

**Just War Theory and the Fight against ISIS:
an Ethical Analysis of Parliamentary Debates in the Netherlands from 2014-2016**

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Figure 1. Coalition to defeat ISIS (Bagley, 2015)

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Introduction

In 2014, the abrupt establishment of a caliphate by the Islamic State of Iraq and Syria (ISIS) disrupted societies across the Middle East. The militant fighters of the self-declared caliphate managed to conquer territory across Iraq and Syria without much resistance. At the same time, they continued to play a pivotal role in the ongoing devastating Syrian civil war. The Dutch government decided to join the coalition led by the United States of America (US) in the fight against ISIS in Iraq with military, humanitarian, and political support (HTK, 2014a, p.1). While the Dutch government hoped to achieve a political solution to the conflict in Syria in 2014, it abstained from actively pursuing the elimination of ISIS in Syria until January 2016. In turn, this raises the question of what caused the Dutch government to change its approach. A comparative analysis of the 2014 and 2016 article 100-letters, which the government used to inform the House of Representatives about the military deployment, and the interrelated parliamentary debates will highlight the importance of the perceived humanitarian need, an international mandate, and the persistence of self-interest. This will indicate to what extent empirical change vis-à-vis the weighing of ethical arguments influenced the shift in the debate towards using armed forces against ISIS in Iraq as well as in Syria.

The analysis will focus on arguments based on the principles of Just War Theory, which provides a coherent set of ethical beliefs for dealing with war against foreign states (Neff, 2005, p.45). It is interesting to see which ethical arguments less prominent states put forward as they may have different reasons to contribute to the fight against ISIS than major powers due to the evaluation of interests at stake. Therefore, an analysis of parliamentary debates of smaller states, like the Netherlands, would be a welcome addition to research on the application of Just War Theory. Moreover, the Netherlands will be an excellent case study because it is a parliamentary representative democracy covering a wide political spectrum. As the analysis will show, the Dutch parliamentary debates do not only offer a wide variety of political viewpoints but also a change thereof since the Dutch government in 2014 only used armed forces against ISIS in Iraq and not in Syria until 2016.

Firstly, an outline of core elements of Just War Theory will be presented. With sporadic support from other authors, the works Michael Walzer, James Johnson, and Stephen Neff will be applied, because they provide a comprehensive scheme of Just War characteristics and most recent analyses are based on their interpretation of the Just War doctrine. Secondly, the views raised in the Dutch parliamentary debates concerning the participation in the fight against ISIS will be analysed on the basis of Just War principles. These elements will be used to clarify the complexity of the conflict, with which I aim to disclose which ethical arguments were the decisive components in the decision-making process. I, thereby, answer how the moral justification for a Dutch participation in the military intervention against ISIS in Iraq and Syria, as discussed in the Dutch parliament, changed between 2014 and 2016.

How did the moral justification for a Dutch participation in the military intervention against ISIS in Iraq and Syria, as discussed in the Dutch parliament, change between 2014 and 2016?

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1. Just War Theory

1.1 Applying Just War Theory

The principles of Just War Theory will be used as a heuristic for the analysis as they provide an ethical framework for the use of armed forces in conflicts. The analysis will clarify which arguments regarding justice in the fight against ISIS are emphasized in the Dutch parliamentary debates. It will become clear how the Dutch parliament prioritized legal restraints over the value of a humanitarian cause in 2014 in the case of Syria. Most attention will be given to the differences between the decision-making in 2014 and 2016, which will highlight the parliament's struggle with regard to international law, the persistent humanitarian need, and the feasibility of peace in the region.

As Just War Theory will be used as the basis of the analysis of the article 100-letters and the Dutch parliamentary debates, it is first relevant to determine what the theory entails. There are many varying definitions of Just War principles, which exclude or include certain components of the theory. Overall, it is agreed that the Just War doctrine is in essence about wars being waged 'for the enforcement of right and eradication of evil'. This puts limitations on the objectives for which force could be used, as will be explained below (Neff, 2005, pp.47, 49). For the purpose of this thesis the definitions set out by Johnson in *Morality and Contemporary Warfare* (1999) and Neff in *War and the Law of Nations: A General History* (2005) will be principally used because they provide a clear and comprehensive ethical framework.

This framework can be applied to specific armed conflicts to determine a degree of moral justification, for conducting war is never completely just nor completely unjust (Johnson, 1999, p.27; Dorn, 2011, p.242). The Just War tradition has two major sections, known as *jus ad bellum* and *jus in bello*. The former consists of a seven-fold scheme of characteristics defining the right to resort to war, while the latter explains justified conduct in war (Johnson, 1999, pp.27; McMahan, 2012). Below, a description will be given of the *jus ad bellum* framework to evaluate the use of armed forces, which is the enduring strength of the theory. An ideal war would be wholly altruistic and meet all criteria of Just War Theory (Neff, 2005, p.53). One must keep in mind that both in regard to following the logic of Just War as well as looking at history, the seven moral criteria of *jus ad bellum* should not be weighed equally. Just Cause, Right Authority, and Right Intention have priority over the others when assessing ethical aspects of conflicts (Johnson, 1999, p.41).

According to Walzer, a resolution to armed conflict could only be considered as serious when it acknowledges both the strength of the justification according to *jus ad bellum* and *jus in bello* (Walzer, 2006, p.228). However, the purpose of this thesis is to analyse the reasoning behind the use of armed forces rather than the ethics of conduct in the war. Therefore, the principles of *jus in bello* will be omitted.

