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ARTICLE



## Conditional and contingent pacifism: the main battlegrounds

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### ABSTRACT

Anti-war pacifism rejects modern war as a means of attaining peace. This paper outlines two varieties of theoretical anti-war pacifism: conditional pacifism (war is conditionally unjustifiable due to the harm it causes to innocent persons) and contingent pacifism (war is justified if certain criteria are met but contingent facts about modern war mean that few, if any, actual wars meet these criteria). It elucidates the main points of contention at which these positions intersect with other war institution preserving theories, and each other, and defends them as plausible positions that can add significant value to the critical studies and international relations conversations on war.

### KEYWORDS

Anti-war pacifism;  
conditional pacifism;  
contingent pacifism; modern  
war

## Introduction

Modern war<sup>1</sup> is one of the great scourges of human existence. Nevertheless, the just war tradition maintains that war can be justified when it is the only means of preventing great evil. Conversely, anti-war pacifists reject war as an acceptable means of obtaining peace. They highlight the fundamental and widespread harm that war does to the innocent, who neither starts, promotes, escalates nor prolongs it. The burden of proof for justified killing, especially of innocents, rests squarely with those who wish to show they may do so, under narrow parameters. And innocents are regularly killed in war, in great numbers.

This paper is a moral discussion of the permissibility of war, framed within a discussion around, and defence of two anti-war pacifist positions: *conditional pacifism* and *contingent pacifism*. To my knowledge, a focused discussion of these two positions together has not been done before. In the course of this discussion, I hope to show that the ethical disagreements between pacifism and non-pacifist just war theories are predicated on fine differences, not large ones. The popularity of non-violent resistance as an alternative to war has surged recently (e.g. Sharp 2005; Ackerman and Rodal 2008; Chenoweth and Stephan 2011), and yet pacifism as an ethical or political position has not enjoyed a similar upward trajectory (Howes 2013; but see e.g. Holmes 2013; Jackson 2014; May 2015), and has not recovered from its post–World War II decline. This paper is designed to play a small part in addressing that imbalance, by providing an analysis and defence of two forms of theoretical anti-war pacifism.

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The subject matter and approach of this paper is, in some sense, a rough fit with what might be considered standard critical studies approaches to war and pacifism. There is, however, significant theoretical crossover, and the ethics of war debate has informed topics in international relations and vice versa (e.g. Jackson 2014). Bringing a normative ethical approach to the pacifist voice in critical studies and international relations provides an alternative starting point and theoretical framework from which to view and approach the discussion. My hope, therefore, is that critical studies theorists will recognise the intersectionality of these pacifist positions with practical critical studies. (Rita Floyd's work on 'just securitisation' and so on is relevant here, as is Brent Steele's work on war.) While the debate between contingent and conditional pacifism, and perhaps even that between these pacifisms and just war theory, may appear to some to be narrow in focus, they turn on some morally significant differences and produce profoundly different approaches to the ethical questions that war poses.

Conditional pacifism deems war to be unjustified if the condition that innocent persons are killed in war is satisfied. Since this condition is always satisfied, conditional pacifism implies the impermissibility of modern war. It holds that if the means of waging war cannot be justified, then war itself cannot be justified, since an end cannot be justifiably pursued if the means requisite to pursuing it are unjustifiable. As Robert Holmes (1989, 175) suggests, a war 'obviously cannot be just if one is unjustified in entering upon it in the first place, but neither can it be just, however just the cause and right intention, if it utilizes indefensible means'.

Conditional pacifism rests on three main contentions. First, many innocents are inevitably harmed or killed in war, violating the duty not to kill them. Second, intention bears little or no relevance to permissibility – it does not matter whether innocents are intentionally or merely foreseeably killed; what matters is that they are killed. Hence, the unintended yet foreseeable casualties of war must count against its justifiability. Third, the presumption against killing innocents is sufficiently strong so as to rule out war fought to save innocents. In other words, the duty not to kill is much stronger than the duty to save and thus overrides or outweighs the latter when both duties cannot be fulfilled. This claim is predicated on a strong moral distinction between killing and letting die, and more generally between doing and allowing. So, we are responsible for innocent deaths that we cause, but much less so for those caused by others, should we fail to prevent them.

