

Chapter Title: Pacifism and Targeted Killing as Force Short of War

Chapter Author(s): Nicholas Parkin

Book Title: Force Short of War in Modern Conflict

Book Subtitle: Jus Ad Vim

Book Editor(s): Jai Galliot

Published by: Edinburgh University Press

Stable URL: <https://www.jstor.org/stable/10.3366/j.ctvvggx3k3.17>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



Edinburgh University Press is collaborating with JSTOR to digitize, preserve and extend access to *Force Short of War in Modern Conflict*

JSTOR

13 Pacifism and Targeted Killing as Force Short of War

Nicholas Parkin

Introduction

Anti-war pacifism eschews modern war as a means of attaining peace. It holds war to be not only evil and supremely harmful, but also, on balance, morally wrong. But what about force short of war? The aim of this paper is to analyse targeted killing, a specific form of force short of war, from an anti-war pacifist perspective, or, more specifically, from two related but distinct pacifist perspectives: conditional and contingent. Conditional pacifism deems war to be unjustified if the condition that innocent persons are killed in war is satisfied. Since this condition is always fulfilled, conditional pacifism implies the impermissibility of modern war¹ (from here on ‘war’). Contingent pacifism concedes that war would be morally acceptable if its harms were sufficiently outweighed by its benefits, but maintains that no (or very few) wars meet this criterion. The empirical reality of war is such that it cannot be justified, because it harms too many innocents in proportion to the harm it prevents.² Pacifists’ treatment of targeted killing short of war should thus concentrate on the harm it does to innocents. Conditional pacifists should focus on whether targeted killing kills innocents, while contingent pacifists should focus on whether the harm it does to innocents is disproportionate to its benefits.

‘Targeted killing’, as I mean it here, occurs when a person or group is intentionally and premeditatedly attacked with limited

force, outside war, by or on behalf of a political community. It includes unmanned aerial vehicle (or ‘drone’) strikes, limited precision-guided missile strikes and assassinations. Targeted killing fits into the wider category of force short of war and covers a large proportion of that wider category. If war is actual (not merely threatened), intentional and includes widespread armed conflict between political communities (Orend 2006: 7), then force short of war is something short of that. It can refer both to acts and contexts short of war and is distinguished from war in terms of the amount of force used; that is, it lacks war’s ‘unpredictable and often catastrophic consequences’ (Walzer 2006: xvi). This paper addresses targeted killing specifically and force short of war generally.

The primary issue for the just war tradition centres on whether to morally assess instances of force short of war using traditional or new and specific criteria. Calls for the establishment of a specific moral account of force short of war, a ‘*jus ad vim*’, have focused on the idea that some political acts of violence cannot, or ought not, be assessed using standard *jus ad bellum* and *jus in bello* criteria (Walzer 2006: xiv–xvi; Brunstetter and Braun 2013). Others have argued that a *jus ad vim* is unnecessary and may even result in increased harm. They insist using standard just war principles to analyse force short of war (Coady 2008: 5–8; Frowe 2016). Weighing in favour of a *jus ad vim* is the tradition’s apparent desire to restrict as much as possible the ‘moral exceptionalism’ that applies to the justificatory language of war. Weighing against it is the worry that the necessity criterion for force short of war might be significantly lower than that of war, based on the notion that it causes less harm, leading to an increase in ‘justified’ political violence.³

Pacifists worry about this moral exceptionalism used to justify war. Why, they ask, should large-scale political violence be treated any different, morally speaking, to other forms of violence? So in this context they are less concerned with which set of just war principles should be used to assess force short of war, than with the issue of whether force short of war can be justified in the first place, as a limited form of political violence. In what follows I first outline the conditional and contingent pacifist positions in terms of their views on war, then apply these positions to targeted killing and the specific moral issue of the harm that it does to innocents,

before briefly discussing the attractiveness of targeted killing as a means of avoiding war and the greater attractiveness of non-violent alternatives as a means of avoiding either. Conditional and contingent pacifism both reject war, but differ in their respective routes to that conclusion. I shall thus try to give them their equal and separate due. Moreover, since there are no definitive versions of either of these positions, the topics, interpretations and arguments that follow are merely my own. I do not profess to represent all pacifists, or even some of them; these are my views, for better or worse.

Conditional and contingent pacifism

Conditional pacifism typically argues that war cannot be justified because the means necessary to prosecuting war are unjustifiable and if the necessary means to an end are unjustifiable, then that end cannot be justifiably pursued. As Robert Holmes puts it, 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 utilises indefensible means’ (Holmes 1989: 175). Conditional pacifism’s general stance is that war is unjustified if the condition that it kills innocent persons (or ‘innocents’) is satisfied and since war does inevitably kill many innocents, war is unjustified.

