look at Nietzschean view of conflict, I will firstly predicate this on Nietzsche's naturalistic ontology, *i.e.*, that the predicate for value-creation is the freeing of higher men from the 'false consciousness' of slave morality, in other words, that 'morality is, in fact, *good for them*' (Leiter, 2002 p.4; 2019 p.6). Secondly, I will also argue that Nietzsche has an aesthetic conception of epistemology, as he put it, 'art – and *not* morality – is established as the real *metaphysical* reality of man. . . the world is only *justified* as an aesthetic phenomenon' (BT, S.5, p.8).[34] This first section will look closely at how Nietzsche saw naturalism as the basis of all moralities so far and also, as a potential prediction for a new kind of 'aesthetic' ethics, that I will explore in the second section.

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[34] Though taken from his early work *The Birth of Tragedy*, it is from the (1886 ed.) preface, added the same year *Beyond Good and Evil* was published, called '*An Attempt at Self-Criticism*' and aims to show how his early work began as an anti-moral sentiment against Christianity and in favour of art as a redemptive part of life, hence, I use it in conjunction with his later, mature, works (BT, S.5; Smith *in* BT, 'introduction' p.vii).

Critiquing 'Morality' as a Concept: Nietzsche's Naturalism

It should initially be understood that Nietzsche had many critiques of morality and different individual moralities. Across all his works, however, emerges a single critique which continually appears in his work: that morality acts as a tyranny on values and therefore, on life. This is a theme that runs throughout all of his works. While several reconstructions of specific aspects of this have been conducted, like Satkuanandan's reconstruction of the creditor/debtor relationship (Satkuanandan, 2015) or Machiavellian interpretation of his politics (Dombowsky, 2004; Vacano 2008) there are, common to all of these accounts, a consistent theme that morality itself has acted to deny life and tyrannise our ability to think for ourselves. Whether they render us irresponsible, or unaccustomed to the realities of power-politics, morality is always posited as a central problem for accounts of Nietzsche. In this respect, he juxtaposed our freedom of thought with our conscience to a surprising conclusion: that we cannot help but will, and what results from this, is either healthy, natural and truthful values, or spiteful and vengeful values. One seeks life's affirmation, the other, its repression. As such, he conceives of humans as being uniquely prejudiced animals:

> "*Humanity'. – We do not regard the animals as moral beings. But do you suppose the animals regard us as moral beings? – An animal which could speak said: 'Humanity is a prejudice of which we animals at least are free'"* (D, S.333 p.329).

Morality for Nietzsche was simply 'an example of tyranny against 'nature', and against 'reason' too' and thus, morality became a particular way of looking at the human condition and reacting negatively (BGE, S.188 p 76). This is not to say however, embracing nature is good and denying it bad, it is merely an observation of the history of morality. If Nietzsche were to 'turn around and decree on the basis of some other moral code that all kinds of tyranny and unreason were impermissible' then he would, by his own omission, descend back into moral reasoning and

would confirm his own prejudices as 'one long coercion' (BGE, S.188 p 76). To avoid this coercion, Nietzsche's critique of morality cannot simply declare it is wrong because it is anti-nature/reason, it must find a language that can condemn morality on its own terms, to leave open the possibility of new kinds of value.

Some interpreters of Nietzsche, such as Berkowitz (1996), believe Nietzsche failed in this quest because he ultimately, he did resort back to an ethics of 'discovery', 'reason' and 'nature' (p. 268-272). The problem however is that Nietzsche wasn't a critic of all morality, he employed the German word for moral in a praiseworthy and pejorative sense (Leiter, 2019 p.11). Nietzsche believed in 'moralities' that led to the flourishing of the 'highest men' and criticises any morality which presupposes descriptive claims about the self or moral agency, rejecting any normative claim that hinders the development of the 'highest man' (Leiter, 2019 p.12).[35] Nietzsche was not therefore, employing a morality of 'nature', or of any other kind, but rather criticises morality as a concept which, to date, has largely been to the detriment of the highest men. To be clear, Nietzsche was sceptical of normative reason altogether, disputing the existence of objective facts concerning right/wrong and good/evil, he was an 'anti-realist', silent even with his own opinion on ''what *ought to be done*' morally (Lieter, 2019 p.12). What Nietzsche particularly disliked about almost every morality was its focused on explicit 'intention' as a basis of moral value (HH, S.102 p.71; BGE S.32, p.32). This began a fatal error of judgment, attributing 'praise', 'blame' and most fatefully, 'philosophizing' on the basis of only a 'skin deep' analysis, a surface level analysis of human beings without consideration of their full psychology (BGE, S.32 p.32-33). As modernity onsets human beings have begun to

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[35] By 'highest man' Nietzsche did not necessarily mean males- the German 'mensch' employed for his rhetorical device '*Ubermensch*' is gender neutral, hence, when I refer subsequently to 'highest man/men' I mean it in a non-gendered way, but retain its use for the sake of conceptual clarity with Nietzsche's philosophy.

gain 'a deeper self-awareness', and thus Nietzsche begins to refer to a shift in values, to what

first must be articulated as the '*extra-moral*' (BGE, S.32 p.33). For Nietzsche, or for those he

termed 'immoralists', 'an action's decisive value is demonstrated precisely by that part of it that

is not intentional' and therefore, is determined by a deeper psychological and naturalised drive

(BGE, S.32 p.33). Nietzsche's criticism of morality therefore, and his reference to 'nature' does

not refer to a new ethic of naturalism, but rather that naturalism is a way of understanding what

moral drives are.

What Nietzsche's naturalism amounts to is a belief that human beings are effectively

not, as Lieter (2019) has also noted, 'free and morally responsible' (p. 14). If humans are

motivated by deeper concerns than intention, Nietzsche questions the basis on which we make

moral judgments at all:

> "*Ultimately we discover that his nature cannot be responsible either, in that it is an inevitable consequence, an outgrowth of the elements and influences of the past and present things; that is, man cannot be made responsible for anything, neither his nature, nor his motives, nor his actions, nor the effects of his actions. And thus we come to understand that the history of moral feelings is the history of an error, an error called "responsibility", which in turn rests on an error called "freedom of the will"*"
> (HH, S.39, p.43).

Morality for Nietzsche is a tyranny because it is ultimately becomes a custom or a tradition, it

is something which is learnt and embodied in society; 'evil' for Nietzsche is just a moral

categorisation for the desire for self-preservation (HH, S. 94; 96-99 p. 65-69). He essentially

challenges the basis of 'moral autonomy', to Nietzsche, the only determinate of good/evil is

the intellect of the individual, *i.e.*, the extent to which the individual is aware of his own nature

and thus able to repress it (HH, S.56; 104 p.54, 73; TOI, 'Morality as Anti Nature' S.1; 3 p.52-

54; BGE S.188). Hence, he also said there was something 'backward', evolutionary speaking,

about cruelty, that humans feel fear because they remember an earlier stage of development and

recognise it in themselves, hence the more intelligent someone becomes the more they reject

the earlier parts of themselves (HH, S.43 p.46). As such, Nietzsche's naturalism refers to his belief that 'all evident forces play a role in cultural life and a failure to embrace the whole package betrays a weakness and the seeds of life-denial' (Hatab, 2015 p. 41). To understand human beings and morality alike, one first has to uncover human ('*all too human*') desires, motivations and instincts. Morality, however, focuses only on those surface elements that appear as 'intentions', though this for Nietzsche obscures the deeper naturalism that underpins all human normative values.

Nietzsche does praise some types of morality, though all morality yet formalised in the Western tradition is essentially flawed. The type of morality Nietzsche can endorse is one which elevates and cultivates he noble aspects of humanity and particularly, those capable of the greatest deeds should flourish. The morality that he endorses has no explicit normative commitments beyond the highest men flourishing, they are in effect the end result of a morality of *un-intentions*, they have discovered themselves and accept themselves- to accept a normative morality like Christian or Kantian morality would be to submit to a tyranny. The highest men live by their own design, they do not take values from others, but 'feels himself' to determine values, therefore, creating and ordaining values for themselves and through will and strength, impose them upon the world; but accept their fateful limitations, the consequences of doing so and recognise the 'aesthetic' or 'perspective' which limits their worldview becoming 'fact' (BGE, S.260; GM, I p.99-100; TOI, 'The Four Great Errors', S.3, p.59-60). In a metaphysical sense, there is a consequent commitment to value-pluralism in Nietzsche's ethical philosophy (BGE, S.194, p.82). If we cannot know what is good/evil, objectively, then it is up to ourselves to 'feel' what is right and wrong appropriately; in essence, they ethics are rightly better compared to art than to morality:

"*Human beings (complex, mendacious, artificial, impenetrable animals, and disturbing to other animals less because of their strength than because of their cunning and cleverness) invented the good conscience so that they could begin to enjoy their souls by simplifying them; and all of morality is one long, bold falsification that enables us to take what pleasure we can in observing the soul. From this vantage point, there may be much more to the concept of 'art' than we usually think.*" (BGE, S.291 p.174).

All moral judgements therefore are, at their core, aesthetic rather than natural- they can be understood by breaking down the natural motivations and intuitions they are predicated upon and by recognising they are fundamentally aesthetic, in the sense that like a painting they seek to portray life in a certain way, redeeming it in a fashion, though never fully capturing its natural essence. Hence, for Nietzsche, the transvaluation of all values is paramount because, 'he who has to be a creator in good and evil, truly, has first to be a destroyer and break values' (Z, 'Of Self-Overcoming' p.139). Moralities of 'bad conscious' have become dominant, though they cannot recognise their 'aesthetic' justification and the limitations of perspective, hence, their morality is limited and usually motivated by a desire to restrict life (Leiter, 2014 p.102-103). The problem of morality for Nietzsche is thus, as I have alluded to previously, the desire for the moral formula itself. There is no formula, no reliable intuitions we can depend on. When just war theorists cite PMWs as the basis of a moral approach to killing, Nietzsche would retort by saying these are only surface-level desires, they reveal little about human beings.

Nietzsche's critique of morality however is deeper than just pointing out the conflicting nature of human intentions/desires, it is not in other words, a claim to moral relativism as many

postmodernists have taken from Nietzsche.[36] To take the pertinent example of killing (PMW 1) to highlight this point, Nietzsche willingly acknowledged that to 'harm one's fellow' has been deemed 'injurious' in 'all moral codes of different times' and therefore, the word bad in this instance comes to mean 'voluntary injury to one's fellow' (HH, S.96 p.66). Though this 'good' was initially determined as usefulness it becomes over time a 'custom', its purpose is to maintain the community, as a 'superstitious custom' strengthening over time (HH, S.96). He argued that the '*sense for custom'* applies to an age, in which the '*indiscusibility'* of custom is established (D, S.19). In effect, it renders people unable to adapt and change custom, or morality, and renders them '*stupid'* (D, S.19). As such, morality has primarily taught conformity and subservience, to 'hate the excessive freedoms of the *laisser-aller'* and instead to obey a command, a coercion or imperative that seeks to supress our capacity for self-reflection: *"- it teaches us to narrow our perspective and thus, in a certain sense, to be stupid, as a pre-condition for life and growth"* (BGE, S.188, p.77). The problem of morality, therefore, is not that no common ground for humanity can be found, after all a precondition of Nietzsche's naturalism is that our psychology and evolutionary history dictate the limitations of our freedom, it is rather that claims to moral authority are merely claims to a sense of custom, which itself is based on the unreliable notion that humans can know their real self. As the mistake of the intention-based judgment continues over time, the authority of it grows and its monopoly on ideas strengthens and with it, our ability to self-reflect diminishes. The initial mistake is thus replicated on a grand scale, the guiltiest being moral philosophers and theologians, and thus the

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[36] This often called Nietzsche's 'perspectivism', and particularly following Foucault reading of Nietzsche, has come to embody a view that believes Nietzsche help all truth false due to their human limitation, but as Nietzsche also said, we should both 'hail' and be cautious of the '*objective* spirit'- it is both limited and useful and 'who has not at times been sick to death of subjectivity with its demand of ipseity!' (BGE, S. 20 p.97).

appeal to herd mentality manifests. Killing therefore, is not right or wrong, it doesn't require a moral justification and equally, no moral idea could justify killing.

It is worth, for the sake of clarity, to highlight an extended section from *Daybreak*, which surmises Nietzsche criticism of morality well:

> "*There are two kinds of deniers of morality.- 'To deny morality' - this can mean, first: to deny that the moral motives which men claim have inspired their actions really have done so- it is thus the assertion that morality consists of words and is among the coarser or more subtle deceptions (especially self-deceptions) which men practise, and is perhaps so especially in precisely the case of those most famed for virtue. Here it is admitted that they really are motives of action, but that in this way it is errors which, as the basis of all moral judgment, impel men to their moral actions. This is my point of view: though I should be the last to deny that in very many cases there is some ground for suspicion that the other point of view - that is to say, the point of view of La Rochefoucauld and others who think like him - may also be justified and in any event of great general application.- Thus I deny morality as I deny alchemy, that is, I deny their premises: but I do not deny that there have been alchemists who believed in these premises and acted in accordance with them. I also deny immorality: not that countless people feel themselves to be immoral, but there is any true reason so to feel. It goes without saying thatI do not deny - unless I am a fool - that many actions called immoral ought to be avoided and resisted, or that many called moral ought to be done and encouraged - but I think the one should be encouraged and the other avoided for other reasons than hitherto. We have to leam to think differently - in order at last, perhaps very late on, to attain even - more: to feel differently.*" (D, S.103, p.60).