Contingent pacifism proposes that the presumption against killing the innocent may be overridden when doing so is the only means of preventing some sufficiently great harm to other innocents (contingent on the particulars). But it also argues that the threshold at which this presumption could be overridden is very high, and hence war is extremely unlikely to be justified in this manner. As Larry May (2008, 25–6; also 2015) puts it, 'war as we have known it has not been, and seemingly cannot be, waged in a way that is morally acceptable'. Contingent pacifism claims that war could be justified if its harms were sufficiently outweighed by its benefits but maintains that contingent facts about modern war mean that no (or very few) wars meet this criterion.<sup>2</sup>

Contingent pacifism relies on the same three contentions mentioned above, but in slightly different ways. First, many innocents are killed in war, where contingent pacifism requires greater emphasis on numbers than conditional pacifism does. Second, intention bears little or no relevance to permissibility, as discussed above. Third, there is a distinction between killing and letting die, where contingent pacifism does not require such a strong distinction as conditional pacifism does, since it allows for the possibility

of the duty not to kill being overridden by the duty to save in certain specific conditions. The stronger the distinction between killing and letting die, and the more innocents killed in war, the more innocents must be saved for war to be justified.<sup>3</sup>

Both conditional and contingent pacifists have been criticised for setting the relative presumption against killing too high (e.g. Steinhoff 2007; McMahan 2009a). In what follows, I examine (as space allows) the main issues at the heart of this disagreement – who is liable to be killed in war and whether they are, the relevance of intention to permissibility and the distinction between doing and allowing (or killing and letting die). By defending conditional and contingent pacifism from these challenges, I hope to go some way towards persuading the reader of the plausibility and attractiveness of these pacifisms and highlight some fundamental distinctions between them (which in turn displays their respective strengths and weaknesses).

## Liability in war

The more innocents killed in war, the stronger the pacifist claims against it. The term ‘innocent’ is defined here in terms of responsibility for wrongdoing (or lack thereof). In war, innocents are roughly those who are not unjustly harming or threatening to harm, nor knowingly helping others to unjustly harm or threaten to harm, and who therefore have done nothing to lose their moral right not to be attacked or killed. Non-innocents are those who lack that right, at least with regards to certain persons under certain conditions (McMahan 2010, 4). Innocence in war, just like innocence at the domestic level, is determined by responsibility, not role.

One’s innocence or non-innocence greatly affects one’s ‘liability’ to be justifiably attacked or killed. Someone is liable to attack if she would not be wronged by that attack. While innocence may not guarantee non-liability – innocents may (occasionally) be justifiably killed (more on this shortly) – the correlation between innocence and non-liability is strong. Liability, I believe, is closely related to moral responsibility.

How many of those attacked or killed in modern two-sided ‘just war’ are wronged (i.e. are not liable to be attacked or killed)? There are two main ways by which a person might lack the requisite moral responsibility to be liable. First, they might not pose an unjust threat and thus lack causal and moral responsibility. Second, they might pose a threat but lack sufficient agency for moral responsibility, due to duress or non-culpable ignorance.

Most non-combatants clearly fall into the first category. (‘Combatants’ are those in the ‘chain of agency’ of war – those who fight and those who provide those who fight with the means of fighting [*qua* soldiers, not *qua* persons]. ‘Non-combatants’ are those outside of that chain of agency.) Non-combatants on the just side (‘just non-combatants’), mostly civilians, are most obviously innocent and non-liable, since they do not contribute to an unjust threat in any way and thus do nothing to lose their right not to be harmed. Non-combatants on the unjust side (‘unjust non-combatants’), again mostly civilians, are also innocent and non-liable, since they do not ordinarily contribute to their side’s unjust threat. Although some make contributions to war, their contributions are generally remote and weak, and heavily mediated through others’ actions, and thus insufficient for liability (more on this shortly). Note that some civilians should be categorised and assessed as ‘willing ancillaries’ if they supply soldiers *qua* soldiers.

Combatants on the just side ('just combatants') are most likely innocent and non-liable, since the threat they pose is not unjust. They may act violently but do so in justified self- or other-defence and thus do not act wrongly (unless they act wrongly by, e.g., targeting non-combatants).<sup>4</sup> So, at least the majority, and I think vast majority, of those in the three categories covered so far are not liable to be justifiably hurt or killed, because they do not constitute an unjust threat.