This position rests on three main contentions. The first is that many innocents are inevitably harmed or killed in war. Roughly, pacifists tend to define innocence in war as it is defined domestically, in terms of moral responsibility. They generally agree with so-called ‘revisionist’ just war theorists who argue that innocence is determined not by role, but rather by responsibility (or lack thereof) for wrongdoing.⁴ In war, innocents are those who, roughly, are not unjustly harming or threatening to harm, nor knowingly helping (to some relevantly sufficient degree) others to unjustly harm or threaten to harm. A rights-based approach to innocence treats it as a right not to be harmed. It is at least *prima facie* wrong to attack, harm or kill innocents, because they have done nothing to lose their rights not to be attacked, harmed or killed. A person’s right not to be harmed implies that others have a corresponding duty not to harm her; it is standardly taken that by unjustly

violating this duty, we may lose our own right not to be harmed and thus, in this specific sense, our innocence. Non-innocent persons (or ‘non-innocents’), then, have done something to cause them to lose those rights; they are sufficiently responsible for some wrongdoing that causes their loss of innocence. Conditional pacifism holds that war wrongfully kills many innocents, violating the duty not to kill them and thus precluding justified war.

Who are ‘the innocent’ in war? Most agree that most civilians are relevantly innocent, since they do not contribute to an unjust threat in any sufficiently meaningful way (a few civilians clearly support, in a meaningful way, those who fight). Many combatants are also, arguably, relevantly innocent. Combatants on a just side are generally held to be innocent (so long as they fight justly), since they act in justified self- or other-defence. Combatants on an unjust side pose an unjust threat to innocents on the just side and thus appear to be non-innocent, but some unjust combatants may in fact be relevantly innocent (and excused from wrongdoing) because they lack the requisite level of responsibility for their side’s threat, due to a lack of sufficient agency or threat.

But this is not the end of the story, because many think that innocence does not entirely cohere with liability to be killed in war. That is, some innocents may be liable to be killed (or ‘liable’) in spite of their innocence. I take liability to mean that someone is liable to attack if she would not be wronged by that attack (McMahan 2009b: 8). So-called ‘unjust aggressors’ (who unjustly and culpably aggress), almost all agree, are liable, for reasons just mentioned. Non-innocent combatants are evidently unjust aggressors (most obviously those on an unjust side, but perhaps also those on a just side, if they also pose an unjust threat to innocents (Steinhoff 2012)). ‘Innocent bystanders’ (who do not aggress), almost all agree, are non-liable, for reasons also just mentioned. Most civilians fit easily into this category. It is difficult to imagine how more than a few civilians could unjustly threaten our existence such that they should be liable, even in democratic societies and certainly in non-democratic ones. But some have argued that many civilians may in fact be liable in democratic societies (Green 1992). Even if some civilians were liable, however, attacking them would kill vastly disproportionate numbers of innocent and non-liable civilians. I shall, with what I take to be good reason, consider virtually all civilians to be non-liable.⁵

'Innocent aggressors' (who unjustly but non-culpably aggress) and 'innocent threats' (who non-culpably pose an unjust threat) are the subject of much debate. These categories might include non-culpable but unjustly aggressing combatants on either side of a war. Some think it permissible to kill innocent aggressors and threats in self- or other-defence (when their existence clashes with a victim's) (Thomson 1991; Uniacke 1994; Steinhoff 2007: 61–108), while others argue that this is, in general, mistaken (Otsuka 1994; Norman 1995: 120–8). Liable or not, many innocent aggressors and threats might have 'grounds for complaint' if killed, or at the very least grounds to expect us to regret their deaths. The moral status of these categories in war matters very much, but space does not allow me to further discuss this. Since civilian death is the most troubling aspect of targeted killing, I focus mainly on that here. In what follows, I use the term 'innocent' to describe those who would be wronged if killed, while noting that just who would be wronged remains an open question. War harms many innocents, not only by killing them, but also by causing severe psychological harm, damage to public infrastructure, private property and the environment, and so on, producing pain and hardship that endures long after a war has ended.

The second contention of conditional pacifism is that the prohibition on killing the innocent is sufficiently strong so as to prohibit war fought to save innocents. While we have duties both to not kill and to save, the former is substantially stronger, overriding or outweighing the latter in cases where both duties cannot be fulfilled. This claim is predicated on a strong distinction between killing and letting die, or between mediated and unmediated consequences (we are morally responsible for the things that we directly cause, but much less so for those caused by others). So we are responsible for innocent deaths that we cause, but significantly less so for the innocent deaths caused by others, should we fail to prevent them (Holmes 1989: 201–11).

The third contention is that intention bears little or no relevance to permissibility (thereby rejecting the 'doctrine of double-effect'). It does not matter whether innocents are killed intentionally or merely foreseeably; what matters is that they are killed. If so, the unintended yet foreseeable casualties of war – which comprise the majority of war's harms – must count against the permissibility of war. That one's intentions do not much matter in these cases is an

idea held by many (Thomson 2008; Scanlon 2008). Others think that intention matters a great deal when determining the moral status of actions (McMahan 2009a).

Critics of conditional pacifism argue that it sets the presumption against killing (relative to letting die) at an implausibly high level and that this presumption can be overridden if killing innocents were the only means of preventing a larger number of innocents from being killed. Contingent pacifism remains open to this possibility (and thus, contra conditional pacifism, open to the idea that ends can sometimes justify means). It proposes that killing innocents is not always morally wrong, all-things-considered; innocents may be killed if doing so is the only means of preventing some sufficiently greater harm. But it also argues that it is extremely unlikely that war can ever be justified in this way, because the threshold at which the presumption against killing innocents could be overridden is very high. As Larry May argues, 'war as we have known it has not been, and seemingly cannot be, waged in a way that is morally acceptable' (May 2008: 25–6); war is continently prohibited. Contingent pacifism focuses on proportionality – arguing that the harms of war, even when 'just cause' is satisfied, are disproportionate to its benefits.⁶

Contingent pacifism relies on the same three contentions as conditional pacifism does, but approaches them somewhat differently. The first is that many innocents are killed in war, where contingent pacifism rests more heavily on the 'many', due to its claims on proportionality. The second contention is the distinction between killing and letting die, as discussed above. Contingent pacifism need not maintain such a strong distinction as conditional pacifism does, since it admits that it is possible that the presumption against killing could be overridden by a requirement to save. These two contentions work together – 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. The third contention is that intention bears little or no relevance to permissibility, as discussed above.

