# LETHAL TARGETING THROUGH US AIRPOWER

## A Consequentialism Perspective

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What model provides a framework for determining a proportional amount of good for lethal targeting? Employing a qualitative, comparative case study approach, this article argues that a consequentialist approach can assess proportional good, aiding ethical decision-making in lethal targeting. The model derived from this analysis provides another means for policymakers to assess the ethical employment of airpower and spacepower. This consequentialist perspective enriches the lethal targeting discourse within foreign policy, complementing existing theories and offering insights into ethical decision-making in these circumstances.

The employment of lethal targeting, once rare, grew significantly after September 11, 2001. This politically motivated action is intended to eliminate a perceived threat. Yet the consequences of lethal targeting extend far beyond the immediate situation, impacting the broader geopolitical landscape. These consequences underscore the need to address its ethical and practical challenges.[1]

This article addresses a crucial question: What model provides a framework for determining a proportional amount of good for lethal targeting—that is, how does one determine whether the ends justify the means of a targeted killing? Employing a qualitative, comparative case study approach, this article argues a consequentialism ethics approach can assess proportional good, aiding ethical decision-making in targeting. The argument emerges from two case studies that apply consequentialism's "weighing machine" of positive versus negative outcomes to analyze each case. The model derived from that analysis provides another means for policymakers to evaluate the ethical employment of airpower and spacepower.

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1. Michael C. Haas and Sophie-Charlotte Fisher, "The Evolution of Targeted Killing Practices: Autonomous Weapons, Future Conflict, and the International Order," *Contemporary Security Policy* 38, no. 2 (2017).

Of special note, the article is concerned with ethics, not legality, presuming compliance with international law and the *Department of Defense Law of War Manual*. The authors also recognize the extensive doctrine-based processes and procedures the services and combatant commands employ for target development, vetting, and validation, based on their professional experiences. Concepts like noncombatant privilege, collateral damage, object of attack, military necessity, distinction, military objective, and proportionality are deeply ingrained in the article's approach.[2]

At no point in this article should the reader conclude the authors assert a violation of noncombatant privilege, for example. Employing the consequentialist philosophical lens of a proportional amount of good, the article instead seeks to add to this rich body of work by going beyond legality to explore the ethical terrain, contemplating what is morally justified and prudent.

# An Ethical Framework

## *Just War Theory*

Originating from classical and Christian philosophical traditions, just war theory delves into the ethical considerations surrounding warfare and encompasses both jus ad bellum, or right to war, and jus in bello, or right in war. Jus ad bellum addresses the criteria for justifying the decision to engage in war, including principles like just cause, legitimate authority, and proportionality, while jus in bello focuses on the moral constraints guiding the conduct of war, emphasizing principles of discrimination and proportionality.[3]

This theory, championed by scholars such as Thomas Aquinas and Hugo Grotius, serves as a moral compass for policymakers, military leaders, and individuals navigating the complexities of armed conflict, aiming to reconcile the demands of justice with the realities of international relations. By linking the decision to engage in conflict with the responsibility to conduct it justly, just war theory serves as a guiding principle for the profession of arms, aiming to achieve objectives while upholding ethical standards.[4] This article applies the theory to the realm of targeting using the lens of consequentialism.

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2. *Department of Defense Law of War Manual* (Washington, DC: Office of General Counsel, Department of Defense [DoD], updated July 2023), 50–70, https://media.defense.gov/; and *Targeting*, Air Force Doctrine Publication (AFDP) 3-60 (Washington, DC: Department of the Air Force, November 12, 2021), 8–9, https://www.doctrine.af.mil/.

3. Nico Vorster, "Just War and Virtue: Revisiting Augustine and Thomas Aquinas," *South African Journal of Philosophy* 34, no. 1 (2015): 55, 60–62; Gregory Reichberg, *Thomas Aquinas on War and Peace* (Cambridge, UK: Cambridge University Press, 2017), viii; and Steven Forde, "Hugo Grotius on Ethics and War," *American Political Science Review* 92, no. 3 (1998): 644–45.

4. Eric Patterson, "Just War in the 21st Century: Reconceptualizing Just War Theory after September 11," *International Politics* 42, no. 1 (2005): 118; Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations* (New York: Basic Books, 1977); and Seth Lazar, "War," *Stanford Encyclopedia of Philosophy*, May 16, 2016, https://plato.stanford.edu/.

## *Consequentialism*

Jeremy Bentham is often regarded as the founding figure of modern consequentialism with his development of utilitarianism, which prioritizes maximizing happiness or pleasure and minimizing pain as the ultimate moral principle. John Stuart Mill further refined utilitarianism, emphasizing qualitative distinctions between pleasures and the importance of individual liberties. Henry Sidgwick contributed significantly to consequentialist thought by exploring the complexities and challenges of utilitarian reasoning.[5]

Consequentialism is a broader ethical theory than utilitarianism. It evaluates the morality of actions based on their consequences, with the principle that the right action is the one that leads to the best overall outcome. Utilitarianism is a specific form of consequentialism that focuses on maximizing overall utility or happiness as the standard for determining the rightness of actions. Thus, utilitarianism is a subset of consequentialism, with its emphasis on maximizing utility being one approach within the broader framework of consequentialist ethics.[6]

In the realm of security studies and lethal targeting, consequentialism ethics offers a compelling framework for evaluating the moral dimensions of military actions. Consequentialism is rooted in the principle of maximizing the overall good or utility. It focuses on the outcomes or consequences of an action rather than its intrinsic moral nature. This approach hinges on evaluating the balance between positive and negative outcomes, questioning whether the ends justify the means.

