The Stopping Power of Norms: 
Saturation Bombing, Civilian Immunity, and US Attitudes 
toward the Norms and Laws of War

1 We are grateful to Scott Sagan and Benjamin Valentino for inspiring this project, sharing their data for replication, and providing feedback on early drafts; to Samantha Luks at YouGov for assistance with survey design and Victoria Duran for assistance with coding; and to the participants at the International Studies Association workshop on Expanding the Nuclear Taboo and panel on Experimental Methods in Foreign Policy, at University of Massachusetts-Amherst’s Conflict, Violence and Security Workshop and at Stanford University’s Center for International Security and Cooperation, Political Science Department, and Workshop on Nuclear Weapons and International Law for feedback on earlier versions. We are especially thankful to feedback from Brian Rathbun, Geoffrey Wallace, Kenneth Schultz, James Fearon, Janina Dill, Meredith Loken, Peter Haas, Rose McDermott, Joseph Nye, Colin Kahl, Kevin Young and Allen Weiner.
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Toward the Norms and Laws of War 
Charli Carpenter and Alexander Montgomery

Do Americans believe in the laws of war, and would they follow them when it really counts? One prominent recent survey of public opinion on American attitudes towards the laws of war suggested that Americans are relatively insensitive to even the most basic wartime taboos against the use of nuclear weapons and the targeting of civilian populations. Scott Sagan and Benjamin Valentino surveyed 780 Americans about whether they would agree to an airstrike on a city in Iran that would kill 100,000 or more civilians, if it meant they could end a war and save 20,000 US troops’ lives. They found that under these conditions, a majority of Americans would prefer the strike, even if a nuclear weapon were used – and just over two-thirds preferred the strike if it were carried out with conventional munitions. Sagan and Valentino concluded that “the majority of the US public has not internalized either a belief in the nuclear taboo or a strong non-combatant immunity norm.”

This finding, if true, is disturbing to say the least. Even in the arguably ‘less extreme’ scenario of a massive non-nuclear strike, twenty-first century Americans were invited to contemplate – and many agreed to go along with – a horrific war crime. Saturation bombing of undefended cities in the Second World War killed, by one scholarly estimate, perhaps 750,000 civilians – over seven times as many as died in the nuclear bombings of Hiroshima and Nagasaki. Such massacres by air were singularly horrifying: a survivor of the Tokyo firebombing, who lived only because she was buried under bodies of her neighbors as they burned alive, described mothers fleeing the

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3 See data collected by Alexander Downes in connection with his book *Targeting Civilians in War* (Ithaca: Cornell University Press, 2008). Also see Downes’ 2019 unpublished memorandum entitled “Civilian Deaths from Strategic Bombing in the World War II Era.” For other estimates see Richard Overy, *The Bombing War: Europe, 1939-1945* (Penguin UK, 2013). By any measure, this is an astonishing number of civilian dead for a single war and does not include casualties who were injured but not killed.
inferno while the babies on their back caught fire. Many others in Europe suffocated in cellars or were eviscerated by shrapnel in explosions. For good reason, saturation bombing, like other forms of civilian targeting, has been delegitimized as a method of war.4

Sagan and Valentino’s inference that these norms are weaker than once thought is also disturbing – particularly the finding about the civilian immunity norm.5 Whereas the legality and morality of nuclear weapons use continues to be contested, it is widely believed that the prohibition on willfully targeting civilians in armed conflict is one of the oldest and most foundational norms of war.6 It is also now a legalized global prohibition norm, codified in treaty law since 1977 and considered part of customary law by the International Committee of the Red Cross.7 Thus Sagan and Valentino’s finding is a challenge not just for experimental studies of the civilian immunity norm specifically, which have tended to show that Americans strongly believe in it; 8 but also for theories of global prohibition norm effects and legalization in international

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5 While Sagan and Valentino refer to “non-combatant immunity,” this term encompasses not only the civilian immunity norm but also the prohibition on willful killing of wounded or captured noncombatant soldiers (those hors de combat). Instead we use the term “civilian immunity” to refer more restrictively to the normative principle that the civilian population specifically shall not be the object of attack.


7 Article 51 of the 1977 Additional Protocol to the Geneva Conventions states “The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.” See also Françoise Bouchet-Saulnier, The Practical Guide to Humanitarian Law (Rowman & Littlefield, 2002). The International Committee of the Red Cross considers this “Rule 1” among those rules considered to be customary law. See ICRC Customary Law database at: https://ihl-databases.icrc.org/customey-ihl/eng/docs/v1_rul_rule1.

In this paper, we revisit the strength and impact of the civilian immunity norm on American attitudes toward saturation bombing using the same Iranian bombing scenario. Sagan and Valentino infer that their finding means Americans are less sensitive to the civilian immunity norm than believed - though we would argue that that so many Americans exhibited restraint given their hard case proves the opposite. More importantly, however, we argue that a second look is warranted because the design of their experiment makes it difficult to know whether or not their finding is in fact driven by the weakness of legal or ethical norms, a lack of knowledge of or belief in those norms, or by other factors such as framing effects – including Sagan and Valentino’s choice not to mention international law or norms in their survey vignette, which may itself have primed respondents to disregard norms and ethics.

To explore further the implications of Sagan and Valentino’s finding for the question of legal and ethical norm effects, we replicated a key question in their study, where respondents were asked if they would prefer saturation bombing an Iranian city to end a costly ground war rather than continuing it. We also introduced some variations into the survey that allow us to tease out the strength and influence of norms relative to other factors. First, we created independent measures for agreement with, knowledge of, and sensitivity to relevant ethical and legal norms. Second, we created alternative versions of the question to test whether framing effects in the original experiment – including “priming by omission” – had driven their results.

Across a variety of measures, we found that international ethical and legal norms do exert a significant constraining effect on public opinion – a far less pessimistic finding than Sagan and Valentino’s. Accurate knowledge of international law matters, as does a belief in the “wrongness” of targeting civilians – a belief we found to be held widely and strongly by Americans. Even being asked to think about international ethical norms prior to answering the question made a difference in levels of support for saturation bombing, dropping support for a strike significantly.

