

Pre-analysis plan for

Moral Codes and Wartime Calculus: Assessing Public Attitudes about Civilian Casualties

22 August 2018

Sarah Kreps
Cornell University
Sarah.kreps@cornell.edu

Stephen Roblin
Cornell University
sgr52@cornell.edu

1. Introduction

In early 2016, the United States military admitted that airstrikes in Iraq and Syria the previous spring had inadvertently killed half a dozen civilians, and that it had been willing to kill up to 50 civilians in one particular strike because it anticipated a substantial military gain from hitting that target (Browne, 2016). Despite having jettisoned the large-scale civilian victimization associated with World War II, the Korean War, and the Indochina wars, this example demonstrates that U.S. military operations continue to cause civilian harm in foreign military operations, albeit at levels in the dozens or hundreds of casualties rather than tens of thousands, and arguably unintentional rather than intentional (Crawford, 2014; Downes, 2010). These changing patterns of civilian harm raise a number of questions:

1. Is the American public sensitive to civilian harm against foreigners caused by the U.S.?
2. Does civilian killing and harm perpetrated by the U.S. military reduce the public's support for the use of force?
3. Is this public sensitive to the intentionality of civilian harm?

To the extent that aspects of these questions have been addressed in the literature, scholars are divided. Some have argued that the public is largely indifferent to foreign civilian victims and that American casualties are the primary way that the public withdraws its support for the use of force (Mueller, 1994; Tirman, 2011). Other have suggested that Americans are attentive to foreign casualties, at least under some circumstances (Bennett, Lawrence, & Livingston, 2007; Johns and Davies, forthcoming; Kreps, 2014; Walsh, 2015). To date, however, scholars have been silent on the context of those foreign civilian casualties, in particular whether the public conditions its support on whether actions are intentional, accidental, or foreseeable but unintentional (hereinafter referred to as simply “foreseeable”). This research employs this tripartite distinction to shed light on the effect of foreign civilian harm on Americans' support for the use of force. We design and

carry out an experiment that tests how the intentionality of civilian harm—whether the targeting of civilians is intentional, foreseeable, or accidental—affects support for the use of force.

2. Background

Cicero's assertion, *inter arma enim silent leges* (for among times of arms, the laws fall silent), presents a starkly realist account of the way actors shed all moral and legal compunction at the foot of the battlefield. Given the rise of just war theory and positive international law over the ensuing two thousand years, the account seems oversimplified at best (Walzer, 2006). Witnessing the horrors suffered by civilians in European wars during the sixteenth to eighteenth centuries, jurists such as Grotius, Vattel, and Vittoria began to theorize about the moral justification and conduct of war, what has become known as the just war tradition. They followed the intellectual lineage of St. Thomas Aquinas, who had articulated the conditions of a just war, which had at their core the need to distinguish between actors' armed forces and the noncombatants within the state (Nurick, 1945). Aquinas further described actions as having both intentional and foreseeable consequences, a distinction that became the ethical basis of the principle of double effect (PDE) (Aquinas, 1963). PDE implies that an act can have "two effects, only one of which is intended, while the other is beside the intention" or double effect. For Aquinas, intention was crucial, and morality depended on "what is intended, and not according to what is beside the intention" (Aquinas quoted in Wright, 1991). The tolerability of a negative consequence should vary depending on whether it was intended or foreseen but not intended. Self-defense, for example, could both save one's own life but also have the effect of killing the perpetrator but be morally permissible.

In contemporary parlance, PDE has been understood as a "principle of justification" that stipulates the necessary and sufficient conditions under which a presumably wrong action can be

considered legitimate. Mikhail (2011) summarizes the set of conditions under which PDE can justify an act that leads to foreseeable but not directly intended death or harm to innocent persons:

an otherwise prohibited action, such as battery or homicide, that has both good and bad effects may be permissible if the prohibited act itself is not directly intended, the good but not the bad effects are directly intended, the good effects outweigh the bad effects, and no morally preferable alternative is available.

Although Mikhail explicitly references morality, PDE is a principle of intentionality that speaks to both ethics and morality. As Hannah Arendt (1978) observes, despite different etymological origins, both ethics and morals have come to be used interchangeably to refer to issues of right or wrong and good and bad.