The ethical scrutiny of lethal targeting operations under a consequentialist lens spurs a thorough examination of whether such actions are the most ethical ways to achieve the desired results. As such, consequentialism prompts decisionmakers to assess the potential benefits and harms of lethal targeting operations, considering factors such as civilian casualties, long-term strategic objectives, and the broader impact on societal well-being. As a guide to ethical decision-making, consequentialism navigates the complex landscape of national security and armed conflict by prioritizing the net positive outcomes of military actions.[7]

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5.  Jeremy Bentham, *Utilitarianism* (London: Progressive Publishing Company, 1890), 5–20; John Stuart Mill, *Utilitarianism* (Toronto: Ryerson University Press, 2022), 14–38; and Henry Sidgwick, *The Methods of Ethics* (London: Macmillan and Co., 1874), 1–14.

6.  Daniel Jacobson, "Utilitarianism without Consequentialism: The Case of John Stuart Mill," *Philosophical Review* 117, no. 2 (2008): 159–70; and Martin Peterson, "From Consequentialism to Utilitarianism," *Journal of Philosophy* 100, no. 8 (2003): 403.

7.  Lukasz Kiraga and Andrzej Dzikowski, "Ethical Concerns of the Veterinarian in Relation to Experimental Animals and In Vivo Research," *Animals* 13, no. 15 (2023): 2476; Ronald P. Dempsey, Elizabeth E. Eskander, and Veljko Dubljević, "Ethical Decision-Making in Law Enforcement: A Scoping Review," *Psych* 5, no. 2 (2023): 576; and Yakov Ben-Haim, "Robust-satisficing Ethics in Intelligence," *Intelligence and National Security* 36, no.5 (2021).

## *Lethal Targeting*

Lethal targeting, or targeted killing, has been defined as "the intentional, premeditated, and deliberate use of lethal force, by a state or its agents acting under color of law, against a specific individual who is not in the perpetrator's custody."[8] Lethal targeting has been viewed as an ethically ambiguous action.[9] The ethical ambiguity arises from various factors, including the potential for civilian casualties, a lowered bar for the tolerance of the use of force, the uncertainty surrounding the identification of targets, the legality and proportionality of the action, and the broader geopolitical consequences.[10] As such, critics argue lethal targeting can violate principles of just war theory, such as proportionality and discrimination, by causing harm to noncombatants or targeting individuals without due process.[11]

Additionally, the secretive nature of some lethal targeting operations and the lack of transparency in decision-making processes exacerbate the ethical ambiguity surrounding this practice.[12] Yet proponents of lethal targeting argue it can be justified as a means of preventing imminent threats and protecting national security interests.[13] Supporters also highlight lethal targeting's deterrent effect, lower cost in terms of money and lives, and the inconsistent track record of other foreign policy actions such as sanctions.[14] These pro and con considerations highlight the complex ethical considerations involved in assessing the morality of lethal targeting actions. US doctrine for lethal targeting states "lethal action should be taken in an effort to prevent terrorist

8. Philip Alston, "Statement of UN Special Rapporteur on U.S. Targeted Killings without Due Process," ACLU (website), August 3, 2010, https://www.aclu.org/.

9. Thomas Ward, "Norms and Security: The Case for International Assassination," *International Security* 25, no. 1 (2000): 106; and Simon Frankel Pratt, "Crossing Off Names: The Logic of Military Assassination," *Small Wars & Insurgencies* 26, no.1 (2015): 3, 8.

10. James I. Walsh and Marcus Schulzke, *The Ethics of Drone Strikes: Does Reducing the Cost of Conflict Encourage War?* (Carlisle, PA: Strategic Studies Institute and US Army War College Press, 2015), vii–x, 2–6, 40; and David L. Perry, *Partly Cloudy: Ethics in War, Espionage, Covert Action, and Interrogation* (Lanham, MD: Scarecrow Press, 2009), 5–11.

11. John Lango, "Nonlethal Weapons, Noncombatant Immunity, and Combatant Nonimmunity: A Study in Just War Theory," *Philosophia* 38, no. 3 (2010); Neil C. Renic, "Justified Killing in an Age of Radically Asymmetric Warfare," *European Journal of International Relations* 25, no. 2 (2019); and Matthew Strebe, "And the President Droned On: Just War Theory and Targeted Killings," *Episteme* 25, no. 1 (2014): 37–40, 43–49.

