

SEANTEL ANAÏS

DISARMING INTERVENTION

A Critical History of Non-Lethality



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Contents

Acknowledgments / ix

Introduction: On the Rise of Non-Lethality in Domestic
and International Intervention / 3

- 1 Locating Non-Lethality / 26
- 2 Governmentality, Technology, and Security / 42
- 3 The Conduct of Conflict: Historicizing Non-Lethality / 54
- 4 Non-Lethality, Riot Control, and the Governance of
US Cities / 75
- 5 “Softening Fires”: Non-Lethality in Vietnam / 89
- 6 Tragic Consequence: University Unrest and the Ethico-Politics
of Tragedy / 116
- 7 Paper Traces: Towards a Genealogy of Non-Lethality / 131

Conclusion: Articulations of Past and Present / 135

Notes / 141

References / 143

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Index / 151

Introduction: On the Rise of Non-Lethality in Domestic and International Intervention

A Critical History of Non-Lethality

In July 2010, I found myself at Cambridge University sharing the preliminary research that culminated in this book. My speech was about the use of CS gas – named for its inventors, Corson and Straughton – by US forces in the hamlets and villages in Vietnam during the Vietnam War. During the break, a middle-aged man approached me with a disposable cup of coffee in his hand. We exchanged pleasantries, and after a quiet moment he said: “You know, it is true what you say about Vietnam. I served as an infantryman there and we used to pump CS into tunnels and shoot *everyone* who came out the other end. Even women.” Something about the way that he revealed his role in what was then – as it is now – a clear violation of the Geneva Conventions suggested to me that the practice was not isolated to his unit. Today the widespread and systematic violation of the laws of war in Vietnam, and especially the routine killing of civilian non-combatants, is more widely known (Ellsberg 1972; Turse 2013). The extent to which non-lethal weapons – of which CS gas is a pre-eminent example – are used for lethal purposes is an important line of inquiry. Nevertheless, the lethality of putatively non-lethal weapons can be only a part of the story. In 2007, Robert Dziekański died on the floor of the secure arrivals terminal at the Vancouver International Airport after an officer responding to a report of a drunk and disorderly incident knocked him to the ground with a shock from a Taser and then pulled the trigger four more times. In 2010, grainy images of a young mother standing outside her minivan on a New York State highway emerged on video-sharing websites

and news programs. Facing an electrical weapon, she begged the police officer aiming the weapon at her: “Don’t do this in front of my kids.” In February of the following year, tear gas canisters labelled “Made in the USA” landed in Egypt’s Tahrir Square during the Arab Spring, delivering their chemical payload on assembled protesters. Between July 1970 and late 1974, fifty-five thousand rubber bullets were fired in Northern Ireland (Davison 2009). How can we begin to make sense of these events? How can we connect them given the time and space between them? How can we put them “into order”? Better still, what order do they bring to our understanding of the history of non-lethality? And of what manners of thinking and doing are they illustrative?

This book focuses on the idea of non-lethality in international interventions carried out by the US military and in the governance of US cities during the latter half of the twentieth century. It does so by locating non-lethality within the context of a set of political and historical relations between technology, security, and broader regimes of governance. Non-lethal weapons have garnered considerable interest in the media and they have ignited scholarly critique for several years now. In *Disarming Intervention*, the ground of inquiry is shifted from the contemporary uses of non-lethal weapons to some of the historical events that mark the genealogy of the concept of non-lethality. Non-lethal weapons did not “travel” along an uninterrupted trajectory from Argentina, where cattle prods – *picana electrica* – were adopted for police use in the 1930s, to the streets of Newark and Detroit in the 1960s, where riot-control agents were used to control civil unrest. They did not make their way in a straight line from riots in the southern United States in 1950 to Cyprus in 1958 and 1959 and to other British colonies in 1960. Ideas and objects resist facile temporal narratives – certain ways of being, thinking, and doing are recombinant, and they recur in unexpected places and times in ways that a linear narrative can never capture. The historical recombination and recurrence of non-lethality deserves an account that takes stock of the encounters that it has staged between different actors, materials, practices, programs of action, and temporal frames. This approach invites critical attention to the question of how the events that recently took place at the Vancouver International Airport, on the side of the highway in New York State, and in Tahrir Square can seem to us to be unproblematically woven into the fabric of our collective lives – commonplace, pedestrian, and unquestionable. This apparent unremarkability gives rise to a further set of questions: What legitimating function does non-lethality serve? What wider programs of political action does non-lethality make possible? What kinds of social and political subjectivity do non-lethal forms of intervention putatively guard against, and what kinds do they protect? And, finally, how do ethical,

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legal, and humanitarian discourses operate to underpin the acceptability of non-lethality?

The central preoccupation of *Disarming Intervention* is the various historical articulations of non-lethality and legitimacy, and the various forms that they have taken throughout the twentieth century. Not only has non-lethality been accepted as a legitimate alternative to existing logics of intervention, but it also serves a legitimating function in and of itself. Non-lethality is supported by a series of interrelated discourses: *ethics*, *distinction*, and *humanitarianism*. These discourses operate to underscore the legitimacy not only of non-lethal weapons but also of non-lethal interventions perpetrated upon bodies and sites and the forms of unease, insecurity, and volatility that are discursively connected to them. The emergence of non-lethal weaponry is not a benign material fact, or a footnote in policing or military history, but a radical intervention into the ethical problems inherent in armed conflict. What is at stake in this shift towards non-lethality is not only the reduction of casualties but also the appeal to a common and shared interest in ethical combat and a desire for humane interventions in aid of military foes and civilians caught in the crossfire. Claims about the inherent civility and “humane” nature of non-lethal weapons have been rhetorically extended to the conflicts in which they figure: “humanitarian interventions,” “low-intensity conflicts,” and “military operations other than war.”

Existing scholarship focuses on non-lethality as the relationship between non-lethal weapons and their users or targets. By contrast, this book focuses on the differences non-lethality introduces into the long-standing relationship between (1) weapons and destruction or gross injury to human bodies and (2) the social and political arrangements that are invested in this changing relationship. Questions concerning the acceptability and safety of non-lethal weapons are important. However, my research implies an inversion in the sense that it inquires not into whether these weapons are killing people but, rather, into what kind of life these weapons permit. The critical error underlying analyses that attempt to determine whether or not non-lethal weapons are forces for good is that they uncritically adopt the metrics of the makers and users of non-lethal weapons.