Conversely, combatants on the unjust side ('unjust combatants') are probably liable to be hurt or killed, because they pose an unjust threat to persons on the just side who are themselves not liable. One might argue, however, that some or even many unjust combatants pose a threat but cannot be *blamed* for doing so, due to duress or non-culpable ignorance, and thus lack the requisite moral responsibility to be liable. Duress is not a good excuse, primarily because the punishment for refusing to acquiesce to strong duress (such as conscription) is usually insufficiently harmful relative to the harm caused by fighting in an unjust war. We can expect a person of 'reasonable firmness' to refuse to fight in an unjust war, even if they will be punished or shamed by a war-supporting population.

A combatant's non-culpable ignorance might arise because they are non-culpably unaware that their side's war is unjust or that their participation in that war is unjust. Many ignorant combatants are to blame for their ignorance, but others may not be. The facts of war are often hard to find, and when found, unclear or unverifiable. Governments routinely distort both the facts and morality of their wars and use ethical language to hide realist decisions. Facts are also hidden for pragmatic military reasons. The media often makes it worse.

Discovering the facts is one thing, making a moral judgement based on them is harder still. Doing so requires analytical ability, experience, knowledge and time. *Experts* often disagree on the facts and morality of wars. And even if combatants know that their side's war is unjust, they may nevertheless feel a duty to their country and comrades. As Holmes (1994) rightly puts it, 'the truly guilty [are those] in whose hands the power to control this institutionalized violence is concentrated, and who routinely deceive and manipulate the millions whose lives and resources they have at their disposal'.

But perhaps, all that is required for liability is what has been called 'minimal responsibility' (agents are minimally responsible for threats if those threats can be attributed to their responsible agency, and if they make voluntary choices that foreseeably contribute to those threats) (McMahan 2010, 8–12), meaning that combatants would be liable if they knew their war *might* be unjust. This reduced liability threshold means that even excused unjust combatants could be liable, since they know that many wars are unjust, and that they fight in a war they know *might* be unjust, killing people they know *might* be innocent (McMahan 2010, 9–12; Bazargan 2015, 10). They accept the risk and fight anyway.

And yet, there is a large dose of luck in all this – whether one is a young man in Britain or Germany in 1939, for example. I doubt that most combatants *know* there is a good chance that their war is unjust, especially if credible sources tell them it is just. In fact, many combatants are unlikely to know that war can be morally evaluated at all, outside of its role in protecting their country's interests. Perhaps, where there is widespread and informed opposition to a war on moral grounds, combatants can and should be aware that their war might be unjust. But most wars are not like this, especially at their outset.

But even if it could be shown that combatants are minimally responsible, this may set the bar too low, since many non-combatants actually contribute more to an unjust side's threat than many combatants do (Lazar 2010). Many combatants fight ineffectively or never even see any combat. For example, only 15–25 per cent of surveyed Allied soldiers in World War II actually fired at enemy soldiers when in a position to do so (Grossman 1995). Many others do not ever find themselves in a position to fire at enemy soldiers, for a variety of reasons.

Many non-combatants contribute in small ways, and their contributions make no less impact than those of many combatants. So, the conditions for moral responsibility – causal responsibility and agency – are challenged by the idea that many soldiers have minimal causal responsibility and agency, and that civilians have at least as much. Therefore, according to the argument, if minimally responsible combatants are liable, so too are many non-combatants. But very few unjust non-combatants do anything to justifiably compromise their right not to be harmed. And even if some do, by contributing to the war through donations, support and so on, pragmatic considerations suggest that all should remain non-liable, because attacking those specific non-combatants would cause great harm to other genuinely innocent non-combatants (McMahan 2009a, 218–225). Civilian immunity is the cornerstone of the *jus in bello*. So, the argument that if minimally responsible combatants are liable, then many non-combatants are too makes implausible demands of ordinary morality (Lazar 2010, 210). Thus, the liability threshold would have to be raised past mere minimal responsibility. The alternative is to bite the bullet and allow total war, which is a terrible alternative.