12. Ward, "Norms," 124–25.

13. Perry, *Partly Cloudy*, 5–11.

14. Neta C. Crawford, "Blood and Treasure: United States Budgetary Costs and Human Costs of 20 Years of War in Iraq and Syria, 2003–2023," Watson Institute International & Public Affairs at Brown University, March 15, 2023, https://watson.brown.edu/; Meghann Myers, "Wars in Iraq and Syria Cost Half a Million Lives, Nearly $3T: Report," *Military Times*, March 17, 2023, https://www.militarytimes.com/; Pratt, "Crossing Off Names," 8; and Risa A. Brooks, "Sanctions and Regime Type: What Works, and When?," *Security Studies*, 11, no. 4 (2002).

attacks against U.S. persons only when capture of an individual is not feasible and no other reasonable alternatives exist to effectively address the threat."[15]

## Proportionality versus Proportional Amount of Good

It is important to note the difference between the *DoD Law of War Manual* definition of proportionality and how this article uses proportional amount of good. The manual defines proportionality as "the principle that even where one is justified in acting, one must not act in a way that is unreasonable or excessive."[16] In contrast, "proportional amount of good" in consequentialism pertains to the ethical assessment of actions based on their ability to maximize overall well-being, considering the magnitude of positive outcomes relative to any negative consequences, without direct reference to military objectives or collateral damage.[17]

# Comparative Case Studies

In the United States, where human agents remain responsible for targeting decisions and execution, understanding the human and social dimensions of this process becomes crucial. Examining the research question in this way leads to valuable insights into what constitutes a proportionally good outcome in the context of lethal targeting.

The in-depth analysis of two contrasting case studies reveals the complexities of lethal targeting as seen through a consequentialist lens. Each represents a different scenario that military personnel encountered when conducting targeting operations. The first, the June 7, 2006, strike against Abu Musab al-Zarqawi, represents a long-tracked, high-value target pursued with dedicated resources over time. In contrast, the August 29, 2021, strike targeting suspected Islamic State-Khorasan (ISIS-K) militants, later revealed to be civilians, unfolded amid the chaotic withdrawal from Afghanistan, highlighting the challenges of rapid decision-making in fluid situations.

## Al-Zarqawi Strike

Born in the Jordanian city of Zarqa in 1966, Abu Musab al-Zarqawi became the symbol of anti-American and anti-Shia resistance in post-invasion Iraq. He took the helm of al-Qaeda in Iraq (AQI), the precursor to the Islamic State of Iraq and ash-Sham (ISIS), drawing jihadists from around the world to Iraq. The reign of al-Zarqawi, who operated under the cloud of a $25-million American bounty, saw a significant surge in suicide bombings. He marshaled a core of approximately 1,200 fighters, including ex-Iraqi military and intelligence personnel, orchestrating not only beheadings

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15. "Procedures for Approving Direct Action against Terrorist Targets Located outside the United States and Areas of Active Hostilities," redacted, declassified document, US Department of Justice, May 22, 2013, https://www.justice.gov/.

16. *DoD Law of War Manual*, 60.

17. Oscar Horta, Gary David O'Brien, and Dayron Teran, "The Definition of Consequentialism: A Survey," *Utilitas* 34, no. 4 (2022): 368–70.

and attacks on coalition forces but also an agenda to cripple Iraqi governance and ignite a Sunni-Shia civil war, leaving a trail of thousands dead in its wake.[18]

Al-Zarqawi's ability to evade death or capture over the years advanced his standing among jihadists. Narrowly escaping coalition forces twice over 18 months appeared to embolden him. At his demise, analysts tied the militant leader to jihadists in approximately 40 countries.[19]

The air strike that killed al-Zarqawi occurred shortly after 6 p.m. on June 7, 2006, at a safe house in a palm forest 1.25 miles outside Hibhib, approximately 30 miles north of Baghdad. After receiving a tip from Jordanian intelligence, American officials vectored two F-16s conducting a standard counterimprovised explosive device patrol to the location, dropping one GBU-12 laser-guided 500-pound bomb followed by a GBU-38 joint direct attack munition.[20]

Reports indicated that six people died in the air strike, including al-Zarqawi, his spiritual adviser, chief courier, 16-year-old wife, and one child. When coalition forces arrived on the scene at 6:40 p.m., al-Zarqawi was still alive, but attempts to treat him proved unsuccessful, and he died on the scene. The air strike occurred after weeks of intelligence work focused on tracking the spiritual adviser and chief courier, which began based on tips from informants.[21]

The air strike's reverberations rippled through the militant ranks, sowing discord and suspicion. Al-Zarqawi's lieutenants, afraid of betrayal, interrogated their men in a desperate hunt for informants.[22] Analysts saw this internal turmoil as a sign of AQI's vulnerability, with the *New York Times* calling the announcement of his death a "major watershed in the war."[23] Al-Zarqawi, with his "star power" and role as an "important cheerleader for Islamic militants in Iraq," was considered a critical figure, and his death dealt a severe blow to the morale and cohesion of the group.[24]

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18. George Michael, "The Legend and Legacy of Abu Musab al-Zarqawi," *Defence Studies* 7, no. 3 (2007): 338–39, 343, 345, 348; and Donald J. Reed, "On Killing al-Zarqawi—Does United States Policy Know Its Tools in the War on Terror?," *Homeland Security Affairs* 2, no. 2 (July 2006): 3.

19. Michael, 338, 345, 348; and John F. Burns, "U.S. Strike Hits Insurgent at Safehouse," *New York Times*, June 8, 2006, https://www.nytimes.com/.