1.2 The Importance of Just War Theory

Although the theory is based on centuries-old Christian tradition and the characteristics of war have

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changed over time, the Just War Theory remains relevant in contemporary wars. This is specifically clear in the cases of the 1999 North Atlantic Treaty Organisation (NATO) air campaign in Kosovo and the 2003 Iraq War. The former has been widely perceived as ‘illegal but legitimate’, whereas the Iraq intervention outside the United Nations (UN) system was in hindsight seen as both illegitimate and illegal (Chesterman, 2002, p.295; Hardy, 2014, p.3; Herranz, 2010, p.24). This shows that moral arguments are highly important in wartime, for the laws of war are incomplete (Walzer, 2006, p.288). At present, the international community is confronted with the emergence of the major non-state actor ISIS, which does not only physically affect the world with its terrors but also challenges the status quo with regard to legitimacy, international law, and the conception of states and sovereignty. These aspects make the coalition’s fight against ISIS in the region a unique case in the history of war and thereby of Just War tradition.

Thus far, research on the Just War doctrine has mostly dealt with the interplay between the need of military interventions and the ethics of the use of armed forces. In this regard, much has been written on interventions of the 20th and 21st century, with a focus on the ethics of the impact of military interventions on societies. Apart from that, the theory itself has been widely explored, which has led to suggestions of many scholars to adjust the theory based on moral and ethical considerations found in contemporary conflicts (McMahan, 2012). This broader discussion has highlighted the coactions of Just War Theory and the international community, namely the UN system. Here, the development of the ‘responsibility to protect’ is a good example as it put a moral responsibility on the international community with regard to military interventions.

However, while the UN system is based on consensus of all Member States, most attention in research on (the ethics of) war is given to the perspective of the permanent five members of the Security Council because they are seen as most powerful. Analyses of the American perspective on the Vietnam War and the 2003 Iraq War are well-known examples. While not altering the idea that research on the decision-making process of prominent states is of utmost importance, focus on less dominant states is also interesting. This would allow determining to what extent elements of Just War Theory are embedded in the decision-making process of going to war. An integrated analysis of parliamentary debates on military deployment with a focus on the existing ethical principles of Just War Theory would, therefore, be a welcome addition to research as this would allow making a clear distinction between different, perhaps changing, ethical positions within a debate.

1.3 Jus ad Bellum

1.3.1 Just Cause

The principle of Just Cause entails that the reason to fight should be the protection and preservation of distinct moral values such as the defence of innocent people against armed forces. It, therefore, determines whether the intentions of going to war are permissible in principle (Neff, 2005, p.51). The achievement of human objectives and the establishment of conditions necessary for a stable peace are

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nowadays accepted as causes for justified interventions (Johnson, 1999, pp.13, 66). A just war is fought in the pursuit of a valid legal claim and should, therefore, have a well-defined objective, e.g. defending state territory. The criterion of Just Cause implies that the claim of a specific act of wrongdoing on which a war is waged must be legally valid to be just (Neff, 2005, pp.50-51, 55).

1.3.2 Right Authority

The misuse of law and morality is common in times of war. According to Just War Theory, the actor enabling the use of forces must be the authorized representative of a sovereign political entity (Walzer, 2006, p.291; Johnson, 1999, p.28). The criterion of Right Authority reflects the underlying pacifist view of the doctrine as a whole, stressing the virtue of defence of others rather than oneself against external foes. This implicates that combatants, which have been granted authority by a government to use armed force, hold the responsibility to justify harm being done in an armed conflict (Neff, 2005, pp.46, 50).

1.3.3 Right Intention

The intent of the use of force with the purpose of correcting evil must be in accord with the Just Cause, which excludes the intention of territorial aggrandizement, intimidation or coercion (Neff, 2005, p.51). Right Intention means serving the goods of proper political life and avoiding bad motivations (Johnson, 1999, pp.28, 32). Even if the criterion of Just Cause is met, the lack of a correct intent would make a war unjust. An important point about Right Intention is that the war being waged strictly needs to be aimed at the justly condemned actions as opposed to the instigator (Neff, 2005, pp.52-53). The obligation of providing humanitarian assistance has been recognized in international law and moral discourse (Johnson, 1999, pp.96, 102).

1.3.4 Proportionality of Ends

The overall good achieved should outweigh the harm being done, which implies that the level and means of the use of force should be appropriate to the just ends sought (Johnson, 1999, p.29; Dorn, 2011, p.246). On the one hand, the good achieved could include, but is not limited to, improvement of human rights, access to education, and economic growth. On the other hand, the harm done could include the costs of war and the number of fatalities (Dorn, 2011, p.247). According to Johnson, it is a moral obligation to anticipate which means justify the just ends sought (Johnson, 1999, p.38).

1.3.5 Last Resort

When states decide to go to war, it needs to be certain that no alternative and non-forcible way to achieve the just ends sought was available (Johnson, 1999, pp.28, 41; Dorn, 2011, p.250; Neff, 2005, p.51). No matter how great a perceived threat may be, e.g. regarding the survival of communities, the mere recognition of such a threat does not permit attacks on the innocent if other means could be used

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to produce the desired result (Walzer, 2006, p.253). Therefore, exploring peaceful means of dispute settlement such as negotiations morally takes precedence over the use of force (Johnson, 1999, pp.41, 251-252).