We also find significant framing effects at work in the original experiment. In particular, forcing respondents to choose between dichotomous policy options using quantitative measures exaggerates apparent support for unethical decisions, and under-measures the effect of international norms on domestic citizen preferences. A close examination of open-ended explanations of respondent answers provides a much more reliable (and more heartening) indicator of American moral thinking. First, many

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participants who “preferred the strike” were actually registering moral confusion, not a bloodthirst for foreign civilians. Second, by asking respondents to address the exact same dilemma in an open-ended manner rather than forcing them to choose between two morally unacceptable options, we found even more clear and widespread opposition to the saturation bombing of civilians and significant American respect for the civilian immunity norm, with a majority of Americans opposing a strike.

Our conclusion is that even in a fairly unrealistic “hard case,” there is evidence of the “stopping power” of international norms. Moreover, the measures we use to capture public opinion and the presence or absence of legal or ethical concerns can significantly amplify or mask that power. Therefore, the implications of this paper go well beyond a re-appraisal of US attitudes to the use of force and implicate the power and politics of public opinion polls and survey experiments in foreign policy.

In the remainder of this paper, we first summarize Sagan and Valentino’s landmark study and note some of the assumptions built into it. Drawing on the study of international norms and laws on public opinion, we next outline our research design: a set of survey experiments embedded at the start of a YouGov omnibus survey in summer 2018. We then describe our findings regarding the impact of international norms on American attitudes toward saturation bombing. We conclude with some wider implications for scholars using survey experiments and suggestions for further study on norm effects in international security.

Revisiting ‘Revisiting Hiroshima in Iran’

Although it is civilian policymakers and military personnel whose attitudes toward the laws of war matter at the “pointy end” of the spear, a significant amount of recent scholarship has explored the impact of US public opinion on support for adherence to the laws of war.10 The rationale for this line of inquiry is the hypothesis that public opinion, especially in democracies, can be expected to exert a constraining effect on state use of political violence.11


Many studies find a significant effect of international law on public attitudes. Sarah Kreps and Geoffrey Wallace’s research on drones suggests that American citizens are actually more persuaded by arguments that invoke international legal principles than military efficacy against terrorists. James Walsh argues the promise of sanitized warfare that accompanies drones and precision weapons may result in a higher aversion amongst American populations to civilian casualties abroad. Wallace’s findings on support for torture suggest that international law will affect public opinion even more in cases where external pressures to engage in the policy are at their highest.

However, other experimental studies cast doubt on these findings, finding either no relationship of international law on public attitudes, or that Americans are more likely to use a “logic of consequences” when weighing foreign policy options. Some findings are ambiguous: Brian Rathbun and Rachel Stein’s study of public sensitivity to nuclear first use shows that logics of consequences and appropriateness are not mutually exclusive: even consequences-sensitive survey respondents may in fact be expressing moral judgment, aiming to maximize the greater good by supporting a controversial security policy.

As noted by Sagan and Valentino, these various findings are embedded in the context of a wider debate about the stopping power of humanitarian norms and laws on the state use of force. On one side are scholars who argue that an array of humanitarian norms has decisively impacted the use of force in our world, rendering war both less frequent and less bloody. Oona Hathway and Scott Shapiro make this argument with respect to the abolition of warfare itself. As regards the conduct of hostilities, Ward Thomas documents the demise of practices such as assassination and strategic bombing.

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14 Walsh, “Precision Weapons, Civilian Casualties, and Support for the Use of Force,” 519.
15 Wallace, “International Law and Public Attitudes toward Torture.”
for a combination of normative and geopolitical reasons.\textsuperscript{20} Martha Finnemore documents the rise of humanitarian intervention irrespective of realpolitik.\textsuperscript{21} Richard Price and Nina Tannenwald argue for the emergence and impact of taboos against the use of weapons of mass destruction.\textsuperscript{22} Theo Farrell and Jeffrey Legro argue these norms have become embedded in military organizations in ways that incentivize limits on the use of force, and Colin Kahl shows how these bureaucratic norms particularly benefit civilians.\textsuperscript{23}

Yet some realist and/or critical scholars of international norms are more skeptical about the stopping power of either law or public opinion on state behavior in war. Benjamin Valentino and Sarah Croco’s large-N study of finds little effect of such “covenants without the sword.”\textsuperscript{24} Alexander Downes argues that democracies can in fact be particularly prone to civilian targeting due to casualty aversion and pressures to end wars of attrition.\textsuperscript{25} James Morrow conducted a large-N study with a mixed result, finding that democracies tended to comply with the laws of war, but only when they expected reciprocity.\textsuperscript{26} Tanisha Fazal’s work shows both a pressure on states to adhere to the law and an array of consequent strategies to avoid being bound by it.\textsuperscript{27} Neta Crawford’s and Ian Hurd’s work on the permissive impact of war law echoes these findings.\textsuperscript{28}

It should be noted that these earlier studies look at what states do, not what their

\textsuperscript{20} Thomas, The Ethics of Destruction.
\textsuperscript{21} Martha Finnemore, National Interests in International Society (Cornell University Press, 1996).
\textsuperscript{25} Downes, Targeting Civilians in War.
publics want. However, two trends in the wider literature provide purchase on the idea that public attitudes can ‘matter’ for the strength and impact of international norms. First, it is often assumed that states, or at least democracies, care what their public wants and will be responsive to public pressure in foreign policy matters. Second, while international norms matter politically primarily at the elite level where foreign policy decisions get made, the widespread adoption of a norm in public attitudes can serve as an indicator of the strength and internalization of international norms in wider political culture.

In the context of this wider theoretical debate, Sagan and Valentino recently undertook a new experiment designed to further test whether the nuclear taboo and/or the more diffuse civilian immunity norm would exert a significant taming effect on American public attitudes should the United States face a situation similar to the Hiroshima decision, which the authors argue is the situation most likely to trigger a policy debate over whether to use a nuclear weapon. In an era where a sitting US President has blithely referred both to nuclear weapons and the targeting of civilians, this question is hardly academic, and it is no surprise that their study made a splash. In fact, this new study is noteworthy due not only because it was the most downloaded article from MIT press in the year it was published, but also because of the amount of attention it received from US policy-makers and the media.