The debate continues – McMahan (2011) claims that liability does not require culpability, and Saba Bazargan (2013) argues that unjust combatants are liable due to their complicit participation in unjust war. Nevertheless, it is arguably but plausibly true that the *majority* of those killed in many wars are innocent and not liable to be attacked. This fact sets up both conditional and contingent pacifism to mount an argument against war based on its harm to innocents, but the precise numbers matter more to the latter, because it does not rule out the justifiability of killing innocents (see the following two sections). Let us now move onto *how* innocents are killed, and whether that matters.

### **The relevance of intention to permissibility**

It has been argued that innocents may be justifiably killed in war if their deaths are merely foreseen and not intended (e.g. McMahan 2009b). The strength of the relevance of intention to permissibility affects the pacifist claim against war – if foreseeable killing of innocents is permissible under certain conditions, and the killing of innocents in war can be limited to foreseeable killing only, then war itself may be permissible. Conditional pacifists mainly argue that the distinction between intentional and foreseen killing is morally irrelevant. Contingent pacifists require a non-absolute distinction only.

Note first that foreseen killing is not accidental killing. If I shoot an attacker to defend myself, knowing the bullet will also kill a bystander, then that bystander's death is foreseen. If I shoot an attacker to defend myself and the bullet ricochets and kills a bystander who was hidden from my view, then that bystander's death is accidental. (In war, the line between foreseen and accidental effects is often blurred. We know that 'accidents' will happen – a proportion of all missiles fired will miss and some will kill innocents. So, when a missile is fired, we can know,

roughly, what the chances of it 'accidentally' killing innocents are. This brings into question the use of the term in the first place. Certainly, euphemisms such as 'collateral damage' often facetiously disguise unspoken tolerations of foreseeable killing.)

For those to whom the relevance of intention to permissibility appeals, it rightly explains the moral impermissibility of murder (a means to an end or an end in itself) while maintaining the right to self-defensive killing (a necessary yet incidental effect of self-preservation). Elizabeth Anscombe (1970) famously accused pacifists of 'universal forgetfulness of the law against killing the innocent', because they reject the relevance of intention to permissibility when assessing the killing of innocents. But she had it backwards – by denying the moral distinction between intended and foreseen harm, pacifists remember that law better than most. Pacifism, especially conditional pacifism, rejects the explanatory power of the relevance of intention to permissibility precisely *because* it allows for the killing of innocents.

It has been suggested that the distinction between foresight and intention is a non-starter (e.g. Hull 2000). That is, the known consequences of an agent's action are intended, not foreseen, even if they are not integral to the desired outcomes of the action. If correct, the relevant distinction is not between intention and foresight but instead between different types of intention – 'intending as a means' and 'intending as a second effect'. This distinction lacks the moral weight of the original.

Consider, however, the famous terror and tactical bombers example (Bennett 1980), which distinguishes between intentional and foreseen killing. According to the relevance of intention to permissibility, a 'terror bomber' who bombs innocents to weaken enemy morale acts impermissibly since he intends the deaths as a means to an end. Conversely, a 'tactical bomber' who bombs a military target knowing that his bombs will kill innocents acts permissibly since he foresees but does not intend the innocent deaths. (Imagine that the number of innocents killed is equal in each case, the bombers act with good intentions and the 'proportionality' criterion is somehow satisfied.) The terror bomber is motivated by killing the innocents, but while the tactical bomber has similar anticipations, she is not motivated by them. But is this difference in intention a *moral* difference?

The 'higher' intention of each bomber, of course, is not to kill but instead to win the war. We can show this with two counterfactuals. First, if each bomber believed he could somehow perform his action without killing innocents, he would do so – the terror bomber would still lower enemy morale, and the tactical bomber would still kill enemy soldiers. Second, if each bomber believed that no innocents would die, along with whatever he believed would causally follow from that, he would be less likely to proceed – the terror bomber because he believes that the bombing would not lower enemy morale if no innocents were killed, and the tactical bomber because he believes that the soldiers cannot be killed without killing innocents. These two counterfactuals cannot morally separate the bombers – the first differs too little from the original, the second too much.