In order to apply PDE to the use of force, two reformulations to the above definition must be made: The scope of the prohibitions against battery and homicide must be limited to "noncombatants" (i.e. civilians). The prohibitions do not apply to combatants in inter-state conflicts because parties to a conflict have the legal right to target them. Accordingly, it may be regarded as morally permissible for militaries to intentionally kill or injure combatants. In addition, the "good" and "bad" effects must be defined, respectively, as military advantages and civilian killing, injury to civilians, and/or damage to civilian objects. These qualifications help scope the conditions under which a military operation during war is morally permissible and impermissible according to this formulation of PDE (Dörmann, 2003). For PDE to morally justify a military operation, the military must satisfy three principles. First, it must properly distinguish between combatants/military objectives and noncombatants/civilian objects, corresponding to the legal principle of distinction. Second, the anticipated military benefits of the operation must outweigh the harm done to civilians, corresponding to the principle of proportionality. Third, actors must ensure that they took measures to rule out more problematic

alternatives (whether means, method, tactical operation, etc.) in which comparable benefits can be achieved with less civilian harm, corresponding with the principle of precaution. This reformulation of PDE is the ethical foundation for the norm of non-combatant immunity codified in international humanitarian law. As this discussion makes clear, intent underlies the collective principles of PDE. Intentional harm is never moral. Unforeseeable or "accidental" harm is morally permissible. Adjudicating the middle category of foreseeable harm requires an understanding of whether an actor upholds proper distinction, does not cause harm disproportionate to the anticipated gain, and takes sufficient precautions to minimize harm.

3. Hypotheses

Our core analytical expectations build on the long-established PDE tradition. We suggest that individuals that adjudicate the moral conduct of conflict through a “moral grammar” of basic moral and legal notions and precepts, such as ends, means, side effects, and *prima facie* wrongs that are "engraved in the mind, presumably as a kind of innate instinct” (Mikhail, 2011). If the insights of PDE that underlie just war theory and moral cognition influence individual judgments about conflict, then we would expect individuals to consider intentional harm to be morally worse than to foreseeable harm and, in turn, foreseeable harm worse than accidental. We suggest that these concerns could manifest themselves in two different ways, either as a “strong” ethical public in which support for the use of force is sensitive to the intentional-foreseeable-accidental distinction, or the “weak” ethical public hypothesis in which support is sensitive only to the intentional-unintentional distinction, while not making the more refined distinctions required for the foreseeable category:

Hypothesis 1a (strong ethical public): Public support for the use of force decreases as civilian harm shifts from accidental to foreseeable to intentional.

Hypothesis 1b (weak ethical public): Public support for the use of force decreases as civilian harm shifts from unintentional to intentional. The effect of foreseeable and accidental harm on support for the use of force is equivalent.

The hypothesis above is premised on the view that Americans are sufficiently attentive to the foreign victims of U.S. military operations that ethical distinctions will have a significant effect on their attitudes. A competing view suggests that Americans are indifferent to foreign civilian casualties, or at least that these do not outweigh concerns about military effectiveness. For example, Sagan and Valentino (2017) show not only that the public is willing to tolerate high numbers of casualties, but that it is willing to do so even when the U.S. military anticipates a high degree of collateral damage. The study follows related work that points to individuals' willingness to use nuclear weapons even knowing that thousands of civilians would be killed (Press, Sagan, & Valentino, 2013).

This indifference school produces a legitimate challenge to the ethical public school advanced in the first set of hypotheses. If this school is correct, then psychological and socio-cultural factors, such as victim blaming and out-group indifference (Tirman, 2011), may inhibit the influence of PDE on American judgments. That is, these factors may leave Americans too callous towards the foreign victims of U.S. wars for the fine-tuned ethical distinctions embedded in PDE to influence their moral judgments of particular military operations that cause civilian harm and overall support for the use of force. This categorical indifference leads to the following null hypothesis:

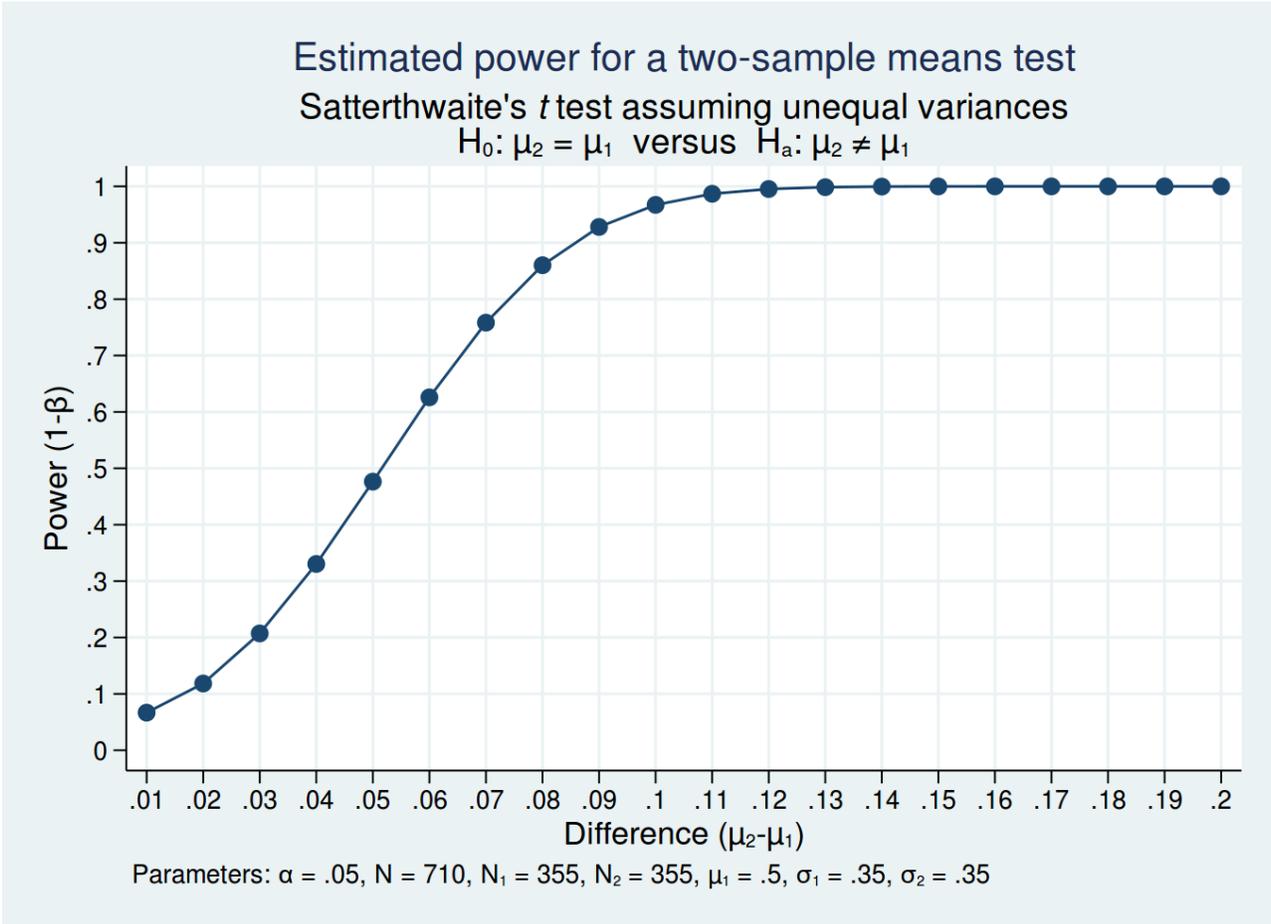
Hypothesis 2 (indifferent public): Americans consider civilian harm that is intentional, foreseeable but not directly intended, and unforeseeable as morally equivalent and permissible.

4. Power

The current state of the literature on public attitudes towards civilian harm offers few clues on the *magnitude* of the effects for our theory. On the one hand, Sagan and Valentino (2017) find that the public is insensitive to the intent behind civilian killing. On the other hand, scholars have found that the public support for military action decreases as the death toll increases (Johns and Davies, forthcoming; Walsh, 2015) and when these deaths are described as immoral or illegal (Chilton 2014; Kreps 2014), with effect sizes ranging from 9 to 29 percent in the latter studies. Given that our scenarios involve no threat to the American pilots carrying out the airstrikes and no explicit description of the potential threat that the terrorist organization poses to the American homeland, we believe it is reasonable to assume that intentional civilian harm will reduce support for the conflict by 20 percent and foreseeable harm by 10 percent vis a vis accidental harm.

We performed power analysis to determine whether our study would have enough statistical power to discern these treatment effects without the threat of Type II error (false negative). We will perform a survey experiment using Amazon Mturk with a sample size of 3,200. Each of our nine treatment groups will have 355 respondents. Scholars generally consider a statistical power of 0.8 as confidently ruling out the possibility of Type II error. As the figure below shows, our study will be able discern differences in means between our treatment groups of 0.074 and above with a low likelihood of this error. Null results below this threshold may be false negatives. Overall, we believe that our study has sufficient statistical power to discern the effect sizes we expect.

Figure 1. Power analysis showing estimated power for two-sample means test depending on sample size.