In Sagan and Valentino’s experiment, 780 Americans read some version of a mock news article stating that the President was considering (variously) either a nuclear or conventional weapons strike on a city with 100,000 or (in one nuclear option) 2 million expected civilian casualties, in order to “end a war” that would otherwise kill an additional 20,000 US ground troops. The respondents were then asked to signal how much they preferred to “continue [the] ground war” or “launch [the] strike,” and also

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29 Note: this assumption is contested. See Lawrence R. Jacobs and Robert Y. Shapiro, Politicians Don’t Pander: Political Manipulation and the Loss of Democratic Responsiveness (University of Chicago Press, 2000).
30 This metric is often used by scholars interested in norm strength or norm decline. For example, see Ryder McKeown, “Norm Regress: US Revisionism and the Slow Death of the Torture Norm,” *International Relations* 23, no. 1 (2009): 5–25.
31 Sagan and Valentino, “Revisiting Hiroshima in Iran.”
whether they would “approve” the strike or not regardless of their preference. In addition, the researchers collected data on demographics and on attitudes toward the original Hiroshima decision.

Sagan and Valentino’s results on the nuclear taboo were disheartening to those hoping that Americans would evince a normative revulsion to such attacks or exert a constraining effect on US foreign policy-makers, and their results on the civilian immunity norm were even more so. 67% of their respondents leaned toward striking the city with conventional weapons rather than continuing the ground war, killing (according to the mock news article), a projected 100,000 civilians. This attack would rival the most horrifying saturation-bombing campaigns of World War II and kill more civilians than Hiroshima. Based on these results, Sagan and Valentino claimed “strong evidence against the theory that a robust noncombatant immunity norm has been internalized by the US public today.”

While we do not dispute the overall finding, we argue this inference about the underlying norms requires further study for three reasons. First, even if we take Sagan and Valentino’s empirics at face value, we find their inference about the weakness of norms surprising, since most counterfactual scholarship on norms would suggest their finding is a confirmation of the power of these norms. The scenario they created was truly a hard case for restraint, with every possible brute-interest-based reason to target civilians baked into the vignette. In the absence of robust ethical norms against nuclear use and civilian targeting, there is no reason not to expect 100% of Americans to have supported such a strike in such a scenario. Nonetheless, Sagan and Valentino found significant percentages of Americans opposing such strikes—affirming previous scholarship demonstrating that norms always interact with interests.

Second and more importantly, we doubt whether any inferences about the strength and effect of underlying norms are possible without independent measures of the norms themselves. Sagan and Valentino’s experiment diverged from other recent experimental studies in that it did not include a treatment on those norms and taboos.

34 Sagan and Valentino, “Revisiting Hiroshima in Iran,” 60.
Moreover, the authors gathered no data on attitudes toward or fluency in the norms themselves on the part of the respondent sample – factors which themselves vary across the US population.\textsuperscript{37}

This is important because the question of norm strength is \textit{distinct} from how much they have an effect on policy. As Kratochwil and Ruggie long ago observed, norms are “counterfactually valid”\textsuperscript{38} – for example, the fact that some people are willing to drive drunk (or go along with their friends who do) does not invalidate the fact that a strong norm against drunk driving exists. To measure the presence or strength of such a norm – what Sagan and Valentino refer to as “internalization” – as opposed to measuring a norm’s effects on preferences, one needs measures of norms that are independent of the effects one is testing.\textsuperscript{39}

Third, the absence of independent measures of norms and attitudes toward those norms makes it impossible to disentangle underlying American awareness of and sensitivity to important international norms from the ways in which the design of the survey experiment itself may have blunted those norms’ impact on preference measurements through the introduction of intervening variables known to increase willingness to violate international norms.

For example, some literature has already shown that Americans weigh their concern for foreign civilians against their concern for force protection, military casualties, or threat perception.\textsuperscript{40} Since Dolan’s work shows norm conflicts can reduce support for prohibition norms in warfare, it is possible that this experimental design alone – pitting protection of civilians against protection of US troops – could have biased the experiment in favor of striking the city.\textsuperscript{41}

\textsuperscript{37} As Chilton notes in “The Laws of War and Public Opinion,” this is a flaw in many studies of international law effects, which therefore cannot distinguish between the effect of extant international law knowledge and the effect of international law information / priming through a survey treatment.


Moreover, the putative cause of the war—an Iranian nuclear weapons program—may lower the threshold for advocating any kind of attack for two reasons. First, there is a clear analogy here to the main justification for the Iraq war: Iraq’s supposed possession of weapons of mass destruction. The power and flexibility of the idea of WMD, combined with the exhortations of the Bush administration, provided a powerful rationale for preventive attack and set a significant precedent as the first war fought to counter weapons of mass destruction. As of 2015, 42 percent of the U.S. public still believed that the United States found weapons of mass destruction in Iraq. The power of analogies for foreign policy is well-known and may easily have influenced respondents.

Second, the perception that Iran might use nuclear weapons offensively against civilians could contribute further to justification for a massive preventive strike. Some analysts argue that a nuclear-armed Iran would give Iran an incentive to strike first and/or an increased risk of nuclear war against Israel and the United States. Support for a military strike on Iran even in the absence of a war is already high (at 37%). With the Prime Minister of Israel arguing that Iran is “…seeking nuclear weapons to carry out its genocidal design,” it is not surprising that support for preventive saturation bombing would be robust. Indeed, among voters who believe it very likely that Iran increased when subjects were cued that using such weapons would save the lives of US soldiers.” Sagan and Valentino, “Revisiting Hiroshima in Iran,” 61.


will develop nuclear weapons, 53% think they’ll use them to attack the United States.\textsuperscript{48}

This also follows from Shannon’s work demonstrating that norm violation is likeliest when the motivation to violate is very high and a respondent is not constrained by the need for social approval.\textsuperscript{49} The structure of a survey experiment in which respondents are told that US soldiers’ (and maybe civilians’) lives are on the line (high motivation to violate) \textit{and} are free from social opprobrium for their choice (since surveys are anonymous), seems very likely to yield a higher number of pro-civilian-targeting responses than would be likely in ordinary conversational settings. While this may accurately mirror the ways in which the media might attempt to measure public opinion in an actual political crisis, it does not necessarily follow that these are the best measures of the underlying norms.