1.3.6 Reasonable Hope of Success

Before going to war, there should be a calculation of the likelihood of the use of force bringing the just ends sought (Johnson, 1999, p.28). This calculation concerns criteria like the level and duration of military deployment. One could argue that because war by its nature creates injustice and disorder, it could never reasonably be perceived as serving justice and peace. This excludes the possibility of the use of force as a hopeful means to reach success (Johnson, 1999, pp.34, 191, 217). Because it is unclear in some conflicts what winning entails, i.e. whether it simply means overthrowing the enemy, legitimate ends should serve as the limits of just war, which can be seen as goals to rightly aim at (Johnson, 1999, p.110).

1.3.7 The Aim of Peace

The use of force should be aimed at establishing peace, which means providing stability and international security. To achieve these ends, a state may include measures to promote peace such as nation building and disarmament. At all times, stability is preferred over other values. To achieve peace, emphasis is put on limits on just causes for going to war and *jus in bello* restraints as Proportionality of Means and Non-combatant Protection and Immunity (Johnson, 1999, pp.29-30).

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2. Method of Analysis

A state-level analysis will be used for the purpose of this thesis because it provides a closer look at the making of national foreign policy. The analysis of the Dutch parliamentary debates will focus on ethical arguments Dutch politicians used while contemplating the use of force against ISIS in 2014 and comparatively in 2016, with an emphasis on the elements of Just War Theory. The principal attention will be on the criterion of Right Authority, i.e. on state sovereignty, as this has been a particular concern for several Dutch political parties.

Even though the government does not require approval of the House of Representatives for the decision to use armed forces, it is obligated to inform the House about military deployment through an article 100-letter. The analysis of the Dutch parliamentary debates will focus on the first article 100-letter and the following parliamentary debate on 24 September 2014, which specifically dealt with the matter of the contribution in Iraq and Syria before the mission started. Thereafter, the reasoning behind abstaining from pursuing the elimination of ISIS by military means in Syria in 2014 will be analysed. Subsequently, the analysis will turn to the second article 100-letter, which followed on 29 January 2016, when the government decided to make fighter planes and military personnel available for a mission in Syria as well. Press releases, governmental letters, and articles will provide background information in order to clarify the parliamentary debates.

The comparative analysis will show that even though most political parties underscored the urgent moral need to intervene in Iraq as well as Syria in 2014, the absence of a strong mandate and the complexity of the Syrian civil war withheld the Dutch government from intervening in Syria until 2016. The change in the government's approach towards the use of armed forces against ISIS in Iraq and Syria will accentuate the heavier weighing of ethical arguments, which correspond with principles of Just War Theory.

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3. The Fight against ISIS from a Dutch Parliamentary Perspective

3.1 Background

In order to understand the arguments of the Dutch politicians with regard to the decision to use armed forces against ISIS, it is important to be aware of the context of the conflict and discussion. The roots of ISIS date back to 2006 when insurgent groups unified in the aftermath of the US-led invasion of Iraq. In 2011, the self-declared state first sent fighters to Syria to oppose president Bashar al-Assad. In the midst of an ongoing civil war that was tearing Syria apart, ISIS conquered territory fast. Without recognition of borders, it soon occupied a territory with roughly 10 million inhabitants. When the Iraqi government called upon the collective self-defence of its state as described in Article 51 of the UN Charter on 25 June 2014, the US and coalition partners decided to collectively support Iraq with armed forces to put ISIS to a stop (Rodgers, et al., 2014; Klompenhouwer, 2014). The following month, the US started airstrikes against ISIS in Syria as well (Jenkins, 2015, p.27; Hakimi, 2015, pp.20-21). On 24 September 2014, the Dutch government revealed to join the coalition forces in Iraq (HTK, 2014a, p.1). As a result, fighting against a non-state actor, which itself denied borders, provoked a debate about international law and state sovereignty in the Dutch parliament.

3.2 Complexity of the Conflict

The reasoning behind the decision to use armed forces against ISIS is especially interesting because of the complexity of the war, which is fought between states and a militant organisation that functions like a state. ISIS recruits fighters for the cause of expanding their caliphate, which should protect Sunni Muslims against all, e.g. Shia Muslims. For this cause, ISIS recruits fighters across the world, trains and organizes them from within and outside their territory, and sends them into battle wherever they find needed. This cause is similar to why a state organises an army; it is to defend their own existence, the common life, and the individual lives of their citizens (Walzer, 2006, pp.340-341; Rodgers, et al., 2014; Klompenhouwer, 2014).

Despite the fact that ISIS acts like a state, it is in international law not perceived as one and does not possess recognized territory. Therefore, the complexity of the issue also arises from the legal perspective. Moreover, because ISIS is partly positioned in the sovereign state of Syria, the fight against ISIS on Syrian territory based on the collective self-defence of Iraq did not only provoke a debate about legitimacy but also about legality as all actions need to be directly aimed at the defence of Iraq (Nollkaemper, 2014, p.3). This complexity played an important role in the decision-making process regarding the use of armed forces in Iraq and Syria for the Dutch parliament as they felt the need to defend Iraq on the one hand, but strived to uphold international law and protect Western values on the other hand. Furthermore, the great number of actors involved with widely varying interests in the resolution of the conflict increased the complexity. Not only do the partners of the US-led coalition have different objectives, but other actors such as the neighbouring countries and major powers like Russia also protect their own interest in the matter.