The question of whether or not non-lethal weapons are indeed lethal in their consequences is an important one. And yet it captures one of the fundamental tensions at the heart of the technopolitics of non-lethality. One view would hold that the very lethality of some putatively “non-lethal” weapons reveals the concept of non-lethality to be thoroughly and deliberately deceitful. Another view, one that opens up a critical space for our collective consideration, is that non-lethality articulates in meaningful ways with non-lethal weapons when

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they have non-lethal *and* lethal effects. Instability is thus a vital analytical hinge between lethality and non-lethality. More important, non-lethality makes a great deal possible even when it cannot be achieved by any object – lethal or otherwise. That is to say, when the weapons captured by the term “non-lethal” have lethal effects, the concept of non-lethality continues to *make things happen*. It makes new forms of intervention possible; it makes new programs of political action acceptable; it makes certain ethical assessments seem natural and therefore indisputable; and it makes new technical and strategic realities possible.

To think of non-lethality as an intelligible solution to the ethical and legal quandaries brought about by the death, injury, and destruction that accompany armed intervention is precisely not to think of it as an idiosyncratic deception perpetrated by the US Department of Defense. Doing so is to move beyond pointing to the historical relativity of the concept or denying its validity and past simplistic formulations, which treat non-lethality as the inverse of lethality. Nor is my focus on the successive institutions and departments that define the American state or the social conflicts that have determined its contours. My efforts are more modest, and they represent an attempt to use governmentality (Foucault 1991, 2007, 2008) as an “analytical toolbox” (Rose et al. 2006, 18) to address a set of definite practices, schemes, manoeuvres, and techniques related to the organization of international hostility and domestic governance. Doing so involves working through a tangle of kinds of expertise, shorthand renderings of subjects and subjectivities, debates, and an array of authoritative figures, devices, and texts. It also involves sorting through the textual traces of claims and counterclaims as they circulated within and between a variety of offices subsumed within the US Department of Defense. Such an approach suggests that archival texts exemplify the operation of rationalities of governance. Indeed, reports, technical memoranda, letters, manuals, and other institutional texts reveal expert reflection on the problem of how to govern the conduct of soldiers, civilians, and combatants alike in armed conflict. It is in these sites that we can begin to see how non-lethality has served as a viable technoscientific and political response. Of course, evidence of the operation of governmental rationalities is not to be found solely in historical texts. Because they have a “characteristically *moral form*” (Rose and Miller 1992, 175) rationalities and claims-making activities are both constituent elements of a larger moral discourse (Lippert and Stenson 2010).

If the rationalities and claims suffusing the history of non-lethality are today in evidence in historical texts, then they were undoubtedly communicated orally. For practical reasons, *Disarming Intervention* recounts the history of non-lethality from the remnants of institutional texts. Public speeches – where

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their content has been rendered in a textual form – are also present here. This is not to suggest that bona fide rationalities of governance are only or always textual in character. Surely they operate through oral forms of communication and undocumented strategies. But if claims-making and governmental rationalities have a moral character, it is because they coalesce around generally agreed-upon problems (Rose 1999). While social constructivist approaches focus on the coming-into-being of particular problematizations, governmentality studies focus on how problems are brought into being through their governance (Rose and Miller 1992). I use governmentality to focus on the emergence of problems (problematization) and their attendant solutions (governance). Similar studies focus on the manner in which the conduct of certain persons, “individually and or collectively[,] have come to be problematized at specific historical moments” (Rose 1999, 21). Rich contributions to this field include, for example, studies of the government of the unemployed (Walters 2000), the regulation of the alcoholic (Valverde 1998), and the governance of the poor (Dean 1992), to name a few. Rather than focusing on how certain “human kinds” (Hacking 2002) arise as problems to be governed, I employ governmentality to address the emergence of a set of practical problems related to the conduct of international and domestic hostility.

As an organizing concept, legitimacy has many functions: it is viewed as an achievement of government; it is a standard by which subjects/actions/devices/practices are judged; and it is a threshold against which the strategies and manoeuvres of a variety of authorities, including (but not limited to) the state, are measured. Whereas legitimacy is an organizing concept in accounts of power that address powers of state, the view of legitimacy taken here presupposes that it is a core component of the governmentalization of the state (Rose 1999; Brown 2006). To attend to the mechanisms and procedures according to which the state and its subsidiary organization mobilize and deploy claims concerning the legitimacy of their actions is not to suggest that relations of power are reducible to the state to the exclusion of all other authorities. Indeed, as Wendy Brown (2006, 83) aptly demonstrates, legitimacy ought to be reckoned with because the state remains a “singularly accountable object in the field of political power.” Legitimacy is at issue in accounts of governmentality because it names a process by which practices of governance are rendered acceptable. That which is acceptable can usually, among other things, be defended by logic or justified by reason. The term shares etymological roots with the Latin *capere* “to hold, to contain” and *accipere* “to receive” and the Latin *cedere* “to yield.” Thus acceptability signals the capacity to both grasp something for oneself and to confer it upon others. Not surprisingly, the popular definition of acceptability – even if its etymological

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inflections are taken into account – does not capture the norms by which acceptability is devised, nor does it capture the cultural significance of its ascriptions. To assert the acceptability of material or matter is also to make claims about the acceptability of a series of related concepts, discourses, ways of speaking, ways of knowing, and ways of making ethical determinations. These, in turn, work to produce non-lethality as not only thinkable but desirable, and this, in turn, secures the materiality of non-lethal weapons. While non-lethal weapons do not follow naturally from the various re-emergences of non-lethality over the years, their materiality is at least in part made possible by a set of discursive practices. Indeed, any consideration of the processes according to which non-lethality is both rendered acceptable and made to confer legitimacy (upon actions, armed interventions, repertoires of practice, forms of violence) would also question the givenness of the differential categories of human and non-human, materiality and discourse, objects and concepts, and their ongoing stabilization and contestation. If governmentality names a set of processes whereby the content of these categories is mobilized in order to produce governable subjects, then the governmentalization of the state should be taken to include any effort – including projects of legitimation – that consolidates these tactics and articulates them with non-state domains (Brown 2006).