Numerous scholars have also noted that embedding disputed assumptions in survey experiments as “facts” may bias respondent answers.\textsuperscript{50} We note such contested assumptions in Sagan and Valentino’s original experiment, in which the initial vignette presents an air strike as a viable option for ending the war in a situation that is clearly analogous to the nuclear strikes on Japan.\textsuperscript{51} However, it is disputed whether the atomic bomb in fact ended the Second World War.\textsuperscript{52} There is even less data to support the claim that saturation bombing cities of civilians or other forms of civilian targeting are certain or even likely to end a war.\textsuperscript{53} The idea that only there were only two options, one of which was to “continue” the war rather than end it, leads respondents to assume that

\textsuperscript{48} “73\% Say It’s Likely Iran Will Develop Nuclear Weapons - Rasmussen Reports\textregistered,” July 26, 2018, http://www.rasmussenreports.com/public_content/politics/current_events/iran/73_say_it_s_likely_iran_will_develop_nuclear_weapons.

\textsuperscript{49} Shannon, “Norms Are What States Make of Them.”


\textsuperscript{51} Though we cannot test for it in our replication since we have used the same fictional narrative, we also wonder to what extent the Hiroshima analogy itself (implicit in the Iran scenario but clearly analogous) could have exerted a priming effect in favor of preferring the strike, given the role the Hiroshima decision has played in American political imaginary.


these are the only viable policy options. Moreover, while these disputed assumptions are embedded in the story and the survey question, factual information about relevant US treaty obligations is conspicuously absent.

Sagan and Valentino’s finding is interesting and provocative in and of itself. But given the array of other factors that could yield their finding, it is not clear how much this finding says about the strength of the immunity norm or the nuclear taboo. In short, given the conflation of two norms, no discussion or testing of legal or ethical norms, and a Hiroshima-like force protection scenario involving weapons of mass destruction that allows only two choices, this is the type of fictional experiment and question structure that we might least expect to showcase any stopping power of the civilian immunity norm. Consequently, it is difficult to gauge the degree of internalization of the norm, its impact, or parse the effect of it from other sorts of framing effects. Indeed, Sagan and Valentino acknowledge that their paper does not actually measure the potential American sensitivity to or impact of laws, norms, or law-based political arguments and invite future researchers to do precisely that in future studies.

We take up this challenge below through an augmented replication of Sagan and Valentino’s finding, with some additional measures and treatments aiming to clarify the finding on civilian immunity specifically. Precisely for the reasons listed above, we view their original fictional scenario as a “hard case” for a test of the real power of the civilian immunity norm: rather than expecting Americans to eschew civilian targeting under these conditions, we should be heartened about any stopping power of norms if a considerable number are willing to do so even in the anonymous format of a survey designed to encourage norm violation.

In the next section, we outline our research design and hypotheses. We then elaborate our findings in two parts: first, our finding on norms, and second, our finding on framing effects. We conclude with a cautionary discussion about the use of survey experiments to gauge the effects of international ethical norms.

Research Design

To explore what the Sagan/Valentino experiment tells us about American attitudes toward the civilian immunity norm, we conducted a follow-up survey experiment to test a number of hypotheses. We started by replicating a key question in the Sagan/Valentino study, where respondents were asked if they would prefer saturation bombing an Iranian city over continuing a costly ground war in Iran. We chose the version of the question where respondents were asked about what they

54 Sagan and Valentino do explore another variant of the nuclear scenario which includes a third option of keeping the Ayatollah, which dropped support for a nuclear strike from 56% to 40%. Sagan and Valentino, “Revisiting Hiroshima in Iran,” 70.
would “prefer” rather than what they would “approve” precisely because we are measuring norm effects, and as Sagan and Valentino note, this is the best indicator of respondents’ “beliefs about what is ethical and appropriate military behavior,” without priming them about what policymakers might or might not do.56

In this replication, both the question and the article were worded exactly as they were in the original experiment. We embedded these as the first question in a YouGov omnibus survey, using standard YouGov sample-matching techniques to mirror those used by Sagan/Valentino.57 Our base hypothesis (H1) was that our results would replicate Sagan and Valentino’s finding that just over two thirds of Americans would choose to kill foreign civilians rather than accept losses of American soldiers.

“Given the facts described in the article, if you had to choose between launching the strike against the Iranian city or continuing the ground war against Iran, which option would you prefer?”

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<th>STRONGLY PREFER TO CONTINUE GROUND WAR</th>
<th>STRONGLY PREFER TO LAUNCH STRIKE</th>
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Our survey went out to 2,500 participants, with 250 participants receiving the exact replication version of the question and article. To test a number of framing effects, other participants received variations on the question.58 We aimed to test the effect of knowledge of international legal norms as well as internalization of the ethical norms of civilian immunity.59 We tested for three different norm effects on respondents’ policy preferences. First, we tested respondents’ a priori knowledge of the law on civilian immunity with a simple true/false question. This is a superior method to providing information on the law in the course of an experiment, because as Adam Chilton has

56 See Sagan and Valentino, 57. When we use “support” in this paper, we are referring to our (and their) findings on “prefer” rather than “approve.”


58 Except for the replication, we used a version of the article title and question that referred to “Iranian Civilians” rather than “Iranian City” to ensure that participants would know that the civilian deaths were intentional rather than collateral. This allows us to separate out the civilian/non-combatant immunity norm from the norm of proportionality. This change alone did not result in a significant drop in support.

observed, providing survey respondents information on US legal obligations may inaccurately capture the actual effect of international law, since many respondents may already have had that information. In our survey, respondents were asked:

As far as you know, which statement is more correct?

- Under international law, it is sometimes permissible to directly and intentionally attack the civilian population in war.
- Under international law, it is never permissible to intentionally and directly attack the civilian population in war.

Second, we tested respondents’ belief in the immunity norm. Respondents were asked how strongly they agreed or disagreed on a scale from 1 (Strongly Agree) to 5 (Strongly Disagree) with the statement “It is wrong to intentionally and directly attack the civilian population in war.” We also asked respondents to explain their answer, allowing them to outline conditions under which they thought it might be ethically permissible to target civilians. We were thus able to take a direct measure of Americans’ agreement with the immunity norm, independent from testing the effect of the norm on their policy preferences.

Third, we examined whether simply priming respondents to think about ethical norms made a difference in their answer. Believing in the immunity norm is different than being primed to think about it. A person who has a strong belief in ethical norms may still disregard them if not primed to consider them, and a person who does not might still feel the weight of them if primed.