The critique of morality therefore is substantive on Nietzsche's account. He targeted morality directly, with the aim of totally changing its meaning and emphasis and therefore, in a practical sense, every morality yet employed for conflict is circumspect. This section also makes clear Nietzsche did not endorse im/a-moralism because he wished to liberate people from moral judgement to do whatever they wanted, he recognised there are certain communicated truths from morality, but taken as a whole usually produces falsehoods and untruths that result in an oppressive attitude to life: as he clarified slightly later in *Daybreak*:

"Everywhere today the foal of morality is defined in approximately the following way: it is the preservation and advancement of mankind; but this definition is an expression of the desire for a formula, and nothing more." (D, S.106, p.61).

JWT/LOAC, therefore, or indeed any morality, is the desire for the formulae, the right criteria to discern the just from the unjust but in doing so, rely on premises that are unsustainable.

Nietzsche therefore grounds his morality in naturalism and discerns between 'healthy', life-affirming moralities and oppressive, life-denying moralities. To make this point clearer, I will continue to develop Nietzsche's philosophical critique of morality by looking more closely at his genealogical understanding of good/bad moralities. Though, even at this juncture, it is apparent that Nietzsche is more critical of morality than Machiavellean realists or Schmittean legal theorists. Even for those moralities Nietzsche endorses, they are not best understood as 'morality' *per se,* he largely used the language of morality for a transvaluate purpose, to shock and force people to reconsider their deepest commitments, asking of his readers, ". . . but why should we keep using this kind of [*moral*] language, that has been used since time immemorial for slanderous intent?" (BGE, S.259, p.153). This answer is a rhetorical emphasis in Nietzsche's writings which sought to force his reader to reconsider the meaning of the language of morality, to allow us to move beyond it. As such, a 'healthy morality' to Nietzsche is a personal, aesthetic redemption. From an understanding of the unintentional, natural self comes the ability to ordain new values, it is the driving force of our 'will to power' – which in essence, is the driving force of our 'will to life' (BGE, S.259 p.153).[37] There is no 'Nietzschean morality' as such, while

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[37] On this point, Nietzsche describes life as 'exploitation' which is for him a basic 'organic function', not a 'primitive' part of our past, because it is about out ability to exploit life, *i.e*., life is often conflictual and our ability to use our pains, sufferings and conflict to our advantage is simply part of our fundamental will to power, our ability to take ethical choice for ourselves and be the arbiter of our own decisions as human beings (BGE, S.259 p.153).

Nietzsche does recognise a place for a transvalued set of values, as we have hitherto come to understand morality, Nietzsche would be deeply critical. Given he denies the premise of morality, the effect of its application to the world has consequences for Nietzsche. In the following section, I will look more closely at the slave/master morality critique in *Genealogy*, to critique JWT/LOAC as problems (a-d) of morality, not simply of moralism.

Slaves and Masters: 'Good v. Evil' contra 'Good v. Bad'

Nietzsche wrote as much for shock value as for intellectual credibility. As he put, it is necessary to 'philosophise with the hammer' to break values and create new ones (Z, 'Of War and Warriors', p.139; TOI, 'Forward' p.31). He was therefore consistently using language designed to have an impact on his reader, that challenged moral instincts not just intellectually but emotionally. He wanted to alter the way his audiences felt, as much as the way they thought, about morality. Therefore, for a critique of morality to be successful, it must be 'a critique of moral values' and further, 'the values of these values should first of all be called into question' (GM I, S.6, p.8). Assuming Nietzsche was right about morality, not moralising, is itself the problem then his solution would be to change the way we think and feel about moral values altogether. In this pursuit, he constructs an essential history (or, *genealogy*) of morality, across his two works *Beyond Good and Evil* and *Genealogy of Morality*, as a way of evaluating all previous moral codes and crucially, re-inventing them. This is where he derives the slave/master morality, which was a concept which emerged all through his middle-to-late works but takes full form in *Genealogy*. For Nietzsche, the opposition between 'good' and 'evil' (slave morality) was juxtaposed with another form of morality, 'good and bad' (master morality) (GM, S.16, p.34; BGE, S.260). While many have viewed this as a literal opposition, this mistrusts the *historical* nature of the *Genealogy* as a transformation from a social to psychological (or value)

distinction. Nietzsche was not endorsing the values of the master over the slave, though he clearly has a preference for master values, he sees the duality as informing the means to overcome both moralities altogether. In fact, the master/slave distinction, while useful in analysis, may distract us from a broader understanding of life: a new valuation of values, and a new 'hierarchy of values" (GM I, S.17, p.37-38). The 'new hierarchy of values' is crucial to draw from Nietzsche's philosophy. His classification and condemnation of values in this way is very useful to an analysis of conflict. It allows us to talk about different moral principles as informing differing acts of violence. In particular, the language of the slave, *ressentiment*, provides a unique way of condemning moral actions that otherwise seem plausible. Though crucially, it also provides a means to go beyond the normal division of master/slave moralities, they are analytical tools for understanding, not recommendations or foundations for new values.

As with his critique of morality as a concept, there is no positive normative or moral formula that Nietzsche posited. It is not therefore the case Nietzsche supplied suffering as a metric for ascertaining the right values, rather, it is that suffering helps shape and create values. Any moral idea opposed to suffering therefore is a problem to Nietzsche because it creates values out of *ressentiment*, a negation of the world and of human life. As such, Nietzsche juxtaposed the slave/master morality as a history of opposition between 'good and evil' and 'good and bad', and as he clarified of *Beyond Good and Evil*, is did '*not* mean beyond good and bad' (GM I, S.16; 17 p.34-37). Slave morality introduced the language of 'good and evil' against the master morality of 'good and bad', hence master morality might be a better way of valuing but is none the less still a moral formula, hence even of Napoleon Nietzsche talks of 'our problem' (GM I, S.5 p.15) the 'problem of the noble ideal':

> "*. . . Napoleon appeared, the most individual and most belatedly born man ever to have existed, and in him the inclination of the problem of the noble ideal as such- consider*

what a problem it is, Napoleon, the synthesis of the inhuman and the superhuman. . ."
(GM I, S.16, p.36).

Master morality may be the basis for affirmative thinking, in the sense that it accepts suffering, but it also embraced elements of inhumanity, thus, as Owen (2002) points out, the problem of the noble ideal is, 'the synthesis of the *overhuman*- honesty, courage, magnanimity, politeness- and the inhuman- murder, arson, rape and torture' (p.122). 'This characterisation', Owen (2002) continued, 'seems to intimate a different politics in which the *overhuman* is no longer ties to the *inhuman'* (p.122). Nietzsche therefore emphasised 'reflexive ethical relationship of the self to itself' (Owen, 2002 p.124). This is a new kind of ethics however, one which is predicated on previous moral negations, including human intentions, instincts and intuitions as basis for any single formula, each individual only has an ethical relationship to himself, and the *Ubermensch* is the figure who overcomes the slave/master duality altogether.

Despite not viewing master/slave values to be foundational to a new way of thinking, Nietzsche showed contempt for slave values in a way he didn't for master values. Both need to be overcome, and indeed in modern times refers not to real people or systems, but to a psychological process in the mind. Master/slave values were constituted as an historical process, as his genealogy aims at understanding how these historical values have become ingrained in the way we intuitively think about morality. 'The slave revolt in morals', Nietzsche contested, was the beginning of *ressentiment* in human thinking to just as a feeling, but as a creative force that is 'creative and ordains values' (GM I; S.10, p.22). *Ressentiment* is an existential rejection of the traditional definition of 'good' as an aristocratic value of power, revaluating it (beginning with Judaism) as a negative reaction to powerlessness and the cruelty of the masters (GM I, S.2; 7; 10 p.12; 18-19; 22). *Ressentiment* is a purely negative reaction to life, an instinct to repress and remove all aspects of suffering. Nietzsche, as is well documented about him, valued suffering and believed moral valuations could be evaluated by their attitude

to suffering (Tanner, 2000 p.30; Owen, 1995 p.62). Master morality exalted strength and affirmation as 'good' because it utilised suffering, but the slave morality rejected suffering, so their definition of good was the antithesis- the alleviation of suffering becomes 'good' and therefore, Nietzsche called them 'weak', *i.e.,* the inability to endure suffering (GM I, S.11, p.25-28). As slave morality is a purely reactive mode of feeling, it naturally otherizes difference, indeed, 'In order to exist at all slave morality always needs an opposing, outer world; in physiological terms, it needs external stimuli in order to act' (GM, S.10, p.22). Slave morality responds to the world with a repressive instinct, as discussed previously, a desire to repress life and all its complicated nuance.

Noble values on the other hand are expressive of life, perhaps even to a fault. Slave morality embodies *ressentiment* and 'herd instinct', but the noble morality is derived from 'knightly-aristocratic value-judgements', they,

> "*. . . presuppose a powerful physicality, a rich, burgeoning, even overflowing health, as well as those things which help preserve it – war, adventure, hunting, dancing, competitive games, and everything which involves strong, free, high-spirited activity*" (GM, I S.7, p.19).

The master morality therefore is strengthened by anything which is competitive, even including war, that forces them to suffer and to express value. The noble person is creative, powerful, and independent. He doesn't take values from others, but 'feels himself' to determine his own values, he creates and ordains values for himself, and though will and strength, imposes them upon the world, whatever the consequence (BGE, S.260). The master morality therefore relies on a '*pathos of distance'*, a separation between the master and the slave that allows them to 'create values' without utility, the 'highest value-judgments' (the origin of good vs bad judgments) that affirmed their innate qualities (GM, I S.2, 6; Owen, 1995 p.67-68; Drochon, 2016 p.96). This distance should be maintained and strengthened, arguing that one of main

lessons from this value-judgment is the need for separation between the master and the slave (BGE S.257, p.151; GM III S.14, p.100-104). Master morality responds to the world with affirmation, it embraces difference and nuance.

The opposition between these values, as Nietzsche saw it, is not a societal division anymore. The conflict has instead 'escalated in the interim', and 'become increasingly profound more spiritual', in effect, the opposition between master and slave is not a psychological one between two kinds of moral judgement (good v. evil *contra* good v. bad) that everyone must now navigate (GM, I S.16, p.34-35). There are no obvious sociological embodiments of this morality anymore, but they constitute the historical inheritance of Western moral philosophy, as he called it, 'Rome against Judea, Judea against Rome' (GM, I S.16, p.35). Navigating these oppositions is a task Nietzsche thinks we all now have to undergo, and eventually, overcome. The morality of Rome, the 'strong and noble men' that he associates with Ancient Rome, are a basis to begin to return to good v bad judgments but are not, in of themselves, enough to truly transvaluate (GM, I S.16, p.35). Hence, Nietzsche argued 'so that today there is perhaps no more decisive mark of 'higher nature', of the more spiritual nature, than to be divided against oneself in this sense and to remain a battleground for these oppositions' (GM, S.16, p.35). The internal battle therefore, between the slave morality and the master morality each gives unique problems and advantages, the task Nietzsche gave his readers was to learn from both these moralities to transvalue all values, as he said of the noble morality and anyone who seeks to adopt it, they must be 'so great and powerful that they would feel *compelled* to accomplish these projects; a revaluation of values. . .' (BGE, S.203 p.91).

In Antiquity, such as with the Greeks or Romans, these values were expressed as part of their society because they created meaningful outlets for their cruelty (Owen, 1995 p.74). Hence, we return to what Nietzsche called the 'problem of the noble ideal'. As Owen (1995)

has elucidated, Nietzsche posited a division in mankind between the 'inhuman'- 'the animal (the regulation of life by unconscious instinctive drives); 'the human – the man of bad conscious and slave morality'; and 'the overhuman – the man of good conscience and noble morality' (p. 73). The problem of the noble ideal, as Nietzsche phrased it, was the 'synthesis of the *inhuman* with the *superhuman*' which essentially means he asked, '*how is it possible to have the overhuman without the inhuman*' (GM, S.16; Owen, 1995 p.74). When Nietzsche referred to 'self-overcoming' or 'human, all too human', by the time of *Genealogy* he had now categorised exactly what these phrases meant, a way of reinventing values so that we may attain the highest aspirations (like those in antiquity) without their natural cruelty, preference for domination and politically invested domination. Human being must learn who they are so they may shape their own self, as it were, a reflexive ethical relationship with the self. Morality is a tyrannical concept because it seeks to repress this process, they overemphasise the 'human' to the expense of the 'overhuman'. This began as a reaction to a social class, but today, is now a reaction against the human condition itself, against the fundamental desires and motives of life.

The implication for JWT/LOAC is that would fall into the category of 'slave morality'. As I elaborated (*see* chpt' 2) JWT relies on a series of PMWs (1-5), *i.e.*, intuitive moral wrongs which can inform generally acceptable moral truths. Nietzsche questions these assumptions at their core, creating a moral formula from this basis to Nietzsche constitutes a restriction of out unique will to power. Life, to Nietzsche, was 'something essentially amoral' and which, morality at the moment is stifling, life is being 'crushed under the weight of contempt and the eternal No, must finally be felt unworthy of desire, intrinsically without value' (BT, S.5 p.9). To say 'Yes' to life, one has to embrace the human condition fully. The problem for JWT therefore, is taking for example PMW(1), life is not so simple for Nietzsche to assume that the intuitive dislike of killing is enough to motivate a moral fact. The intention here is problematic,

if as Nietzsche Acknowledged there is a universal dislike of killing, it equally implies a desire to kill; without it, there would be nothing to feel intuitively against. Nietzsche asked why prioritise one intuition over the other, which is not to say that one shouldn't be prioritised, but he questioned if it should be done so because of morality. The slave morality would seek to repress the desire to kill, to deny the inhuman out of utility. The noble morality would likely embrace the inhuman, though with it, also the overhuman. Both are still problematic to Nietzsche, his view on conflict is more complex than simply accusing JWT of slave morality, though it certainly is a critique he would likely have employed, but to condemn it in such a way as the antithesis is equally problematic. Nietzsche therefore, gives no alternative laws or type-facts about conflict, he encourages us instead to think about how humans may alter their lives according to the means they determine necessary. Ultimately, if conflict offers some kind of greater, redemptive reward then he would likely endorse it, not because of a moral intent, but out of a desire to allow life the full means of expression. As such, he would have agreed with Schmitt when he argued conflict can serve confirm existential identity, though for Nietzsche this wasn't a feature of politics but of the human will. Identity is both collective and individual: it is the aesthetic redemption of out natural self.

