

Wading Knee-Deep into the Rubicon: Escalation and the Morality of Limited Strikes

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Limited strikes are arguably different from war. They are more circumscribed, less destructive, and cost less in blood and treasure to employ. The essence of this perceived difference is epitomized in the rhetoric of world leaders. Consider U.S. president Barack Obama's justification for warning the Syrian regime against using chemical weapons in 2015: "I will not put American boots on the ground in Syria. I will not pursue an open-ended action like Iraq or Afghanistan. I will not pursue a prolonged air campaign like Libya or Kosovo. This would be a targeted strike to achieve a clear objective: deterring the use of chemical weapons and degrading Assad's capacities."¹ Limited strikes do not lead the way to total victory, but rather have more truncated objectives: to deter or degrade; to punish or thwart an imminent (or maybe not so imminent) attack; to save face domestically. To do something! Similar rhetoric can be heard from leaders across the globe in recent times of crisis, from the U.K. to France, to Israel, Jordan, Egypt, India, Pakistan, Iran, and beyond. Why go to war if using limited force is enough to achieve some worthwhile foreign policy goal?

Limited strikes tend to be seen as illegal under international law, although, as Heinze and Neilsen point out in their essay for this roundtable, there is some ambiguity on this front.² There is also moral ambiguity insofar as the very notion of what counts as war becomes ever blurred.³ Limited strikes could, and perhaps should, be considered morally as the use of force short of war. Some scholars, myself included, have argued that force short of war should be subject to different moral standards—the *jus ad vim* (or justice of limited force, of which limited

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strikes are a part) principles.⁴ Other uses of limited force that fall under *jus ad vim* include drone strikes outside the “hot” battlefield, setting up no-fly zones, and Special Forces operations.

The moral standards of *jus ad vim* are comprised of the traditional just war principles recalibrated to the context of limited force. Under this rubric, just cause is more permissive. There are a greater number of legitimate reasons to use limited force than there are to go to war. These may include responding to terrorist bombings, attacks on embassies or military installations, the kidnapping/killing of citizens by foreign entities, the violation of international norms (such as the chemical weapons ban), and maybe even the threat emanating from nuclear weapon acquisition or transcontinental capabilities.⁵

But using limited force does not come without risks, most notably that it may lead to escalation to war depending on how the target reacts. Hence the need for a new principle that focuses on of the probability of escalation—one which calculates the chance that limited strikes could escalate to the level of war.⁶

So how do we evaluate the ethics of limited strikes? Two moral assumptions that are the keystone to *jus ad vim* can shed light on the moral imperatives and ethical dilemmas of undertaking limited strikes. First, such strikes should be seen as an alternative to war, and not part of the *jus ad bellum* last resort process. As an international crisis unfolds, states should undertake what I call the “Rubicon assessment,” which is different than the *jus ad bellum* last resort principle insofar as it seeks to distinguish not whether force is justified, but at what level: at the level of war, with all its costs and unpredictability, or at that of the (more) predictable and less costly level of limited force. If the deliberation process leads to the decision that war is not justified, but there remains a just cause to employ some level of force short of war, such as limited strikes, there should then be a moral commitment not to escalate to war. I call this second assumption the “presumption against escalation.” One of the main moral goods of limited strikes is their ability to achieve goals while avoiding war, which means that the key to judging the ethics of a limited strike requires evaluating whether it makes escalation likely.

This essay highlights the moral concern of escalation in five different limited strike scenarios: “hot pursuit,” “red line,” “the last straw,” “the point of no return,” and “the right of retaliation.” In guise of a conclusion, I explore the notion of justice after limited strikes, or what I call *jus post vim*. Such justice reminds us that what can be accomplished morally by limited strikes is inherently constrained but can, if used in tune with diplomacy, be of service in the quest for peace.