Non-lethality serves as a lens through which to view debates, policies, and strategies concerning how force should be exercised during times of war and domestic civil unrest. It also offers an example of how various socio-historical forces have delimited the proper relations between military and police authorities and the individuals with whom they come into contact. At each of the historical moments addressed in the following chapters, the concept of non-lethality is invoked as an ethical, legal, and humanitarian guide bearing upon the conducts associated with international and domestic conflict, and it is through the recurrent discourses of ethics, distinction, and humanitarianism that I trace the history of this concept. These three discourses are neither sufficient nor necessary conditions – they are differently and contingently present at each historical moment detailed here, and, more often than not, they appear in unexpected and unanticipated ways. Ethics, distinction, and humanitarianism are not “reasons” for non-lethality, but they do give shape and character to non-lethality’s historical landscape. This is not to suggest that the formation of discourses around certain concepts or material objects is self-evident or given (Foucault 1981). Rather, highlighting the recurrence of the discourses of ethics, distinction, and humanitarianism reveals how they draw upon (and configure) the sets of historically contingent relations that animate non-lethality. While I contend that the concept of non-lethality has a logic and a history apart from

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non-lethal weapons themselves, the history of non-lethality often becomes a pressing question only in relation to the class of weapons we call “non-lethal.” Non-lethal weapons are armaments whose purpose is to induce a catastrophic but non-permanent interruption of the functions of the human body. Rather than causing gross bodily destruction, they temporarily disrupt the operation of the human body in such a way as to prevent its movement or to deny its physiological capacity to act. When they work as claimed, they achieve their effects without permanently injuring, maiming, or opening the human body. More important, from the point of view of General James Amos, commandant of the US Marine Corps and executive agent of the Department of Defense Non-Lethal Weapons Program, non-lethal weapons serve a legitimating function in the sense that they “strategically communicate [the US Marine Corps’] commitment to protect innocence” (US Department of Defense 2013).

Non-lethal weapons are generally classified according to a schema that accounts for their principal mode of action. For instance, rubber bullets are classified as “kinetic” non-lethal weapons because their principal mode of action is blunt force. Further complicating the matter is the fact that many non-lethal weapons are also classified according to their primary sensory target, meaning that weapons that act on the olfactory senses – “malodorant” non-lethal weapons – are classified as such regardless of their principal mode of action. Consequently, the fact that they are thrown in canisters or sprayed from hoses does not have much bearing on their classification. Included in the broader class of non-lethal weapons are devices such as tear gas, electrical stun technologies, kinetic impact weapons such as bean-bag rounds, and rubber bullets. Newer and less well known non-lethal weapons include vehicle-mounted “active denial devices” that deter crowds by directing sound or microwave beams at them, “slippery” and “sticky” foams meant to dissuade crowds or “mobs” from entering particular areas, and weaponized calmativ agents such as the anesthetic fentanyl (Davison 2009).

Existing accounts of non-lethal weapons mistake non-lethality for a static, fully naturalized, and ahistorical concept. For example, contemporary socio-historical literature on non-lethal weapons attempts to tell a complete history of technologies without historicizing non-lethality (see Davison 2009). Alternatively, non-lethal weapons are believed to serve as an unproblematic technological surface for the idea of non-lethality (Koplow 2006; Lewer and Schofield 1997; Lewer 1999; Lewer and Feakin 2001). The sociologist Brian Rappert (1999, 2003a, 2003b, 2003c, 2004a, 2004b, 2005) has made a series of rich critical assessments of non-lethal weapons and the controversies that they generate but has not historicized the concept of non-lethality. More generally, non-lethality

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is believed to incorporate a series of other ideals: peace, progress, restraint, civilization. Non-lethality is a concept with a history that can be read partially through the socio-historical narrative alluded to above, but this current analysis works to one side of it. Problematizing the idea of non-lethality involves both critiquing the literature on non-lethal weapons and acknowledging its indebtedness to scholars who thought it important to provide rich accounts of what may seem like marginal, if mysterious, weapons. The aim is to account for the ethical, legal, and humanitarian ideals that have put non-lethality to work in domestic and international conflicts – it is also to reveal the historical specificity of discourses that operate to underscore its validity.

To be clear, the terms “non-lethal” and “non-lethality” are anachronistic. “The novelty of the word,” Daston (2000, 31) reminds us, “does not imply the novelty of the thing.” The concept of non-lethality and the material objects captured by the term “non-lethal weaponry” do not always directly correspond. Sometimes one appears in the historical record before the other. For example, a Stockholm International Peace Research Institute (SIPRI) (1971, 212) report tells us that tear-producing chemical agents (lachrymators) were used by police as early as 1912. Irritant chemical weapons (the most mature weapon to be included in the non-lethal class) were used in the Second World War, while international law governing the use of irritant or deadly gases predates the turn of the twentieth century. The 1899 Declaration on the Use of Projectiles the Object of Which Is the Diffusion of Asphyxiating or Deleterious Gases, issued at the first Hague Peace Conference, prohibited their use in armed conflict. Just sixteen years later both German and Entente forces used chlorine gas during the First World War, and its development precipitated the invention and proliferation of non-lethal irritant chemical agents by the military in wartime and by the police in peacetime (e.g., in urban milieus, on occasions of civil disobedience, and in riot-control operations). The idea that wars should be regulated for the common benefit of humankind goes back to Cicero, an issue I deal with more fully in [Chapter 3](#). More recently, signatories to the Declaration of St. Petersburg (a precursor to the Hague Peace Conferences), “having by common agreement fixed the technical limits at which the necessities of war ought to yield to the requirements of humanity,” state:

Considering that the progress of civilization should have the effect of alleviating as much as possible the calamities of war; That the only legitimate object which States should endeavour to accomplish during war is to weaken the military forces of the enemy; That for this purpose it is sufficient to disable the greatest possible number of men; That this object would be exceeded by the employment of arms which uselessly aggravate the sufferings of disabled men, or render their

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death inevitable; That the employment of such arms would, therefore, be contrary to the laws of humanity. (Preamble, Declaration of St. Petersburg 1868)

Thus, while academic interest in the socio-historical dimensions of non-lethal weaponry is fairly new, the use of weapons included in the category is not. For example, ancient Chinese soldiers used pepper oil to temporarily incapacitate foes in battle (Rappert 2003c). Among all of these scattered developments, “non-lethal” did not enter into specialized parlance until the 1960s, when a class of weapons came to be officially referred to as such by police and military actors (Davison 2009, 2). The term itself only refers to what existed before – that is, an institutionalized effort to mitigate the ethical and political problems associated with war and the injuries it causes. As I show, the duty to distinguish between civilian and combatant presides over the emergence and re-emergence of non-lethality.