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The first article 100-letter described how the Dutch government perceived the situation as urgent, for not intervening would destabilize the region further. However, the government also acknowledged the complexity of the political and regional context, which poses challenges to the international community (HTK, 2014a, p.1). Firstly, ISIS challenges the international order by aiming to establish a caliphate in the entire Middle-East, ideologically focusing on an ultraconservative interpretation of Islam. ISIS justifies all means for itself to achieve this end, which in reality leads to a totalitarian system based on violence, intimidation, and suppression (HTK, 2014a, p.2). Secondly, in 2014, the government felt that the use of hard power against the organisation was insufficient for an effective fight against ISIS in Iraq and, therefore, stated that profound political and social-economical reforms were also necessary. This would require international diplomatic support for the political process in Iraq. According to the Dutch government, the success of ISIS within Syria resulted from instability and the lack of a political solution (HTK, 2014a, pp.3-4). In 2014, the government contributed to the aim of achieving a political solution in Syria but refrained from actively pursuing the elimination of ISIS by military means there until January 2016. A comparison of Dutch parliamentary debates from 2014 and 2016 will clarify the cause of the change in the approach of the Dutch government towards fighting ISIS in both Iraq and Syria.

3.3 Fight against ISIS in 2014

3.3.1 Humanitarian Need versus Right Authority

What is clear in the overall debate of 2014 is that arguments in line with the Just War principle of Last Resort were not declared relevant by the Dutch government. It was mostly the Socialist Party, led by MP Roemer, which illustrated that to achieve a solution to the crisis in Iraq, the breeding grounds of ISIS should be combated (HTK, 2014b, p.2). Roemer pointed out that the Iraqi government did not show enough dedication to this aim at the time and that international support would only cause them not to feel the need to reform. Therefore, opposing the use of armed forces, Roemer proposed to start with humanitarian and financial aid for refugees in the region, to cooperate with the Kurdish regional government, and to isolate ISIS from monetary flows and oil transport. Furthermore, he supported the idea of de-radicalization programs as well as the work of the intelligence services to combat jihadists (HTK, 2014b, p.2).

Additionally, Roemer questioned whether the decision to use armed forces in Iraq was legal in accordance with the constitution of the Netherlands as Article 96(1) proclaims war without prior authorization of the States-General, which had not been given. However, the Prime Minister declared this comment irrelevant as he stated that 'going to war' had to be interpreted in a political and not juridical manner (Koenders, 2015, p.6). Not all peaceful means were exhausted in 2014 when the Dutch government decided to contribute to the fight against ISIS on the basis of the request for military support from the Iraqi authorities. According to the Dutch government, this request provided the legal basis to deploy Dutch soldiers in Iraq (HTK, 2014a, pp.4-5). Looking at the components of

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Just War Theory, the government accordingly fulfilled the requirement of Right Authority.

In determining the collective self-defence of Iraq as the legal basis, the parliament agreed on the urgent need to intervene in 2014 without exception of any political party. The article 100-letter described the unprecedented brutality of ISIS. The crimes against humanity, as the government labelled it, caused an influx of refugees, which put pressure on Iraq and Syria as well as neighbouring Turkey, Jordan, and Lebanon. The government, therefore, concluded to contribute to the de-escalation of the situation in the region with the decision to use armed forces, while upholding international law. The former implied that the efforts of the Dutch forces would contribute to preventing and ending grave violations of fundamental human rights by ISIS. Thus, following the reasoning of the Dutch government, the Just Cause of the 2014 intervention was not only the defence of Iraq but also a humanitarian need.

3.3.2 Moral Responsibility

It was found that the Dutch government would contribute to stopping atrocities as crimes against humanity, genocide, and systematic sexual violence, of which ISIS was all found guilty of (HTK, 2014a, p.2). All political parties agreed that the cruelties of ISIS were unacceptable, which was eloquently phrased by MP van Ojik when he stated that ‘where genocide is likely to happen and crimes against humanity occur, the international community holds the responsibility to protect citizens and to intervene. The rise of ISIS combined with the extreme cruelties needs to be put to a stop by all possible means’¹ (HTK, 2014b, p.7). These intentions were underlined by arguments of many and even supported by tabled UN-reports on the harm being done by ISIS. Contributing to peace, security and justice had to be seen as an international moral duty for the Dutch government, as was noted in the parliamentary debate (HTK, 2014b, pp.2, 9). It was generally found that ISIS did not only affect the Middle-East by conquering territory and committing grave violations of human rights, but most of the world, including the Netherlands, and that the organisation would not cease to exist without intervening (HTK, 2014b, p.14). This knowledge meant that deciding not to intervene would have meant failing to undertake responsibilities. The crimes against humanity in Iraq and Syria affected everyone, which is why MP Thieme stated that ‘no one wants to stand by and watch powerlessly’² (HTK, 2014b, p.8). Looking at Just War Theory, the use of armed forces was accordingly seen as a Last Resort to combat ISIS by most politicians.