But a third counterfactual might do so. Imagine that each bomber believed that no innocents would die, together with whatever he believes will follow from that, through a 'causally downstream inference' (Bennett 1980, 101). Then, the terror bomber would be less likely to proceed because if no innocents died, the enemy's morale would not be lowered; the lowering of morale is causally downstream (or follows) from the innocent

deaths. The tactical bomber, however, would still proceed because the soldiers could be killed without killing innocents; the soldiers' deaths are not causally downstream from the innocent deaths. It thus appears that the only difference between the killing of innocents in each case is the 'downstreamness' of the causal process. And if this is the only distinction between the cases, then any *moral* distinction between them must be slight at best.

Although downstreamness itself is not morally significant, it might nevertheless correlate with another factor that *is*: whether innocents are used as a means to an end. For the terror bomber, the innocent deaths are a means to an end; for the tactical bomber, they are not. But the mere fact that the terror bomber acts impermissibly by using the innocents as a means does not by itself show that the tactical bomber acts permissibly.

Whether intention is relevant to permissibility is greatly affected by circumstance. Innocent deaths, a secondary effect of war, are very 'close' to the aims of war (death and destruction). Moreover, most people caught up in war – civilians – do not choose to have war and its attendant risks brought to them. Practically speaking, we might think that we are more likely to kill innocents if we intend to kill them than if we do not, and it thus follows that we should take a stronger stance against intentional killing than foreseen killing. But there are some problems with this reasoning. First, there is little practical difference in cases in which the consequences are certain. Militaries ought to know what damage certain actions will cause, whether that damage is intended or foreseen. Second, while it is true that a military that intends to kill innocents will probably kill more than a military that does not, it does not follow that the latter acts morally and the former immorally. Prohibiting both intentional and foreseen killing of innocents will result in fewer innocent deaths than merely prohibiting the former. As it is, the plausibility of the arguments against the relevance of intention to permissibility argument prevents it from sinking either conditional or contingent pacifism.

There is one more thing I should like to note before moving on. When looking at intentions, we tend to focus on the actor, not the recipient. Innocent victims are clearly wronged either way – the value of their lives is not conditional on their proximity to war (Steinhoff 2007, 100). They would strongly prefer not to be killed in the first place. Moreover, there is no reason to think that they would rather be killed as a side effect of some means to an end than as a means to an end. Their suffering will be the same either way; that their killers did not intend in the strictest sense to kill them will provide no solace. In fact, they might understandably prefer that their deaths serve as means to some good end (such as preventing harm to other innocents), to being meaningless foreseen consequences of other means. At least that way their deaths have served some greater purpose. This is not mere semantics – the focus on the relevance of intention to permissibility obfuscates the real issue, which is that innocents are wronged either way, in a manner that is incredibly hard to justify. As I mentioned before, Anscombe had it backwards.

I believe innocents have just as much cause to complain when they are harmed foreseeably in war as when they are harmed intentionally. And that matters, ethically speaking. Contingent pacifism is better placed to ride this issue out, since it does not require that all foreseeable harm to innocents (especially civilians) be impermissible, but conditional pacifism can also use the knowledge that most foreseen killing of innocents



is impermissible to its advantage, and can go further into the issue of closeness to question whether many innocent deaths in war are in fact sufficiently unintended in the first place.

### Doing and allowing (killing and letting die)

So, many innocents are killed in war, and it is plausible that foreseen killing of innocents is at least *prima facie* impermissible. But one might still argue that war is justified when fought to save others. Pacifists want to claim that war is unjustified even when fought to save innocents and, to do so, they must rely on establishing some moral distinction between killing and letting die. Critics of pacifism argue that there is no moral distinction between killing innocents and letting innocents die or that any such distinction is very slight (e.g. McMahan 2010). The problem affects conditional and contingent pacifism somewhat differently. Let us first consider the former, which requires a great moral distinction between killing and letting die, in order to preclude wars that kill innocents but save more. That is, the presumption against killing innocents must be much stronger than the presumption against failing to save innocents.