We varied the ordering of these questions in a number of ways that allowed us to test our hypotheses that strike support would decrease with (H2) prior knowledge of the legal norm; (H3) belief in the underlying ethical norm; and (H4) priming about that ethical norm. Because some participants received these questions before they were asked whether to bomb the Iranian city, and some after, we were able to test, rather than simply guess at, these effects.

Finally, while we adopted Sagan and Valentino’s fictional scenario as a hard case

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61 Although it is possible that the strength of positive responses to this question reflects social desirability bias (see Ivar Krumpal, “Determinants of Social Desirability Bias in Sensitive Surveys: A Literature Review,” Quality & Quantity 47, no. 4 (June 1, 2013): 2025–47, https://doi.org/10.1007/s11135-011-9640-9. we argue this is an appropriate way to capture the intersubjective strength of a social norm, which is triggered primarily in relation to socially constructed expectations of what Americans believe the normatively “right” answer is. In other words, even if this is not a good measure of respondents’ personal moral beliefs, it is still a good measure of the strength of an intersubjective norm precisely because surveys are, to some degree, conversational settings in which intersubjective beliefs may be present. On the difference between moral principles and norms, see Jurkovich, “What Isn’t a Norm?”
for civilian immunity, we wanted to know whether Sagan and Valentino’s result could be related to another framing effect due to the closed structure of the survey question itself, which included a number of contested assumptions and forced respondents to choose between two undesirable outcomes. While their finding is a good measure of how Americans might respond to a dilemma posed in this way, we think that it might not necessarily be a good indicator of American moral reasoning or the policy discussion in a real-world situation.

Consequently, we hypothesized (H5) that an open-ended query might provide a more sanguine view of how Americans would grapple with a Hiroshima-like situation like that carefully crafted by Sagan and Valentino. Since the contested assumptions that make this a “hard case” were already baked into the fictional narrative – the title was “President Considering Major Air Attack on Iranian City to End War” – in our version of the survey an additional group received an open-ended instead of closed-ended version of the question: “Given the facts described in the article, if you were the Commander in Chief of the United States military, what would you do and why?” We think that such an approach – measuring how Americans grapple with an ethical dilemma in their own words – provides not only a measure of how framing effects may have mattered here, but also a clearer measure of the impact of the immunity norm. In Table 1, we summarize our hypotheses regarding the relationship between our variations and strike support.

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<th>Table 1: Hypotheses</th>
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<td>H1. Replication will find the same level of strike support</td>
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<td>H2. Knowledge of legal norm decreases strike support</td>
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<td>H3. Agreement with ethical norm decreases strike support</td>
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<td>H4. Ethical priming decreases strike support</td>
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<td>H5. Opening the set of options decreases strike support</td>
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**Findings: What Do Americans Really Think About Noncombatant Immunity?**

Overall, our quantitative and qualitative findings are less pessimistic than Sagan and Valentino. Worded exactly as they designed the experiment, it is not surprising that our initial replication largely confirmed their original survey result: under some conditions, some Americans are willing to signal a preference for bombing the city in a scenario such as the one presented. However, through variations on the experiment, we found this was not due to American indifference to the immunity norm as Sagan and Valentino argued. Indeed, we found that the majority of Americans strongly agree that targeting civilians is wrong. Moreover, this belief dramatically reduces support for the bombing, as does knowledge of the legal prohibition against civilian targeting. Even just being asked whether bombing civilians is wrong significantly moderates public opinion. Our analysis shows that framing effects, rather than American bloodthirst or
moral indifference, likely drove the original result.

First, we were able to replicate Sagan and Valentino’s initial result: like the original authors, we found a majority of Americans surveyed would support saturation bombing an Iranian city, given the facts as expressed in the mock news article and with no changes in the structure of the question. However, it is notable that we found that a much smaller majority of Americans preferred the strike in 2018 than in 2015 when Sagan and Valentino conducted their first study. Whereas Sagan and Valentino found strike support of 67%, we find only 57%, with a p-value of 0.074, as shown in Figure 1.

We follow Sagan and Valentino by asking all scenarios for a 1–6 rating (1 meaning “strongly prefer to continue ground war” and 6 meaning “strongly prefer to launch strike”), then collapse our data to a binary ”% prefer strike” and test the difference in means. Testing the difference using raw scores does not change the statistical significance of any results.

One possible explanation for this drop in support for bombing Iran could be temporal: with the election of President Trump, the political environment is significantly different now than it was when the original survey was conducted during the Obama Presidency. An examination of the demographics of these shifts show they occur mostly among drops in support occurred for respondents with some college and post-graduate education, men, independents, whites and Hispanics, and those registered to vote. However, a conclusive assessment of what might be driving this difference is beyond the scope of this paper.
We cannot know from Sagan and Valentino’s original research design whether the majority in favor of the strike is a result of the weakness of the immunity norm or of its strength being offset by other factors, including the framing effects and historical analogies embedded in the experiment. To determine the strength and impact of the immunity norm, we conducted a number of other tests. We tested variations of Sagan and Valentino’s original research design against our replication instead of their original finding in order to control for the factors that caused the drop in support from 2015 to 2018.

SOCIAL AND LEGAL NORM EFFECTS

First, we examined the extent to which Americans indeed understand US obligations under international law (H2) or agreed with the ethical content of the immunity norm (H3). If international legal or ethical norms (or priming about those norms) make a difference in respondents’ preferences, we would then expect to see answers to the scenario question differ depending on their answers to the legal and ethical norm questions, and on whether or not they considered these questions before or after answering the Iran Scenario question.

Here, our findings are far less pessimistic than Sagan and Valentino’s. First (H2), when asked before the survey question, we found a significant number of Americans (80%) were able to accurately state that targeting civilians is a war crime absolutely prohibited by international law. Respondents’ level of accurate international law knowledge also affected their preferences: when we checked for law knowledge after the survey question, we discovered that 72% of those with incorrect knowledge supported a strike, whereas only 45% of those who answered correctly did: See Figure 2.