3.3.3 Western Interests

When it became clear in the debate that the government perceived intervening as the only option, the debate turned to the intentions of the Dutch mission, which could be analysed on the basis of the Just

¹ *“Waar genocide dreigt en misdaden tegen de menselijkheid aan de orde zijn, heeft de internationale gemeenschap de verantwoordelijkheid om burgers te beschermen en de plicht om in te grijpen. De opmars van IS en de extreme wreedheid waarmee die gepaard gaat, moeten met alle mogelijke middelen worden gestopt”* (Sarah Janse, 2016)

² *“Niemand wil machteloos toekijken”* (Sarah Janse, 2016)

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War criterion of Right Intention. What stood out most was the fact that while all politicians were concerned about the region, the decision to use armed forces in Iraq was mostly based on protecting Western values, and thereby of the Netherlands. This was stressed by MP Zijlstra when he pointed out that ‘this mission is about the protection of our Dutch, our Western, norms and values, our freedom of speech, freedom of women to vote, freedom of gays to get married, freedom of religion, and freedom of every child to go to school’, after which he added that ‘the terrorist movement ISIS does not allow us those freedoms. They want to demolish our freedoms. They want to destroy the society we cherish’³ (HTK, 2014b, p.14). Statements were made about the risks posed to the future of the Netherlands, the Dutch freedom, the culture, and children. This was generally seen as the reason why the Dutch forces had a mission in Iraq (HTK, 2014b, pp.15-16).

Moreover, the objectives of the Dutch government should also be considered in the analysis when assessing the Just War principle of Right Intentions. The article 100-letter made clear that in the context of the crises in Iraq and Syria, the Dutch government also liked to improve the situation for women in their respective societies (HTK, 2014a, p.9). Whilst assessing these arguments, one needs to keep in mind that besides promoting Western subjective values in the region, there are more interests at stake for the Dutch government. It goes without saying that the economic, humanitarian, and security interest of Europe, and thereby the Netherlands, in the Middle East are closely intertwined. Terrorism has an increasingly transnational character, which causes governments to fear citizens travelling to the Middle East for they might join jihadist organisations as foreign fighters. The House of Representatives also feared the increase in Dutch foreign fighters, especially considering that they might return and pose a direct threat to the Dutch society (HTK, 2016a, pp.1-2). Thus, it could be concluded that the stakes for the Dutch government in the involvement of the conflict were high.

Although the intentions were formally phrased as the protection of Iraq and its citizens against cruelties, which according to Just War Theory would meet the principle of Right Intention, the Dutch government’s objectives eventually seemed to be about changing regimes and pursuing self-interest. The inclusion of these aims rather than the singular focus on providing security in the country, which contributes to the prevention of terrorism, makes war less just (Dorn, 2011, p.245). This puts the arguments in a different light and incites pressing moral dilemmas like whether the use of force in Iraq was morally just. Moreover, in line with Just War Theory, it questions whether there even was a Reasonable Hope of Success since the intentions and goals were unclear.

3.3.4 Feasibility of Success

Transpired through the analysis of the 2014 debate, the exact goals of the use of force and the notion of success remained unclear. What stood out most was the parliament’s awareness of the fact that

³ *“Deze missie gaat over de verdediging van onze Nederlandse, onze westerse waarden en normen, onze vrijheid van meningsuiting, het recht van vrouwen om naar de stembus te gaan, het recht van homo's om met elkaar te trouwen, het recht op godsdienstvrijheid, het recht van ieder kind om naar school te gaan. De terroristische beweging ISIS gunt ons onze vrijheden niet. Zij wil deze vrijheden vernietigen. Zij wil de samenleving die wij koesteren, vernietigen”* (Sarah Janse, 2016)

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armed forces would allow to reduce but never to eliminate the threat, in turn, questioning the Just War criterion of a Reasonable Hope of Success. This fact was stressed by many politicians, such as MP Zijlstra who stated that ‘we can fight ISIS, but we don’t have the illusion that with that the radical ideas will disappear forever’⁴ and MP Krol who stated that ‘ISIS will move to other countries, including Syria, and we don’t use force there because of the lack of an international mandate. That shows great limitations of this military intervention. We should therefore not cherish the illusion that we are now dealing with ISIS in a structural and fundamental way’⁵ (HTK, 2014b, pp.1, 9).

Moreover, when assessing the Just War principle of Reasonable Hope of Success, it is important to note that MP Roemer stressed the question of effectiveness rather than morality. He questioned whether the fight against ISIS would be an endless fight and whether it would worsen the humanitarian situation by increasing the unity of jihadists and the support for ISIS (HTK, 2014b, p.2). This in its own turn was recognized by MP van Ojik, who noted that the use of force could only be successful if it would go hand in hand with years of political, humanitarian, and economic commitment (HTK, 2014b, p.7). Even the government pointed out in the article 100-letter that military efforts would increase the flow of refugees, increase the threat of terrorism in the Netherlands, and possibly encourage ISIS to become crueller towards civilians. However, the government saw a process of stabilization feasible in the long term, which does not necessarily mean success but does imply the Just War criterion of Aim of Peace albeit the conviction that political change was needed for sustainable stability (HTK, 2014a, pp.1,7, 8 10).

When weighing the gain against the harm, most politicians pointed out that defending Western norms and values would potentially lead to far-reaching consequences for security in the Netherlands and that the fight would take years (HTK, 2014b, pp.5, 9). This is also why MP Thieme was deeply concerned, as she stated that the day boots touch the ground would entangle the government in a war that could go on for decades. Moreover, she stressed, the Red Cross had emphasized that airstrikes would worsen the humanitarian situation (HTK, 2014b, p.8). The government further recognized that military efforts might cause radicalization and sectarian unrest, that the increase of refugee flows was imaginable, and that Dutch forces would be at risk of an armed attack in Iraq (HTK, 2014a, pp.5, 10-11). Thus, the government perceived the gains as more valuable than the possible harm being done, and thereby, looking at the principles of Just War Theory, conformed to the criterion of Proportionality of Ends.