20. Combined Operations Center, American Forces Press Network, "Air Force F-16 Airstrike Kills al-Zarqawi," USAF, June 9, 2006, https://www.af.mil/; Jim Garamone, "Zarqawi Air Strike Shows Aerial Flexibility, General Says," US Air Force (USAF), June 16, 2006, https://www.af.mil/; Scott Macleod et al., "How They Killed Him," *TIME Magazine*, June 11, 2006, and Peter Chambers, "Abu Musab Al Zarqawi: The Making and Unmaking of an American Monster (in Baghdad)," *Alternatives: Global, Local, Political* 37, no. 1 (2012): 40.

21. Chambers, 40; Burns, "Safehouse,"; and Macleod et al.

22. Macleod et al., "They Killed Him."

23. Burns, "Safehouse."

24. Macleod et al., "They Killed Him"; "Will It Make a Difference? The Death of Abu Musab al-Zarqawi," *Economist* 379, no. 8481 (June 10, 2006): 43; Burns; and "Coalition Forces Kill Abu Musab al-Zarqawi," USAF, June 8, 2006, https://www.af.mil/.

For coalition forces, the killing resonated as a moral victory and a psychological boost.[25] In this vein, *The Economist* declared it "America's single biggest scalp in nearly five years of fighting Islamist terror," a potent symbol of resilience in the face of brutal tactics.[26] Similarly, al-Zarqawi's demise served as a stark message to remaining jihadists: the Americans were a powerful foe, capable of taking down even the most notorious figures.[27] Moreover, the elimination of the man estimated to be responsible for over 6,000 deaths offered a much-needed boost for both the Bush and al-Maliki administrations in the United States and Iraq, respectively.[28]

Conversely, not all analysts saw al-Zarqawi's death as a turning point for the better. Skeptics pointed to the decentralized nature of the Iraqi insurgency, arguing that removing one node would not cripple the network. They warned martyrdom could elevate al-Zarqawi into a powerful recruiting tool, inspiring the next generation of jihadists. Furthermore, his foreignness alienated some within the insurgency, who did not consider al-Zarqawi their leader. His brutal tactics, often targeting civilians, had also backfired, creating distance from elements of the resistance. For these analysts, his removal risked galvanizing support for the jihadists' cause rather than diminishing it.[29]

Osama bin Laden's response was swift. Within a week, he tapped Abu Hamza al-Muhajir, an Egyptian, to fill the void left by al-Zarqawi. After that, the organization that would ultimately become ISIS put in place a process of succession embedded in its newly formed concept of a protostate structure to promote the long-term legitimacy of the leader and the organization.[30]

**Applying a consequentialist lens**. An analysis of the targeted killing of al-Zarqawi applying a consequentialist framework examines the air strike's intended and unintended consequences to assess its ethical justifiability.

The US objective in targeting al-Zarqawi was multifaceted. Primarily, it aimed to eliminate a prominent terrorist leader responsible for significant violence and instability in Iraq. In terms of intended consequences, planners hoped his death would disrupt AQI's operations, demoralize its members, and potentially deter future acts of terrorism. The strike also aimed to send a message of resolve to insurgents and bolster Iraqi morale.

In terms of positive consequences, the strike temporarily reduced the levels of insurgent violence, disrupted al-Qaeda leadership, and generated a symbolic victory. Al-Zarqawi's death led to a short-lived decline in AQI's attacks and overall violence in

25. Michael, "Legend," 348; and Reed, "On Killing," 2.

26. "Will It Make a Difference?"

27. Daniel Byman, "What Zarqawi's Death Means for the Insurgency," Brookings, June 8, 2006, https://www.brookings.edu/.

28. Burns, "Safehouse"; Michael, "Legend," 348–49.

29. Reed, "On Killing," 2; "Will It Make a Difference?"; Byman, "Zarqawi's Death"; and Michael, 350–51.

30. Michael, 348; and Haroro J. Ingram and Craig Whiteside, "Generation Killed: The Challenges of Routinizing Global Jihad," *War on the Rocks*, August 18, 2022, https://warontherocks.com/.

Iraq.[31] This outcome suggests the strike achieved its primary objective of mitigating immediate terrorist threats. Removing a charismatic and influential leader like al-Zarqawi caused temporary disarray within AQI, potentially hindering its operational capacity and recruitment efforts.[32] The successful targeting of a high-profile individual boosted American morale and demonstrated the United States' commitment to combating terrorism on a global scale.

In terms of negative, unintended consequences, the strike resulted in the deaths of innocent civilians, a violation of the principle of noncombatant immunity. This outcome raises ethical concerns about the proportionality of the action and the potential for long-term resentment. Another negative consequence of the strike, increased or sustained levels of violence, suggests the long-term impact of the killing of al-Zarqawi might be ambiguous. While violence initially dipped, AQI eventually recovered and even escalated its attacks under new leadership. The strike, as part of the broader Iraq War, contributed to the destabilization of the country, creating a power vacuum and breeding ground for future extremist groups.[33]

Of note, this last unintended consequence bears significant negative weight and raises questions about the wider geopolitical ramifications of the action. The power vacuum created after al-Zarqawi's death and the broader intervention in Iraq contributed to the rise of ISIS, a more brutal and global threat than AQI. This repercussion illustrates the complex ripple effects of military interventions. The civilian casualties and perceived disregard for Iraqi sovereignty fueled anti-American sentiment in the region, hindering long-term efforts to foster cooperation and counterterrorism initiatives.[34]

Overall, the strike against al-Zarqawi demonstrates the complex nature of consequentialist analysis in complex situations. While the intended consequences prior to the strike seem to align with the ethical principle of maximizing good, the negative unintended consequences resulting from the strike raise significant ethical concerns and highlight the inherent risks of such actions. Despite those concerns, the implications of removing a known senior terrorist leader with international significance from the battlefield compels a definitive moral judgment: the good outweighed the bad.