Some argue that pacifists exaggerate the harmfulness of war by exaggerating its harmfulness to innocents, or that the distinction between killing and letting die is weak enough to allow for war's harms to be justified in virtue of the harms it prevents, or that intention does bear relevance to permissibility (or a combination of all

three claims). A pacifist case against war depends on the answers to these contentious issues. The just war tradition seems more likely to take contingent pacifism seriously, although conditional pacifism has arguably made more of an impact on the contemporary debate. The tradition thinks that war can sometimes be ‘worth it’, morally speaking, if it is the only means of preventing something worse. Conversely, pacifists think that war’s harms cannot be overridden by its benefits, due to either conditional requirements or contingent facts. I do not discuss here the issue of whether pacifists are right about the concept of innocence, the distinction between killing and letting die and the relevance of intention to permissibility, but rather try to interpret and assess targeted killing as force short of war through a ‘pacifist lens’.

Targeted killing, innocents and proportionality

For conditional pacifism the justifiability of force short of war is conditional upon whether it harms innocents or not. So we must determine whether targeted killing harms innocents. For contingent pacifism the justifiability of force short of war depends on whether it causes disproportionate harm to innocents. So in addition to whether targeted killing harms innocents, we must also determine whether its harms (perhaps including ‘intangible harms’ (Robinson 1975)) are sufficiently outweighed by its benefits.

How does the innocent/non-innocent distinction apply to targeted killing in situations short of war? Outside war, the combatant/non-combatant distinction loses much of its relevance. But legitimate targets may still be combatants (or ‘militants’) in some revised sense, due to their role in planning or prosecuting some attack (certainly the United States’ ‘war on terror’ treats them as such). The innocent/non-innocent distinction quite clearly still applies in situations short of war, based on standard conceptions of morality. Hence some persons, combatant or not, could qualify as non-innocent by unjustly attacking or threatening to attack others. I shall assume, for argument’s sake, that correctly identified non-innocent targets can be *prima facie* justifiably killed by targeted killing short of war, because of the unjust threat that they pose to others. I say *prima facie* because conditional and contingent pacifism will reject any attack on

non-innocents that also kills innocents, or a disproportionate number of innocents, respectively, even when other conditions such as just cause, last resort and so on are satisfied. As previously mentioned, when determining whether targeted killing harms innocents I shall focus primarily on civilians, who I take to be innocent. In doing so I note that the presumption against targeted killing would increase if it killed any innocent combatants. So can the intended and foreseen harms of targeted killing be restricted to non-innocents?

As mentioned, by 'targeted killing', I mean drone strikes, limited precision-guided missile strikes and assassinations. Although I discuss assassination at the end of this section, the following discussion focuses mainly on drone strikes, for two reasons. The first is that drone strikes are more accurate and less harmful to civilians than larger precision-guided missile strikes; thus drone strikes are easier to justify and a greater challenge to the pacifist presumption against political violence. The second is simply that drone strikes are the most common form of targeted killing (and force short of war) referred to in the literature on this topic. An excellent example of a sustained targeted killing campaign is the United States' drone campaign in Northwest Pakistan which began in 2004. Its attacks occur outside war and fairly accurate data on the campaign is relatively accessible. The attacks occur in rural areas, reducing the risk of killing civilians, making them more likely to be justifiable compared to those in urban areas.

One way of analysing the harmfulness of drone attacks to innocents is to determine how many of them kill civilians. Another way is to calculate what proportion of the total number of people they kill are civilians. The two best data sources on the Pakistan attacks are provided by the New America Foundation and the Bureau of Investigative Journalism. The New America Foundation (2016) reports that there have been 402 drone strikes in Pakistan that have resulted in deaths. Of those attacks, 320 killed militants only (a mixture of al-Qaeda, Pakistan Taliban, Haqqani Network and others) and 82 killed civilians, meaning that 20 per cent of those attacks killed civilians. According to The Bureau of Investigative Journalism (2016), there have been 423 strikes, of which 288 killed militants only and 135 killed civilians, meaning that 32 per cent of those attacks killed civilians. So a high proportion of drone attacks in Pakistan have killed civilians.

The New America Foundation (2016) estimates that the Pakistan strikes have killed 2,282–3,623 people. Of that number, 255–315 were civilians and 176–278 were unknown. Averaging these high and low estimates, 10 per cent of those killed were civilians, or 17 per cent if we count the ‘unknown’ as civilians (which they most likely were). The Bureau of Investigative Journalism (2016) estimates that the strikes have killed 2,496–3,998 people, of which 423–965 were civilians. Averaging these high and low estimates, 21 per cent of those killed were civilians. A high proportion of the people killed by drone attacks in Pakistan were civilians.⁷ Moreover, the harmfulness of these attacks to civilians (and thus innocents) is most likely understated, given the United States government’s preference for counting all military-age males killed as combatants, in the absence of explicit intelligence proving them otherwise (Becker and Shane 2012). The imprecision of the numbers is startling in itself.