The use of weapons poses a series of ethical conundrums for military strategists and representatives of states that engage militarily. When we speak of non-lethality, we invoke an idea invested with particular ethico-political aspirations. Excavating the concept of non-lethality entails tracing a cascade of textually organized programs of political action and the discourses that structure their form and character both inside and outside the world of institutional texts. Non-lethality names a repertoire of institutional actions and intentions. Those actions and intentions are engendered by an ethic of benign intervention communicated in a number of distinct and related sites over the latter half of the twentieth century. A common institutional vocabulary, a shared moral grammar, and similar styles of reasoning have made benign intervention a desirable and intelligible solution to one of the central political problems of international intervention and domestic conflict: death and superfluous injury. Non-lethality confers an ethico-political structure for distinguishing lethal, destructive, permanent, and fatal interventions from those that achieve the ends of war by applying devices that produce relatively benign or non-permanent effects. From the point of view of government agencies and policing and military armament development projects, the problem solved by non-lethal technologies concerns the link between physical injury, death, and violent military and police use of force: it serves as a response to the ethical problematic of permanent injury as a constitutive objective of war.

Beyond the question of whether non-lethal weapons are ethical technologies, then, we might usefully interrogate the cultural and institutional work performed by the US Department of Defense in producing an explicit image of non-lethal intervention as the limited privilege of particular subjects – subjects that, from the point of view of various defence agencies, blur the line between innocence

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and insecurity. The mobilization of this shared ethical vision of non-lethality has remained stable even in the face of changes to the extent and speed with which governmental agencies are held to account for their policies and actions. The new visibility of police and military action resulting from live broadcasts of the Vietnam War, race riots, and civil rights-era scuffles cannot be disentangled from the story of non-lethality. This is what makes it possible for Lewer and Schofield (1997, 7) to argue that the value of non-lethality lies not so much in the material effects of non-lethal weapons as in their appeal to a common ethical standard for the treatment of human beings – a standard that is contrasted with that of

lethal weapons, which have consistently killed and maimed not only troops but also civilians[. T]he prospect of a new generation of weapons that could minimize injuries must resonate strongly with a popular opinion that has grown increasingly reluctant to countenance deaths and serious casualties through military action – especially in the era of instant media coverage.

We can now examine nearly a century of national and international work that has laboured to produce non-lethality as a technical, tactical, and ethical approach to combat. This is easy to see in the archival materials that reveal historical and social processes whereby practices, policies, experiences, and knowledge come into being and are mobilized through the circulation or suppression of official documents. Genealogy, the historical method employed here, uses a conception of history in keeping with this textual work of governance. Surveying the temporal landscape of non-lethality, one gets a sense of the power of the ethico-political discourses of non-lethality (ethics); the means through which distinctions between combatant and civilian are inscribed in discourses concerning which forms of political subjectivity should be guarded against and which should be protected using non-lethal means of intervention (distinction); and, finally, the mobilization of humanitarian discourses in policy documents concerning non-lethal weapons (humanitarianism). Indeed, the constant articulation of discourses of ethics, distinction, and humanitarianism in the institutional texts of the US Department of Defense consistently positions non-lethality as a sure indicator of the ethical, legal, and humanitarian avant-garde regardless of how established the concept might be. Non-lethal weapons are heralded as “new” – no matter how old they are.

Existing academic and professional policing and military publications have undoubtedly contributed to this recursive sense of avant-gardism with respect to non-lethality. This is evident even in publications from the field of peace research, which incorporates sociology, political science, history, and socio-legal studies.

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These works are academic, published in peer-reviewed sources, and empirically rich; they bridge the gap between academic and “professional” (i.e., military and policing) studies of non-lethal weapons; and they reveal intertextuality through their connection to a second set of extant sources – namely, the substantial literature on non-lethal weapons produced by what might be called the “military-academic complex” and public policy think tanks. These sources are mainly produced within the many policy think tanks and military academies and universities in the United States. In [Chapter 1](#), I discuss this conventional narrative of non-lethality. Existing bodies of literature often examine technologies in terms of whether they operate according to stated logics, ignoring the contingency that so often marks technology. They seem to neglect the possibility that technologies take a range of contingent forms, have a range of unintended consequences, and exist in a complex and often inarticulable relationship to the concepts for which they are assumed to serve as a surface. Clearly, non-lethality has a history that can be read partially through this extant narrative. However, I critique this literature, arguing that these narratives produce non-lethality as a static, fully naturalized, and ahistorical concept by refusing to set the notion of non-lethality apart from the technical objects that we call “non-lethal.”

In analyzing the discourses that underwrite non-lethal weapons as a legitimate means of intervening, I draw on the theoretical contributions made by Michel Foucault and contemporary scholars in critical security studies, actor-network theory, and political sociology, which I discuss in [Chapter 2](#). Foucault’s notion of governmentality is a central component of my theoretical approach. Expressed as a counterbalance to analytics of government that focus narrowly on the state, governmentality implicitly connects governance through institutions *and* forms of knowledge to explain the multiplication and dispersion of political rationalities across a social field. Governmentality has four important features (see Foucault 1991). First, it operates from several points and incorporates an array of referents. Second, it involves the subsumption of the capacities of individuals, alone or in constellation. It is productive in the sense that it harnesses and directs the energies, needs, and desires of bodies that might otherwise be unproductive or anarchic (see also Rose 1999; Brown 2006). Third, governmentality is decentred. It flows from multiple points and in manifold directions and often goes unnoticed or unaccounted for. Finally, governmentality saturates and appoints a number of discourses that are normally not consciously connected to rule, governance, or the institutions that make up the state (Foucault 1991; Rose and Miller 1992; Rose 1999; Brown 2006).

While governmentality studies focus on articulations of political rationalities and techniques, historical ontologists like Ian Hacking (1995, 2002) link

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the appearance and mobilization of concepts to projects legitimation. Such approaches highlight the constitutive relationship between ways of knowing and ways of being, and they expose the reciprocal constitution of concepts, physical objects, and institutional projects of self-formation and self-awareness. Non-lethality masquerades as an ethical position by which certain policy makers and military actors can measure and allege the value of the actions they undertake. Moreover, it invests institutions' self-concepts to the extent that the work that they undertake can be seen in a new (and overwhelmingly positive) light. Military strategists and combat leaders recognize the value of non-lethality to the public acceptance of military action. Ethical standards, as embodied in the concept of non-lethality, not only determine the shape and character of the military interventions in which they are employed, but they are also consistently mobilized as evidence of their suitability.