3.3.5 Conclusion 2014

The analysis above leads to the moral questions of whether the overall good achieved could be seen as

⁴ “We kunnen ISIS bestrijden, maar wij hebben niet de illusie dat daarmee het radicale gedachtegoed voorgoed verdwenen zal zijn” (Sarah Janse, 2016)

⁵ “Bovendien zal ISIS zich verplaatsen naar andere landen, waaronder Syrië, en daar zetten we vanwege het ontbreken van een volkenrechtelijk mandaat onze krijgsmacht niet in. Dat toont de grote beperking aan van dit militair ingrijpen. We moeten dan ook niet de illusie koesteren dat we hiermee ISIS structureel en fundamenteel aanpakken” (Sarah Janse, 2016)

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greater than the harm being done, whether there is a Reasonable Hope of Success, and whether the ends sought are proportionate. In accordance with the Just War element of Right Authority, the article 100-letter and the parliamentary debate pointed out that the collective self-defence of Iraq provided the legal basis for the Dutch government to deploy armed forces against ISIS in Iraq. Most attention was drawn to the humanitarian imperative when justifying the use of armed forces. In 2014, this objective was only perceived as utmost urgent in Iraq and not in Syria, while concerns about the latter were raised frequently as will be shown below. The just intentions for the fight in Iraq were supported by the need to protect Western and Dutch values, which made the principle of Right Intention crucial in the decision-making process. However, the Just War criteria of Reasonable Hope of Success and the Proportionality of Ends were unclear, which caused several politicians to raise moral concerns.

3.4 Comparing Iraq to Syria in 2014: Critical Concerns

A critical point to note is that all politicians in the 2014 debate on the article 100-letter, except for the Prime Minister and MP Samsom, and MP Roemer who opposed the idea of armed forces in general, disapproved of the government's decision to use armed forces in Iraq yet explicitly refrained from crossing Syrian borders. The Prime Minister was questioned about that decision, as most politicians perceived the threats posed by ISIS to the Syrian society at least just as harmful as to the Iraqi society. Moreover, the humanitarian need in Syria seemed possibly even greater to most politicians, for there had been an ongoing brutal civil war for years. The parliament agreed to the fact that it would be difficult to accept strict national borders, when ISIS clearly did not. Moreover, they pointed out that the US and other allies were already active in Syria (HTK, 2014b, pp.3-6, 7, 10).

MP van Haersma Buma claimed that the legal basis for an intervention in Syria could be found in the defence of Arabic countries, the defence of the West, and the prevention of a mass massacre in Syria, which could be labelled as 'the responsibility to protect' (HTK, 2014b, p.3). The Prime Minister, however, responded by stating that there was no international legal mandate at the time. He explained that a UN Security Council resolution was mandatory to use armed forces in Syria, which without the support of Russia and China he perceived as unlikely. Another resort to war, as the Prime Minister pointed out, was to request Assad to allow military efforts to combat ISIS, which was not explicitly considered (HTK, 2014b, p.11). Even though, when looking at Just War Theory, the use of armed forces was thus not a Last Resort, the principle of Right Authority was met following the reasoning of the Dutch government. It acknowledged the strict conditions for the call upon self-defence, which itself was already an exception to the prohibition of violence, especially against a non-state actor (HTK, 2014a, pp.4-5).

Because the government did not see self-defence as a legitimate mandate to intervene in the sovereign state of Syria in 2014, they limited the use of armed forces to Iraq, while expressing sympathy for the military efforts of the US. This evoked a debate about morality and law as several politicians pointed out that Assad had failed to stabilize the conflict in Syria for four years (HTK,

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2014b, p.5). The fact that the Syrian government used armed force against civilians and had been unable or unwilling to stop atrocities by non-governmental forces for years made politicians perceive the need to intervene as urgent and as a moral responsibility. On top of that, most politicians sought a comprehensive approach to eliminate ISIS and protect civilian populations, which according to Just War Theory would meet the criterion of a Reasonable Hope of Success. However, this was perceived as impossible if armed forces had to accept the prohibition of crossing national borders. For the assessment of Just War principles, these concerns raised the question whether the moral arguments trumped the legal restraints, i.e. whether the Just Cause and Right Intention trumped the principle of Right Authority.

3.5 Fight against ISIS in 2016: a Shift in the Debate

3.5.1 Humanitarian Need versus Right Authority

Even though no moral consensus had been reached in the UN Security Council, the Dutch government sent a letter to the House of Representatives in January 2016, the second article 100-letter, stating that it had decided to carry out targeted airstrikes against ISIS in Syria in order to make the fight against ISIS in Iraq more effective (HTK, 2016b, p.1; Dutch Government, 2016). The government stated that in view of national and European security interests, and the Paris terrorist attacks of November 2015, efforts for a political solution in Syria as well as the fight against ISIS in Iraq and Syria would be intensified (HTK, 2016b, pp.1, 3). At the time, ISIS was still in control of Mosul in Iraq and the *de facto* Syrian headquarter of ISIS, al-Raqqa. Moreover, the political issue remained exceptionally complex, ISIS had shown to pose a direct threat to Western societies and continued to violate human rights (HTK, 2016b, pp.1, 3, 8, 12).