It is important to note that the harmfulness of these strikes has changed over time – in 2006 around 95 per cent of those killed were civilians; in 2010, around 15 per cent; and since the beginning of 2013, only 2 per cent. This is due to a combination of technological advancements (surveillance and accuracy) and a decision to attack more specific targets (including vehicles) with smaller missiles, motivated by public concern with the high numbers of civilian deaths in the campaign’s early years. But a campaign of targeted killing short of war must be morally assessed in its entirety, just as war must be. And the Pakistan campaign, as a clear example of targeted killing, has predictably and consistently killed innocents. There is good reason to believe that a targeted killing campaign of this nature elsewhere would produce similar results, or worse, given that many other places are more densely populated.

The statistics – the number of attacks in which civilians are killed and the percentage of overall deaths that are civilians – and the fact, therefore, that every attack carries a high risk of killing innocents, mean that conditional pacifists should find this form of force short of war unacceptable. Contingent pacifists, however, might nevertheless accept force short of war if they think it to be proportionately harmless compared to its benefits. Can the benefits of targeted killing sufficiently outweigh its harms?

Assessing the proportionality of targeted killing requires an analysis of the harm that it causes and the harm that it prevents. I have already outlined some of the harms that targeted killing causes; let us examine this in more detail. I mentioned the number of civilians killed in drone strikes in Northwest Pakistan, which when compared to the number of militants killed gives us a starting point for a proportionality calculation. Between 10 and 21 per cent of the total killed is a high proportion under any reading.

A number of factors mean that civilians are likely to be killed in any sustained campaign of targeted killing short of war. The targets of targeted killing are often 'informal', living amongst civilians, without uniforms, making them harder to distinguish from civilians. This is especially problematic in urban areas and when combatants use 'human shields'. Intelligence errors also cause many civilian deaths. And improved precision does not necessarily protect civilians – if anything, improved precision increases the likelihood of leaders turning to targeted killing even when doing so risks killing innocents, given that it can be used without risk to their own combatants, a very politically attractive feature (White 2007: 196–7; Enemark 2014: 378). I already mentioned the counting of all military-age males killed as militants; this likely to occur in similar cases, due to the difficulty in identifying the dead, as well as the public pressure on governments to decrease the proportionate harmfulness of their attacks. Not only may they not know who they kill, but even if they do, they may think they have good cause to lie.

Targeted killing short of war also harms civilians in other important ways. Damage to infrastructure must be included in any proportionality equation, since interruptions to power, water, food, housing and sanitation supply can cause significant harm and death, and often endures long after the attacks. In addition to their grief, the families of those killed often lose their primary income earner (Cavallaro et al. 2012: 78), increasing the harm of those deaths, whether militant or civilian. The campaign of targeted killing in Northwest Pakistan, including the constant presence of drones, has caused significant economic, social and cultural disruptions and 'considerable and under-accounted for harm to the daily lives of ordinary civilians, beyond death and physical injury'. In particular, it has caused severe psychological harm to those living in attacked areas, including 'substantial

levels of fear and stress', including 'anticipatory anxiety' and post-traumatic stress (Cavallaro et al. 2012: vii, 80–101). Importantly, these civilians are unable to remove themselves from these dangers (Enemark 2014: 378). The harms of targeted killing are significant, widespread, supported by evidence and, most importantly, highly predictable. They must be counted when making any proportionality calculation, no matter how long after the actual attacks they manifest or endure. This increases the proportionality presumption against this form of political violence.

Evidence suggests that sustained campaigns of targeted killing short of war cause significant harm to innocents. But what harm might they prevent? This is a difficult question to answer, not least because resorts to targeted killing are usually undertaken in response to fairly intangible threats, in terms of both probability and imminence, at least sufficiently intangible so as to rule out justified resort to war. This is, of course, the main reason that targeted killing is employed in the first place and has led some to argue that we should permit proportionately less harm to innocents caused by force short of war than by war, since 'just causes' for force short of war are often less 'serious' than those for war (Braun and Brunstetter 2013: 318).

The general objective that currently motivates targeted killing is the destruction, or at least disruption and reduction of effectiveness, of terror organisations planning to attack civilians. The threat these organisations pose is not 'imminent' under any standard interpretation; these strikes are, therefore, part of a wider objective of harm prevention that aims to kill those who wish to cause that harm, whenever and wherever that may be.⁸ Innocents' rights supposedly protected by this general campaign include not only rights not to be harmed, but also rights to freedom of thought and from fear. But as May puts it, for any attack to be proportionate 'there must be clear evidence that the killing must take place now' (May 2013: 58–9).