THE RUBICON ASSESSMENT

We have all heard the phrase “Crossing the Rubicon.” The expression comes from Julius Caesar’s decision to wade across the river of the same name that set in motion the Roman Civil War in 49 BCE. Today, the catchphrase “To cross the Rubicon” means to make the decision to go to war. To cross the point of no return and unleash the destructive and unpredictable forces of war. By doing so, we accept the costs and risks that come with employing large-scale force, as well as the responsibility of making sure that what comes next is not worse than the way things were before.

Caesar feared defeat and thus committed to war, winning a great victory that established the Roman Empire. But while some suggest that in contemporary times it is similarly the specter of defeat that leads leaders to “cast the die,” victory in war is not a guarantee of better things to come.⁷ One need only look at recent “victories” in Afghanistan, Iraq, and Libya to see how the commitment associated with crossing the Rubicon panned out.⁸ The associated challenges are part of why limited strikes have come back into vogue. Among the perceived advantages of limited strikes are that they are less costly (in terms of financial and military commitment) and less risky (in terms of putting troops in harm’s way) than war but still allow leaders to achieve important strategic goals. These include pursuing terrorist groups that pose a continuous threat, deterring enemies by showing resolve, degrading enemy capacities, and punishing those who violate international norms.

I argue in this essay that as policy makers face an international crisis, they should undertake what I call the Rubicon assessment: the deliberation process to decide if war, with all the costs and unpredictability it entails, is justified, or whether to proceed with some level of force short of war instead. As Heinze and Neilsen show, the legal ambiguity of limited strikes has enabled states to pursue them as an alternative to war.⁹ Just look at recent examples—the Western strikes in Syria, the Indian strike in Pakistani Kashmir, the Egyptian strikes in Libya, the Israeli strikes in the Sinai, among other instances. If limited force is indeed force short of war, then part of the Rubicon assessment involves weighing the choice between war and the relatively lower costs and responsibilities of limited strikes. Could a state still achieve something worthwhile by using force that falls below the threshold of war, but lies above the peaceful tools of diplomacy?¹⁰

Inasmuch as the term “short of war” exists in legal ambiguity and is in need of clarification on the international law front, it is also in need of moral clarification. But before we even ask whether it is just to undertake limited strikes (a *jus ad vim* question), perhaps we should be asking about justice after limited force (a *jus post vim* question): What can a state hope to accomplish, strategically and morally, with a limited strike? The answer is, at best, a moral truncated victory insofar as the military and political achievements that might be obtained through the use of limited force are narrow in scope.¹¹ Degrading the target’s military capacity, deterrence, “compellence,” and punishment are all possible goals.¹² Creating the context to bring the parties to the negotiating table is another worthwhile goal, as Pearlman’s contribution to the roundtable reminds us.¹³

Inherent to the pursuit of truncated victory is a predisposition toward restraint—a state need not, indeed cannot, achieve a decisive victory through limited strikes. The choice to use limited force to begin with seems to indicate a presumption against investing in the high costs of war. That said, there is always the risk that things might escalate after a limited strike. Part of the Rubicon assessment, therefore, requires trying to predict the reaction of those that are targeted, and with what force they will likely respond. Even if the attacking state does not want to cross the Rubicon and head to war, it has to ultimately make an educated guess as to whether its actions—launching a limited strike—will be seen as an act of war.

Regarding limited force, the Rubicon assessment should be a black-and-white process: the question of whether to pursue war or force short of war should be considered, but not limited force that leads to war. To decide on limited strikes, then, means the first step in the process is to rule out war. In other words, it might be determined that the given injury was not big enough to warrant war as a proportionate response, but doing nothing would be doing too little. Why is this assessment important? Because it helps to signal to the various parties involved in the crisis—the target state, the citizens and fellow lawmakers of the targeting state, the international community at large—that the just cause does not warrant war as a response, but that some level of response short of war is warranted. Making this clear in official statements can lower the stakes and circumscribe the goals of using limited force, while also quelling the potential for escalation when and if the adversary responds. If the initial just cause did not warrant war, then states should be more hesitant to escalate matters after the initial use of limited force.