According to the Dutch government, the political process was, so far, hampered by terrorist organisations that stood in the way of the process to peace and by ties between the Syrian regime and Moscow. The Russian influence in Syria remained significant, which was highlighted by Assad's request for Russian military support (HTK, 2016b, pp.5, 9). Moreover, the article 100-letter emphasized the pressing need for humanitarian assistance in both Iraq and Syria. It pointed out that 8.2 million Iraqis were in need of humanitarian aid, of which 3.2 million were internally displaced. Comparatively, 13.5 million Syrian civilians were in need of humanitarian aid, while 6.5 million were internally displaced and an additional 4.5 million Syrians had fled the country (HTK, 2016b, pp.7-9). Thus, after the US and France called upon allies to intensify the efforts against ISIS, the Dutch government decided that this time there was a mandate, which again could be found in the collective self-defence of Iraq on the basis of Article 51 of the UN Charter (HTK, 2016b, p.3). Therefore, when analysing these arguments on the basis of Just War principles, one could conclude that the criteria of Just Cause, Right Intention, and Right Authority were met.

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3.5.2 Moral Responsibility

The shift in the parliamentary debates could have to do with the fact that there were two conflicts in Syria at the time, which meant there was more at stake, as the government noted. On the one hand, there was an internationalised civil war and the fight against Assad and, on the other hand, there was an inseparable fight against ISIS (HTK, 2016b, p.2). While politicians frequently stressed the moral responsibility to intervene in Syria in 2014, the government did not find a mandate in international law to intervene in the civil war between Assad and the opposition, subsequently prioritizing respect to sovereignty over the value of preventing further harm being done to a population (Mollier, 2014). Remarkably, because the government declared the Syrian crisis as the main cause for the unprecedented refugee flows to Europe, the Dutch ministers of Foreign Affairs and Defence stressed the urgency of a political solution for Syria not only as a moral responsibility but also as a self-interest (HEK, 2016, p.2). Thus, when looking at the Just War principles, the Just Cause for war, namely the humanitarian crisis and the defence of Iraq, had stayed the same, but outweighed the legal concerns in the 2016 debate.

Over time, indeed more and more Iraqi and Syrian civilians were in need of humanitarian aid, ISIS had caused even more harm, and had, thereby, also increased the threat to the West (HTK, 2016b, pp.1, 9, 10). However, this was all foreseen by the Dutch government in 2014, which raises the question why the humanitarian imperative weighed heavier in 2016. The considerations of the government regarding military deployment in the sovereign state of Syria could be clarified by political philosophical reasoning. Some consider a legitimate government only as one that could fight its own internal wars, which Assad's government had failed to do. Walzer noted that when a government, in this case the Syrian government, turns savagely upon its own people, one must doubt the very existence of a political community and with that the legitimacy of a government (Walzer, 2006, p.101).

Moreover, following the reasoning of the contemporary philosopher Thomas Pogge, because the Syrian government did not have irrevocable authority over Syrian civilians, *de facto* holding no control over its territory, and because there were other agencies holding authority over Syrian civilians, one could say that there was no absolute sovereignty in Syria (Pogge, 1992, p.57). This consideration, the lack of sovereignty, could influence the weighing of the Right Authority principle of Just War Theory. In the case of the fight against ISIS, the ethical considerations concerning international law and respect to state sovereignty weighed heavily in the decision-making process with regard to the Syrian conflict in the Dutch parliamentary debates. Nonetheless, when looking at the principles of Just War Theory, the moral responsibility, i.e. Right Intention, appeared to outweigh the principle of Right Authority in 2016.

3.5.3 Western Interests

An analysis of the second article 100-letter shows that the Dutch government used the fight against

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ISIS in defence of Iraq in 2016 to also deploy military force and exert influence in Syria. The government stated that the start of 2016 had been the first time a political solution and transition seemed feasible since the outbreak of the Syrian civil war (HTK, 2016b, p.12). The government was convinced that a sustainable solution would only be possible if a political transition would take place alongside the resignation of Assad (HTK, 2016b, pp.2-3). The intention to influence the political process within Syria, which in the terms of Just War Theory could be seen as conforming to the principle of the Aim of Peace, became even more clear when the empowerment of women was discussed in detail in the article 100-letter, which inter alia pointed out that the Dutch government financed the *Syrian Women's Initiative for Peace and Democracy* (SWIPD) to ensure Syrian women would also be part of the political transition (HTK, 2016b, pp.7, 13; Dutch Government, 2016; HTK, 2016d, p.2).

Although the Dutch government acknowledged the lack of a legal basis to intervene in the Syrian war, the government tried to protect its own interests in the region while promoting Western values in the Syria. This did not only include promoting political rights of women but also protecting European borders as well as trying to prevent territory from falling back into the Syrian government's hands after power vacuums would arise (HTK, 2016c, p.22; HTK, 2016b, pp.3, 17, 22; HTK, 2014a, pp.2,8-9). Looking at Just War Theory, this questions the principle of Right Intention.

3.5.4 Feasibility of Success

The Dutch government acknowledged that even in this phase of the fight, ISIS would not yet cease to exist, which implicates that the Dutch government was trying to contribute to the fight against ISIS while at the same time pursuing self-interest, without careful consideration of both Iraq's and Syria's resulting future. This became even clearer when the government emphasized that an agreement between most involved UN and European Union member countries had been reached on a political strategy for Syria on 14 November 2015 in Vienna. The agreement concerned a ceasefire and the start of a political transition process, which was supposed to lead to an inclusive and non-sectarian government, followed by a new constitution and free elections in 2017. However, as the Dutch government noted, neither representatives of the Syrian regime nor the armed opposition forces in Syria were present in Vienna (HEK, 2016, p.2).