A Nietzschean Transvaluation of Conflict

Nietzsche did not endorse the classical view that war is good for us, but rather, he is interested in war for the effects it produces, both for good and bad. In absence of moral truths and moral autonomy, the degree to which individuals can be held accountable for their actions in conflict (JIB) is circumspect. By which, I believe he meant that war itself unlocks part of our humanity which we do not normally experience consciously, yet none the less, reveals an important part of our inhuman self. This is not to say however, because wars can do this, a

positive valuation of all conflict necessarily follows. Considering Nietzsche's continual reference to 'wars', the remarkable truth is Nietzsche never actually called for the 'spiritual war' of values to descend into violence (Drochon, 2016 p.175). On the contrary, Nietzsche in his 'last consideration' actually argued, 'if we can dispose of wars, so much the better' (Nietzsche in Drochon, 2016 p.175). Though as Drochon clarifies of this desire to 'dispense of war', he means to do so though 'correct opinion', not for moral reasons (Drochon, 2016 p.175). Nietzsche provided a new way to evaluate wars and violence to both condemn and praise them. Though Nietzsche never offered any defence of violence intrinsically, for Nietzsche, wars were justified only 'instrumentally' (Drochon, 2016 p. 179). By utilising the critique of morality and the slave/master distinction, a new way of looking at wars according to a moral evaluation (in favour of master morality) can be drawn from Nietzsche's philosophy. The tension between moralities (slave/master) is a 'battle of spirits' for Nietzsche, an intellectual war of values which can be described as 'agonistic': he embraced the tragic and conflictual *agon* from Ancient Greece, viewing values competitive struggles - the character of 'agonistic being', 'relating to, or being aggressive, or defensive social interaction (as fighting, fleeing, or submitting) between individuals' (Peery, 2009 p.26-27). Master morality however, as a predicate for its existence affirms its own value and does not negate other values, this is the defining feature of slave morality, i.e., *ressentiment*. Master morality therefore would only use war and violence instrumentally, which is to say, to achieve a higher end and impose values (an aesthetic redemption). There is no intrinsic defines of war, terror or violence in Nietzsche's works, but being an essential amoral philosophy, there is likewise no condemnation as such. Life without war is preferable because it occupies the wrong way of thinking about values which, inevitably, leads to ressentiment and the rejection of the Other; *in extremis* this leads to war (problem d).

Theorising of slave morality in this way, I contend that it is not just moralising which is the problem but morality itself motivates conflict. Various kinds of violence manifest themselves according to different degrees of *ressentiment*, irrespective of the balance of power. In effect, morality is integral to understanding conflict, just war theorists are correct to say moral language is a requirement to understand conflict between human beings; it is also the primary problem. Moral codes, even in obviously 'unjust' regimes like the National Socialists (*see* chpt' 2) are essential to the promotion of violence because it is manifested in ressentiment. Otherwise put, the natural sentiment for many kinds of moralities, even heinous ones, is the same: the desire to repress life, even if it means annihilating them. Here Nietzsche would agree with Schmitt that morality intensifies conflict, negating the JIB and likewise both would agree about the agonistic conflict of values. Where Nietzsche's philosophy is more radical however, is that he centres the problem directly in the conflict of values. Where Schmitt leaves open the validity of the political distinction creating the groundwork for war, Nietzsche took the opposite view. The political is no more a justification for war than morality for Nietzsche, as he demonstrated by consistently criticising nationalism, what he called the 'national madness' of European politicians at the time, who divided Europe and could not grasp that '*Europe wants to be one*' (BGE, S.256, p.148). Nietzsche wanted to end wars between Europeans, so that they could become a greater unit together and prevent wars from occurring between them at all (Drochon, 2016 p.175). This contrasts Schmitt's more pessimistic view, that the *jus publicum europaeum* was the best Europe could achieve and to simply allow war to manifest as a product of competitive values manifested as states. In this respect, Nietzsche provided a sense of agonistic conflict complementary to Schmitt's, and likewise, utilises war aesthetically like Machiavelli as an instrumental option, which can be used to unite people rather than divide them and end the perpetual violence.

From Nietzsche therefore, I will continue to look at conflict by suggesting two ways this changes the emphasis from JWT/LOAC: War as a 'tragic fate' to be overcome and the relationship between slave morality (*ressentiment*) and conflict as the primary motivation for violence. Before moving to this however, one objection to this view might be that Nietzsche appears, at times, to positively endorse war. As I will go on to further elucidate, Nietzsche offered no intrinsic defence of war and saw it as a consequence of a fatal flaw in our own morality. The higher man is no legitimated to abuse the slaves in war and cruelty, as I have already argued part of Nietzsche's main task was to find a way of utilising master morality without the inhuman cruelty of the past. War and violence, therefore, are part of this inhuman cruelty and are something to be overcome not praised. Life is something to be enjoyed and affirmed for Nietzsche, whereas killing is a consequence of a negation, the removal of another life and, as Hollingdale (1999) explains of his view of life,

> "*The healthy life is a joyful life, he says, and where pain and suffering predominate over joy, life is unhealthy, i.e. decadent. The joyful life needs no explaining—it is its own justification; only where suffering predominates is an 'explanation' felt called for, and where explanations (i.e. philosophies) are offered, one may infer a state of affairs in which life is found distressful.*" (Hollingdale, 1999 p.78).

Physical conflict was distressful in a bad sense for Nietzsche because it is a radical negation, at its core a manifestation of slave morality. Though, tragically, slave morality exists and is likely to continue to have a pull on most people. Hence, Nietzsche characterized war as 'barbarism' (HH, S.477 p.230). By barbarism, Nietzsche likely meant relapses into slave morality, bad consciousness and the 'eternal No' – a descent into the lowest instincts to repress life.

Nietzsche highlighted this with his view on 'self-defence':

> "*Self Defense. If we accept self-defense as moral, then we must also accept nearly all expressions of so-called immoral egoism; we inflict harm, rob or kill, to preserve or protect ourselves, to prevent person disaster; where cunning and dissimulation are the correct means of self-preservation.*" HH, S.104 p.72).

Nietzsche therefore emphasised the motivation of an action cannot dictate a moral principle. In this case, even the basic principle of self-defence, the most obvious criteria for the justification of war, create the same 'immoral egoism' – the action's moral value isn't determined by the intent. Harming other is, on another moral analysis, impermissible and therefore the logic of JWT by employing self-defence, as Nietzsche noted, was to reveal the problem with declaring moral laws of facts. We cannot therefore use PMWs to motivate moral laws at all, because what appears prima facie immoral is just an 'egoism' of self-preservation in the moment, *i.e*., the desire not to be killed in the case of PMW:1. War however, immediately changed the moral evaluation according to just war theorists, if we kill to 'protect ourselves' then the egoism is revealed again, we immediately justify what seem like a PMW to serve our border interest. Morality of intentions, therefore, is unreliable because it cannot reveal the context of the ethical choice. Returning to a natural understanding of the motivation to kill however, reveals more about the nature of the act and potentially, allows individuals their own sense of ethical valuation dependent on their own values. The moment we accept values as a moral fact, even a tenuously held one, we are in danger of embracing the 'fanaticism' of moral certainty which detracts from our broader responsibilities to ourselves and the world (HH, S.239, p.148; Satkunanandan, 2015).

Take for example Obama's revision to the narrative of the 'war of terror'. He recognised that the 'war on terror' had been an open-ended war, as he termed it a 'boundless war on terror' which he thought might be supplanted by a 'perpetual. . . war on terror' (Satkunanandan, 2015 p.191). As Satkunanandan (2015) also noted, Obama's attitude to the war against terrorism is in stark contrast to the paradoxical position of his predecessor George Bush, who promised to 'rid the world of evil doers' (Satkunanandan, 2015 p.192). Satkunanandan emphasised the increased responsibility that Obama shows as a sign of responsible statesmanship, however, the

problem is that morality still serves as a 'narrowing' of our attention. Instead, she rightly

observed that 'killing is never neat' and that we should not blindly adhered to calculable

responsibility; the world in this sense requires a deeper sense of the incalculable

(Satkunanandan, 2015 p.193). As such, if we approach 'moral prohibitions', such 'taking

another's life', the effect of morality is to narrow out attention to the 'threat to life' and away

from the broader threats, emotions and fears that might emerge, as Satkunanandan elaborates

of a drone strike, the 'psychic havoc' it causes to civilians is greater than just the threat to life

(Satkunanandan, 2015 p.193). As such, she argued morality constricts our capacity to be

attentive to the world at large, it constricts us and renders us less responsible. As such, the

decision to kill is intensified with good v. evil judgments, they motivate a heightened sense of

emnity which complements Schmitt's view well. Nietzsche, however, also leaves open the

possibility of new, 'healthy', moralities which better affirm life which could potentially

recapture a normative sense of conflict without recourse to morality or the unintended moral

claims of Schmitt and Machiavelli. To make this point more clearly, I will begin with a

discussion of war as a tragic fate, but also how Nietzsche though this tragedy might elevate a

way beyond war.

War as a Tragic Fate

Given that Nietzsche didn't view war as a positive thing, but actually as a regrettable

instance of slave morality, there is also an embrace of tragedy to Nietzsche's view. Much like

with Machiavelli, the need for a 'redemption' at all suggests something fatally flawed with the

world. With both Machiavelli and Nietzsche, this flaw was humanity itself. For Nietzsche, war

might be seen as a 'tragic fate' because the expression of ethical values is simply part of living,

to repeat, 'man would rather will nothingness, than not will at all' (GM, III S. 28 p. 136).

Expressing values correctly is of paramount importance for Nietzsche. Healthy moralities, predicated on master morality, could still use war as a means to an end (as Machiavelli would argue, as a *necessity*) but this end would have to have an aesthetic redemption of life, i.e., it leads to the flourishing of the highest man and an end the negating effects of slave morality (war). This gives context to one of Nietzsche's most misunderstood, and consequently controversial, aphorisms which is worth quoting at length to understand his view of war:

> "*War Essential. - It is vain rhapsodizing and sentimentality to continue to expect much (even more, to expect a very great deal) from mankind, once it has learned not to wage war. For the time being, we know of no other means to imbue exhausted peoples, as strongly and as surely as every great war does, with that raw energy of the battleground, that deep impersonal hatred, that murderous cold-bloodedness with a good conscience, that communal, organized ardour in destroying the enemy, that profound indifference to great losses, to one's own existence and to that of ones' friends, that muted, earthquakelike convulsion of the soul*" (HH, S.477 p.230).

This could be taken as saying that war is the elevation of culture, but this is not what Nietzsche posited. He completes the section with the following:

> "*People will discover many other such surrogates for war, but perhaps that will make them understand   ever more clearly that such a highly cultivated, and therefore necessarily weary humanity as that of present day Europe, needs not only wars but the greatest and most terrible wars (that is, occasional lapses into barbarism') in order not to forfeit to the means of culture its culture and its very existence*" (HH, S. 477 p. 230-231).

The lapse into barbarism, into slave morality and war, is only essential if it unites Europeans in the same way as Napoleon attempted. Though, unlike Napoleon, he would view the inhumanity as problematic, something to be overcome and the violence to cease.

When Nietzsche claimed that Europe needs great and terrible wars, this should not be taken out of context. As Drochon (2016) has explained, taking an example like World War One, this is not what Nietzsche was trying to endorse and he would have condemned the loss of life associated with it (p.179). Nietzsche criticism of the 'conscript army' for example, also in

Human all too Human, laments the loss of life of 'the men of the highest civilisation' (S.442, p.212). The First World War, and the loss of life, is not examples of what Nietzsche meant when he believed war could create the means to culture. If Nietzsche anticipated European violence therefore, it was in the 'negative sense' as a regrettable instance of slave morality – 'nationalism, Christianity, philistinism' – which he despised (Drochon, 2016 p.179). Wars justified by master morality aimed at providing a reinvigorating future, one which allowed people to try new things in the aftermath (Drochon, 2016 p.179). Hence war is the 'wintertime' of culture, used only for 'weary' peoples and constitutes a lapse into barbarism:

> '*War. One can say against war that it makes the victor stupid and the vanquished malicious. In favor of war, one can say that it barbarises through both these effects and this makes man more natural; war is the sleep or wintertime of culture: man emerges from it with more strength, both for the good and for the bad*" (HH S.444, p.213).

Nietzsche's naturalism is again here evident, as he praises war for its naturalising effect on combatants, particularly its ability to 'barbarise' them, *i.e.*, makes them more *inhuman*, and thus can be a predicate for the 'highest man' (such as it did for Napoleon) yet, it also constitutes a problem by negating culture, so even on a good v bad valuation, there are negative effects. The war of master morality therefore is only ever cautiously applied, used as a means for elevation and the construction of a new future.