Ethics, Distinction, Humanitarianism

Non-lethality takes shape in relation to the political discourses of ethics, distinction, and humanitarianism, which combine to underwrite not only the legitimacy of non-lethal weapons but also that of non-lethal interventions perpetrated upon bodies and sites constituted by and through notions of unease, insecurity, and volatility. These discourses reveal some aspects of the racial, economic, legal, and political categories that, in the warp and weft of armed conflict, operate to distinguish between human lives accorded worth and those denied it. These discourses came together in a series of historical junctures, and these moments form the basis of the case studies that follow. Non-lethal weaponry may have appeared absent a balanced confluence of the discourses of ethics, distinction, and humanitarianism, but the historical record reveals that these discourses operate in some combination to constitute non-lethality as an acceptable means of intervening with bodies and sites in each moment marked by its re-emergence. Ethics, distinction, and humanitarianism converge at a number of historical junctures: they are enmeshed in the historically contingent relations that animate non-lethality and they appear and reappear in the institutional texts that take it as their object.

Ethics

A number of scholars – sociologists, peace researchers, political scientists – along with members of the public, have focused on determining the ethical status of non-lethal weapons. This calls for a relocation of critical approaches

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to discourses of ethics and their role in rendering non-lethality acceptable. In common use, ethics are understood to be personally held beliefs regarding how one should conduct the business of living. If their origin is not believed to be internal, then it is believed to be divine: ethics come from moral principles that are given from on high. The sense of the ethical I use here differs in at least two important ways from these common uses. First, I read ethics as being as much an institutional as a personal practice. Second, ethical considerations direct conduct just as much as they constitute practices associated with determining the value of conducts. Works related to the acceptability of certain non-lethal weapons – their ethical status – have dominated the field of academic inquiry related to their invention, adoption, and proliferation (Lewer and Schofield 1997; Lewer 1999; Lewer and Feakin 2001; Koplow 2006). Such inquiries tend to take ethics as a stable concept by beginning with the question of whether and how non-lethal weapons meet an ethical threshold.

While Foucault serves as a methodological and theoretical guide throughout this book, I imply the idea of ethics in a far different sense than he does. Rather than conceiving of ethics – as Foucault does in the later volumes of *The History of Sexuality* – as an aesthetic philosophy of living space where the direction and character of one's being in the world is deliberated upon and realized, I conceive of ethics in a more narrow sense, as the fracturing of that vital space and the apportioning of value to certain conducts and modes of subjectivity to the exclusion of others. Thus, ethics denotes a set of practices that allows institutions to conceive of margins – points where the limits, borders, and edges of that living ethical space are drawn. This is a version of the ethical that stands in stark contrast to Foucault's. Various organizations, including the US Department of Defense and the various policy-making bodies that direct its actions, engage in reflexive ethical relationships with their institutional selves and their public images. Drawing institutional boundaries of an ethical nature involves an array of shifting, reflexive, intelligible decisions regarding the acceptability of official conduct. These ethical designations not only work to provide a framework for the development and justification of "humane" military interventions but also function to constitute the very "threatening" populations that serve as the ostensibly legitimate targets of such interventions. Institutional texts do not always refer to populations that already exist: often they consign populations to one shape or another.

Distinction

The principle of distinction is expressed as the positive legal imperative to discriminate between civilians and combatants during war. Codified in

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international humanitarian law, which forms the basis of the rules of war, distinction – along with the notion of proportionality – specifies that only militarily significant actors are legitimate targets. Militarily significant buildings such as munitions factories are appropriate targets during military hostilities, while hospitals are not. More important, whereas enemy combatants are acceptable targets, civilians are not. Helen Kinsella (2011) aptly shows that instability and indeterminacy are conditions for the categories of combatant and civilian rather than a sign of the failure to recognize the difference between them in combat. She notes that the principle of distinction involves the strict injunction to distinguish between civilian and combatant, and, in so doing, it stabilizes these respective categories. The civilian is the figure in whose interest the principle of non-lethality is ostensibly put forth.

The Geneva Conventions clearly criminalize attacks that are indiscriminate in nature or those that employ a “method or means of which cannot be directed at a specific military objective.” Yet it is the principle of distinction and not that of discrimination that is singularly capable of producing and positioning civilians as distinct subjects of the laws of war. The principle of distinction “determines the persons entitled to take part in combat as well as the persons against whom acts of war may be directed” (Shindler and Toman 1973, viii). Distinction is prior to discrimination in the sense that it historically informs the fundamental principles upon which the law of armed conflicts are based. On the basis of the principle of distinction, the 1868 Declaration of St. Petersburg states that “the only legitimate object which states should endeavour to accomplish during war is to weaken the forces of the enemy” (Declaration of St. Petersburg, Preamble; Brussels Declaration, Art. 13[e]; Oxford Manual, Art. 9[a]; Hague Regulations, Art. 23[e]). Distinction also bears a unique relationship to the regulation of certain weapons since the ruling principles governing the conduct of hostilities at the turn of the twentieth century maintained that it was forbidden to “employ arms, projectiles or material of a nature to cause unnecessary suffering” (ibid.). Distinction is unique in the sense that it problematizes the constitutive articulations of war, weapons, injury, and the “unnecessary suffering” of civilian subjects. It is a critical component of non-lethality in the sense that it serves to produce and position the historical figure in whose name the necessity of non-lethality is alleged: the civilian.

The focus of proponents, military planners, and inventors of non-lethal weapons on the imperative to distinguish implies that the core figures of the principle of distinction – civilian and combatant – are secure subjective categories. It also indulges the view that conflicts in which combatant and civilian actors are not easily separated are unique and particularly difficult (rather than commonplace).