The effectiveness of drone attacks has been questioned by many. They have indeed killed many militant leaders, reducing the experience and tactical effectiveness of their organisations. But the effectiveness of killing leaders in this context is contested (Cavallaro et al. 2012: 125–31; Enemark 2013: 331). Their replacements might be equally experienced or skilled and even if killing them is effective, this effectiveness must be measured against the harm that

killing them causes. They are generally very hard to kill without killing others. Attackers have been more willing to accept civilian casualties in attacks that target high-ranking leaders. Moreover, according to the New America Foundation (2016), only fifty-eight known militant leaders have been killed in drone strikes in Pakistan, just 2 per cent of the total deaths. The others killed have been either civilians or low-level militants, who, evidence suggests, have neither the requisite tools nor the necessary access to pose a serious threat. That is, whether or not they are members of an unjust organisation, it is far from clear that they are worth targeting when doing so risks killing innocents, since their deaths may not make much of a difference anyway. This also raises an issue of due process, since, as May argues, ‘the targeting of a particular terrorist suspect does not automatically mean that due process concerns have been allayed simply by a showing that there is some reason to believe that the targeted individual is a terrorist’ (May 2013: 55). The effectiveness of these campaigns is certainly questionable, at the very least, which makes it harder to justify the innocents deaths they cause.

Targeted attacks, especially those that kill civilians, can also create, or increase, hatred towards the attackers. The strikes in Pakistan have created significant anti-American sentiment throughout the wider region. They also appear to have aided terrorist organisations’ recruitment programmes and have motivated attacks on military and civilian targets (Cavallaro et al. 2012: 131–7). Militants can use the strikes, especially those that kill civilians, as a demonstration of the significant and unjust threat posed by their enemy. Even strikes that only kill militants may in fact cause more harm than good, since many in the region are likely to believe, due to a significant ‘information gap’, that their compatriots fight a just war and their deaths may thus motivate them to join that cause. If so, blame for the harms they subsequently cause must, if only in a mediated sense, be partially apportioned to the attacks that motivated their recruitment or increased support.

Presumption against any political violence increases as the harm it is designed to prevent becomes proportionately less certain compared to the harm caused. When the benefits of actions that cause certain harm to innocents are far removed and uncertain, one should not cause that certain harm. The apparent lack of

imminent threat, uncertainty of harm prevention and possibility of creating future harm increase the presumption against targeted killing and thus against any proportionality calculation in its favour. This is also true of war (its benefits are much less certain than its harms), but more so of targeted killing, since its benefits are uncertain and intangible. Any decent moral system finds it difficult to justify killing innocents to prevent possible harm to other innocents. I think, therefore, that contingent pacifists should presume against the justifiability of targeted killing until it can be shown not only that it will not predictably harm many innocents, but also that it will almost certainly prevent some sufficiently greater harm to others. This is not to say that this presumption cannot be overcome, only that the burden of proof should rest with those who wish to do so.

Assassination seems to be *prima facie* easier to justify as a form of targeted killing short of war than drone strikes. Assassination is the targeted killing of a political leader, performed by special forces or other means, such as a targeted missile strike. As Andrew Altman and Christopher Wellman argue, assassination might be permissible when performed on a legitimate target (that is, one who is unjustly aggressing or threatening the same innocents) and ‘the risk to human rights is not disproportionate to the rights violations that one can reasonably expect to avert’ (Altman and Wellman 2008: 253). A one-off attack might be justified if the target is an important and unjust leader and no innocents, or a sufficiently low number of innocents are killed, according to conditional and contingent pacifism respectively. Assassination of an unjust leader currently engaged in harm to innocents is not murder, but rather other-defence (it is bizarre that some hold such killing to be unjust and yet the mass-scale killing in war to be just) (Aloyo 2013; Allen-Gunasekera 2015).⁹ Pacifists take no issue with harming non-innocent aggressors to save innocents. This might apply not only to leaders at the very top, but also a number of individuals high up in the ‘chain of command’.

Assassination by missile strike will encounter the same restrictions and difficulties discussed above, with the additional benefit of not being a sustained threat to innocents. A one-off missile strike might be acceptable to contingent pacifists, so long as it is very likely to prevent an imminent threat (which in no way can be taken for granted), but conditional pacifists are likely to reject this

same missile strike if there is a good chance that innocents will be killed. Assassination by a small team ‘on the ground’, however, could be performed without much threat to innocents, so long as sufficient planning is undertaken and harm-prevention tactics are adopted. The 2011 raid that killed Osama bin Laden in Abbottabad, Pakistan, shows that this can be accomplished, but this style of assassination is likely to be only used against top targets, due to the amount of surveillance and planning required. This very limited violence would at least better satisfy the aforementioned requisite level of due process that is necessary for justified political violence, which is rarely followed in other forms of targeted killing. Espionage-style assassination of a confirmed unjust threat, by, say, sniper or poison, could quite clearly also be justified, due to the lack of risk doing so poses to innocents. It all depends on the rights violations caused relative to the expected rights violations prevented; only the most ‘targeted’ versions of force short of war appear acceptable to pacifists.

War and ‘force short of force short of war’

I have as yet failed to discuss a very important harm that force short of war might be used to prevent – war itself. That is, it could be used to prevent the need for future war, by pre-emptively killing those who plan to either start or act in ways that will necessitate war. One could argue that although targeted killing is harmful to innocents, it is less harmful than war and is therefore justified – as a lesser evil – when it is the only means of preventing war. We might even think that contingent pacifists have extra reason to be swayed by such an argument, since they are opposed not to killing per se, but rather to war, which they should thus wish to avoid as much as possible.