War is a tragic fate, though not unavoidable, because of the dominance of slave morality and in particular, the conflict emerging between different types of slave morality in an agonistic competition of value. The Ancient Greek concept of tragedy embellishes and explains Nietzsche's view on war and morality. For Ancient Greek societies, 'literature expressed truths that could not be conceptualized, a kind of wisdom that went beyond words' (Lebow, 2003 p.21). Their plays were not only fabrications for the purpose of entertainment. They were indicative of a world view, one which still has pertinence today. Using Creon by way of

example, a classic tragic figure in *Antigone*, though his dispute with Antigone, he strived towards his own fate with a foreboding sense of predetermination. He was forsaken by the Gods, in the process, losing everything dear to him. Tragedy is connected to *hubris,* the belief that elevating qualities will ultimately lead to demise. It is thus, a perspective on life and philosophy which both exalts the greatness and inventiveness of great heroes while also portraying their tragic fall. A notion summed up well from the famous iteration by the 'Chorus' in *Oedipus the King*, sometimes seen as the voice of Sophocles or even the Theban citizenry:

> "*People of Thebes, my countrymen, look on Oedipus. He solved the famous riddle with his brilliance, he rose to power, a man beyond all power. Who could behold his greatness without envy? Now what a black sea of terror has overwhelmed him. Now as we keep our watch and wait the final day, count no man happy till he dies, free of pain at last*" (Sophocles, 1984 p.251).

Life for the Greeks was like a tragedy. It was not just theatre, it also represented the Ancient Greek attitude to life.[38] For them, those qualities which marked distinction, as worthy of the envy of our fellow citizen, were themselves, the same qualities that will ultimately destroy us. Our salvation, if there is any, is not liberation from the struggle, but only, the end of life, death- life is just the struggle against our own mortality. The only thing anyone can do, is learn from these instances: 'The mighty words of the proud are paid in full with mighty blows of fate, and at long last those blows will teach us wisdom' (Chorus in 'Antigone', Sophocles, 1984 p.128). Thus, the importance of theatre, particularly tragedy, to the Greeks was that life is a tragic

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[38] The word 'theatre' (*theatron*) in Ancient Greek means 'seeing place', but it also means an 'theoriser', *i.e*., the process of theatre was to see abstract formulations played out in practice (*praxis*) as both a lesson in life and philosophy- in this regard, with tragic plays they are interwoven with the concept of 'war' and the wars occurring at the time, often leading characters are war veterans and even actors who played them were likewise veterans (Critchley, 2014).

struggle, which should be embraced by an acceptance of fate; what Nietzsche latterly rebranded

as *amor fati* (love of fate) (GS, S.276 p.157; EH, S.10).

Nietzsche was inspired by Greek tragedies and by the way they depicted the human

condition. His 'formula for human greatness' was to embrace '*amor fati*', as he clarified, 'not

wanting to be anything different, not forwards, not backwards, not for all eternity' (EH, S.10

p.35). This is linked to his idea for the eternal recurrence, which in essence, is his embrace of

Greek tragedy. This was elucidated on by Lebow (2003), who notes how he was influenced by

their 'emphasis on primal emotions', their, 'acceptance of suffering' and the 'recognition that

conflict and contradiction defined the human condition' (p. 46). Indeed, in his earlier work,

The Birth of Tragedy, this was a more explicit attempt to recreate the Dionysian/Apollonian

divide as a way of understanding tragedy and our means of asserting value amid chaos. As he

put it:

> "*The effect aroused by the Dionysian also seemed 'titanic' and 'barbaric' to the
> Apollonian Greek: while he was at the same time unable to conceal from himself the
> fact he was related to those fallen Titans and heroes*" (BT, S.4 p.32).

Though this earlier book was considered a youthful mistake by Nietzsche himself. Very little

emerges from the Dionysian/Apollonian divide which allows the kind of transvaluation which

Nietzsche sought in most of his other works; a simple recreation of the tragedy would be

insufficient. Though the connection seems to become clearer. Values are determined in the

context of (tragic) struggle, and because the will to power (i.e., to affirm value) is vital, there is

always a chance of conflict.

To build on this argument, one element of his work stands out in his contradistinction

between Plato and earlier, pre-Socratic thinking:

> "*. . . my cure from all Platonism has always been Thucydides. Thucydides, and perhaps
> the Principe of Machiavelli, are related to me closely by their unconditional will not to*

> *deceive themselves and not to see reason in reality- not in 'reason', still less in 'morality'. . ."* (TI, 'What I Owe to the Ancients' S. 2 p.118).

Nietzsche argues here in particular that Plato, and those who are influenced by him, want to hide away from 'reality', and Thucydides conversely does not. Instead, he 'has *himself* under control', and unlike the 'morality-and-ideal swindle of the Socratic schools', he founded his thinking on 'strong, stern, hard matter-of-factness instinctive to the older Hellenes' (TI, 'What I Owe to the Ancients' S. 2 p.118). Here a parallel to Machiavelli can be derived. Both saw the outbreak of conflict as inevitable and both thought it could be (aesthetically) redeemed. They were committed to the *irrationality* of the world as part of its tragic consequence. There is no redemption in reason or morality, only, tragically, a choice between affirmation or negation of value. The wisdom of Greek tragedy, and Nietzsche's subsequent rebranding, is that we have to learn to accept ourselves (the natural self) as a guide to our ethical values; we cannot resist fate, we are not, in this sense, 'free'.

Conflict on this account exists as part of the part of the human condition. It can be used to both negate and affirm values, though has no intrinsic moral character *per se*. Greek tragedy also implied a political character to war, the link to 'country' or *polis* was deeply ingrained in the Greek understanding of *nomos* (*see* chpt 4).[39] Tragedy embraced a conflict between opposing systems of values, illustrated well by the tension between Antigone and Creon, as a tension, between 'parental authority and civil order' (Lebow, 2003 p.23). Above all else, tragedy reminds us of our mortality. As Lebow (2003) explains well:

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[39] See, for example, this line from Creon in *Antigone*, which demonstrates the general Ancient Greek commitment to the *polis* in tragedy: "*Remember this: Our country is safety. Only while she voyages true on course can we establish friendships, truer than blood itself. Such are my standards. They make our city great.*" (Sophocles, 1984 p.68).

"All tragedies remind us of our mortality and how it differentiates us from the gods. Mortality also imparts a poignancy and intensity to life, and encourages us to take special satisfaction in its simple pleasures, to participate constructively in family and community, and it allows a few unusual individuals to achieve heroic status by becoming themselves through losing everything that superficially seems to define them and by sacrificing their lives in defense of their values." (p.20).

Tragedy, therefore, is an excellent beginning point when thinking about a new valuation for conflict. It allows us to ignore the superstitions and mythical abstractions usually associated with morality. We don't have to artificially 'raise' or 'improve' mankind because morality demands it, as to do so, is to buy into an illusion (TOI, 'The Improvers of Mankind' S. I p.66). Tragedy allows us to look at values differently, it posits them as part of an active and well-lived life. They are not elevated to a perennial special status, which demands adherence, but are placed firmly in the material conditions from where they were created: the human mind. They are an aesthetic testament to man's eternal and creative imagination and while almost all these values are fated to be incomplete, flawed and temporary, to live without them is a hollow experience.

Life, therefore, is itself, part of the expression of values. To make this clearer, think of a value like responsibility. A moralist would contend, that responsibility has to be posited as a moral principle, however justified. A consequentialist might say the consequences of being responsible are better than irresponsibility; a deontologist might say being responsible is a categorical imperative, universal and intrinsically good. None of these perspectives, however, really capture what it means to be a responsible person. Even virtue ethics, with its focus on character and people, makes the mistake of making desirable characteristics, moral. The moment a principle or value becomes moral, it is no longer about what an individual may strive for, create or ordain for himself, but rather, becomes a testament of one person's formulaic creation to act as the negation of another's instinct for life. It is in that respect, as Nietzsche put it, 'one long coercion'. All Nietzsche does, in this respect, is remove any one value's privileged

status as moral and supplants it with a human footing. If anything, it is a kind of elitist Humanism. In the death of moral and religious uncertainty, values are justified because of their relation to man, and in particular, to those capable of the arduous task of *inventing values*. This is perhaps what Nietzsche admired so much about the Thucydides and Machiavelli, their ardent realism in the face of constructed values and an insistence on an analysis based on human values and human societies, a 'realist culture', not as a philosophy of realism *per se*, but as a testament to a human origin of values and their importance. Too much finite time is spent worrying about what ought to be done, but Nietzsche encourages us to spend time finding out who we are, striving towards what we want to be and become the best possible version of ourselves. That inevitably involves values, and with it, for sincere and honest values, a willingness to both kill and die for them.

Lebow, Nietzsche and Thucydides all embraced the tragic fate of war and both on language and the construction of values (or conventions) to regulate international order: the *realpolitik* of city-state politics. In other words, war is expressed in the realm of both constructed and real difference in values. In this respect, Lebow (2003) portrays Thucydides as 'both a realist and a constructivist' and makes a compelling case for his philosophy:

> "*Thucydides' history makes it apparent that he regarded conventions as more than constraints; conventions, and the rituals they establish, construct reality by providing frames of reference people use to understand the world and themselves. They help define individual and collective identities, reinforce group solidarity and the individual's sense of belonging to the group. It may be going too far to claim that Thucydides initiated the "linguistic turn" in ancient philosophy, but he certainly shared constructivists' emphasis on the importance of language.*" (p. 166-167; p.161)

If we can assume that reality is a constructed element of the *polis*, and therefore of politics, then it becomes clearer how values and conflict are linked. When Thucydides extrapolated his thoughts on the history of the Peloponnesian War, he does so with a mind to emphasise the real differences in values between Athens and Sparta. These differences were expansive and allowed the conflict to emerge as

more than just an ordinary war, but was a 'great war', that was more valuable to write about than anything else in the '*Hellas*' (Thucydides, 1972 p.35-36). This wasn't just an ordinary war any longer, but was a 'great war', not in the sense of the Second World War, but as a clash of values between competing the political visions of different Greek city-states. Athens and Sparta were no longer mutually compatible in the *Hellas*, and thus, war was the result (Thucydides, 1972 p.36-37). Indeed, from that lapse into war (barbarism) came a new political, and therefore civilisational, settlement for the Hellenic culture; the era of Athenian dominance would never return.

Nietzsche's view is not synonymous with that of Thucydides', but what is pertinent is not what made them different, but what makes them similar. Indeed, what Nietzsche admires about Thucydides is his ability to cut through any moral analysis and focus on the reality of the human condition. Therefore, what Nietzsche tried to capture from Hellenic culture was their sense of tragedy, and most importantly, their willingness to struggle. Indeed, it is what Nietzsche admired about Greek states was their ability to use war both inwardly and outwardly to further push themselves towards greater standards of excellence. The significance of the state as the vehicle for Greek thought is itself constituted by Nietzsche as a *bellum*. With the *bellum omnium contra omnes,*[40] conflict between states or 'clouds of war', in Nietzsche's language, charge the 'thunder and flashes of lightning' that create the vitality of life-affirming action constituted though the *polis* (TGS, p.170*)*. He continued, 'the concentrated effect of that bellum, turned inwards, gives society time to germinate and turn green everywhere, so that it can let the radiant blossoms of genius spout forth as soon as warmer days come' (TGS, p.170). The outbreak of war, on this reading, therefore, is no longer viewed as something which can have a moral, or idealistic, quality. It instead becomes a duality between understanding how values are differentiated and constructed while also, valuing the conflict between them. If this conflict is contained within a state, and

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[40] The *bellum omnium contra omnes* is Nietzsche citing Hobbes' 'war of all against all'- which in this instance Nietzsche is using to show how the natural state of conflict in the 'state of nature' is itself always present within a Greek state. As he writes in the related essay 'Homer's Contest': '*if we speak of humanity, it is on the basic assumption that it should be that which separates man from nature and is his mark of distinction. But in reality there is no such separation: 'natural' characteristics and those call specifically 'human' have grown together inextricably*' (HC, p.174).

that state itself is vital for the expression of values, then it becomes a tragic consequence of life that war exists.

According to Nietzsche we have two choices: embrace this conflict and use it to infuse society with a new sense of purpose or, to use it to negate other ways of living. Good things may emerge from it, but in of itself, Nietzsche adopts an amoral opinion. War is not a 'good' thing because it allows us to express values, neither is it an 'evil' thing because it contravenes a moral preference for peace. It is truly amoral, because it only seeks to understand war as the tragic consequence of our limited and flawed condition. This does not, however, negate the possibility of judging war normatively, but instead, Nietzsche has shifted the conversation away from human flaws to human potential. Our condition does not change, but nor, like conventional realism stipulates, should it limit our ambitions. Morality is no ambition at all because it is merely the desire to tyrannise our lives to particular, arbitrary and self-proclaimed authority. In the relationship to conflict, Nietzsche sets out in his tragic vision of war a means of both explanation and valuation. On the one hand, war becomes an expression of the human condition. Not, as a Realist may contend, born out of a *flawed* human nature, but born simply out of a complicated human condition, one which contains within enormous potential and endless imagination. It is because of this state, that we are fated to conflict. Our capacity to imagine numerous human societies, with innumerate potential civilisations, becomes a perpetual cycle of conflict when that sentiment is expressed as a morality, it utilises *ressentiment* and therefore motivates enmity (problem d). Wars conducted for overtly moral reasons themselves should be criticised as an embodiment of the slave mentality, a desire to spread one set of values by force. Other wars, revolutionary wars for example, might be difference, as I argued with Machiavelli, because they contain a redemptive aesthetic: the vison of a better future and, for Nietzsche, this war could be justified if it replicated the healthy master morality, brought people together, allowed for diversity in values and sought to impose itself on the world as a civilisational achievement rather than through force. Nietzsche advised to look beyond the war itself, to see what its goals and ambitions of its leaders are. He wants to test the merit of the

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civilisation itself, and even if it fails, it none the less fails for the right reasons, i.e., the affirmation and aesthetic redemption of life.