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Moreover, it suggests that the intractability of the injunction to distinguish during times of civil unrest or international conflict can be solved through the application of non-lethal weapons. The legal principle of distinction and its progeny – the civilian – are both used to justify the proliferation of non-lethal weapons, and both work to underscore the value of non-lethality as a combat philosophy. The records of the US Department of Defense continuously mobilize legal injunctions against injuring and killing civilians to justify the application of non-lethal weapons to both civilians and combatants. Equally, non-governmental agencies like the International Committee of the Red Cross (ICRC) and Amnesty International ask whether the principles of international humanitarian law –including the laws of war – are supported or degraded by the use of non-lethal weapons. This does not mean that *Disarming Intervention* is a book “against” international humanitarian law and the importance of the laws governing the conduct of hostilities. Quite the contrary, few have considered how the principle of distinction – and its production of the civilian as a subject constituted through the notion of innocence (Kinsella 2011) – operates to underwrite the legitimacy of non-lethality and the conflicts in which non-lethal weapons play such an important role. Thus, while critics of non-lethal weapons and non-lethality have asked whether they are *against law*, they lack a prior understanding of how non-lethals and non-lethality are always already suffused with one of the fundamental legal principles that underpins the conduct of hostilities.

Like many of the laws of armed conflict that have been codified since the end of the Middle Ages, the principle of distinction originates in custom (Doswald-Beck 1987). In its most recent instantiation, the principle of distinction is codified in Additional Protocol I (1977) to the Geneva Convention (1949). Article 51(4) criminalizes:

- (4) Indiscriminate attacks: (a) those not directed at a specific military objective;
- (b) those which employ a method or means of combat which cannot be directed at a specific military objective; or (c) those which employ a method or means of combat the effects of which cannot be limited as required by this Protocol; and consequently, in each such case, are of a nature to strike military objective and civilians or civilian objects *without distinction*.¹

Two issues related to the above Protocol are pertinent to any consideration of non-lethal weapons and non-lethality. First, the United States has signed but not ratified Protocol I, although it is held to be a party to it in the international legal community by virtue of customary international law. Second, while recent

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debates (intensified in the aftermath of the US invasions of Iraq and Afghanistan) have concentrated on the characteristics of combatants, as Helen Kinsella (2011) shows in her important work, the historical figure whose materialization is conditioned by the principle of distinction is the civilian. What interests are protected when we claim to be using weapons that protect civilians? In whose name do we act when we act on behalf of a civilian? These questions matter because they speak to the radical crisis facing those who wage war in the name of humanitarian imperatives. Most important, they highlight the instability of the concepts, ideals, and contestations to which new technologies and approaches to combat purportedly respond.

In [Chapters 3](#) through [6](#), I show that, despite the promotion of new technologies as a temporary means of incapacitating combatants or criminals (which ostensibly places them outside of the injunction against acts of violence against civilians), their alleged non-permanence leads to indiscriminate use. Most notably this is the case with regard to the Vietnam War, in which millions of pounds of the “riot-control” agent CS were dropped across large swaths of the countryside. It is the civilians’ well-being – and not the combatants’ – that is often alleged as the basis for non-lethal forms of intervention. This is particularly problematic in relation to conflicts constituted within historical matrices as “guerrilla warfare,” “asymmetrical warfare,” “unconventional warfare,” “instability missions,” and “military operations other than war,” in which military planners and soldiers are likely to be faced with intermingled civilians and combatants, or in which the differences between the political figures of civilian and combatant are rendered indiscernible. Distinction is deployed in the institutional texts that structure US military policy and its programs of action as well as in the minds and actions of soldiers. Consider the problem as Koplou (2006, 27) puts it in his discussion of the role played by non-lethal weapons in humanitarian interventions:

Other military missions require a forceful presence with a discreet touch. If US troops are performing a humanitarian mission – providing protection for a relief mission that is distributing meals and medical services to a war-ravaged locale, for example – it hardly makes sense to train deadly force upon the very people we are trying to aid, but what should the troops do if the populace, growing weary of their plight, riots at the sight of the food truck?

The distinction between combatant and civilian is often produced in the malocclusion between textual practices and other material practices more immediately related to war and the management of domestic disturbance. Consider, for

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example, Schell's (1968, 181) account of bombing raids carried out in Quang Ngai and Quang Tin (quoted in Smith 1990, 98):

Most of the terms used in the Bomb Damage Assessment Reports seemed to have been devised for something like a bombing raid on a large, clearly visible, stationary military base, and not for the bombing of guerillas in the setting of fields, villages, and jungle which the FAC pilots actually guided ... [E]ach FAC pilot had to improvise his own ways of trying to tell where the enemy was operating. This was how Captain Reese came to think that he could ... distinguish enemy houses from civilian houses by whether they were in the tree lines or not; how Lieutenant Moor came to think that he could tell a farmer from a soldier by the way he walked; and how Major Billings came to believe that he could tell enemy soldiers from civilians by making a low pass over the fields and seeing who ran for cover, and that he could judge whether a wisp of smoke hanging over the woods was rising from the fire of a montagnard or from the fire of a Vietcong soldier.

There are differences in how military actions are carried out and how they are encoded in text. Distinction is not produced in feedback loops where actors at "the bottom" relate their experience with combat to those "at the top," where, as Smith suggests, "policies and hence the conceptual frameworks [are] conceived" (99). Textualities and actualities do not flow in only one direction at once (either from top to bottom or vice versa) but are realized simultaneously and multiply.

If non-lethal weapons find legitimacy in the injunction to distinguish between combatant and civilian, then who is the threatening subject in relation to which these two figures are constituted? Many institutional texts that take non-lethal forms of intervention as their subject are significant for their negotiation of the terrain between the legitimate use of coercive force and the suppression and policing of certain individuals characterized by the "threat" that they pose to police or military agents. More specifically, they reveal the process whereby social and political insecurities are recursively attached to such "threats." Field manuals and technical memoranda also represent an institutionalized effort to collate information on individuals and populations related to their likelihood to engage in a range of unacceptable conduct. This information refers to a complex of perceived external factors that identify a tendency towards unwieldy conduct.

Far from being purely technical or tactical in nature, field manuals and technical memoranda attend to the character of risky populations or individuals and the various factors leading to their likely involvement in riots or other forms

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of civil disturbance. These documents mobilize a range of experts who speak to the economic, psychological, and sociological makeup of target populations not by seeking information on the internal fabric of certain individuals but, rather, by describing a cascade of factors related to their likely involvement in civil disturbance. As one Department of the Army counterintelligence report puts it: “In the case of the Negro in the area of operation, he is often totally dependent on and a non-contributor to the society from which he draws his immediate support” (US Department of Defense 1967, 3). The same report highlights the effect of the summer heat on the likelihood of riotous behaviour: “Humid heat waves bring the population into the streets, recreational areas and amusement centers, thus providing an audience to any inflammatory incident and serving as a precondition to the eruption of violent disturbances” (ibid). The historical recurrence of non-lethal weapons is conditioned, then, partially by a series of non-contiguous official responses to the ethical dilemma of lethality and unnecessary suffering: they make “humane,” non-permanent interventions in the behaviours, actions, and very bodies of subject populations technologically feasible. These technical memoranda and correspondence files reveal that regimes of governance, whether they are focused on the conduct of soldiers or that of civilians, very often derive their power from the weight of trivial texts and calculative practices.