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64 Results from Treatment Group 6, n=250.
65 We tested for fluency after asking the scenario question (treatment groups 1+2, n=500) to separate out a possible priming effect. Only 68% of those in groups 1+2 who were asked after the scenario question (as opposed to 80% who were asked before the scenario question in groups 7–9, n=750) answered accurately, pointing to a very significant effect of the survey question. We are exploring this result in other ongoing work.
Second (H3), we found strong evidence of agreement with the immunity norm by the American public. In our survey, about 80% across all groups who were asked the question somewhat or strongly agreed with the statement that it is “always wrong” to target civilians: only about 10% disagreed and 10% were “not sure” when asked prior to the survey question: see Figure 3.
In addition to asking our respondents whether they believed it was always wrong to target civilians in war, we allowed them to explain their answers. In particular, we invited respondents who did not agree with the statement to elaborate on the conditions under which they would consider targeting civilians, before introducing any information about the law or a fictional news scenario. This included the 10% of people (see Figure 3) who were “Not Sure.” We found Americans’ moral views, when struggling over deciding whether such a norm is absolute or subject to bending in times of crisis, are far more nuanced than they may be able to express on a single closed-ended survey question that forces them to choose among terrible options.

When asked to explain their answers, those who “strongly agreed” with the prohibition on civilian targeting as an absolute rule cited the principle of “defenselessness” or “non-participation” undergirding humanitarian law, as well as more abstract normative principles such as civilian “innocence,” the “Golden Rule,” or

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66 This graph reflects survey-weighted answers of all groups (1-9) who received the ethical norm question (n=2250). For those who received the question after the survey question, “somewhat or strongly agree” averaged 77% (groups 1-6, n=1500), while those who were asked before the question averaged 85% (groups 7-9, n=750). We are exploring the effects of survey questions on norm agreement and law knowledge in ongoing work.
stating or stating it was “just wrong,” with only a very few mentioning that targeting civilians could also be counter-productive.67

What is most notable, however, is how many of these commenters balked at providing any explanation at all when asked to explain their answer, simply saying a variation of: “You just don’t do that” or “Because it’s wrong to kill civilians” or “Why would you even ask such a thing?” Several respondents wrote, “I shouldn’t have to explain why this is murder.” Many wrote variants of: “WTF?” when asked to consider this question.68 In our view, this “taken-for-grantedness” of the civilian immunity norm by many respondents indicates the strength and robustness of the norm in the minds of Americans.

While an open-ended question about civilian immunity might gauge the strength of the immunity norm, it might not be a good measure of the norm’s impact on public opinion in a given policy scenario. It is one thing to believe in the ethical validity of a norm; it is another for that norm to impact preferences when actors are highly motivated to violate a norm, as they would be when asked to trade foreign civilian lives against the lives of US troops.69 Indeed, this is a key rationale for Sagan and Valentino’s original experimental design.

Does the agreement that it is wrong to attack civilian populations affect the willingness to attack civilian populations in a scenario where there might be powerful incentives to do so? To measure this, we examined whether agreement with the norm in principle correlated to preferences for the strike. Since a substantial majority (61%) across all groups strongly agreed that it was wrong, we compared that majority with those who gave other answers. To minimize any priming effect, we measured approval only in the groups who were asked for their preference for a strike before asking whether they agreed with the ethical norm. We found that only 39% of those that strongly agreed it was wrong supported a strike in this scenario, versus 76% of those who did not strongly agree: see Figure 4.

67 This is based on coding treatment group 7, where the respondents received this question before they received any other questions.

68 Even the minority of respondents who somewhat or strongly disagree it is wrong to target civilians exhibit ambivalence to do so: of the two who “strongly disagreed” (a mere .09% of those who left a comment in this treatment group), one “explained” his/her answer by saying, “The population should not be involved.”

69 Shannon, “Norms Are What States Make of Them.”
We also found that even just *thinking* about the immunity norm prior to expressing a preference made a difference in expressed preferences. We observed a priming effect (H4) when simply *asking* respondents about the ethical norms underlying international law prior to asking them about the scenario. Compared to respondents who are asked cold about bombing Iran, those who are asked to signal their opinion about the ethics of civilian targeting in the abstract *first* – regardless of their answer to the question – are less likely to prefer the strike, as shown in Figure 5.

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Figure 4: Agreement with Ethical Norm Decreases Strike Support

70 This graph reflects survey-weighted answers of groups 1+2 (n=500) who received the ethical norm question *after* the scenario so as to avoid ethical priming effects on strike support. 56% in these groups strongly agreed with the ethical norm, as opposed to 61% across all groups (1–9, n=2250) who were asked the question. Surprisingly, 80% of those who only somewhat agreed with the ethical norm supported the strike, the same rate as those who somewhat disagreed.
Together, we think these findings lend credence to previous studies that show that Americans are indeed sensitive to the civilian immunity norm, and the majority are willing to insist that the US uphold these obligations even in foreign policy crises. That this effect holds up even in such a hard case as the dilemma presented by Sagan and Valentino confirms the stopping power of international law and norms.

FRAMING EFFECTS

If the immunity norm has a significant effect on public opinion, as we found, what might be offsetting that impact in Sagan and Valentino’s overall result (and in our replication)? In short, if a majority of Americans agree it is wrong to target civilians,

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71 Note that we are comparing ethical priming (treatment group 7, n=250) with our scenario with “civilians” in the title (treatment groups 1+2, n=500). If we instead compare ethical priming with our original replication (treatment group 6, n=250), p falls to 0.023.

why will a majority of Americans nonetheless appear to prefer to bomb a city full of civilians when asked this particular question in this particular way? If this does not indicate a weakness in the immunity norm, what is causing this effect? In particular, what explains the group of respondents who say they believe that bombing civilians is wrong but support it anyhow? Does this not mean precisely what Sagan and Valentino suggest, that in a moral conflict between promoting American interests and saving American soldiers' lives on the one hand and safeguarding foreign civilians, they will feel torn but ultimately side with the former, or even adopt a retributive attitude toward foreigners?

Our analysis suggests otherwise. To explore this question, we looked closely at a particular subset of respondents – those least likely to want to bomb the city, but who leaned toward the strike anyway – and examined the explanations they gave for their preferences on the Iran Scenario question to try to better understand what might sway such individuals to nonetheless express a preference for a war crime. This population of 104 open-ended comments consists of all respondents from each of two treatment groups where there was no priming in advance of the Iran question, who first chose either 4, 5, or 6 on the question about the Iran scenario and then chose “Strongly Agree” on the query about agreement with the ethical norm.