It certainly seems that targeted killing short of war is a much less harmful alternative to war, due primarily to increased accuracy and restraint.¹⁰ Avery Plaw, for example, states that the civilian death rate of drone strikes ‘looks significantly better than alternative actions’ (Plaw 2013: 150) and Bradley Strawser even suggests that this creates a ‘moral imperative’ to use drones (Strawser 2010). War is extremely harmful. Approximately 87 million people were killed in wars in the twentieth century alone – 33 million

soldiers and 54 million civilians (as actual by-products of hostilities, not including other effects of war such as genocide, famine, disease and political unrest) (Brzezinski 1993: 8–10). And between 184,000 and 212,000 Afghan, Iraqi and Pakistani civilians have died violent deaths as a direct result of the recent wars in those places (Watson Institute 2016).

Targeted killing short of war is significantly less harmful to civilians and thus to innocents. Michael Walzer argues that the relative harmlessness of force short of war means that its justificatory threshold, particular in terms of just cause and last resort, should be lower than war (Walzer 2006: xiv). Thus targeted killing might be justified as a lesser evil. But pacifists should be wary of any such justification, for several reasons. While targeted killing is less harmful than war, it is questionable whether it is proportionately so. First, as discussed above, its purported benefits are neither immediate nor clear. The end towards which killing militants in Pakistan is a means is a broad one; hence it is difficult to compare the harms and benefits of the campaign, as well as its effectiveness. The further removed an end from the means to it, the harder it is to gauge the effect of the latter on the former. This again raises the issue of trading certain harms for uncertain benefits. Second, targeted killing may simply fail to prevent war; it may prove ineffective. If so, that killing would be in vain and thus disproportionate. If, however, such killing is not in vain and is proportionate, then (if the other conditions are fulfilled) it is justifiable – (objectivist) contingent pacifists must accept this possibility. Nevertheless, while these issues may rest on empirical evidence on a case-by-case basis, contingent pacifists should presume against any political violence and should thus be sceptical of any justification of it, even when performed to prevent war.

Another worry is that force short of war can lead to greater harms, perpetuating or escalating a conflict. Targeted killing may cause or increase general insecurity in a region, which may increase the likelihood of war (Brunstetter and Braun 2013: 99). As previously mentioned, it can also increase the resolve of many to engage in terrorist activities or war. Viewing targeted killing as less harmful may also lead to a policy of resorting to it more often, leading to an increase in overall harm, and thus a lower distinction between its harmfulness and that of war (Coady 2008: 93). Going to the

trouble of targeting people in a distant land also suggests to an attacker's population that doing so is in response to a serious and imminent threat ('why else would they do it?'), making support for any subsequent political violence, including war, easier to garner. Moreover, the less tangible objectives of targeted killing mean that 'mission success' is harder to achieve, since 'success' becomes a more abstract notion (there will always be terrorists). Hence targeted killing may continue 'perpetually', increasing its overall harmfulness (Enemark 2014: 375). These issues are worrying, and weigh against, morally speaking, any campaign of targeted killing. But again, that is not to say that they can never be outweighed under certain conditions.

I would like to make one final point before concluding. The just war tradition holds war to be justified as a last resort only; war may be waged only when less harmful alternatives have been properly considered, or perhaps even tried. It follows that the effectiveness and relative harmlessness of the alternatives affects whether war can be justified. Targeted killing is one of these alternatives – as the effectiveness and relative harmlessness of targeted killing increases, therefore, the justificatory threshold for war as a last resort also increases. So the availability of effective targeted killing increases the moral presumption against war (Aloyo 2013; Allen-Gunasekera 2015). But the last resort criterion also applies to targeted killing (albeit, perhaps, in a revised sense). That is, targeted killing can be justified only when less harmful alternatives have been properly considered, or perhaps even tried.

I have argued elsewhere that the last resort criterion of war cannot be properly satisfied if sufficient time and energy has not been put into considering and developing belligerent non-violent alternatives to war (Parkin 2016). This follows from the fact that non-violent resistance can be very effective in repelling (and deterring) unjust aggressors. Historical evidence not only supports this claim, but in fact shows non-violent resistance to be more effective than war at repelling aggression in a variety of circumstances (Chenoweth and Stephan 2011; Parkin 2016). If state and non-state actors were to formally develop non-violent resistance as a defensive tactic, this alternative would be more effective still.

I mentioned earlier that pacifists might have extra incentive to avoid war and thus accept less harmful alternatives to it, even if

those alternatives cause some (lesser) harm. But I also argued that they should hold a strong presumption against any political violence that kills innocents, including force short of war. Just as non-violent resistance should be properly considered before any resort to war, so too should it be considered before any resort to force short of war, including targeted killings. It is unlikely to work in certain situations, including in Northwest Pakistan. But there is evidence that it can work in certain cases. If, in a long-term sense, we are to resort to any political violence with ‘genuine reluctance’ (Coady 2008: 91), non-violent resistance must be properly considered. This includes significant funding and effort into research and training. As part of their humanitarian responsibility, states could fund and facilitate education and training for overseas populations, thereby equipping them with the means to non-violently resist unjust aggressors, lowering the need for political violence and increasing their ability to prosecute what we might call ‘force short of force short of war’.