Humanitarianism

The *Oxford English Dictionary* defines humanitarianism as a movement concerned with seeking and promoting human welfare. The term “humanitarianism” is often used as a synonym for “human” – a cyclone hitting an uninhabited coastal area is not classified as a “humanitarian” disaster. Such elisions of humanitarianism and human exceptionalism are evinced by Amnesty International’s use of data from animal experiments on the effects of electrical weapons (see Thomsen et al. 1981). Beyond this specific connection between humanitarianism and the human subject, the common use of “humanitarianism” belies the fact that it is not technically synonymous with “human.” When Rick Smith, CEO of Taser International, claims that in restricting electrical weapons “we’re actually degrading human rights,” the ties that bind non-lethal weapons to humanitarian discourses are laid bare (Waller 1998, 53). Humanitarian efforts are concerned exclusively with the imperative to protect and improve the condition of human beings, and to call a movement “humanitarian” is to allege its exclusively human capacity (pigs cannot be humanitarians, and only humans can treat pigs in a *humane* manner) and to assert its connection to protection, welfare, and the human.

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In a special issue of *Medicine, Conflict, and Survival*, John Alexander (2001, 180) registers his surprise that the most strenuous objections to the proliferation and use of non-lethal weapons have come from organizations “ostensibly” designed to protect civilians. Alexander’s purpose is to critique international humanitarian organizations as ungrateful for and insensitive towards efforts to reduce fatality in conflict and to humanize combat. From his point of view, the manufacturers and users of non-lethal weapons, and humanitarian organizations such as the ICRC and Amnesty International, are not at cross-purposes: each is guided by the imperative to protect human life. Alexander raises an important empirical question: namely, how can international humanitarian organizations and military representatives each base their claims on a transcendent notion of humanitarianism? How does the discourse of humanitarianism simultaneously underwrite the aims of proponents of non-lethal weapons and those who denounce them? What does it mean to call devices such as non-lethal weapons, or concepts such as non-lethality more generally, “humane”? It suggests, first of all, that non-lethality is bound up with compassion or benevolence, as is evinced by the term “humane treatment.” It also suggests the least possible infliction of pain – “humane methods.” Finally, that which is “humane” has a civilizing or refining effect on people – to call an act a “humane practice” endows the practitioner with positive attributes.

The term “humane” is a labile signifier of intent and practice. To claim that an object or approach is humane serves as a means of apportioning value to the human and non-human actors captured by such a term. Thus, humanitarianism holds the possibility of physical and political violence just as much as do humanitarian interventions (Nyers 2006). The “humane” is distinguished by its inverse proportionality to risk, loss of life, destruction of property, and bloodshed. Humanitarianism also articulates with legitimacy in important ways. Military planners and policy analysts are concerned with unnecessary injury and damage to property, but they are also sensitive to the risk that traditional force options pose to their credibility. To call a weapon humane is to imbue it with compassion and benevolence, to suggest that it involves the least possible infliction of pain. The imputation of humanity to the weapon itself loops around to invest its user with an air of civility. To call a weapon “modern” is also to call upon the trope of technological progress. It suggests linearity in technological development, whereby the “modern” signals a decisive break with that which came before – namely, the use of primitive weapons that brought about the unnecessary destruction of living bodies and the built environment.

I explore the set of constitutive relations established by the discourses of ethics, distinction, and humanitarianism at four specific historical junctures. The problem of lethality, and its relationship to weapons of war and the legal

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injunction to distinguish, arose as a problem space to be governed by responsible states. [Chapter 3](#) addresses the Declaration of St. Petersburg (hereafter the Declaration) in order to show how the relationship between lethality and unnecessary suffering was formulated as a problem in late-nineteenth-century legal discourses on interstate conflict. While the concept of non-lethality may not be explicitly located within the text of the Declaration, the problems it raised and the subjects it conjured nevertheless served as a prelude to the appearance of the exact problem to which non-lethality stands as a response. The Declaration is important not simply because it was the first to lead to an articulation of the problem that linked weapons with modern combat and lethality but also because it gives expression to non-lethality as a concept – and one that has been variously appropriated, rearticulated, and put to new uses in each of the events that mark the re-emergence of non-lethal weapons. The logic of non-lethality was promoted as a unique response to the twin problems of inevitable death and unnecessary suffering and the practical challenges posed by the injunction to distinguish between civilian and combatant during times of conflict.

Non-lethality also reveals something of the inherent instability of the political categories of combatant and civilian. These claims are supported by my analysis of textual accounts of contemporary research efforts aimed at developing non-lethal chemical agents, presumably so that they can be weaponized to incapacitate urban populations while combat personnel sort the “enemy” from the “surrounding population” (US Department of Defense 1976, 21). In [Chapter 3](#), I also place the principle of distinction – along with the historical figures of combatant and civilian – within the context of an institutional text that deals specifically with the ethical, legal, and humanitarian aspects of non-lethality and non-lethal weapons. In analyzing DAIG 21–75, I show how the discourse of distinction was mobilized in relation to non-lethality at a particular moment in its history. This analysis of DAIG 21–75 contributes to historical understandings of military research and development efforts in the Cold War era. While others have focused on the use of human volunteers in army research on psychotropic drugs, there is an absence of literature on the subject of early chemical non-lethal weapons research and development projects that were occurring at the same time in the same facilities. Many of these non-lethal chemical weapons (including CS gas, adamsite [DM], and weaponized anesthetics) were precursors of modern incapacitants still in use today. These research and development programs aimed to humanize war by using marginalized human bodies – including prisoners at state penitentiaries – as test subjects. Indeed, attention to the programs that aimed to operationalize non-lethal incapacitant chemicals for use in armed conflict complicates the simultaneous claims coming from the Department of

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the Army concerning the humanitarian character of non-lethality. Such attention allows us to interrogate the organizational work performed in the act of making the project of non-lethality appear to be a humane alternative to total war.