Ressentiment and Conflict

While Nietzsche offers a philosophy for why a war may be condoned, as an expression of life against the tragic cycle of barbarism and civilisation, a testament to man's strength to overcome, he also provides a means of condemning certain wars, and indeed, other forms of violence such as terrorism. Obviously, wars with overt moral intention, humanitarian wars or so-called 'just wars' would of course be called into question. There is, however, another language we may draw on from Nietzsche to look at how a war, or an act of terror, could be condemned on his own terms. This is the language of the herd, which is embodied by what Nietzsche calls *ressentiment.* There are many forms of violence which could be seen as acts of *ressentiment extremis*. An extreme form of resentment seems to embody certain acts of terror. Recent attacks on the United States beginning on September 11th, 2001 and developing into what has now become an almost commonplace threat in western societies, demonstrates a level of *ressentiment* to those actions. They were born out of a religion now taken to a level of *hyper-morality.* Promoted by a fundamentalist view of Islam, they proport an almost complete intolerance of other societies and embody a classic example of what Nietzsche would call slave morality. Indeed, many acts of terror could potentially conform to these values. Also, crucially, they may not. Terrorism such as in Northern Ireland could, from one point of view be seen as a resentment of Britain or British Imperialism, but from another, a noble attempt to achieve a united Ireland; a necessary war to achieve a new society. The importance is that Nietzsche is *changing the language* we are now using. We are no longer talking about terror as moral or immoral but are questioning why they are committing the act. It becomes a tool, and the means

for assessment now derives from this perfectionist logic. Nobility, not morality, becomes the qualifying condition.

Slave morality is Nietzsche's way of condemning the moral impulse, but also, many other characteristics Nietzsche thinks is indicative of a negative way of thinking. It is conformism over radicalism. It is, 'a purely reactive mode of feeling which simply negates the active and the spontaneous affirmation of values on the part of the nobility" (GM, Smith, 2008 p. 142). For Nietzsche, the 'slave revolt in morals' only 'begins when *ressentiment* itself becomes creative and ordains values' (GM, S. 10 p. 22). These values are moral values, and have themselves, clouded our reasons for action. For Nietzsche, almost all morality so far constructed has been 'anti-nature', which is to say, it is 'against the instincts of life'; but in contrast to this, Nietzsche juxtaposes a 'healthy morality' which is in conjunction with the 'instincts of life' (TOI, 'Morality as Anti-Nature' S. 4 p. 55; WP, S. 292 p. 165). Again, we can see how Nietzsche is reconstructed a sense of value without morality, indeed morality itself, becomes indicative of this slave mentality. Breaking free of the this is imperative for Nietzsche, but for those who cannot, or do not even try, this could have a profound impact on the motivation for acts of violence. If slave morality still exists in the world, then from it, acts of war or terror are likely to follow when they are confronted. Indeed, there are arguably many forms of active slave morality today. Most of the world is religious, and with the rise of secular humanism in the West, it seems that there are many forms of 'unhealthy morality', which is against the instincts of life. Each of these moralities can be understood as motivations for acts of war. Western humanism has motivated a series of wars, from the conflict in Eastern Europe to intervention across the Middle East and Northern Africa (Miller, p.17-26). Acts of terror are consistently carried out in the name a particular aspiration to a moral struggle, either for 'equal rights' or simply out of a moral disagreement, actively influences to retort to violence.

Terrorism, or justification for acts of terror, are in this sense interesting. They are often moral, which is of course problematic and is subject to Nietzsche's broader condemnation that morality itself clouds our judgement. Indeed, we could also say that morality makes war more likely because morality demands a singular, simple answer to the *jus ad bellum*. But more pertinent an observation could be that terrorism itself, at least in some instances, is an act of *ressentiment*. If it is justified by a morality which is also an anti-nature, or anti-life, morality, then it would stand to reason the act of terror can no longer be justified; at least on a normative level. Indeed, as I have already established, by a 'healthy morality', I do not believe Nietzsche is referring to a broader ethical, or even moral, code. He is instead adopting the language to say something quite different, that valuation, which can sound on the surface similar to morality, is itself its own category of evaluation. The tyranny of morality ceases, when we are allowed to make evaluations for ourselves. Thus, the pertinence of asking how different types of evaluation are weighted against one another. However, we have perhaps seen throughout history a recourse to violence for explicitly moral reasons; however objectionable they may be. This seems to take the form of *hyper-morality*. This is simply when morality reaches its most extreme point, in that it can no longer tolerate any, or a particular, opposing set of values (moral or otherwise) and therefore, is willing to even sacrifice themselves simply to annihilate their opponent. This is distinct for willing to engage in warfare, which tends to be regulated by a series of expectations and agreements, but usually takes the form of an act of terrorism. This is not to say it may not also motivate a war, perhaps the motivations for the outbreak of the Second World War, from the perspective of the Axis powers, was little more than *ressentiment* embodied; a new form of hyper-morality which, quite literally, sought to express its dominance on a global scale to the exclusion of all other civilisations.

Though to focus closely on terrorism, this perhaps gives the clearest example of where *ressentiment* can be embodied. John Gray has illustrated examples of how we may see Islamic State though the perspective of a 'modern form of barbarism' (Gray, 2014, The Guardian). Many adherents to Islamic State believe aspire to return to a 'better', essentially medieval, version of Islam that has very little in common with modern Islam itself (Gray, 2014, BBC News). Yet it represents something deeper in their thinking, a desire for a 'pure' albeit theocratic morality (Gray, 2014, BBC News). They have claimed responsibility for the most recent terrorist attack in Paris and have inspired many to take up arms in their name. What Islamic State and Al Qaeda have in common is a fundamentalist interpretation of Islam. Regardless of how accurate this reading is, for our purposes, what is relevant is that it is motivated by morality. Or to put it more acutely, a hyper-morality. In this case, a morality which is essentially defined by custom and tradition of a medieval theology. Nietzsche refers to the morality of custom or tradition specifically, and in which we may get a sense of motivation behind this kind of terrorism. He says that the '*sense for custom'*, by which he means morality, applies to an age, in which the '*indiscusibility'* of custom is established (D, 1997 p.19). What he essentially meant by this, is that morality itself can be rendered custom, and left completely unquestioned. In the case of fundamental Islam, this could very much be the case of a literal, rather than subconscious, way to view terrorism through the perspective of value. Hyper-morality conceptualises a terrorism which is bound in fundamental moral supposition, which prevents value from emerging and leads those subscribed to condemn alternative values. Although this is not restricted to any form of terrorism, the sense of otherisation that it could potential enable in Islam is only one potential example. The point rests on the notion that a terrorist could be acting out of deep ressentiment or out of a healthy expression of life, it depends not on the motivations but the underlying human being conducting the violence. The

task of the philosopher is not to find the right formula to discern the two, but to analyse the conflict for its aesthetic and natural aspects- for its underlying psychology and its subsequent imposition to will to power, i.e., the individual's will to affirm life and, if capable, ordain values for himself.

It also reasserts tragedy. There is little one can do to expel the instincts of slave morality from the world, nor the influence of a series of 'unhealthy moralities'. None the less, Nietzsche provides a way for those interested in affirming all aspects of life, in its complicated and contradictory sense, to divide between how we are asserting ourselves, as an expression of our own sincere values, and between the slave who merely negates values. Terrorism appears to act as though it is an exemplar of slave morality on many occasions. For the most part, Terrorists appear to be motivated for distinctly moral reasons, and often, this morality is opposed radically to a constructed 'other': the 'infidel', the 'oppressor', 'the evil', 'the unjust'. It is not simply that old adage 'one man's terrorist is another's freedom-fighter', but that the desire for many values, if they arrive from a moralism, or an idealistic place, it is bound to lapse into *ressentiment*. For the terrorist to be correct, so fanatically correct he would kill indiscriminately for it, then this itself if a *product of moralism* which cannot be corrected with more morality. Indeed, what the concept of *ressentiment* adds further clarifies tragedy. If the tragic cycle between barbarism and civilisation must, as a prerequisite, contain lapses into barbarism, then inevitably, conflict becomes part of that tragic cycle. Not all conflict becomes equally valuable, though all motivations for conflict are equally probable. If anything, most conflict will be condemned to the status of *ressentiment*. Very few wars in the history of mankind have produced the kind of noble, higher mentalities Nietzsche asserts. It also states that war itself is motivated, more often than not, for bad reasons and therefore, by removing those reasons, we

open up the possibility that conflict would be radically reduced were it not for these negative influences on our thinking.

This is Nietzsche's final argument addressed here: that morality itself has caused far more damage than good. One of the ways moralities caused this, was by encouraging humans to resent other ways of being human, simply for not meeting ever elusive and changing moral principles. The West cannot even agree amongst itself what is and isn't moral. In the West, through a sense of *ressentiment* for other cultures, and a false faith that our own values are inherently superior, have initiated countless wars that never needed to take place largely because they didn't confirm to Western moral norms. By using the language of tragedy and *ressentiment*, Nietzsche gives us an evaluative method to look at forms of violence from a new light. The modern West, by engaging in a series of 'just' or ''moral' wars, has in fact, simply fallen for this moral illusion of superiority. We believe we have this authority only because we use a moral justification. From the barbarism of European Imperialism to the 'nation-building' in the invasion of Iraq, the West has continually attempted to 'civilise' and 'westernise' other civilisations purely from a moral prejudice. Nietzsche, on the other hand, offers a solution. Each act of war or violence can be placed between an affirmative act of the *will to power*, which is the will to life, and an act of *ressentiment*, against the instincts of life and solely towards its negation (BGE, S. 259 p. 153; GM I). It seems quite clear the Western interventions have been constructed out of a genuine belief, at least for those in power, that the Western model is inherently superior and therefore, morally justifies countless wars. Yet, this 'altruism', when looked at from a Nietzschean perspective, loses its moral authority. Altruism, to Nietzsche, is far from being something to be praised, but instead, 'altruism', and the other instincts of the herd, cannot be banished from the world, any more than the instincts of the will to power can, but that each should be contained to its own realm of values (WP, S. 286 p. 162). By doing this,

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we can identify when a set of her values takes over a civilisation, it is a condemnable form of conflict. It is also not simply the case that just because someone has noble instincts, that they produce a valuable result and can still produce 'something wretched' (WP, S. 287 p. 162). Thus, Nietzsche encourages us to look at actions beyond their relationship to others, as only applying to the self. He encourages us to look at actions in of themselves, amorally. If they emerge from the right instincts, to achieve the right results, then they can be praised – hence, morality becomes the 'sign-language of the affects' and not a moral fact (Leiter, 2019 p.79). Only when a moral view is taken as a justification of conflict, based on this weak precedent, becomes an expression of ressentiment as hyper-morality: the will to deny (other) forms of life, even to the point of killing.

To end this section, there is one final question that some may pose is, how can anyone truly know if an act of war or violence is motivated by the noble or slave instincts. In this respect, Nietzsche's view, for the purposes of analysis, is aesthetic, he sees values as naturally derived but expressed like works of art, as visions of a life being played out (BGE, S.256). These values are, like all moral values, necessarily aesthetic; at least for analysis. Vacano (2007) has also noted of the just war response to acts of terror that it is 'oxymoronic': '. . . some kind of immorality must be performed even when justified by grand arguments. Real people die even if the theory seems cogent' (p.192). He continued that, 'we have two problems: that of clashing value systems and that of the inevitable tragedy of strong military action' (Vacano, 2007 p.192). Vocono, indebted to Nietzsche and Machiavelli, encourages us to see acts of terror by their aesthetic sense, as it is the only reliable way to affirm judgement. We cannot know the 'moral motivations of the actors' so we can only try and explain by 'observation of its characteristics as a performance or act' (Vacano, 2007 p.192). This has some help to understanding terror as an act of *ressentiment*. It is true we cannot truly know the motivations

of terrorists. However, we can judge the act aesthetically; in the sense that we judge the performance and characteristics of the act of terror itself. We can also judge the results aesthetically, as a complete picture to allow us to see things from this new, evaluative sense. The advantage of which, is also that unlike moral analysis, it doesn't pretend to have a unique objectiveness to its claims. They are always conditional on the values we hold, and though we may argue consistently what constitutes a noble or life-affirming action, it none the less, allows for a very different analysis and evaluation to morality. We can now begin to see conflict in this new, albeit tragic, sense. An act of terror or war may firstly be seen as part of a tragic, inevitable cycle and on the other, valued aesthetically as either a perfectionist act or as a negative act.

Nietzsche and the Morality of Conflict

Unlike Schmitt or Machiavelli, Nietzsche seeks to change the way we think about conflict altogether. He understood the need for a firm critique of morality; the importance of politics; that conflict may, at times, present itself in the form of barbarism; and finally, the need for a new understanding and evaluative method beyond morality. As he put it: 'man would rather will nothingness, than not will at all' (GM, III S. 28 p. 136). It is this commitment to the assertion of values *contra* moral values that makes him so unique. For some, like Berkowitz, Nietzsche's great crusade against morality was a distinct failure. For others, like John Gray, Nietzsche fails because he refuses to surrender the concept of values, and thus, refuses to accept the full nihilism from the death of God (Gray, 2002). Philosophers like Rodin simply see Nietzsche's philosophy as dangerous. What I have found in Nietzsche however, is a subtle and intelligent philosophy that will neither accept the bland conclusion of the inability to propose normative evaluations or, accept that morality is the only way to provide such a philosophy. He

discerned between health and affirmative nroamtive judgements which, while described as 'morality' at times, can really only attain the value of a personal ethics, which are constitutive of naturalism and aestheticism. Nietzsche presented a theory of values which emphasised the naturalist underpinning of morality in human psychology, or 'moral psychology as Leiter (2019) called it. This is complemented by healthy moralities which see an aesthetic redemption of life – they accept that values are merely aesthetically constructed and therefore accept the perspective-bound reality of ethical values.