Conclusion

I have argued that both conditional and contingent pacifists should be wary of any challenge to the presumption against political violence that I think grounds their presumption against war. Conditional pacifists will have a very hard time accepting campaigns of targeted killing, such as sustained drone strikes, due to the empirical evidence showing the harm they do to innocents, although they may, under specific conditions, accept one-off instances of targeted assassination. Contingent pacifists are more likely to accept these campaigns, and thus also assassination, but I have argued that their proportionality requirements are unlikely to be satisfied by current sustained versions of targeted killing and hence something will have to change in the future for those requirements to be satisfied.

What *does* the future hold? Increasingly discriminate weapons will continue to be produced and (some) militaries are training their combatants in ethics as well as killing (although the imbalance requires further redressing). Some non-lethal weapons, such as the ‘active denial system’, have been developed and many more

could well be on their way. So there is hope. Crucially, however, attitudes towards harm to innocents (or more euphemistically, ‘collateral damage’) do not seem to be changing, at least among those whose opinions matter most, who seem prepared to accept such harm if it comes with a reduction to the far more politically awkward risk of harm to their own combatants.

The potential and largely ignored effectiveness of non-violent resistance raises the threshold of last resort for any political violence, including force short of war. Substantially more research and funding are required in this area if any political violence is to be justifiable in the future. This is because we cannot plausibly claim to have properly considered all of the alternatives to violence in any given situation if we have not bothered to develop those alternatives, at relatively minimal cost (when compared to the development of drones, missiles and so on), before that situation arises. We know that many more conflicts will occur in the future and that some of them may require violence to resolve. So we should do everything in our power, within reason, to create alternatives to that violence and there are many alternatives well within that reason.¹¹

Notes

1. ‘Modern war’ refers to war fought from the late nineteenth century into (at least) the near future, and is characterised by the significant harm it causes to innocents. The pacifisms discussed in this chapter make no claims about wars fought in the distant past.
2. These positions must be distinguished from *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, and *personal pacifism*, which (roughly) takes all personal violence to be unjustified.
3. Force short of war might also be justified as law enforcement, although such justification runs into a host of issues (Braun and Brunstetter 2013; Enemark 2014).
4. For example see (McMahan 2009b: 104–202). Whether this position is ‘revisionist’ at all is the subject of some doubt (Steinhoff 2012: 342–6). Note also that Walzer’s role-based account disagrees with this view (Walzer 2006: 38–9, 144–5), although the arguments

- made here still apply to his account, which holds all civilians to be relevantly innocent.
5. This may mean that many combatants, who contribute no more to war than many civilians, are also non-labile. Seth Lazar argues that this forces a choice between two ‘unpalatable’ options – pacifism and total war – to which a pacifist would presumably respond, ‘so be it’ (Lazar 2010).
 6. Contingent pacifism can 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).
 7. According to the *Long War Journal* (2016), there have been 391 drone strikes, killing 2,955 people, of which 158 were civilians (five per cent). We have reason to doubt the legitimacy of this source’s statistical claims (Cavallaro et al. 2012: 45–7).
 8. It could be argued that such killing is preventive as opposed to pre-emptive, which should pose a problem for just war theorists. Arguably, it is not enough that targets plan to attack sometime in the future – they must already be planning an attack.
 9. Some (e.g. Whetham 2015: 61–2) still maintain an erroneous distinction between targeted killing and assassination.
 10. Interestingly, Daniel Statman has argued that there is an inconsistency in accepting the legitimacy of killing in war whilst rejecting the legitimacy of targeted killing, and thus that ‘a principled objection to targeted killings necessarily entails a pacifist approach to conventional war’ (Statman 2004: 180).
 11. Many thanks to Uwe Steinhoff for helpful comments on a previous version of this chapter.

References

- Allen-Gunasekera, Crystal (2016), ‘Liability and Narrowly Targeted Wars’, *Ethical Theory and Moral Practice*, 19: 1, 209–23.
- Aloyo, Eamon (2013), ‘Just Assassinations’, *International Theory*, 5: 3, 347–81.
- Altman, Andrew and Christopher Wellman (2008), ‘From Humanitarian Intervention to Assassination: Human Rights and Political Violence’, *Ethics*, 118: 2, 228–57.
- Bazargan, Saba (2015), ‘Varieties of Contingent Pacifism’, in Helen Frowe and Gerald Lang (eds), *How We Fight*, Oxford: Oxford University Press, pp. 1–17.
- Becker, Jo and Scott Shane (2012), ‘Secret “Kill List” Proves a Test of Obama’s Principles and Will’, *The New York Times*, 29 May, <<http://>