5. Design

We use a vignette based on a hypothetical counter-terrorism operation of the type that the United States has conducted since the 9/11 terrorist attacks, in which a terrorist organization has taken refuge within the borders of a weak state and the United States carries out strikes against the organization. We select a counter-terrorism scenario as a difficult test for the morality of targeting scenarios in that the public would likely be most tolerant of foreign civilian casualties in a context where American lives could be at stake in a terrorist attack. The baseline scenario indicated that the “foreign government gave the US military permission to conduct airstrikes within its borders, after a major terrorist organization took refuge in the country” to minimize concerns about individuals responding to the potential sovereignty violations.

The treatments engaged the tripartite distinction of accidental, foreseeable, and intentional. We also addressed the potential that individuals might assume that by virtue of the military carrying out the strikes, there must be military effectiveness derived from the strikes. Scholars (Gelpi et al 2005/06) have shown that individuals respond as much to the potential for success in a mission than considerations such as one’s own military casualties so we wanted to account for the way that the effectiveness of the mission might moderate support for the airstrikes. The treatments therefore engaged the tripartite distinction of accidental, foreseeable, and intentional, but then explicitly varied the military effectiveness of the operation. Some respondents received no information about effectiveness, some were told that the post-operation assessment found that the airstrikes were effective in weakening civilian support for the terrorist organization. Another set of respondents were told that the strikes were ineffective and instead strengthened terrorists’ control over towns. The explicit reference to effectiveness removes the potential assumptions that individuals may have imputed in the previous survey. It maintains, however, the core set of variables dealing with intentionality of civilian harm.

Table 1. Treatment groups

<i>Effectiveness</i>	<i>Intentionality</i>		
	Accidental	Foreseeable	Intentional
No Info	1	2	3
Effective	4	5	6
Ineffective	7	8	9

Along the dimension of intentionality, the intentional treatment group depicts a military assessment performed prior to carrying out the airstrikes that estimated 10 militants and 50 civilians would be killed in the airstrikes and that the military deliberately targeted both the civilians and militants. For the foreseeable treatment, the military estimated 10 militant and 50 civilian deaths and targeted the militants, knowing the civilians would also be killed. For the accidental treatment, the military estimated 10 militant and zero civilian deaths and targeted the militants, not knowing 50 civilians would also be killed. After reading the scenario, respondents are asked whether they “oppose or support the U.S. airstrikes that were carried out in the country.”

Beyond the main treatments and dependent variables involving questions about support for the airstrike, we include standard demographic controls (such as gender, age, education, ideology, but also hawk/dove—whether the “way to ensure peace is through military strength”). We also include instructional manipulation checks (IMC), or screener questions that gauge whether individuals have gleaned the core facts of the scenario. We ask who were the intended target(s) of the U.S. airstrikes, the number of civilians the U.S. military anticipated killing, whether the airstrikes degraded the terrorist organization, and the number of American pilots killed in the operation. These screener questions will allow us to stratify the results by attentiveness.

In addition, we try to contextualize the political-behavioral consequences of individuals’ attitudes by asking what types of actions individuals would take “to express your support for or in opposition to this military action?” and include a number of options:

- Use social media to express my opinion about the military action.

- Sign a petition about the military action.
- Write a letter to the editor of a newspaper expressing my opinion about the military action.
- Contact my Member of Congress to express my opinion about the military action.
- Participate in a rally about the military action.
- None of the above.

We will also try to account for other features of the conflict that could affect support for airstrikes.

We ask about confidence in the U.S. military, since low confidence could cause individuals to distrust the military's post-operation assessment embedded in the scenario.

Questions about how many civilians would need to be killed for individuals to oppose or airstrikes gauge an individuals' cost sensitivity—of those who express support for airstrikes, we increase the casualty count to see whether there was any point at which they would begin to oppose the airstrikes, and of those who oppose, we lower the casualty count to gauge the threshold at which individuals might tolerate more airstrikes. We raise these questions because PDE establishes a moral distinction between accidental and foreseeable harm on the condition that the harm to civilians is disproportionate to the military gain (see Background). Otherwise, the principle offers moral justification for foreseeable harm, as in the case of accidental harm. Thus, our theory expects the sub-set of respondents in the foreseeable treatment group who believe the 50 civilian deaths are disproportionate to the military benefit to be responsible for driving down overall levels of support in this group vis a vis the accidental treatment group. We do not expect differences in support when comparing the accidental treatment group to the sub-set of respondents in the foreseeable treatment group who believe the civilian deaths are proportionate. There are two observable implications related to proportionality that follow. One the one hand, respondents in the foreseeable group should be more sensitive to *increasing* civilian casualties than those in the accidental group. Therefore, we expect those who support the airstrikes in the foreseeable treatment group to be more

willing to change their position as we increase the casualty count than supporters in the accidental group. On the other hand, respondents in the foreseeable group should be less sensitive to *decreasing* civilian casualties than those in the accidental group. Therefore, we expect opponents of the airstrikes in the foreseeable group to be more resistant to changing their position as we decrease the casualty count than opponents in the accidental group.