We want to emphasize that this group (the seemingly anomalous 39% in Figure 4) includes those who leaned at all toward the strike, whether weakly (4), moderately (5), or strongly (6). Of these, in the group we studied the explanations the 4s gave demonstrate that they do not actually prefer the strike. They, like the 3s, are ambivalent or confused. Nonetheless, a small number of respondents did indeed both acknowledge the immunity norm and lean toward strikes. From analyzing their explanations, we conclude that two factors unrelated to the strength or weakness of the immunity norm may be driving that result: embedded assumptions/analogies and the closed-ended nature of the survey.

Contested Causal Assumptions and Historical Analogies. The first thing we observed is that some respondents appeared to discount the horror of saturation bombing in their answers, indicating that they did not intend to support civilian targeting as such and that they expected civilians would have the chance to flee. For example, one wrote: “If our military is not gaining ground quickly, then yes, air strikes will need to happen. I know most citizens of that country are told before air strikes. So those people can move away from the area.” Indeed, quite a number of respondents in this group appear to be voting less in favor of targeting civilians and more against continuing what was portrayed in the mock news article as a costly and ineffective ground war.

We see this as a reaction to two highly contested assumptions built into both the mock news story and the structure of the question – that a saturation bombing strike against a city of civilians would definitely end the war, and that the only other option
was to continue a ground war. Respondents were told in the headline of the mock news story that the airstrike was being considered “to end [the] war” and the phrasing of the question asked them to choose between “Launch Strike” and “Continue Ground War” as if these were two discrete and mutually exclusive options. Comments indicate respondents interpreted the strike on the city as a guaranteed means to end the war and bring home the troops, so respondents who preferred not to continue the war may have leaned toward the “strike city” end of the scale despite their antipathy to targeting civilians, because there were simply no other good options given. For example, some comments read:

I would wish this war never started, but to end the loss of lives, warning needs to be given to move Iranian people to safe places with short notice and then begin the strikes to stop the bloodshed and the armaments. It needs to stop.

I would not want to go to war in the first place but if we had and if airstrikes would ultimately save life’s and end the war quicker then I guess that would be best!

Weighing the risks, Iran would be much more likely to surrender after an air strike, whereas a ground war would only continue to rack up both American and Iranian casualties.

Why continue with a ground war when an airstrike would possibly end the war? I would give the civilians of a particular city 24 hours to evacuate before I bomb it.

These respondents – like many others in this sub-group and elsewhere in our larger dataset - appeared to subscribe to a kind of “dirty hands” ethics: the belief that in certain situations a terrible crime might be justified to achieve an equally important goal – in this case not simply protecting American lives but ending a war which might, they thought, otherwise kill more people on both sides. Even so, they often combined their willingness to target the city with a desire to minimize civilian deaths. When we systematically coded responses, in total more respondents in this group (21%) exhibited an “End the War” mentality than either an “Anything to Win” mentality (14%) or a “Bomb Them All” mentality (4%). Thus we observed that for this group, a “retributive justice” attitude mattered less than a willingness to accept at face value the erroneous claim embedded in the mock news story that the strike against a civilian city would end the war – a war which they believed would put not only US troops but also foreign civilians at ongoing risk.

Note that this entire line of ethical thinking hinges on respondents’ acceptance not of a moral principle but of an erroneous causal claim: that a single saturation strike
would end the war. Leaving aside the fact that there is no case in history of a saturation strike against civilians having that effect, what matters is the respondents accepted the stated assumption in the fictional story that it would have such an effect. It is difficult to imagine the same individuals agreeing to strike the city if they correctly understood the war would likely continue even so – as wars do, when civilians are bombed from the air.

We thus think a second factor contributed to respondents’ willingness to both set aside their strong moral aversion to killing civilians as such and suspend their disbelief that a strike could end the war: the Hiroshima analogy embedded in the structure of the story itself. Although historians dispute whether the nuclear bombings actually ended the war, and although there is no evidence that firebombing was effective at forcing German or Japanese surrender (which would be the appropriate analogy in the conventional bombing version of the question), various open-ended comments in this sub-group indicated they believed it was strategic bombing of civilians that ended World War II as a justification for their answer:

We had the same decisions to make in WWII. They are horrifying but necessary.

This fictional situation obviously mirrors the dilemma of how to end the Second World War, with attacks on Japanese populations through both firebombing and the atomic bomb. It showcases the difficulty in trying to make moral judgements in a time of war. There is the possibility of viewing attacks on civilians as a moral action, in that they could tend to end a war more quickly, and thus reduce overall casualties, despite the immediate ugliness of the action.

Just as with the dropping of nuclear bombs on Japan in 1945 based on projected American casualty figures. The bombing of targets that will force the enemy to end hostilities is preferable.

Consistent with this “historical analogy” hypothesis, of those respondents who both strongly agreed with the immunity norm but also strongly preferred to strike the city in the Iran scenario, several indeed invoked World War II analogies in their explanations, indicating both a belief in the immunity norm and a belief that since an attack would “end the war” it would be the lesser of two evils:

This is the same problem that the US had when they dropped the nuclear bomb on Japan and the war was over.

This is a similar situation that we found ourselves in WWII against Japan... The USA made the correct decision in WWII which is what we should do in this
situation.

If this is true, Sagan and Valentino’s study (and our replication) may show less an indifference to the immunity norm than a sensitivity among the US public to the power of historical analogies (even misleading ones) in public opinion polls, and a willingness to accept embedded causal assumptions given to them by an authority figure such as a pollster (such as the idea that saturation bombing can end wars), for the purpose of answering a hypothetical question. However, we doubt such findings would be externally valid in a real-world version of this scenario for reasons we will elaborate in the conclusion.

The Tyranny of Closed-Ended Questions. We also think a framing effect was created through the either/or structure of the survey question in both Sagan and Valentino’s original survey and portions of our replication. Because many if not most respondents exhibited mixed feelings, and therefore distributed somewhat at random into categories 3-4, collapsing the categories 4-6 into a single code for “prefer strike” greatly over-determined the result. This was not lost on respondents: several who selected “4” on the survey explained their answers this way:

I picked the middle button because I really don’t know. I hate to think American soldiers are dying in the ground war, but it is also not right to kill a bunch of civilians.

The question posed was a false dichotomy. My preference would be to withdraw as the nuclear and other military targets had already been removed. There is nothing more to gain.

I don’t think this is an either/or situation. With the ability to pinpoint munitions, a concerted effort to destroy Iran’s infrastructure should be the next military objective. A propaganda campaign should also be launched to persuade the general population to denounce their leaders’ actions.