Note first that it is never a simple choice between than ‘wage war’ and ‘do nothing’. Belligerent non-violent resistance – the practical expression of anti-war pacifism – has a long and successful history of repelling aggression and ousting unjust rulers (McCarthy and Sharp 1997; Brock 1998; Brock and Young 1999; Chenoweth and Stephan 2011), and there is a growing body of literature and data on the theory and empirical evidence of belligerent alternatives to war (e.g. Sharp 2005; Ackerman 2008; Chenoweth and Stephan 2011; Chenoweth 2017). These theories and facts impact greatly on arguments that seek to weaken pacifism based on the wrongness of letting innocents be harmed, because a flat choice between war and inaction is an inaccurate description of the set of available choices in these moments. The merits of the arguments in favour of non-violent resistance shall continue to be debated elsewhere. My purpose here is to discuss and defend theoretical pacifism, and thus I feel it necessary to respond to the argument as it has been set out however erroneous or incomplete that argument may be.

So what does ‘let die’ mean? Do the consequences of refusing to wage war to save innocents include the death of those innocents? The duty not to kill is stronger than the duty to save, but by how much? Whether we should emphasise the unmediated (killing) or mediated (failing to prevent others from killing) consequences of waging or not waging war, and to what degree, is *prima facie* unclear, because it is a moral, not causal, question (Holmes 1989, 207). So, even if it can be shown that failing to save innocents somehow contributes to their deaths, this does not in itself establish moral responsibility.

One might respond that whether an event is a consequence of an agent’s action is a factual rather than moral question, namely whether and how the action has caused the event (Steinhoff 2007, 54). And yet, while causal responsibility is often related to moral responsibility, it is not always so. More argumentation is required to prove that one is therefore somehow morally culpable for deaths one fails to prevent. And if one is responsible, it is not for killing but rather for the lesser wrong of failing to save. As Judith Lichtenberg (1994) notes, ‘it is plausible to think that an agent’s responsibility for

bad consequences ordinarily declines when other agents' actions are required to produce those bad consequences, even apart from the decline in probability'.

James Rachels (1975) famously argues that any distinction between killing and letting die is merely circumstantial. He compares a case in which Smith drowns a boy in the bathtub with another in which Jones finds a drowning boy in the bathtub but, wishing him dead, does not help him. Rachels argues that Smith's actions are no worse than Jones's, and since these cases would isolate any distinction between killing and letting die if there were one, there must be no such distinction *per se*.<sup>5</sup>

Various distinctions of duties – negative and positive, perfect and imperfect, strong and weak and so on – have been discussed at great length and may help to unravel this issue. For brevity's sake, however, I leave those discussions aside, focusing instead on some specific ways that the distinction between killing and letting die applies to war and peace. It is true that an intrinsic distinction between killing and letting die is difficult to find. We have duties not to harm, as well as duties to prevent others from harm if we can reasonably do so – not all acts to save others are supererogatory. Those duties, however, are subject to very strong restrictions. We may not do anything whatsoever to save others; just because it is sometimes wrong to let others die does not mean it is therefore acceptable to kill to save. This is because killing innocents violates their right not to be harmed, which they legitimately claim against all people. It also fails to treat them as ends in themselves. And yet, if the only way to prevent 10,000 innocents from being killed was to kill 1 innocent, doing so would most likely be justified (and possibly obligatory).

A firm distinction between killing and letting die appears unlikely. I have argued elsewhere (Parkin 2014) that 'supreme emergencies' in which only war can prevent some great evil are 'morally tragic', since all choices involve serious and unjustifiable wrongdoing. I argue that this view can be used to preserve a (tweaked) version of conditional pacifism. But this solution will not satisfy all, and thus conditional pacifism has work to do to convince many of its appeal.

Contingent pacifism, on the other hand, need not maintain such a firm distinction. But it does require *some* distinction, since a moral 1:1 killing to letting die ratio would mean a war that saved 10,000 innocents but also killed 10,000 would be justified. This would presumably allow war to be justified quite often, so contingent pacifists will reject such a ratio (as will many just war theorists). A comparatively strong presumption against killing strengthens contingent pacifism's case against war.