Nietzsche, therefore, changed the emphasis of the critique away from proving that morality is not relevant or undesirable to conflict, but that it is both because morality itself is a problem to be overcome. For this reason, Nietzsche provides a theory today which can be utilised towards a different approach to conflict. For this reason, Nietzsche's amoralism is essential to view conflict amorally, as it provides the groundwork for normative theorising which other critical perspectives, namely Machiavelli or Schmitt, did not. This complements their border worldview and gives a different, ethical perspective on which an aesthetic approach to conflict an be predicated. Nietzsche wished to find ways to assert meaning in our existence without conventional morality. It is his way of saying we still need to affirm values. It is simply part of who we are. Perhaps more importantly, it is also a way of becoming what we could be, a testament to human potential. Unlike what has preceded him however, Nietzsche does not make his analysis universal. He is open to many forms of value and many ways of asserting them. He does not need to account for his own evaluations, because they are not abstract universalisms predicated on intuitions but, are rooted in a psychological exploration of what it means to be human. Our values become aesthetic interpretations of our impulses, desires, thoughts and reasons thus, always varied and not always reliable. Careful patience, self-understanding and consideration allows us to better understand who we are, and to translate that

into deed and action. As such, he declared, 'You say it is the good cause that hallows even war? I tell you: it is the good war that hallows every cause' (Z, 'Of War and Warriors' p.74). He reversed the subject of analysis from the just war being the motivating factor of legitimate violence, to the pursuit of the destruction of evil being the honorific on which war is then given its justification. As a consequence, is possible to use war as a redemptive tool, but only instrumentally, as Drochon (2016, p.195) noted, as a tool to the flourishing of the 'higher men' or indeed, the civilisations they belong to.

At the heart of Nietzsche's philosophy, therefore, is a commitment to perfectionism. In the end, for Nietzsche, all great actions are just 'play acting', performative, aesthetic acts that seek redemption in the face of meaninglessness (WP, S. 289 p. 163). What makes any of this worthwhile, for all concerned, is when those capable of willing against this do so, and in the process, ordain values. Conflict becomes the price to pay for this *talent*:

> "*Talent. In such a highly developed humanity as the present one, each man by nature has access to many talents. Each has an inborn talent, only a few have inherited and cultivated such a degree of toughness, endurance, and energy that they really become a talent, become what they are- that is, release in works and actions*" (HH, S. 263 P. 161).

This is reflected in all of Nietzsche's works. From the very beginning, Nietzsche sought to exalt those characteristics of man that achieved his highest potential, and sought from that potential, the ability to lift us all from meaninglessness. Unlike Schmitt, both Nietzsche and Machiavelli share this goal. They both seek solutions, political and philosophical, to provide human societies with meaning and purpose; both rely on great men to do this. In Nietzsche's case, he takes this to its ultimate philosophical conclusions, and creates both a tragic embrace of conflict and a means to evaluate that conflict. Conflict of all kinds becomes a lapse into barbarism, for both good and bad, so man may use it to create, or defend, civilisations as they see it.

Nietzsche analysis of war is insightful. Nietzsch gives us a nuanced, yet radical, critique of moral values which when applied to JWT and the morality of conflict provide a persuasive case for a Nietzsche transvaluation of conflict. At the heart of this claim, is a commitment to the aesthetic redemption of life (Leiter, 2021; Hatab, 2015). As Vacano (2007) elaborates well:

> *"The attempt to realise justice is not in the purview of politics proper. For Nietzsche, this is also the case but there is a sense in which "ethics" does exist, and that there is a desire to develop a way of life for the individual that is justified and leads to greater perfection. Yet, even in this ethics, amorality and immorality are still present: to act for the good is not a central claim."* (p.182).

This is crucial because even a personal understanding of 'good' is rejected by Nietzsche and therefore, he does significant damage to the idea of 'moral autonomy'. This critique, as I have construed it, undermines the basis of PMWs and of the key principles of the JAB/JIB, on which JWT is predicated. Nietzsche, in this respect, though for different reasons aligns himself with some of the broader claims of Machiavelli and Schmitt, as the following section shows:

> *"Everything has its price, everything can be paid off'- the earliest and most naive canon of moral justice, the beginning of all 'neighbourliness', all 'fairness', all 'good will', all 'objectivity' on earth. Justice at the earliest stage of its development is the good will which prevails among those of roughly equal power to come to terms with one another, to 'come to an understanding' once more though a settlement- and to force those who are less powerful to agree a settlement among themselves"* (GM II S.8 p.52).

As such, justice for Nietzsche could involve a legal paradigm of agonal order, though he would be sceptical about the arbitrary nature in which Schmitt attempted to bind people to statehood. Nietzsche however, says that the process is aesthetic, it is about the fluid construction of values for the purpose of the redemption of life.

Acts of spite, malice and selfishness are all promoted by slave morality, and in many instances, it seems clear that violence is conducted out of this *ressentiment*. Nietzsche encourages us to think carefully about our actions, especially in their most extreme forms. If a war is born out of a civilisation, value struggle, then Nietzsche would likely approve. Indeed,

even more so, if it allows us to praise that war as something greater than the war itself. If a war is conducted for moral reasons, out of *ressentiment* or *otherization*, then it is *condemnable*; thought perhaps, not *preventable*. Nietzsche in this sense also embraced tragedy and expected forms of barbarism and civilisation to act in flux, one entailing the other. Any attempt to prevent this, would in turn, sap us of the means of asserting our existence. The possibility of life without war and violence, therefore, is possible on Nietzsche's account but varies radically from the preference of moralism. Certainly, life without certain forms of violence would be preferable if we retained a sense of value-contestation and intellectual disagreement among different ways of life, and indeed, if such a world could ever be created everyone could aspire to asserting life without negation, without the desire to eliminate other forms of life, then perhaps a 'perpetual peace' would be possible. However, for as long as we assert values in radical opposition to others, especially others of the moral mindset, then conflict will always, tragically, occur. Nietzsche's redemption, however, is always an eternal application, as he says it is the 'highest idea', that 'man is something to be overcome' (Z, 'Of War and Warriors' p.75). By aspiring to overcome our natural self, *i.e*., the violent and inhuman aspect of our psychology, we give human beings everywhere the best chance of living full lives while also, in peace.

Conclusion: An Aesthetic Approach to Conflict

"As far as we can discern, the sole purpose of human existence is to kindle a light of meaning in the darkness of mere being"

-Carl Gustav Jung

"Life is not a problem to be solved, but a reality to be experienced"

- Søren Kierkegaard

The problems of morality, as I have construed them, are more than just the problems of moralism. The usual critique of JWT/LOAC is that they seek to apply a form of morality which is inappropriate or incompatible with the conduct of war. However, as I have argued, the problem of morality is itself ingrained with the initiation, perpetuation and ferocity of war, terrorism and violence. I have looked at various critiques of 'morality', beginning with precepts derived in the just war tradition. Working through each perspective, I have found that Nietzsche's critique of morality best explains conflict and offers the most viable amoral alternative, because he rejects the concept of 'normative philosophising' and provided a contextual, aesthetic understanding of our (ethical) values and evaluations that defined universality or codification. His critique of moral principles is particularly powerful when applied to conflict because it criticises the concept of morality and, through his own genealogy, gives the basis for expressing values independently of morality. The central aim of this thesis has been to demonstrate that JWT and morality are flawed metrics to understand or regulate conflict. Analytic philosophy, and in particular JWT, has completely ignored the context with which we expand our moral principles with application to conflict. In line with the continental tradition, re-contextualising those claims, and expanding upon different ideas for context (i.e., Machiavelli and politics or Nietzsche and slave morality) allowed me to bring further attention

to those moral principles as a genealogy of morality in conflict. Like Nietzsche, I conclude that we cannot know moral truths and are fated to navigate life without them, though this shouldn't dissuade us from individual normative and ethical evaluations. We must only be aware of them being universalised into a single philosophy for the pronouncement of moral/ethical judgement. The reliance on PMWs, more so than any other element of JWT/LOAC, is a weak basis for moral philosophy. More is revealed, epistemically, from the act of violence than an intuition against killing. The context, the temporal nature of politics and irreconcilabilities of values all entail the inevitability of conflict between people, states and cultures alike. This conflict cannot be tamed, and in this sense, we can describe it as tragic. As such, the amoral tradition as I have construed it has produced a number of components valuable to an alternative approach to conflict beyond the constraints of morality and normative philosophising.

To surmise, I will first work through each of the critiques and their relative merits towards thinking about morality in conflict, looking again at the problems I outlined (see chpt' 2) initially with the just war tradition and their reliance on presumed moral intuitions. Each of the amoral traditions raises different issues with JWT and each have their own merit and issues. Though I ultimately agree with Nietzsche that to truly embrace tragedy, one must abandon the idea of morality altogether; at least as it has been constructed in Western moral philosophy. To Nietzsche, it seemed plausible that war, terror and violence could be justified according to political context, the challenge he raised was that we cannot use morality to understand an actions intrinsic worth- its worth is always instrumental to the broader natural, or psychological, drives that motivate it and the broader context it serves (its aesthetic quality). The question of restraint is not about finding the right formula or the least disputable logic. It is about understanding he existential dimensions of conflict and trying to subvert its more destructive elements. In the remaining sections of the conclusion therefore, I will draw conclusions relevant

to an amoral, aesthetic approach to conflict which combines a Nietzschean approach to morality with considerations from Schmitt and Machiavelli.

The Critique of JWT and Morality

Machiavelli, Schmitt and Nietzsche, each in their respective fashion, criticised morality when applied to conflict. As I have construed it over the course of the thesis, amoral traditions of conflict have problematised morality in different ways. The first chapter on JWT (chpt' 2) explored JWT as an approach to conflict in of itself and, as I construe it, four central problems (a-d) can be identified with JWT: (a) JWT, particularly the JAB (Finlay, 2019 p. 37), relies on ungrounded moral principles and is therefore groundless; (b) moral understandings of the world distort our ability to properly understand either the social demands of justice or human psychology in times of war; (c) morality hinders our responsibility to both ourselves and the world; and (d) JWT acts as a motivation, rather than a restraint, for war, violence and terrorism. Over the course of the *Machiavelli and Realism* (chpt' 3), *Schmitt and Legalism* (chpt' 4) and Nietzsche and *Amoralism* (chpt' 5) chapters respectively, I furthered the critique of JWT and morality by looking at the central critique each thinker has supplied for the respective school of thought and offered a particular reading of each which refocuses the attention of the debate to moral principles. Each of the problems (a-d) that I initially identified with JWT and morality emerge because moral and political philosophers, particularly in the analytical tradition, have relied too closely on PMWs or 'timeless' moral principles which have become an unsubstantiated assumption, as Walzer symbolises when he declared at the beginning of his reinvention of moral principles against the dominance of realism, 'I am going to assume throughout that we really do act within a moral world' (Walzer, 1992 p.20).

The strange thing about this assumption is that it is often omitted by just war theorists from the outset, for example, Rodin (2002) conceded the notion of 'common morality' predicated on our intuitions is ontologically dubious (p.5-8). The reliance on these assumptions combined with the apparent refusal to respond to criticism only justifies Leiter's (2007) argument that 'morality criticism', especially from the continental tradition, is moving closer to the 'mainstream' of moral and political philosophy (p.754-755). In the case of the morality of conflict however, the academic debate remains largely centred on JWT and realism – critical approaches rarely focus directly on moral principles in conflict as being a problem, *i.e*., the subject of 'morality criticism' as understood in the continental tradition. Over the course of my argument, I have attempted to change this by providing an account of the problems with morality and looking more closely at the main critiques from the currently existing critical traditions and seeing how they each contribute to a different approach to conflict that is neither realism nor JWT. This necessarily began with an examination of both JWT, to examine the existing approach to morality and highlight the parameters of the debate. Chapter two therefore, traced the root of JWT to Cicero and emphasises the theological revision of the just war tradition over time, which consequently informed the contemporary secular traditionalist and revisionist accounts, both in the language employed and the moral principles defended. Using this language however has given the false impression of a perennial, universal quality to moral values that are innate to understanding conflict. As I construe however, this assumption has four challenges (a-d) that arise from failing to adequately defend the basis of their moral principles. The questions that I subsequently pose across the remaining chapters are, if morality is problematic, why is this the case and what, if anything, is the potential alternative.

In chapter three I began the critique of JWT by looking at the realist critique, particularly the challenge that 'moralism' is largely the problem rather than morality, so that the challenges

(a-d) arise because morality is particularly ill-suited to conflict. The claim for realists therefore, especially neorealists, is that it is impractical to apply morality to conflict. Though there remain important differences between classical and neorealists, the central claim that unites them is the general impracticability of morality to conflict. Of the two critiques however, Machiavelli's classical realism is more robust because it attacks the idea of morality from the perspective of human nature. For Machiavelli, the primary criticism was about the imprudence of morality, emphasising the way it distorts practical decision-making (problem:b) and consequently, renders political actors irresponsible (problem:c). Machiavelli's focus on the limiting facets of human nature is what begins an interesting account of conflict that is amoral. Though a critical reading of Machiavelli also reveals he was not just a realist with a negative view of human nature, but an imaginative realist with a nuanced perspective on the constructed elements of human societies (Viroli, 2013). This aesthetic reading of Machiavelli I present therefore builds on Vacano's (2008) and Viroli's (2013) reading of Machiavelli as positing a redemptive, aesthetic political theory that prioritised *virtu*. The concept of virtu is what distinguished Machiavelli from other realists, except for Thucydides (*see* Lebow, 2003) as a realist both central to the realist critique of morality but also, providing a rich amoral alternative under-explored by concept by IR realists.