In [Chapter 4](#), I further extend the argument that institutional texts should be taken not as mute informants but as important mediators of human and organizational action. The Department of the Army's riot-control manual (FM 19-15) demonstrates how texts mediate social action and structure the programs of political action undertaken by the subsidiary agencies of the US Department of Defense. The agency of texts makes the distribution of authority within and between organizations practicable and makes the production and communication of expert knowledge possible. By mobilizing the language of social and psychological expertise, the riot-control manual connects strategies of government to what Foucault (1980, 131) calls "regimes of truth" and to what others refer to as "particular styles of truth-telling" (Rose 1999, 30). Having said this, texts proved to be only the most non-obvious kinds of actant in the assemblage of human and non-human actors that made riots a governable domain during the 1960s. The US Army envisioned the role of service personnel in the suppression of "mobs, riots, and mutinies" (US Department of Defense 1958, 4). The Department of the Army linked the legal, policy, and procedural dimensions of riot control to individuals and populations who were believed to pose a threat to the public order, including "subversives," "itinerant workers," "migrants," and "labor agitators." These documents reveal a great deal about the logic of non-lethality and speak to the textual practices involved in rendering human subjects amenable to description and intervention.

A degree of indeterminacy characterizes the relationship between non-lethality and non-lethal weapons. This instability is revealed in several ways in [Chapter 5](#): in the absurdity of describing as "humane" devices that allow hiding combatants and civilians to be flushed out into the fire of conventional weapons; by the constant iteration of the principle of distinction regardless of its endless transgression; and, finally, by the reflexive ethical determinations made by the Military Assistance Command, Vietnam (MACV) and the State Department – decisions regarding what public image to put forward and what implications combat operations might hold for public opinion. The correspondences between officials at the MACV and the State Department reveal this ethical dimension of military organizations. They show how efforts to administer the actions and lives of others (both combatants and civilians) intersect with strategies for administering the actions of organizations and their public representatives. The very complexities and instabilities that mark the discourses of ethics, distinction, and humanitarianism are conditions of possibility for non-lethality and programs of political action.

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The institutional effort required to bind material objects like non-lethal weapons to the concept of non-lethality is often overlooked. This effort was chiefly manifested in a program of management that sought to tame institutional text and to operationalize a pervasive preoccupation with public perceptions of the practices that governed the actions of the military. The weight of this effort is apparent in a series of seemingly minor syntactical shifts and acts of re-description. These shifts produced a series of creative euphemisms that foreclosed a series of difficult questions about the nature of war and *all* of the technical devices that combine to make it possible.

The events that mark the genealogy of non-lethal weapons are shot through with various attempts to think about and act upon the conduct of military actors. In [Chapter 6](#), I continue with questions surrounding the ethical status of non-lethal weapons, asking instead how non-lethal weapons might be understood as a series of public ethical problematizations stemming from police and military action. I discuss communiqués and memoranda about the deaths of four students at Kent State and the role of non-lethal forms of intervention and non-lethal weapons in responding to what was widely viewed to be a tragic failure of the National Guard to appropriately respond to campus unrest. Letters and memoranda served as contact points between a government organization and members of the concerned public, and non-lethal weapons were put forth as part of an official effort to settle a legitimacy crisis stemming from what happened at Kent State. A dossier of correspondences arising from the efforts of the chief of the Berkeley police to arm his officers with the same non-lethal technologies used by the Department of the Army during riot-control operations reveals a set of tensions similar to those present in Vietnam and in domestic riot-control operations: the instability of the line dividing police and military functions, both domestically and internationally; the anxieties evinced by the respective efforts of police and military organizations to establish a politics of identity, relatedness, and difference in relation to one another; and, finally, the debates and strategies surrounding the relationships shared between police and military actors and the contestations marking the division between the police and military management of domestic civil unrest.

A report commissioned by the National Science Foundation and carried out by the Security Planning Corporation entitled *Non-Lethal Weapons for Law Enforcement: Research Needs and Priorities* similarly deals with the problem of how to adapt non-lethal weapons for police use. This report points to the heterogeneity of experts and authorities who have sought to govern the conduct of actors situated inside and outside of police organizations. Incidents ranging from campus unrest, to riots and civil disturbances, to human research, to the

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conduct of international hostilities captured the imaginations of military and police officials in the latter half of the twentieth century. They also reveal how the thoughts, plans, and imaginings of police agencies were rendered as text and, moreover, illuminate the socially and historically contingent forces that animate modern regimes of security and governance.

Like most ideas, non-lethality has a history worth telling. Its construction is an ongoing project: it sometimes falls apart, and the relationship it has with the material objects that we call non-lethal weapons is both complicated and uneasy. Such histories call for a move beyond the programmatic aspects of governance, primarily because ideas and objects are not “born working.” Ideas, like objects, are jimmy-rigged together in unexpected ways that consolidate an impression of unity – but only for a time. Ideas and things work, and then they fall apart. Often, they never really worked in the ways we believed they did but, rather, were made to cohere for as long as it took to achieve a certain aim. Or else they worked in precisely the way we suspected they would for as long as it took to fail in their purpose. The task of the genealogist is to engage in reverse engineering: to pull at the loose ends, to peer under the tape, to look at the underbelly, to ask questions about how ideas and objects are put together, how they are made to enter into similar orbits, and how they collide in ways that disrupt their respective lines of flight. Making non-lethality into a problem of engineering, making it strange again, and viewing it with dispassionate suspicion is not a movement in the direction of closing off debate about the relative acceptability of non-lethal weapons. Instead, it pushes non-lethality into an open space where it can be reviewed not simply in terms of the lethality of non-lethal weapons but also in terms of how the idea itself is constructed and disseminated – and to what ends. If non-lethality purports to provide us with a set of answers, then it is imperative we ask what kinds of questions prompt its consistent articulation. This genealogy of non-lethality marshals the records of a “national life” to increase the legibility of our present social arrangements. The next chapter shifts to the existing narrative of the history of non-lethality created by historians, experts in international humanitarian law, peace researchers, military scholars, and international non-governmental organizations. Without asking what forms of reasoning non-lethality inaugurates and responds to, and without determining for what moral and political problems it has been provided as a solution, the authors of conventional accounts of the history of non-lethal weapons have thus far left unaddressed their complexities and their growing power to shape the way that modern hostilities – both domestic and international – are conducted.

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