- www.nytimes.com/2012/05/29/world/obamas-leadership-in-war-on-al-qaeda.html> (last accessed 22 February 2016).
- Braun, Megan and Daniel R. Brunstetter (2013), 'Rethinking the Criterion for Assessing CIA-Targeted Killings: Drones, Proportionality and *Jus ad vim*', *Journal of Military Ethics*, 12: 4, 304–24.
- Brunstetter, Daniel R. and Megan Braun (2013), 'From *Jus ad bellum* to *Jus ad vim*: Recalibrating Our Understanding of the Moral Use of Force', *Ethics & International Affairs*, 27: 1, 87–106.
- Brzezinski, Zbigniew (1993), *Out of Control: Global Turmoil on the Eve of the Twenty-First Century*, New York: Scribner.
- Cavallaro, James, Stephan Sonnenberg and Sarah Knuckey (2012), *Living Under Drones: Death, Injury and Trauma to Civilians from US Drone Practices in Pakistan*, International Human Rights and Conflict Resolution Clinic, Stanford; NYU School of Law.
- Chenoweth, Erica and Maria J. Stephan (2011), *Why Civil Resistance Works: The Strategic Logic of Nonviolent Conflict*, New York: Columbia University Press.
- Coady, C. A. J. (2008), *Morality and Political Violence*, Cambridge: Cambridge University Press.
- Enemark, Christian (2013), 'Unmanned Drones and the Ethics of War', in Fritz Allhoff, Nicholas G. Evans and Adam Henschke (eds), *Routledge Handbook of Ethics and War: Just War Theory in the Twenty-First Century*, New York: Routledge, pp. 327–337.
- Enemark, Christian (2014), 'Drones, Risk, and Perpetual Force', *Ethics & International Affairs*, 28: 3, 365–81.
- Frowe, Helen (2016), 'On the Redundancy of *Jus ad vim*: A Response to Daniel Brunstetter and Megan Braun', *Ethics & International Affairs*, 30: 1, 117–29.
- Green, Michael (1992), 'War, Innocence, and Theories of Sovereignty', *Social Theory and Practice*, 18: 1, 39–62.
- Holmes, Robert L. (1989), *On War and Morality*, Princeton: Princeton University Press.
- Lazar, Seth (2010), 'The Responsibility Dilemma for Killing in War: A Review Essay', *Philosophy and Public Affairs*, 38: 2, 180–213.
- Long War Journal (2016), 'Pakistan Strikes Data', <<http://www.longwarjournal.org/pakistan-strikes>> (last accessed 15 March 2016).
- McMahan, Jeff (2009a), 'Intention, Permissibility, Terrorism, and War', *Philosophical Perspectives*, 23: 1, 345–372.
- McMahan, Jeff (2009b), *Killing in War*, Oxford: Oxford University Press.
- May, Larry (2008), *Aggression and Crimes against Peace*, Cambridge: Cambridge University Press.
- May, Larry (2013), 'Targeted Killings and Proportionality in Law', *Journal of International Criminal Justice*, 11: 1, 47–63.

- New America Foundation (2016), 'International Security Program: Drone Wars', <<http://securitydata.newamerica.net/drones/pakistan-analysis.html>> (last accessed 15 March 2016).
- Norman, Richard (1995), *Ethics, Killing and War*, Cambridge: Cambridge University Press.
- Orend, Brian (2006), *War and International Justice: A Kantian Perspective*, Waterloo: Wilfrid Laurier University Press.
- Otsuka, Michael (1994), 'Killing the Innocent in Self-Defense', *Philosophy and Public Affairs*, 23: 1, 74–94.
- Parkin, Nicholas (2016), 'Non-Violent Resistance and Last Resort', *Journal of Military Ethics*, 15: 4, 259–74.
- Plaw, Avery (2013), 'Counting the Dead: The Proportionality of Predation in Pakistan', in Bradley Strawser (ed.), *Killing by Remote Control: The Ethics of an Unmanned Military*, New York: Oxford, pp. 126–53.
- Robinson, Paul H. (1975), 'A Theory of Justification: Societal Harm as a Prerequisite for Criminal Liability', *UCLA Law Review*, 23, 266–92.
- Scanlon, T. M. (2008), *Moral Dimensions: Permissibility, Meaning, Blame*, Cambridge, MA: Harvard University Press.
- Statman, Daniel (2004), 'Targeted Killing', *Theoretical Inquiries in Law*, 5: 1, 179–98.
- Steinbock, Uwe (2007), *On the Ethics of War and Terrorism*, Oxford: Oxford University Press.
- Steinbock, Uwe (2012), 'Rights, Liability, and the Moral Equality of Combatants', *Journal of Ethics*, 16: 4, 339–66.
- Strawser, Bradley Jay (2010), 'Moral Predators: The Duty to Employ Uninhabited Aerial Vehicles', *Journal of Military Ethics*, 9: 4, 342–68.
- The Bureau of Investigative Journalism (2016), 'Drone Strikes in Pakistan', <<https://www.thebureauinvestigates.com/category/projects/drones/drones-pakistan/>> (last accessed 15 March 2016).
- Thomson, J. J. (1991), 'Self-Defense', *Philosophy and Public Affairs*, 20: 4, 283–310.
- Thomson, J. J. (2008), 'Turning the Trolley', *Philosophy and Public Affairs*, 36: 4, 359–74.
- Unicomb, Suzanne (1994), *Permissible Killing: The Self-Defence Justification of Homicide*, Cambridge: Cambridge University Press.
- Walzer, Michael (2006), *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, New York: Basic Books, 4th edn.
- Watson Institute for International and Public Affairs (2016), 'Human Costs of War: Direct War Death in Afghanistan, Iraq, and Pakistan, October 2001-April 2015' <<http://watson.brown.edu/costsofwar/figures>> (last accessed 25 March 2016).

- Whetham, David (2015), 'Targeted Killing: Accountability and Oversight via a Drone Accountability Regime', *Ethics & International Affairs*, 29: 1, 59–65.
- White, Hugh (2007), 'Civilian Immunity in the Precision-Guidance Age,' in Igor Primoratz (ed.), *Civilian Immunity in War*, Oxford: Oxford University Press, pp. 182–200.