Machiavelli however, only criticised morality as being unimportant for political leaders; especially during conflict. He ultimately was a realist, however imaginative, and thus relied on the idea that morality was unfeasible to politics. While this leaves open questions about morality, especially why morality can't simply be more prudent in the application of its moral ideas. As such, Machiavelli does ask pertinent questions about morality and conflict, particularly by questioning the foundation of JWT (problem:a) as a universal moral philosophy, predicated on human intuition. Penitently, he also therefore raised problem:c, as the responsible

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political leader must learn how to be immoral, even if it was for the greater (moral) intent of 'glory', and therefore it would be irresponsible for a political actor to employ a moral idea.

Machiavelli's critiques are pertinent today, challenging the basis of morality as being imprudent and largely groundless and thus, makes significant breaks with morality and casts doubt on the increasing reliance of JWT on moral principles. Though this critique is largely a rejection of moralism rather than morality as I define it. What Machiavelli taught is the importance of prudence in decision-making and how the means available to us are usually constricted, but with a justifiable end, can be employed to the betterment of all involved. As a restraint of war however, this view largely allows war to go unrestrained and embraces the tragedy of conflict. Indeed, as Arendt (2006) noted, claims of necessity are usually a predicate for war (p.3). The potential for 'necessity' as a motivation for modern warfare seems detached, as many wars, especially humanitarian wars, are not fought out of necessity and therefore the critique is somewhat limited. Though the juxtaposition between *virtu* and *fortuna* helps understand the political aspiration of political actors, as 'The very unpredictability of fortune keeps political hopes alive' (Hutchings, 2008 p.30). Hence, for Machiavelli, his political principles are shaped by the world itself, the ability to use *virtu* is always limited again by tragedy and the irreconcilability of values. This view embraces war as an inevitable facet of the limitations of political aspirations (of aesthetic redemptions) and the fatalistic conclusion of war unrestrained. As I have construed it, we need to find more robust criticisms of morality for its epistemic problems and the charge of moralism, while breaking with morality, cannot sustain a robust enough critique against the full problems of morality. Machiavelli did however begin to ask serious questions of morality and, contrary to realists today, had an imaginative philosophy about the constructed, temporally bound values that motivate conflict, which can motivate a new aesthetic approach to conflict.

Schmitt's critique of JWT and morality was more radical than Machiavelli's, in that he argued for the autonomy of the political in opposition to moral distinctions. Schmitt did not rely on a broader normative imperative that whatever is in the interests of the state is therefore the justified course of action. Schmitt's critique attacks the validity and importantly, the desirability, of a moral distinction applied to conflict. Wars motivated by morality are 'wars of annihilation', and thus, he provided a persuasive account of spatially and temporally bound nature of politics as a better means of restraint that morality. Crucially for Schmitt it is the spatially bound nature of politics in the structuring of the world and forging *existential* political identity (Schmitt, 2007 p.26; 85). Schmitt therefore complements Machiavelli by asserting the autonomy of the political and similarly avoiding universal solutions for 'humanity' as being dangerous motivations of war. As such, both Machiavelli and Schmitt complement all four of the problems (a-d) I raise with JWT as a critique of morality in conflict, though also share a similar flaw. Schmitt, like Machiavelli, believed that politics is a temporally bounded concept and relies on specific, territorial manifestations. As such, expressions of war and enmity are part of the defining feature of 'a people' defining their place in the world. Indeed, without the possibility of war, Schmitt believed that something existential about the human condition was lost. As such, Schmitt challenged the idea characterised by McMahan that 'The morally intelligent potential fighter must not have their judgment distorted by their context, their personal or professional identity or their existential preferences' by rejecting JWT's insistence on the moral reality of war and the legitimacy of moral distinctions (Hutchings, 2018 p.93). This is an important condition for politics and treats the ethical challenge of 'enmity' with more conceptual clarity than in JWT or morality. In this sense, the LOAC would be better placed to heed Schmitt's broader agonism of states and mediate the laws of engagement according to this tragic inevitability than trying to impose a morally informed criteria. To Schmitt, wars are

always political in nature and the 'moral reality' of war is simply baseless, thus, adding to the critique (problem:a) that JWT misunderstands the deeper realities of conflict and particularly, *why people come into conflict* and take up arms to defend their state.

The problem I raised with Schmitt, however, was that the manifestation of value and identity in an arbitrary territorial space seemed to replicate the arbitrary nature of neorealism and consequently, is equally likely to motivate a war if that identity is the only locus of political action. If, however, as both Schmitt and Machiavelli argued, the cause of war is rooted in the human expression of competitive values, the question of how to regulate warfare is not a question of containing how values are manifested in the world (as states, political movements, etc.) but how to 'tame' the human condition itself because it is human beings, not states, that are fundamentally violent. This was a lesson that Machiavelli taught and, though Schmitt's nomos and political distinctions are useful, he replicates many features of neorealist structuralism and institutionalism that seem needlessly, and arbitrarily, attached to nation-states. However, I do not wish to refute the entire temporal and spatial basis for politics, but rather find a philosophy more attuned with disputing the normative aspects of politics, ethics and conflict. Schmitt's pluriverse and *nomos* of the earth make a strong case for the LOAC and international rules to be predicated on this fundamental reality however, unlike Schmitt, I believe the formulation and reformulation of states is largely down to an aesthetic, not legal, process that defines and grounds the agonism of states.

For Nietzsche, the conflict between human beings entailed a tragically fated conflict in all dimensions of human life, though this did not legitimate conflict for political reasons, but rather heightened the need to overcome the limitations of slave morality. Different values are fated to collide, and when they do, they are tragically fated to war. For Nietzsche, wars have no moral justification or condemnations, they only have human, alas all too human, explanations.

As such, Nietzsche naturalism and aestheticism combines strong elements in Machiavelli and Schmitt into a what might be constituted as an 'aesthetic approach to conflict'. This builds on the aestheticism of Machiavelli and the agonism of Schmitt, to dispel the notion of normative philosophy and morality entirely. Instead, Nietzsche gives an aesthetic grounding on which to begin to rethink our most fundamental values. For Machiavelli and Schmitt alike, the problem of morality is specifically when moralism is applied directly to conflict, which is to say, that the problem is the formulaic/universalistic expression of JWT in trying to navigate the complexities of international politics and therefore, it is both undesirable and unfeasible to sustain a moral theory of conflict. For Nietzsche, he encouraged his readers to see morality itself as the problem. The drive to morality itself is a deleterious psychological drive, which acts on the lowest elements of the human condition- the desire to repress life and deny its contradictory nuances. For conflict, this is no different and Nietzsche accuses moralists of all kinds of simply being unwilling, or unable, to accept a simple reality- human beings are violent (Gray, 2002 p.91-92). Though, Nietzsche is not pessimistic for normative values. The redeemable nature of conflict is what I call the aesthetic approach to conflict, which builds on other recent trends in aesthetic political theory, to use Nietzsche's idea of the aesthetic redemption of life as a epistemological basis, along with naturalism, to create a distinct aesthetic approach to conflict on which future theories could be based. The first predicate to this, however, is to describe the agonistic conception of politics and its attachment to tragedy as a means to reconceptualise politics as an aesthetic practice.

Agonism, Tragedy and Aesthetics: The basis of a new approach to conflict

The problem with JWT and realism alike is that both seem to be predicates for conflict, though contained within realism, particularly classical realism as understood by Machiavelli,

there is an overriding commitment to tragedy and agonism which has informed both Schmitt's and Nietzsche's views. These two themes, therefore, not only have been elaborated on since antiquity, but provide the ontological basis of a different approach to conflict beyond morality. For an aesthetic approach to conflict predicated on Nietzsche's broader views therefore I contend the twin ontological elements of tragedy and agonism help form an ontological basis for thinking about conflict 'aesthetically'. By an agonistic conception of value, I refer to the idea that values are naturally conflictual and always in contention. This agonistic basis of value, elaborated on by all three traditions, has formed the basis for many agonistic theorists to think about 'agonistic pluralism' or 'democracy' as a principle of politics (e.g., Wenman, 2013; Mouffe, 2005; Honig, 1993). For conflict, being uniquely political, I think this principle as an *agon* of values, as opposed to states, complements the ontology of tragedy set out by Lebow (2003). To conclude therefore, I will briefly outline what each of two principles mean and how they relate to conflict, to highlight the foundational elements for a new aesthetic approach to conflict that goes beyond morality.

One of the differences between Machiavelli/Nietzsche and Schmitt was that Schmitt saw values as being innately bound to political settlement - not just a polity or some grounding in states, but as a necessary perquisite for the existence of 'a people' at all (Schmitt, 2007 p.53). This, as I argued, is unnecessarily arbitrary however, the conception of a deeper *agon*, between values and disagreement between individuals is a powerful feature of Machiavelli, Schmitt and Nietzsche. All three emphasised the problem with morality was its universal conceptions of values, and though for different reasons, they each rejected this in favour of an agonistic plurality of values. As an approach to conflict therefore, agonism makes for a natural beginning point if we agree with Nietzsche and Machiavelli that aesthetics and appearance reveal more about human phenomena than intentions, especially moral intentions. Unlike Mouffe (2005)

and other agonists however, I do not think this is limited to a multipolar order, though likely leads to one, but relates to a deeper existential commitment to value pluralism. In this sense, we can use Nietzsche and Schmitt in conjunction with one another to argue that agonism relates to aesthetics, in that values are constructed as a redemptive form for life itself for the individual as much as for the collective. Though, I do agree with Zolo (2003) when he argued:

> "*Following September 11 there has been an escalation of international instability. We have seen the affirmation of a strategy of permanent war that is becoming hegemonic, which is without territorial borders and with no time limits. It is largely secretive, and increasingly played out outside the control of international law*" (A. Negri & D. Zolo, 2003 p.33).

The spatial limitation of war allows for values to find an agonistic expression and, in the collapse of spatially bound conflicts this has motivated a series of humanitarian wars and acts of terrorism which reveal the increased agonism of international relations.

Each of the thinkers that I have outlined each embraced a sense of agonistic pluralism, they all saw the perpetual conflict of values as a fact about the world. Disagreement, often constituted as war and violence, is part of accepting our fated existence. In this regard it is an ontological claim that conflict in values is central to understanding how politics operates. In the Nietzschean sense, this is also a commitment to a value-pluralism in moral and ethical values, which is not to say they are merely perspectives, but that moralities constitutes part of the lived human experience and the naturalistic drives that underpin them. They are expressed like an 'art', they act as a part of the finite life of a human being grappling with the weight of meaninglessness. Conflict has an intrinsic relationship to this process because values are, tragically, fated to collide in some form. This is part of the ontological existence of values and therefore ensure a perpetual irreconcilability between different identities.

Tragedy is intrinsically tied to agonism and was an important tenet of each perspective I have outlined, particularly as each relied on some degree to classical notions of politics (TGE, HC; Schmitt, 2003 p.69; Machiavelli, 2008b). I introduced tragedy as an important component of Machiavelli's unique imaginative realism, which relied heavily on republicanism and classical antiquity. Machiavelli saw tragedy as *Fortuna*, the god of fate and likewise Nietzsche conceptualised tragedy as *amor fati*, or 'love of fate'. Schmitt didn't explicitly embrace tragedy, but his agonistic commitment to multipolarity and agonism's embrace of 'the tragic spirit' (see Wenman, 2013) means a reasonable reading of Schmitt could also include an embrace of the tragic inevitability of conflict. Tragedy in the Nietzschean sense I employ therefore entails a resistance against the 'future betterment' of mankind, and accepts that, as Nietzsche said, 'each season has its own charms and merits, and excludes those of the other seasons' (HH, S.239, p.148). The agnostic conceptualisation of value creates the basis from which values collide, while tragedy provides the ontology to understand this irreconcilability. Hence, it unites Nietzsche's 'tragic fate' of war with Machiavelli's 'tragic necessity'. Tragic perspectives therefore emphasise that the world is consistently in a state of flux, especially concerning moral and political values. The assumption that any singular series of values, which are necessarily bound temporally and historically, can 'redeem' mankind to a 'higher state' is 'fanatical', it proports a false 'progress' when there is only the continual change of history. Tragedy, therefore, embraces agonistic pluralism in a fatalistic way: it assumes that values will inevitably collide. In extreme situations, this leads to war and violence and thus, moral motives only serve to extenuate conflict (problem:d) because they are part of the tragic cycle. War therefore is caused by values, but as Machiavelli, Schmitt and Nietzsche all recognise, we need values as part of our existence or else we forfeit an existentially worse state.

Tragedy therefore complements an agonistic conception of value by embracing the irreconcilability of values. They exist temporally but not necessarily spatially, in a constant flux of re-invention and destruction. As such, any theories of conflict should 'represent, not suppress, the diversity and inherent instability of human identities' as an embrace of tragedy (Lebow, 2003 p.374). Values are conflictual (agonistic) and therefore tragically aligned to compete against one another. Moral distinctions in this regard are particularly destructive, as I established with Schmitt, but most, if not all, 'sides' of a war have invoked moral justification. The sophistication of the moral argument presented by JWT, or indeed its length in history, is no defence of its basic suppositions. Instead, Machiavelli, Schmitt and Nietzsche all embraced an ontology of tragedy, as Lebow (2003) defines it, 'tragedy' is derived from Greece and is,

> "*a better starting point for social analysis because they more accurately reflect the human condition. Egoistic, autonomous actors are a fiction of Enlightenment philosophy. So too is the possibility of altruistic communal actors envisaged by Marxist theory. In practice, individuals and their societies are distributed somewhere along a continuum between these two extremes. This is true for all polarities that capture important attributes of human orientation and behaviour.*" (p.360).