One innocent may not generally be killed to save another (e.g. Thomson 1991; Uniacke 1994). The ratio of killing to letting die cannot be 1:1. How high is it though? Critics of contingent pacifism argue that it relies on a distinction that does not properly account for the wrongness of letting innocents die, making implausible demands of morality. McMahan, for example, claims (2010, 23–6) that if it was wrong to kill 1 innocent to save 100 innocents, then it would also be wrong to impose a 1 per cent risk of death on an innocent in order to save another innocent. Hence, everyday activities that impose risk of death on innocents, such as driving, would also be wrong. This, he argues, is implausibly restrictive. But a presumption against killing 1 innocent to save 100 need not equate to a presumption against imposing a 1 per cent risk of death on an innocent to save another. The relationship may not be linear – it is plausible to claim that 1 innocent may not be killed to save 100 *and* that a 1 per cent risk

of death may be imposed on an innocent to save another (Bazargan 2015, 6). We can also respond to McMahan by simply biting the bullet and accepting that we should try to reduce the risk of risk-imposing activities where possible, like we already do with driving and many other activities. Self-driving cars that have no accidents will eventually ground a strong argument that we ought not drive.

It is often taken that states' duties to save their own citizens are stronger than their duties not to kill the citizens of other states (e.g. Green 1992). This could change the balance between killing and letting die when deciding whether to wage war. Suppose someone who has a special duty to protect me (say a bodyguard or parent) failed to save me because doing so would have risked harm to a bystander. Her failure to save me is arguably worse than a stranger's failure to save me. A state might have a similarly special duty to protect its citizens, and a violation of that duty might even be equivalent to killing those citizens (Bazargan 2013). But while states have certain special duties towards their own citizens that they do not have towards the citizens of other states (i.e. the citizens of a state have special protection claims against that state that they do not have against other states), these duties do not override all other moral considerations and duties. They also have duties not to kill the citizens of other states, and these duties are not easily overridden.

One might nevertheless hold that contingent pacifism's weighted restriction against killing is simply too high. Note, however, that the distinction need not be anywhere close to McMahan's 1:100 ratio (killing to saving) to contingently rule out modern war. War kills so many innocent and non-liable agents that the distinction need not be *implausibly* high at all. War might be justified, on the basis of, say, a 1:20 weighting, if fought to save 200,000 whilst killing 10,000 innocents. But modern war simply does not produce such favourable numbers. Wars that save high numbers of innocents inevitably kill high numbers of innocents.

There were a total of between 136 and 148 million deaths in wars and conflicts in the twentieth century alone (Leitenberg 2006, 9). Approximately, 87 million people were killed as actual by-products of hostilities – 54 million civilians and 33 million soldiers (Brzezinski 1993, 8–10). And civilians are still killed in great numbers. The first few years of the most recent Iraq War, for example, killed between 3 and 10 civilians (depending on source) for every 1 soldier killed (Roberts 2010, 125). Modern war causes immense harm to innocents. Modern technologies such as drones and non-lethal weapons might change this in the future, but it is quite clear that wars are not yet becoming less harmful (Chenoweth and Stephan 2011). The future may be different, but these arguments apply to the current situation (I believe pacifists should hold even so-called force short of war, including drone warfare, to suffer from many of the same issues as modern war (Parkin 2019)).

Even a moderate distinction between killing and letting die should set the presumption firmly against war, due to the massive harm it causes compared to what can realistically be achieved by fighting. Consider the Allies' involvement in World War II. Can it truly be said that this war was really less harmful than what would have happened had it not been fought? Would more innocents have been killed if that war was not fought, than the innocents amongst the approximately 39 million who died as a direct result of fighting, plus those who died as a result of its effects? Even a low ratio would at least *prima facie* precluded (before considering the long-term effects of not fighting) the

Allies from justifiably, in hindsight (which, of course, was a luxury not afforded to them), fighting a war that killed so many. The answer to the above question is murky at best, despite popular opinion to the contrary. This is far from a conclusive argument against Allied involvement in World War II – I bring it up simply to show how incredibly difficult war is to justify, even under the most trying conditions.

One might argue that the risk that many will be harmed by not fighting is higher than the risk that many will be harmed by fighting (McMahan 2009a, 218–35). But death in war is certain – we do not know *which* innocents will be killed, but we know that many will be. Killing innocents in war is not a risk, it is a certainty, and non-combatant deaths are as likely as combatant deaths. This is the sort of certainty that matters. Moreover, why should deaths caused by fighting be any harder to predict than deaths not prevented by not fighting? Both are difficult to predict, but the consequences of one's own actions are ordinarily easier to predict than the consequences of others' actions, and the statistics on international wars are often more accurate than the murky information that accompanies those things that war might be fought to prevent, such as civil war, genocide and so on.