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31.  Reed, "On Killing," 1–9; and Stephanie S. Kostro and Garrett Riba, "Resurgence of al Qaeda in Iraq: Effect on Security and Political Stability," Center for Strategic and International Studies, March 4, 2014, https://www.csis.org/.

32.  Kostro and Riba; Kenneth Katzman, *Iraq and al Qaeda*, RL32217 (Washington, DC: Congressional Research Service [CRS], 2007), 10; *Exploiting Disorder: al-Qaeda and the Islamic State* (Brussels: International Crisis Group [ICG], March 14, 2016), 16, https://www.crisisgroup.org/; and *Iraq after the Surge I: The New Sunni Landscape* (Brussels: ICG, April 30, 2008), 2, 11–12, 16–19, https://www.crisisgroup.org/.

33.  Brian Fishman, "After Zarqawi: The Dilemmas and Future of Al Qaeda in Iraq," *Washington Quarterly* 29, no. 4 (2006): 25; and Peter Galbraith, *Unintended Consequences: How War in Iraq Strengthened America's Enemies* (New York: Simon & Schuster, 2008), 1–5.

34.  Jenna Pitchford, "The 'Global War on Terror,' Identity and Changing Perceptions: Iraqi Responses to America's War in Iraq," *Journal of American Studies* 45, no. 4 (2011); and Amy LeBlanc, "Embedded Journalism and American Media Coverage of Civilian Casualties in Iraq," (Master's thesis, Universitetet i Tromsø, 2013), 30.

## *ISIS-K Strike*

August 2021 witnessed a frantic race against time as coalition forces orchestrated their withdrawal from Afghanistan. The Taliban's rapid offensive threatened the Afghan government, culminating in its capture of Kabul on August 15. Adding to the turmoil, on August 26, amid the thousands desperately seeking escape at Hamid Karzai International Airport (HKIA), Abdul Rahman al-Logari, a member of ISIS-K, detonated a suicide bomb, killing 13 American service members and 169 Afghans.[35]

In the wake of this attack, roughly 60 threat streams emerged, pointing toward further ISIS-K attacks at HKIA.[36] Yet the concentration of coalition forces at the airport hampered their ability to effectively assess the veracity of these threats. Faced with the converging risks of the recent attack, the advancing Taliban, and the barrage of information, American forces adopted a heightened state of vigilance, perceiving Kabul as a complex and interconnected "threat landscape."[37]

In this tense atmosphere, American personnel launched an air strike on August 29 against a suspected ISIS-K target believed to be preparing to launch another attack against HKIA. On that day, six MQ-9 Reaper unmanned aerial systems tracked a white Toyota Corolla that was suspected of being part of an imminent threat to personnel conducting evacuation activities at the airport. The Reapers monitored the vehicle for over eight hours after it arrived at a target area of interest approximately three kilometers from the airport.[38]

As operators tracked the vehicle, various actions reinforced the perception of its ties to the plot to attack HKIA. These actions included driving in a manner associated with countersurveillance techniques, picking up and dropping off adult males, retrieving a package in a black bag from a building, and carefully loading canisters into the trunk. Believing the car might be a vehicle-borne improvised explosive device posing an imminent threat to ongoing evacuation efforts at HKIA, the US military authorized a self-defense strike. At 4:53 p.m., an AGM-114 Hellfire missile using a delayed fuse struck the vehicle, killing three adults and seven children.[39]

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35. Clayton Thomas, *U.S. Military Withdrawal and Taliban Takeover in Afghanistan: Frequently Asked Questions*, R46879 (Washington, DC: CRS, September 17, 2021), 9–13; Derek Gregory, "Midnight's Victims," *Area Development and Policy* 8, no. 4 (2023): 5, 10; "Deadly US Drone Strike in Kabul Did Not Break Law, Pentagon Says," BBC, November 3, 2021 https://www.bbc.com/; and Charles Savage et al., "New Declassified Video Shows U.S. Killing of 10 Civilians in Drone Strike," *New York Times*, January 19, 2022, https://www.nytimes.com/.

36. Anna Coren et al., "US Military Admits It Killed 10 Civilians and Targeted Wrong Vehicle in Kabul Airstrike," CNN, September 17, 2021, https://www.cnn.com/; and David Vergun, "Air Force Official Briefs Media on Deadly Drone Strike in Kabul," DoD, November 3, 2021, https://www.defense.gov/.

37. Gregory, "Midnight's Victims," 10, 20–21.

38. Gregory, "Midnight's Victims," 1, 6, 10, 12; and Savage et al., "Declassified Video."

39. Savage et al., "Declassified Video"; Azmat Khan, "Military Investigation Reveals How the U.S. Botched a Drone Strike in Kabul," *New York Times*, January 6, 2023, https://www.nytimes.com/; Vergun, "Air Force Official"; and Gregory, 1, 6, 10–14.