The Rubicon assessment puts the use of force into a different moral category than that of war, with more circumscribed rules and possibilities. To choose limited force means, morally, to act with a presumption against escalation (to war) in mind.

A PRESUMPTION AGAINST ESCALATION

Just cause is more permissive under *jus ad vim* than under *jus ad bellum*. Stated differently, there are a greater number of just causes for undertaking limited strikes than there are for going to war. But just because a state has just cause does not mean it should strike. Such strikes carry risks—most notably, the risk of escalation. Thus, states need to be wary of abusing the limited strike option, as it still has the potential to destabilize international peace and security. In my previous work, I posited the “probability of escalation” principle to help guide the use of limited force: If engaging in *jus ad vim* actions has a high probability of resulting in war, then one could argue that such actions are not justifiable.¹⁴ Determining such probability is plagued with uncertainty, but two factors can provide some guidance. The first is signaling: it matters how states frame the way in which they are pursuing limited strikes or how they will react to them. To the extent that states use the rhetoric of restraint and proportionality, the probability of escalation decreases. On the flip side, fiery escalatory rhetoric can be a sign that the probability of escalation is high. The second factor is acceptance by the international community of norms that legitimize limited force as an alternative to war, such as targeting terrorist groups in areas of contested sovereignty and the right to reprisal. Although these new (or resurgent) norms run counter to current understandings of international law, they can, to the extent that they are informed by the presumption against escalation, lend some level of predictability to how the international community and concerned actors may respond.

When choosing to undertake limited strikes, there should therefore be a presumption against escalation. This implies limited strikes should not be conceived of as part of the actions leading up to war but rather should serve as an *alternative set of options* to the level of force associated with war. This default position stems from the essence of *jus ad vim*—its advantage in avoiding the unpredictable and widespread destructive consequences of war.¹⁵ *Jus ad vim* should thus be viewed as morally distinct from the *jus ad bellum* last resort process. Do not try limited strikes first and then jump to war if they do not accomplish what you had hoped. This would defeat the purpose of viewing limited force as distinct from war.

LIMITED-STRIKE SCENARIOS AND ESCALATION

To put this all into perspective, let us look briefly at five paradigm cases of justification for limited strikes and explore how the risk of escalation and ethics are intertwined. This taxonomy is important insofar as it gives us a richer language to talk about different kinds of limited strikes and, ultimately, the moral dilemmas associated with each. For the purpose of this essay, my intention is more limited: to show how the risk of escalation cuts across all the scenarios and why unpacking this risk is essential to understanding how limited strikes can present a preferable moral alternative to all-out war.

Hot Pursuit

The “hot pursuit” justification refers to the way in which states respond to terrorist attacks by nonstate actors, combining both punitive and preventive arguments to justify striking targets within the borders of other states. Examples include the recent strikes by India against a Jaish-e-Mohammed terrorist camp in Pakistan in 2019. These strikes were a response to a suicide bombing in India that Indian officials alleged had been perpetrated by the group. India claimed to be targeting the attack’s mastermind, Maulana Masood Azhar. The strikes were also aimed at stopping the group from carrying out additional—and what India saw as imminent—attacks.¹⁶ The simple logic behind such strikes is inspired by the American strategy of pursuing terrorists, which can arguably be traced back to the limited strikes aimed at decapitating Al-Qaeda leadership in Afghanistan after the 1998 U.S. embassy bombings: pursuing terrorist groups that have just attacked need not be confined by transnational borders. If they reside within the borders of other states and are allowed to act with relative impunity, then the victim state has the right to strike out in self-defense and to serve justice.¹⁷

Red Line

The “red line” pledge articulates the way states seek to uphold international norms that aim to promote peace and international security by drawing a proverbial line in the sand—cross this line and we will be obliged to respond with force. Vilmer and Pearlman have discussed this narrative in detail in their contributions to this roundtable outlining Western strikes against Syria. To summarize, the Assad regime’s use of chemical weapons broke a powerful international norm that threatened wider international peace and security. Even if humanitarian intervention was not justifiable, something needed to be done: to punish Damascus by

degrading its capacity to strike again, to compel the regime to desist in doing so again, and to deter other states from crossing this red line in the future. To the extent that such a norm has meaning, sitting by idly (or pushing flawed diplomatic options) cannot be an option.