The advantage of this ontology is that it allows for a reflexive approach to values as part of the embrace of the lessons of tragedy and value agonism. As such, tragedy should provide the beginning point for an approach beyond morality, as they reveal,

> "*at some level all recognized character traits, roles and conceptions of justice are problematic. Generosity carried to excess makes one vulnerable to exploitation, a sense of adventure blinds one to risks and healthy self-esteem can shade into arrogance.*" (Lebow, 2003 p.363).

Lebow's ontology for tragedy here is complementary to Nietzsche's rejection of the 'egoistic intentions' of moral actors and, by combing this with an embrace of agonism and tragedy, can become the basis for what I call the aesthetic approach to conflict.

An Aesthetic Theory of Conflict: A New Approach

To offer a different epistemological understanding of conflict, I have drawn on the amoral thinkers of Machiavelli, Schmitt and Nietzsche to suggest there is an alternative aesthetic approach. Combining elements of all three thinkers, the aesthetic approach seeks to understand our relationship to conflict beyond the normal parameters of morality. The problem with the moral analysis of conflict is, on one level that, 'It takes a perfunctory glance at politics across the globe to recognise one thing: in many (if not most) real cases, political actors seek to do as they want, not as they think they (morally) should' (Vacano, 2007 p.186). The purpose of the aesthetic approach is to replace moral (or indeed ethical) universalism with an aesthetic understanding of values. Aestheticism in this regard is predicated on an agonism in ethical life as much as there is in political life, so much so, that reliable ethical criterion becomes difficult to express. Ethics in this sense is reduced to a dependent claim on an *agon* in values being the predominate way in which human beings can engage with normative philosophies of conflict. As such, there are no universal intuitions, morals, *prima facie* feelings or principles which can be held as reliable or universal moral truths. In this sense, as Machiavelli, Schmitt and Nietzsche all sought to remind us, human values are fundamentally pluralistic and rarely, if ever, can one value ever emerge truly hegemonic, *i.e.*, beyond contestation by another way of life. Ethical values for the aesthetic approach therefore are presumed to be in active competition across different ways of life, removed from a sense of universal authority. Aesthetic political theory supplies an innovative way to build on this *agon* of values which constitute the epistemic realist of conflict. It conceptualises political life as part of this broader 'clash of values' and 'allows us to refrain from the sort of universalist ethical language that has led to cultural clashes over the proper way to live' (Vacano, 2007 p.183). In this sense, 'aesthetic political theory is

concerned with primarily observing how aesthetic principles, such as representation, emotion and form are manifested in politics' (Vacano, 2007 p.183).

At the heart of the aesthetic approach is the commitment to perspectivism. As I explored in chapter 6, if we can assume that human beings are not 'free and morally responsible' actors, *i.e.*, they are motivated by natural/psychological drives which are not 'chosen' (Leiter, 2019 p.14), then it is on this basis that '*value of life cannot be estimated*' (TOI 'The problem of Socrates' p.2). Morality, therefore, is 'one long falsification' though, from observing this falsification, it reveals that 'there may be much more to the concept of 'art' than we usually think.' (BGE, S,291 p.174). Life therefore is redeemed by the individual and therefore, she creates her own narrative, ethics and values on which an estimation of life might begin to take shape. The dangers of morality often manifest themselves in the fact they come to hold an 'ethic of conviction' (Satkunanandan, 2015), which suggests that they have confirmed their own perspective as the *only* justifiable perspective. Though, as a predicate to aestheticism it removes that danger as it is based on the tangibility of the world and our experience of the outside world. Strong (2015) highlighted this point well,

> '*If there is nothing besides perspective, then it must not be the case that the world cannot be known, but that it is in the nature of the world as we experience to be known. The danger is that we take our experience of the knowledge we have and conclude that this and this alone is the truth*" (Strong, 2015 p.28).

The predicate for understanding and regulating conflict therefore is to understand this basis for political and ethical life alike. Indeed, I agree with Vocano (2007) when he argued that 'There is no doubt that ethics can be seen to be involved in political life', but 'to see how politics really works – it is necessary to think of the possibility that the aesthetic basis of politics *precedes the ethical discussions that rest upon it*" (p.194). Ethical debates around challenges in conflict should therefore be understood in this context, that the world around us cannot be known other

than as an aesthetic phenomenon, enclosed in perspective, but, unlike some varieties of postmodern perspectivism (*see* Villa, 1992), I take the world to be a known phenomenon and therefore, this opens up the space for a politics as the means to express our conflicting values.

This politics should be understood as an aesthetic practice, predicated on the politics of taste and human judgement. Ethical challenges therefore have no universal form, they are products of a broader problem with the idea of free moral choice. Nietzsche clarified this with respect to his naturalism. I do not, however, believe this process ends at the individual. As Machiavelli also taught within his own 'aesthetic redemption': by tuning back to politics (understood as the *agon* of values as I have constructed above (*see* also Schmitt, chapter 5), that allows for a realisation of the 'beauty' of politics as a means to reinvent our world and find some shared, collective redemption in political action (Vocano, 2007 p.34). As such, I contend that an understanding of politics found in Machiavelli's and Schmitt's conceptions of the *agon* and politics (and the political) create the foundations of the aesthetic approach. If therefore, we can understand politics as about 'appearances and visual, aesthetic impact', I would agree then with Vocano (2007) that, 'it seems this factor is gaining more relevance than the ethical approach to political action', likely because of its amenability to 'moral pluralism' (p.183; 194). As such, perspectivism is about the fundamental tragedy of conflict and our aesthetic relationship to the world:

> "*the notion of perspectivism, it is really a matter of one's partial location—both as discrete individuals and as particular members of a given community--that mines one's taste or preference for one way of life over another.*" (Vocano, 2007 p.156).

Aesthetic political theory, unlike normative political theory, 'allows us to refrain from the sort of universalist ethical language that has led to cultural clashes over the proper way to live' (Vacano, 2007 p.183). In this sense, 'aesthetic political theory is concerned with primarily observing how aesthetic principles, such as representation, emotion and form are manifested in

politics' (Vacano, 2007 p.183). Machiavelli and Schmitt were right to presuppose that conflict is a political, not a moral, phenomenon. When thinking about what I call the *aesthetic character of the world*, it is to presuppose those perspectives are better understood through their representation than they are for intrinsic, moral/ethical qualities. It changes the foundation of ethical life to an aesthetic basis, on which a permanent amount of antagonistic disagreement is the predicate for its worldview. The aesthetic approach is in this sense is agonistic, it accepts conflict is an integral part of human nature which prohibits the possibility of universal moral/ethical principles for all of humanity and therefore, 'reasonable disagreement is. . . irrelevant, for in the final instance it is conflict and the will to impose one's view on others that reigns' (Vacano, 2007 p.85).

The nature of political disagreement is reflected in the nature of conflict. Regimes clash, not just as an act of violence but continually arguing over the 'proper way' to live, the presumption of moral approaches to conflict essentially being that, at least in some restricted instances, there is a moral impediment to impose a certain way of living onto another state. Indeed, where any moral universal truth is lacking, it 'can only be a matter of coercion' to impose those ideas on someone who does not share that identity (Hutchings, 1999 p.183). The aesthetic approach to conflict therefore, as I see it, focuses on our relationship to perceptions of war and violence (often through the medium of culture and art) as the basis on which we form emotional reactions to conflict. As such, our evaluations are largely predicated on what Nietzsche surmised as the tragic cycle of war. As he put it, 'the wildest forces break the way, destroying at first, but yet their activity was necessary, so that later a gentler civilisation might set up its house there' and he calls the perpetrators of this 'force', Frightful energies- that which is called evil- are the Cyclopean architects and path-makers of humanity" (HH, S. 246, p.151). The metaphor of the cyclops refers to its single eye, in other words, they are possessed by a

single (psychological, emotional or irrational) drive which motivates them towards a single vision for the future; a 'new, gentler civilisation'. Though our values are bound to judgement, taste and perspective, we can none the less use the (agonistic) space of politics to 'impose' that vision and redeem not only ourselves but the world as well. In this sense, I argue that it complements a border '*ethos* to attentive calculation' that Satkunanandan stipulates but in a more radical way, I turns us back to the world as something we can, and indeed should, create.

To further elucidate this approach, I will draw on an example used by Vacano. For him, Ronald Reagan demonstrates the 'aesthetic turn' in politics well, demonstrating to the world how to convert 'artistic' skills 'from the screen into the political arena' (Vacano, 2007 p.193). Since at least the 1980s with Regan, if not earlier with Kennedy in the U.S, or perhaps Wilson in the UK, 'we have witnessed the continued relevance of the management of appearances for political purposes' (Vacano, 2007 p.193). As Vacano (2007) has noted, the war in Afghanistan (2001) demonstrated this clearly, as did Iraq (2003) with operation "Desert Storm", 'the sequel, "Operation Iraqi Freedom" was to be the final blow to tyranny in Iraq' (p.193). He also notes how we perceive this war, through the media, through art and through narratives attached to that war. The 'crusade' against 'evil', the 'war on terror' and so on are all narrative being imposed on the world for political gains. They are aesthetic visions of the world. This is not to say, however, all ideas are equal. I also argued *per* Nietzsche that many views today are still indicative of an inner *ressentiment*; of slave morality. If there is a normative quality to the aesthetic approach, it is simply to promote values that embrace life for its full, albeit tragic, complexity.

In my view, our ethical life is bound up in normativity but no *real* normativity (Lieter, 2019 p.109). As such, our only goal should be to assert life and many forms of war, terrorism and violence are often motivated by this inner sense of *ressentiment*, often claiming to be a

morality of sorts. As such, for advocates of aestheticism there are two significant challenges that present themselves: the 'clashing of value systems' and the subsequent 'inevitable tragedy of strong military action' (Vacano, 2007 p.192). While this tragedy cannot be avoided, if we can encourage a sense that life should be affirmed not denied, and if we can see morality as an denial of life's most basic instincts out of fear of them (as I construe per Machiavelli and Nietzsche) then we should seek to create spaces of disagreement that build on the innate agonism of life that better avoid conflict while, simultaneously, accepting that conflict is both an inevitable and existential condition of life. Nietzsche surmises this view well in one of his later works:

> "*All estimations of value are a matter of a definite perspective: the maintenance of an individual, a commonality, a race, a state, a church, a belief, a culture. Due to the forgetfulness that there are only perspectival evaluations, all sorts of contradictory evaluations and thus contradictory drives swarm inside one person. This is the expression of the diseased condition in man, in opposition to the condition in animals, where all instincts play particular roles. This contradictory creature has however in his nature a great method of knowing: he feels many for's and against's he raises himself up to justice to a comprehension beyond the valuation of good and evil. The wisest man would be the richest in contradictions, who as it were, has feelers for all kinds of men: and right among them his great moments of grandiose harmony-the great accident in us also-a form of planetary emotion.*" (Nietzsche in Strong, 2015 p.26).

Nietzsche here is encouraging us to accept the contradictory nature of values. We may have notions of justice, of good and bad, of attraction and revulsion but they are just *feelings*, not, truths. Our primary moral intuitions therefore cannot guide life, we must be the makers of our own aesthetic visions and the evaluative standards that are then constituted into a series of 'commonalities' which are, by their nature, contradictory and based on a myriad of emotional attachments. This, as it were, is the reality of life and inevitably, the 'clash of values' will continue as long as human beings feel the need to will towards certain normative aspirations; but this should not be a reason not to do so.

Where the multiplicity of moral values guarantees discontentment, indeed, conflict emerges as a consequence of this, aesthetic theory provides both the means to understand that analytically, as Vacano (2007) has argued, and also the means to assert values. If values are bound to a redemptive quality, like that found in art, then the process of asserting political values aesthetically has purpose and therefore, conflict has purpose when fought according to the right values. The defining feature of these values is the lack of desire to remove other values, they are self-accepting and an aesthetic relationship between the individual and the world. This broader aspiration for value, I contend, provides the basis for thinking about conflict without morality, as aesthetic phenomena of a distinctly human design. In the absence of moral truths and proceeding universal laws, understanding the aesthetic basis of politics is a better restraint than JWT/LOAC. Respecting this difference and pluralism in life and mediating antagonisms into agonistic sites of competitive space, I contend, would be preferable to other approaches to conflict. The aesthetic basis of this is what I contend is the epistemic basis on which we should consider conflict. As such, we should look to conflict's representation, form and emotional aspects as a means to understand this inherent diversity in ethical life and cultivate a noble, affirmative attitude to life which seeks to avoid the ressentiment of moral philosophy.

Over the course of the thesis, I have firstly identified JWT as the primary tradition of morality and identified key problems that emerge from its relationship to moral principles. I have then supplied three different critiques from critical traditions: realism, legalism and amoralism. I have identified in each a key thinker, Machiavelli, Schmitt and Nietzsche who I contend have real lessons to contribute to an aesthetic theory of conflict that moves beyond morality and normative philosophising. Using key arguments from each thinker, I contend that morality in conflict not only distorts our understanding but is an underlying motivation for war by acting as a legitimating discourse on violence, predicated largely on unreliable 'moral

truths'. The aesthetic approach I outline here goes some way to highlighting how we can begin to analytically and conceptually understand conflict, and more towards different means of evaluation and restraint, without reference to moral language and, increasingly in the contemporary world, is more relevant to politics. I have attempted here to outline what I view as the essential features of an aesthetic approach to conflict and attempted to show how this might change our reflections of war, terrorism and violence. While this account is not exhaustive, I hope it will relay into future investigations into how aesthetic politics can begin to conceptualise and restrain war, terrorism and violence by refocussing our attention to the artistic quality of life and the aesthetic character of the world on which our normative and ethical thinking is based.

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