Poststrike reporting and investigations revealed that those targeted were unaffiliated with ISIS-K. The driver, Zemari Ahmadi, was identified as an employee of an American aid organization. The Toyota was a company-owned car used to ferry employees and complete company activities. The black bag that operators saw retrieved was a laptop, and the canisters were determined to be water jugs needed due to inconsistent service at homes. Furthermore, the secondary explosion initially attributed to detonating explosives was determined to be from a nearby propane tank. Finally, operators missed the presence of children in the compound.[40]

An Air Force investigation concluded that the August 29th air strike did not violate US law or the law of armed conflict. Investigators attributed the incident to confirmation bias and communication breakdowns, exacerbated by several contributing factors. These included the chaotic withdrawal environment, the overwhelming volume of threat streams, the recent attack at HKIA, operator stress, the absence of coalition forces in the city, and perceived time constraints that limited thorough analysis. Of note, one day later, ISIS-K militants attempted an attack on HKIA using rockets fired from a white Toyota Corolla, approximately 200 meters from the location struck on August 29, highlighting the complex and evolving threat landscape.[41]

**Applying a consequentialist lens**. The August 2021 incident presents a poignant case study for consequentialist analysis, raising critical questions about the ethical implications of targeted strikes and the complexities of decision-making in wartime environments.

Analysis of the case reveals few indicators of potential positive consequences. For one, the intended goal of neutralizing an imminent threat at the airport holds merit within a consequentialist framework, aiming to maximize lives saved and minimize potential harm.

The resulting negative consequences, however, are far more apparent. First, the tragic loss of 10 innocent lives, including children, constituted a devastating violation of the principle of noncombatant immunity and represents the most significant negative consequence. This violation casts a profound shadow on the justifications for the strike.

Second, as a second-order effect of the casualties, the incident significantly eroded trust in American operations among the Afghan civilian population and the international community, potentially hindering future cooperation and counterterrorism efforts. This long-term consequence carries substantial negative weight. The civilian casualties and subsequent revelations further tarnished the American image on the world stage, raising concerns about the United States' commitment to human rights and the principles of just war theory.[42] This reputational damage has tangible negative consequences for geopolitical relations and global standing.

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40.  "Transcript: Pentagon Press Secretary John Kirby and Air Force Lt. Gen. Sami D. Said Hold a Press Briefing," DoD, November 3, 2021, https://www.defense.gov/; Coren et al., "US Military"; Savage et al.; and Gregory, 1, 8.

41.  Khan, "Military Investigation"; "Transcript"; and Gregory, 8.

42.  Sayed Salahuddin, "Airstrikes Kill Scores of Afghan Civilians-Officials," Reuters, August 9, 2007, https://www.reuters.com/.; and Savage et al., "Declassified Video."

Finally, these civilian casualties fueled resentment and distrust toward the United States, potentially creating fertile ground for the recruitment and growth of extremist groups.[43] This unintended consequence highlights the potential long-term ramifications of such actions. Additionally, events like this one carry the potential to erode internal morale and cause the questioning of procedures within military units.

Through a consequentialist lens, the August 29th strike presents a conundrum. While the intended goal of preventing an attack aligns with maximizing positive outcomes, the devastatingly negative consequences—particularly the civilian casualties and their long-term ramifications—raise serious ethical concerns and cast a shadow on the justification for the action. Determining whether the good outweighed the bad concerning this strike necessitates a clear reckoning with its resulting positive and negative consequences. Despite the potential for preventing an attack, the magnitude and gravity of the negative outcomes compel a more definitive moral judgment: the bad outweighed the good.

# Framework Emerging from Case Analysis

Based on the qualitative analysis of the two case studies, one deemed to represent a proportional amount of good and one that did not, the researchers propose a consequentialist lethal targeting assessment model to aid decisionmakers in future scenarios. Once again, it is crucial to note that compliance with the *Law of War Manual* and the use of robust doctrine-based processes and procedures in US actions are assumed, with the model focusing on ethics as opposed to legality. The assessment model is comprised of four criteria:

- Planners considered the human rights of the citizens of the target country.
- Planners determined the objectives of the decision to select lethal targeting were just.
- Planners determined lethal targeting was necessary to obtain the just objectives (of note: this is different than just cause for war, the primary normative principle of jus ad bellum).
- Planners eliminated less ethical methods to obtain the objectives.

# Discussion

## *Human Rights?*

While not explicitly addressing human rights, consequentialist principles are inherently intertwined with their protection. Minimizing harm and maximizing well-being align with human rights by prioritizing the inherent value and dignity of all individuals. Thus, the ethical ramifications of targeted strikes cast a complex shadow,

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43. "Durbin, Leahy Urge President Biden to End Lethal Force Outside of War Zones, Revise Nation's Counterterrorism Policies," September 27, 2021, US Senate Committee on the Judiciary, https://www.judiciary.senate.gov/

particularly when scrutinized through the lens of consequentialism. The examination of the two case studies reveals the delicate dance between prioritizing immediate threats and the long-term well-being of civilians in recipient countries.