The Last Straw

The logic of “the last straw” justification relies on the elevation of a scenario to a boiling point, a moment at which a victim state feels required to act to put a stop to such provocation. A series of events that causes low levels of injury sets the stage for a provocative response short of war to alter the trajectory of events. For example, consider the allegations against Iran that led to a U.S. drone strike in January 2020 against one of its top generals, Qasem Soleimani, who headed the elite Quds Force that is part of the Islamic Revolutionary Guard Corps and led Iran’s overseas operations. These allegations include antagonizing ships in the Strait of Hormuz, downing a U.S. surveillance drone loitering in international air space, attacking a Saudi oil refinery, launching a rocket attack on an Iraqi military base in Kirkūk that killed and wounded U.S. personnel, and allegedly planning to carry out other so-called imminent threats to American personnel and interests in the Middle East. The United States claimed it had simply reached the point where it had to do something to keep Iran in check.

The Point of No Return

“The point of no return” narrative paints the picture of a future catastrophic scenario that must be avoided with preventive force before it is too late to stop it. There is a storied discussion in the just war tradition about preventive war (as distinguished from pre-emptive war). But limited strikes have been used as an *alternative* to war. Take, for example, Israeli preventive strikes against an Iraqi nuclear reactor in 1981 and an alleged strike against Syrian nuclear facilities in 2006.¹⁸ Preventive limited force has also been “on the table” as an option against the advancing Iranian nuclear program. Israeli and U.S. debates showcase the salience of the “point of no return” narrative on the eve of the Obama administration’s Iranian Nuclear Deal. So too does the perennial debate about North Korea’s nuclear capacity, both *before* the regime developed nuclear weapons (the Clinton Administration contemplated limited strikes before opting for a peace treaty in the 1990s) and *after*. Limited strikes figured among the Trump Administration’s options in 2017 as North Korea tested trans-continental nuclear

missiles that might have the capacity to target the U.S. mainland, although studies show that such strikes would have all but inevitably escalated to full-scale war.¹⁹

The Right of Retaliation

Finally, “the right of retaliation” rationalization. Sometimes referred to as reprisals, this denotes the right of a riposte. If a state is the target of a limited strike, it may invoke the right to respond in kind, or up the ante and respond as if the limited strike was an act of war.

THE RISK OF ESCALATION

One of the major concerns all of these scenarios have in common is the risk of escalation, defined here as the elevation of hostilities to the point of war. This increases the costs of resolving a specific crisis and introduces the totalizing and unpredictable consequences of widespread conflict. If one looks at the public discourses surrounding these limited strikes (or threats thereof), the consideration and concern about escalation figures significantly. A few examples are worth noting.

Regarding the above mentioned Indian strike, India’s external affairs minister, Sushma Swaraj, clarified: “This was not a military operation. . . . The limited objective of the pre-emptive strike was to act decisively against the terrorist infrastructure of [Jaish-e-Mohammed] in order to pre-empt another terror attack in India. India does not wish to see further escalation of the situation. India will continue to act with responsibility and restrain[t].”²⁰ Pakistan’s army spokesperson Major General Asif Ghafoor explained Pakistan’s measured response: “This was not a retaliation in a true sense, but to say Pakistan has capability—we can do it, but we want to be responsible, we don’t want an escalation, we don’t want a war.”²¹

After the 2018 strike against Syria, the French minister of defense, Florence Parly, remarked: “We do not seek confrontation and we refuse any logic of military escalation. This is the reason why, with our allies, we made sure that the Russians were warned in advance.”²²