Lastly, we include a question about whether individuals think the airstrikes actually would weaken the terrorist organization's control (offering a 5-point degree of likelihood) to address assumptions individuals make about the scenarios and the belief (or not) that the airstrikes violated international law (also a 5-point scale of agree-disagree). These questions are aimed at assessing the possibility of confounds. In particular, we are interested in exploring whether respondents in the "no info" group assume that the effectiveness of the airstrikes decreases as civilian harm shifts from accidental to foreseeable to intentional. Since we control for effectiveness in the other groups, our design overcomes the potential effectiveness confound. However, we do not control for legality. We raise the legality question simply to assess whether international law could possibly confound the relationship between ethics and support for force, namely that respondents increasingly doubt the lawfulness of the airstrikes as civilian harm shifts from accidental to foreseeable to intentional.

We will field the survey experiment on Amazon Turk in August 2018. The experiment is a follow-up to an earlier experiment we ran on Survey Sampling International (SSI) in May 2017. The earlier experiment evaluated the intentionality of civilian harm but had a methodological focus of assessing differences across survey formats (vignettes versus mock news stories). Its focus on a methodological contribution meant we were unable to think through how strategic considerations (e.g., effectiveness) might affect attitudes, and the mechanisms through which support or opposition to the use of force run.

6. Mechanisms

To explore the pathways through which support or opposition operates, we will ask “which of the following did you think about most in your decision to oppose or support the military action?

Check all that apply.”

- The civilians likely have a connection to terrorism and bear some responsibility for the outcome. (1)
- The well-being of Americans concerns me more than the well-being of foreign civilians abroad. (2)
- The terrorist organization was a threat to U.S. national security. (3)
- The airstrikes would degrade the terrorist network. (4)
- The well-being of civilians is important whether they are from another country or our own country. (5)
- The killing of civilians was immoral. (6)
- None of the above. (7)

These responses correspond to mechanisms of indifference for the attitude (1, 2), strategic mechanisms (3, 4) and normative mechanisms (5, 6). We can then conduct mediation analysis to assess empirically how much of the effect those particular factors mediate (Imai et al 2011).

7. Analysis

If the *ethical public theory* is correct (hypotheses 1a), then we should see higher support for military strikes where the harm was accidental compared to either foreseeable or intentional, and when it was foreseeable rather than intentional. If the *weak ethical public theory* is correct (hypothesis 1b), then respondents should only distinguish between intentional and unintentional (foreseeable or accidental) harm. Thus, support for airstrikes should only decrease in the intentional treatment; there should be no difference in support between the accidental and foreseeable treatments. However, if the *indifferent public theory* is correct (hypothesis 2), then there should be

few observable differences regarding support for the airstrikes among the treatments, irrespective of intentionality.

To empirically test these propositions, we first plan to analyze the responses to the question about whether individuals support the use of airstrikes, stratified by the three main categories of intentionality (intentional, foreseeable, and accidental), and within these, the three categories of effectiveness (no information, ineffective, and effective) in a graph that illustrates the 9 treatment groups organized by the two main dimensions (intentionality and effectiveness). We will then conduct mediation analysis that explains the pathways through which support or opposition runs.

We also assess the sensitivity of the findings by analyzing the casualty threshold under or over which support would falter; whether the perceived effectiveness and legality, and individuals' trust in the military and hawkishness influence the results.

8. Implications

Scholars continue to debate the sources of public attitudes towards conflict, and whether strategic considerations or non-strategic considerations such as morality explain when and why the public withdraws its support for the use of force. Yet the research on how foreign civilian casualties—and in particular the intentionality underlying those casualties—is still nascent (Walsh 2015; Johns and Davies, forthcoming) despite accounts suggesting that fact that ongoing American military operations produce such casualties. In this regard, the research also has policy implications since the degree to which Americans support or oppose the use of force weighs on the legitimacy and sustainability of the operation, helping to account for when and for how long the United States contemplates the use of force.

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