Moreover, the Dutch government was in 2016 still deeply concerned about the likelihood of success when looking at the complexity of the issue at hand and the years of fighting ahead. It pointed out that four main actors were fighting against each other in Syria. Next to ISIS and the Syrian regime, supported by Iran and Russia, more actors were involved. Several Syrian opposition forces, supported by some Gulf States, Turkey and Jordan, and the Syrian-Kurdish PYD/YPG increased the complexity of a possible solution (HTK, 2016b, p.2; Cronin, 2015, p.97). The government noted that the use of armed forces in Syria by ISIS, the Assad regime, and Russia complicated humanitarian relief operations because they did not carefully consider how they affected the civilian population (HTK,

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2016c, p.33). Noting that all actors were pursuing different interests, the feasibility of a resolution seemed as problematical as it was in 2014 to the Dutch government. Looking at the principles of Just War Theory, these concerns question the criterion of a Reasonable Hope of Success.

3.5.5 Conclusion 2016

In short, the Just Cause, namely the humanitarian need in both Iraq and Syria and the defence of the former, remained urgent, while ISIS affected even more people in 2016 compared to 2014. The need to intervene in Syria because of the ongoing humanitarian crisis and the need to intensify the fight against ISIS in order to defend Iraq outweighed the principle of Right Authority. In light of the ISIS bombings in Europe, the interests at stake were perceived as higher in 2016 than in 2014. This, on top of the chance to exert influence in the Syrian political process, contributed to the decision to deploy armed forces in Syria while concerns about the legal restraints and the Reasonable Hope of Success remained.

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Conclusion

How did the moral justification for a Dutch participation in the military intervention against ISIS in Iraq and Syria, as discussed in the Dutch parliament, change between 2014 and 2016?

In order to answer the research question above, this thesis first provided an overview of the most important elements of Just War Theory. Thereafter, the article 100-letters and the Dutch parliamentary debates on the contribution to the fight against ISIS in 2014 and 2016 were analysed on the basis of the Just War principles. The analysis of the debates along with an examination of the core principles concerning Just War Theory led to a clearer view of the ethical arguments used in the Dutch parliament, which revealed that interestingly enough all seven criteria of *jus ad bellum* could be found in the decision-making process concerning the fight against ISIS in both Iraq and Syria.

It was found that even though not all peaceful means were exhausted by the US-led coalition (Last Resort), including the Dutch government, a legal basis was established in the collective self-defence of Iraq in accordance with Article 51 of the UN Charter (Right Authority). The possibility of not intervening was largely ignored in the parliamentary debates, except for comments made by MP Roemer. While the humanitarian imperative was strongly present in the debates (Right Intention), with all politicians stressing the cruelties of ISIS, it was the reasoning behind the decision to use armed forces in the fight against ISIS that appeared to be most evident. Namely, motivations to promote Western values and protect national interests in the region took precedence in the debate over the defence of Iraq, or Syria for that matter. At the same time, while most politicians proclaimed to hope for establishing peace and stability in the region (Aim of Peace), a remarkable number of statements were made about the likelihood of achieving the described goals (Reasonable Hope of Success), subsequently leading to the moral question whether the good achieved would outweigh the harm being done (Proportionality of Ends).

It became clear that in 2014 the moral emphasis in the parliamentary debate was put on the humanitarian cause in Iraq and Syria. Yet, as it turned out, the principle of Right Authority outweighed the principle of Just Cause when contemplating the use of armed forces on Syrian soil. As the Dutch politicians in 2014 had already foreseen, during the months following the start of the Dutch contribution to the fight against ISIS, the organisation conquered more territory, established more support, and became a bigger threat. The latter was highlighted by the Paris attacks of November 2015, after which the US and France called for intensification of the coalition forces' military efforts. Consequently, this motivated the Dutch government to not only prolong the mission in Iraq but also to extend the mission to Syria. The humanitarian need in 2016 was perceived as even more urgent than before and, encouraged by the call from allies, the increased self-interest in the fight as well as the increased possibility to exert influence in the region also led to a change in the position of the Dutch government.

In other words, while in 2014 the principle of Right Authority was seen as more important

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than the cause and intentions, in 2016 the contrary was argued and the exact same law that had stopped the government from using force in Syria in 2014 was now used to provide a legal basis for that fight. This shows that less dominant states, like the Netherlands, weigh ethical arguments differently than major powers like the US and France. However, when the interests at stake increase, e.g. by explicit encouragement of major powers or the chance to pursue national interests, less dominant states might change their approach so radically that they use one ethical argument, that did not change in itself, to argue the opposite. For this reason, it can be concluded that the Just War principles Just Cause, Right Authority, and Right Intention were the decisive components and embedded in the decision-making process of going to war in both Iraq and Syria.

Johnson's explanation of the Just War Theory stressed the priority of these principles as well. Considering that these were most prominent in the parliamentary debates to assess the ethical aspects of the conflict, one could conclude that the theory remains relevant in contemporary conflicts. The fact that the principles of Just Cause and Right Intention outweighed Right Authority in 2016 does not lead to the conclusion of a just war because the morality of the intentions, the feasibility of success, and the mandate remain questionable. However, as shown in this thesis, it proves that the predicted empirical change led to the heavier weighing of ethical arguments, which corresponded with the principles of Just War Theory. The government concluded that the cause and the intentions outweighed the legal restraints, i.e. the principle of Right Authority, and, therefore, started to exercise the use of armed force in Syria as well in 2016.

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