Some consideration for Iraqi citizen's human rights is evident in the targeted strike against al-Zarqawi. American officials publicly framed the strike against al-Zarqawi as necessary to protect Iraqi civilians from AQI violence, emphasizing its aim to disrupt the group's operations and leadership. Choosing al-Zarqawi, a figure responsible for significant civilian casualties, could be interpreted as aiming to minimize future harm to civilians inflicted by his leadership.[44]

Yet the strike targeting suspected ISIS-K militants in Afghanistan presents a contrasting case. While aimed at a perceived imminent threat, the location within a populated area inherently carried a risk to civilians. This decision raises concerns about prioritizing immediate threat mitigation over civilian safety. The strike eroded trust in American operations and fueled anti-American sentiment, potentially hindering future cooperation and counterterrorism efforts in Afghanistan. This long-term negative consequence contradicts one of the intended positive outcomes.

Taken together, both cases support the notion that direct, repeatable procedures for considering civilian casualties, as a reflection of a broad consideration for human rights, belong in the consequentialist model. These procedures would include comprehensive risk assessments based on thorough intelligence gathering and analyses of potential civilian harm, ensuring targeted actions are proportionate to the threat. Procedures would also explore alternative approaches that minimize civilian risk. In the event that lethal targeting is undertaken, mechanisms would be in place that would ensure the United States takes responsibility for unintended consequences, conducts transparent investigations, and holds individuals accountable for failures.

## *Just Objectives?*

In the consequentialist framework, just objectives refer to goals or aims that, when pursued, result in outcomes that maximize overall utility or promote the greatest good. These objectives are assessed based on their ability to generate positive consequences and minimize negative repercussions for individuals affected by the action or decision.[45] As shown in the case studies, determining justness in cases of lethal targeting involves navigating a challenging equation, weighing potentially significant positive outcomes against the risk of unforeseen negative consequences and potential violations of laws or international norms.

Eliminating al-Zarqawi, who was responsible for significant civilian casualties and who served as a symbol of terrorist violence, sought to disrupt AQI operations, potentially saving future lives. Targeting a prominent figure like al-Zarqawi aimed to

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44. Macleod et al., "They Killed Him"; Chambers, "Abu Musab Al Zarqawi," 40–41; Burns, "Safehouse"; and Michael, "Legend," 348.

45. Sidgwick, *Ethics*, 1–14; and Mill, *Utilitarianism*, 14–38.

showcase American commitment to countering terrorism, potentially deterring future attacks. Unforeseen negative consequences like the destabilization of Iraq and the rise of ISIS highlight the risk of unintended harmful outcomes, even when seeking positive, just consequences.

In the Afghanistan strike, the targeting of suspected ISIS-K militants aimed to thwart an attack on Hamid Karzai International Airport, potentially saving American lives and preventing civilian casualties. Protecting American personnel and facilitating troop withdrawal were key objectives, aligning with national security interests. Preventing an attack would have undoubtedly saved lives and mitigated potential suffering. Safeguarding US interests aligns with consequentialist principles of promoting security and well-being; however, the unintended outcome of harming innocent civilians violates fundamental human rights and starkly contrasts with the objective of minimizing harm. Eroding trust in American operations also presents long-term negative consequences for counterterrorism efforts and regional stability.

Both cases present objectives aiming to maximize just outcomes. Yet crucial differences emerge. While al-Zarqawi's role in violence was established, the intelligence regarding the Afghan target's involvement in an imminent attack remained unconfirmed, introducing a higher degree of uncertainty in assessing the intended positive outcome. Eliminating a high-profile leader responsible for extensive harm can be argued to be more proportionate to the intended positive outcome compared with targeting individuals based on potentially incomplete intelligence. Both cases highlight the risk of unintended negative consequences, emphasizing the need for robust assessments and contingency plans.

Although determining the justness of objectives within a consequentialist framework in real-world scenarios like these remains a complex task, ensuring the justness of a potential lethal targeting action is critical and includes considerations of factors such as certainty of threat, proportionality of action, and potential for unforeseen consequences. Additionally, the ethical imperative to minimize harm remains central, requiring constant vigilance against actions that might generate undue suffering, outweighing any potential good.

## *Necessary?*

Analyzing the two cases through a consequentialist framework helps illuminate the need to include the question of necessity in the model and the challenges of determining whether such actions were demonstrably necessary to achieve just objectives.

As discussed, the strike against al-Zarqawi was intended to neutralize a high-level threat responsible for significant civilian casualties and a symbol of terrorist violence, potentially saving future lives and disrupting AQI operations. Eliminating al-Zarqawi arguably did disrupt AQI leadership and potentially reduced subsequent violence. In terms of necessity, however, it is possible to argue that nonlethal options, like capture or intelligence gathering, might have been pursued, potentially achieving similar outcomes without risking civilian casualties.

Also as discussed, the 2021 strike in Afghanistan was intended to prevent an imminent attack on Hamid Karzai International Airport, potentially saving American lives and avoiding civilian casualties. The target turned out to be a humanitarian worker and other innocent individuals, resulting in tragic civilian casualties, contradicting the objective of minimizing harm. Though when considering necessity, one could argue that increased security measures at the airport or other security activities could have been explored as alternative approaches with lower risks of civilian harm and unintended negative consequences.