Regarding the potential fallout from a strike against Iranian nuclear sites, U.S. secretary of defense Leon Panetta said in 2011: “I think that the consequence could be that we would have an escalation that would take place that would not only involve many lives, but I think could consume the Middle East in a confrontation and a conflict that we would regret.”²³ On North Korea, a U.S. congressional service report offered these conclusions: “A limited strike that does not result

in conflict escalation would likely be relatively less expensive to the United States” but might “provoke an escalation of conflict that could have catastrophic consequences for the Korean Peninsula, Japan, and the East Asia region.”²⁴

And escalation was all over the news following the U.S. strike that killed Qasem Soleimani. French president Emmanuel Macron called on Iran to “abstain from any measure of a nature that would aggravate the ongoing escalation.”²⁵ President Trump tweeted that the United States would escalate matters even more if Iran retaliated: “Let this serve as a WARNING that if Iran strikes any Americans, or American assets . . . Iran itself, WILL BE HIT VERY FAST AND VERY HARD.”²⁶ Nancy Pelosi, speaker of the U.S. House of Representatives, warned that “this action endangered our servicemembers, diplomats and others by risking a serious escalation of tensions with Iran.”²⁷ Iran did respond with a retaliatory missile strike, but the country’s foreign minister, Mohammad Javad Zarif, tweeted: “Iran took & concluded proportionate measures in self-defense under Article 51 of UN Charter targeting base from which cowardly armed attack against our citizens & senior officials were launched. We do not seek escalation or war, but will defend ourselves against any aggression.”²⁸

What does all of this talk about escalation tell us? First, that it matters to world leaders. They do not undertake limited strikes with the goal of going to war, but because they think they can accomplish something short of war. Otherwise, they could simply cross the Rubicon. Most of the statements quoted above are signaling tools that create the space for de-escalation through diplomacy.

Second, amid all this posturing is the foundation of a *moral stance*. If we consider limited strikes to be different from war, then basing their moral justification on the presumption against escalation norm serves to signal to one’s enemy (or the target state in which the enemy resides) something about the intention and proportionality of the strikes. The right intention is to accomplish “x” and avoid war. The proportionality is inherent in keeping the strikes limited, and de-escalation despite the tensions that are likely to ensue. Accepting the presumption against escalation as a norm might telegraph to one’s adversary that once limited force is employed, escalation to war will not be the next step. Perhaps we are already seeing the tacit acceptance of such a controversial legal norm in the hot pursuit scenario.²⁹ In the other scenarios, this might entail some reputational costs, as Lupton argues in her contribution,³⁰ though Vilmer and Pearlman suggest this impact may be mitigated by other more positive results. A presumption against escalation could curb the potential for abuses of limited strikes—the

concern documented in the Heinze and Neilsen discussion of the return of reprisals. As the *moral* keystone of *jus ad vim*, such a moral precept could inform future legal innovations and ensure that limited force remains distinct from and less destructive than war.

Third, de-escalation is not the only signaling going on. Sometimes states veil this possible path with more threats of escalation. This is a dangerous game that undercuts the moral uniqueness of limited strikes as different from war. Such impulses need to be reeled in if limited strikes are to be moral and strategic alternatives to war. One way to do so is to understand what the failure and success of limited strikes look like morally, which brings us back to *jus post vim*.

CONCLUSION: JUSTICE AFTER LIMITED STRIKES

The moral failure and success of limited strikes is a *jus post vim* concern. Limited strikes are not enough to accomplish anything resembling total victory, where one might have the luxury of employing the ideal *jus post bellum* philosophy of rehabilitation. They follow different postforce moral guidelines.³¹

Let us start with failure: Limited strikes fail morally if they incite the initiator to escalate to war. This defeats their whole purpose. Yet one rationale sometimes accompanying the use of limited force, as Vilmer argues in his contribution, is the threat to escalate if the goal—deterrence or compellence, for example—is not achieved.³² The guiding logic is to threaten to escalate *in order to de-escalate* by scaring the enemy into backing down. This betrays an escalatory intention from the beginning and, to the extent that such intentions permeate the logic of limited strikes, they will come to be seen as a stepping-stone to war. It is not difficult to see how this logic can lead to an escalatory spiral, especially if the target retaliates.