The exact number of innocents killed in war depends in part on whether just combatant deaths should be included in that side's decision to fight and whether some unjust combatants are innocent. But even if we exclude innocent combatants from the calculation, the harm caused to innocent non-combatants naturally leads one *towards* contingent pacifism, even if not lead directly to it, based on a plausible weighting against killing compared to letting die. Even a moderate distinction makes war very difficult to justify. Contingent pacifism has fared better in this section than conditional pacifism.

## Conclusion

In this paper, I hope to have gone some way to doing three things: to show the main areas of contention upon the success or failure of conditional and contingent pacifism rest, to highlight some of the similarities and differences between these two positions and to put forward a case for the plausibility of both as alternatives to the just war paradigm. I think contingent pacifism has the best chance of mainstream acceptance, given its less 'concrete' nature and its ability to 'ride out' some of the trickier elements of pacifism/just war debate, such as the relationship between killing and letting die. One might suspect that it is really just peace-loving just war theory in disguise, given its admission of the possibility, at least theoretically, of justified war. But it is sufficiently distinct to claim its own seat at the table. Conditional pacifism is theoretically firmer and thus less likely to enjoy mainstream acceptance as contingent pacifism is. But that firmness is its strength, and it is not as easily dismissed as some might think. It is less susceptible to some anti-pacifist arguments, primarily because it does not rely on numbers to state its case.

It is a shame that pacifism has faded from public and academic consciousness, especially given the continued (and in some ways increasing) harmfulness of war. War must be done away with as soon as possible. State funding of non-violent resistance research and training would be a good place to start (e.g. Sharp 2005). If we are to truly break the institution of war, this most harmful, destructive, depressing and inhumane of human inventions, the

contentious theoretical grounding upon which it is predicated must be highlighted and confronted. I hope this paper adds to the large number of voices against war.

The burden of proof clearly rests with those who wish to justify war. This is because while it is terrible to let people die, it is quite another to kill others to save them. For doing so ignores, in some very important sense, the lives, dreams and humanity of those others. As William Munny growled at the end of *Unforgiven*, 'it's a hell of a thing, killing a man. You take away all he's got, and all he'll ever have'. But this alone does not establish pacifism, since many non-pacifists also believe this to be true. The great strength of pacifism lies in its commitment to the innocent – those who are killed in war in the greatest numbers and yet who least deserve such suffering. This commitment, while susceptible to critique by those who think it condemns killing too much and failing to save not enough, is an attractive one. It also draws out the relentless and fundamental horror that is war. Pacifism reminds us that even when fought to prevent great evil, there is no good in war. Its glory is all moonshine.<sup>6</sup>

## Notes

1. 'Modern war' refers to war fought from the late nineteenth century into (at least) the near future. It is characterised by highly destructive weapons and significant harm to non-combatant populations (c.f. pre-modern war, which primarily threatened combatants only). The pacifisms discussed in this paper make no claims about pre-modern war. Unless otherwise stated, the term 'war' in this paper refers exclusively to modern war, which is currently the only type of war that exists.
2. Contingent pacifism could also be based on the failure of actual wars to satisfy the just war criteria, or on our inability to know whether those criteria can be satisfied (Bazargan 2015, 14–17).
3. Other varieties of pacifism include *absolute pacifism*, which posits that war is inherently wrong and can never be justified, and *institutional pacifism*, which objects not so much to the fighting of war, but rather to the amassing of military resources and the military itself in the first place. Anti-war pacifisms need not reject violence per se (c.f. *personal pacifism*).
4. Note that Michael Walzer's 'moral equality of combatants' view (1977, 34–44) argues that all combatants are equally liable to be killed (c.f. McMahan 2009a).
5. Note that the choice we are focusing on is not between killing innocents and failing to save those same innocents but instead between killing innocents to save others and failing to save those others. This may change things somewhat.
6. Many thanks to the anonymous reviewers of this journal, whose astute comments were immensely helpful during the development of this paper. Any mistakes are, of course, my own.

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No potential conflict of interest was reported by the author.

## Notes on contributor

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