While both cases aimed for just objectives, crucial differences emerge regarding necessity. Intelligence practitioners had long pursued al-Zarqawi, whereas the information about a white Toyota represented an emerging threat stream, introducing greater uncertainty in assessing the necessity of immediate lethal action. Eliminating a high-profile leader directly responsible for extensive harm can be argued to be more proportionate to the intended positive outcome, and thus more necessary than targeting individuals based on potentially incomplete intelligence with the risk of causing civilian casualties.

In evaluating the necessity of lethal targeting, particularly in intricate counterterrorism contexts, procedural considerations emerge. First, an ethical examination is imperative to scrutinize the level of necessity, considering the challenges associated with determining whether lethal measures were truly indispensable in achieving the desired outcomes. For example, enhancing security measures or employing other nonlethal approaches could be considered to mitigate harm and minimize unintended negative consequences depending upon the scenario. Secondly, these cases highlight the importance of prioritizing high-confidence intelligence when evaluating the necessity of lethal targeting. Additionally, it is essential to recognize the importance of the potential ramifications of outcomes when determining the necessity of lethal targeting within a consequentialist framework.

## *Less Ethical Methods Eliminated?*

Analyzing the two cases through consequentialism reveals the complexities of assessing the ethical choices made in high-stakes situations. Looking at the 2006 strike against al-Zarqawi, some potential alternatives emerge. While challenging, capturing al-Zarqawi for a legal trial might have yielded valuable intelligence, minimized the risk of civilian casualties, and generated long-term positive consequences through legal precedent. Engaging in intensified diplomatic efforts and collaborating with regional actors to isolate and weaken AQI through nonmilitary means could have been explored.

Yet capture and prosecution might have been significantly more time-consuming and fraught with logistical challenges, potentially delaying the desired outcome of disrupting AQI operations. Diplomatic pressure, while potentially minimizing immediate harm, might have proved insufficient in dismantling a violent organization such as AQI.

More ethical approaches to the problem of the potential 2021 ISIS-K attack against the airport also emerge. The US and its Allies and partners could have implemented heightened security protocols and intensified intelligence gathering to pinpoint

specific threats to potentially mitigate the need for immediate lethal action. As a non-military measure, the relevant actors could have engaged in direct communication with Taliban representatives or local intelligence sources to avert the perceived threat. The relevant actors could have adjusted the withdrawal timeline to allow for further investigation with a potential for a de-escalation of the situation.

Conversely, implementing stricter security measures might not have guaranteed perfect protection against a determined attack, and relying solely on intelligence to pinpoint specific individuals in a chaotic situation comes with inherent risks. Diplomatic negotiations, while potentially preventing immediate harm, might have been misconstrued as weakness and could have emboldened the attackers or extended the American presence in Afghanistan. Evacuation and delay might have compromised the mission objectives, potentially eroded trust with Allies and partners, and left American personnel vulnerable for an extended period.

Evaluating whether planners eliminated less ethical methods in these two instances of lethal targeting is inherently challenging and open to interpretation but necessary. While both cases offer potential alternative approaches that might have yielded different, more positive outcomes, the relative feasibility and effectiveness of these remain debatable. Yet the analysis highlights key considerations for planners in support of eliminating other, more ethical approaches. These considerations include prioritizing robust intelligence gathering in support of thorough risk assessments, exhaustively considering nonlethal methods and diplomatic solutions before resorting to lethal force, and ensuring the scale of the chosen action aligns with the severity of the perceived threat and minimizes harm to all individuals involved.

# Conclusion

This research enriches the discourse on lethal targeting within foreign policy by adopting a consequentialist perspective, thus complementing existing ethical theories. By examining the anticipated and actual outcomes—negative and positive—of two instances of lethal targeting conducted by the United States, this study seeks to discern ethically defensible courses of action.

In a realm fraught with moral and legal complexities, the consequentialist approach—which looks at the proportional amount of good—offers a valuable tool for evaluating specific scenarios. This consequentialist perspective emphasizes maximizing positive outcomes against threats in a national defense context. As demonstrated by the *DoD Law of War Manual* and DoD Instruction (DoDI) 3000.17, *Civilian Harm Mitigation and Response*, minimizing harm remains a primary objective at both the individual and societal levels for military operations.[46] As such, it is essential to weigh the potential consequences of civilian harm among the various options open to planners in these situations.

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46. Office of the Under Secretary of Defense for Policy, *Civilian Harm Mitigation and Response*, DoD Instruction 3000.17 (Washington, DC: DoD, December 21, 2023), https://www.esd.whs.mil/.

The Israel-Gaza Strip bombing campaign and the release of DoDI 3000.17 in December 2023 underscore the timeliness of this discussion. The four-element lethal targeting assessment model offers valuable insights for civilian national security decisionmakers who choose to include lethal targeting as an option and for warfighters tasked with executing such actions. By applying a critical consequentialist lens, US decisionmakers can progress toward ethical frameworks that prioritize harm reduction and preservation of human life, promote continued reflection, and facilitate informed, open discourse about using lethal force in a world where unintended consequences and unforeseen complexities are unfortunate realities of military and counterterrorism operations. Æ

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