Avoiding such moral failure highlights the important role that diplomacy can play as part of the limited-strike pattern. Assuming the strikes are justified, rather than threatening escalation, they should convey the right intention of giving diplomacy a real chance to make things better off *after* they are completed. Hence the *jus post vim* containment principle—the view that limited force should be aimed at containing a security threat, with the goal of creating the context where diplomatic measures can effectively be employed to transition toward a more stable and long-term peace.

Creating the space for diplomacy is part of what counts as success. Granted, this diplomatic space is somewhat dependent on the fear of escalation—states come to

the table because they have something to lose if things escalate. But open and egregious threats of escalation do not create ideal conditions for negotiations. If anything, they entrench the conflicted parties and herald a return to the status quo ante. This will only offer a temporary stay in tensions, with the long-term result more likely than not a renewal of the last straw scenario.

Morally speaking, limited strikes can aim at a moral truncated victory—the extent to which order and justice figure into the narrow military and political achievements that might be obtained. For the red line pledge, insight can be gleaned from the dashed hopes of some Syrians after Obama’s decision not to strike, as explored in Pearlman’s contribution. Restoring order could mean resolving the conditions that lead to the last straw scenario or pursuing poststrike nuclear talks that make the point of no return narrative moot. These are big ifs, but if limited strikes are to be used with a *jus post vim* outcome in mind, then doing so in conjunction with diplomacy to pursue a more just order than before is paramount.

Limited strikes imply taking a risk. Insofar as state leaders turn to them as options short of war, we need to think about how they can be done morally, with restraint in mind. There is no need to be “wading knee-deep into the Rubicon,” that is, undertaking limited strikes followed by threats to escalate further in order to achieve wider goals: either cross the Rubicon or don’t. The use of limited strikes as a starting point from which to then escalate to war is overtly risky, and cuts against the grain of their moral singularity as an option distinct from war. Rather, the presumption against escalation provides guidelines for how to morally carry out and proceed with a limited strike. When such strikes are undertaken morally, they have the potential to lead to outcomes that serve the greater purpose of just war thinking: the pursuit of peace.

NOTES

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- ³² Jean-Baptiste Jeangène Vilmer, “A Matter of Balance: A French Perspective on Limited Strikes,” *Ethics & International Affairs* 34, no. 2 (July, 2020), pp. 201–215.

Abstract: Limited strikes are arguably different from war insofar as they are more circumscribed, less destructive, and cost less in blood and treasure to employ. However, what they can achieve is also considerably more circumscribed than what is set out by the goals of war. How do we morally evaluate limited strikes? As part of the roundtable, “The Ethics of Limited Strikes,” this essay argues that we need to turn to the ethics of limited force, or *jus ad vim*, to do so. Two moral assumptions that are the keystone to *jus ad vim* can shed light on the moral imperatives and ethical dilemmas of undertaking limited strikes. First, such strikes should be seen as an alternative to war, and not part of the *jus ad bellum* last resort process. What I call the “Rubicon assessment” determines at what level force should be used: at the level of war, with all its costs and unpredictability, or at that of the more predictable and less costly limited force. Second, limited strikes should adhere to a “presumption against escalation”; that is, a moral commitment not to escalate to war. This essay highlights these moral principles in five different limited strike scenarios: “hot pursuit,” “red line,” “the last straw,” “the point of no return,” and “the right of retaliation.” The conclusion explores the notion of justice after limited strikes, or what I call *jus post vim*, to show that while what can be accomplished by limited strikes is inherently constrained, they can, if used morally and in tune with diplomacy, be of service in the quest for peace.

Keywords: just war, *jus ad vim*, limited force, limited strikes, escalation, Soleimani strike, Trump Administration, Syria red line, ethics of force