I answered "4" because this article is not realistic. The scenario described doesn’t reflect US military strategy and capabilities.

Well firstly, I wasn't given a whole lot of choice, as I would have chosen the option "don't know."

Holding other framing effects constant, we wondered how much strike support would shift if respondents were permitted to consider the same scenario without being boxed into expressing an either/or preference. To examine how much of the explanatory
work is being done by this type of framing effect, we adopted Sagan and Valentino’s fictional scenario but changed the structure of the question (H5). We allowed one group of respondents to read the same fictional news story as the rest, but instead of asking them the same closed-ended answer forcing them to choose between only two options, we instead asked them to think in an open-ended manner about what they would do in this scenario if they were the Commander in Chief. These respondents still understood that the assumption in the scenario was that the attack would end the war – the title of the vignette was “President Considering Major Air Attack on Iranian City to End War” – so they were still being asked to choose between two different options. What was different was that they were not required by the structure of the question prompt to choose between those two options, or to uncritically accept the assumptions in the article that these were in fact the only two options.

A group of 235 respondents answered this question. To arrive at a result we could compare to our closed-ended answers, we conducted a rigorous qualitative analysis of all their open-ended answers aimed specifically at determining which respondents “chose” either of the two options, versus how many thought outside the box. Of these, we found a remarkable drop (relative to the “choose between two undesirable outcomes” closed-ended version of the question) in the proportion who would support saturation bombing civilians. Whereas 57% of Americans in our study leaned toward striking the city when forced to choose between two options, this percentage dropped to 34% on the open-ended answers. But neither did most Americans choose instead to continue a costly ground war – only 51% of respondents were satisfied with either of these two options, and instead nearly half suggested a range of alternative options or critiqued the question: see Figure 6. As with the comments from the fence-sitters in the closed-ended version of the question, many of the most popular suggestions were: negotiate a conditional surrender, use air campaign but only against military targets, withdraw to end the war, or seek the help of allies to negotiate a peace.

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73 With a student coder, one of the researchers conducted a grounded theory analysis of all the comments to develop a code list with code definitions. These were applied independently by both the PI and the coder to all the comments. The average inter-rater reliability across this set of codes between the two coders was just over 90%. We used a consensus coding process to adjudicate all mis-matched codes to arrive at a final frequency distribution.

74 Notably, this is based on a very liberal code definition for “Strike City.” We included not only comments where the respondent literally said to strike the city but also all those in which they leaned against the ground war but did not suggest an alternative option.

75 It must be noted that a few of the suggested “alternative options” would also violate humanitarian law, such as creating a blockade to “starve them out” or using cyber warfare to “bring life in Iran to a halt.”
A significant number argued specifically against saturation bombing of civilians. For example:

I would call the Joint Chiefs together and tell them what has been presented is unacceptable in terms of lives lost on the parts of both the United States and Iran, and that other options need to be developed... including the possibility of ending the conflict using diplomatic means.

I would not authorize air strikes against civilians. The nuclear capability and air response has been negated. It would be an unnecessary slaughter of civilians, Iranian military persons and American lives for no purpose other than being a vengeful bully. Diplomatic efforts would be required.

If I'm stuck with the facts above, I would reject the part of the "shock strategy" that targets Mashhad and kills 200,000+ civilians. That kind of strategy only would rally the Iranian people and harden opposition. Clear goals need to be set at the outset... The goal of replacing the government is unrealistic folly--with whom? There’s also a huge risk of Russia entering into the conflict and it widening to include Israel--a wider regional war with greater risk of use of tactical nuclear weapons. Seek a truce; freeze in place. ‘Statements’ about unconditional surrender can always be walked back from. Dead troops and civilians can’t be brought back to life.

Our open-ended data from this group also offers a more hopeful picture than Sagan and Valentino about the rationales Americans gave for their stated preferences. As in the earlier analysis, we specifically looked for a pattern in our open-ended answers that Sagan and Valentino flagged in theirs – an atrocity-minded attitude toward foreign civilians among those who saw them as guilty and worthy of retribution. We called

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76 Tag cloud generated in WorditOut. Tag cloud represents the frequency of different answers in the qualitative data and is color coded in purple to reflect how many of the qualitative answers fell into neither of the two dichotomous categories in the vignette and/or critiqued the vignette/question itself. Red refers to “strike” and blue refers to “restraint.”
77 See also Rathbun and Stein, “Greater Goods.”
this code “Bomb Them All” and did indeed find a few examples of this – but only among 6% of respondents.

By contrast, we also looked for answers that explicitly invoked the civilian immunity norm, a code we called “Don’t Target Civilians.” Three times as many respondents indicated support for an absolute prohibition on targeting civilians relative to those who exhibited a “Bomb Them All” mentality. While we do not at all doubt that some of those who argue for targeting civilians would justify themselves using such rhetoric, we do not find such respondents representative of the wide swath of American public opinion.

Finally, a number of respondents critiqued the vignette itself:

This scenario is utterly unrealistic… Please.

Wonder why I was given news about an imaginary war. Therefore, the question makes no sense.

Where did this article come from and what is the reliability of it? I would want more credible facts/information regarding this article before I would make an important decision of killing civilians...

The either/or question posed by Sagan and Valentino to their respondents, like most closed-ended surveys, cannot accurately measure the nuance and complexity of American public opinion. Moreover, this particular dilemma as expressed, and especially combined with an either/or prompt, obscured the general antipathy of Americans to using saturation bombing to solve foreign policy problems. For these reasons, as we discuss further below, we suspect that their initial finding is a very limited guide to how Americans might react to such a situation should it occur in the real world.

Discussion

Our findings suggest the decline of American support for the civilian immunity norm has been somewhat exaggerated. Yet when it comes to the norm’s impact on political attitudes, Sagan and Valentino’s finding and ours jointly suggest it matters greatly whether and how those norms and laws are disseminated to and activated among the wider public. Because international norms are contextual and contingent, they have a stronger effect when invoked as a form of communicative action.78 A political debate –

or a fictional survey experiment – in which the laws and norms are never mentioned as a relevant consideration is likely to blunt their impact, thus increasing measured support for illegal and/or unethical acts.

Based on our analysis, we suspect that Sagan and Valentino’s original quantitative result was driven less by overall American indifference to the laws of war than by the way that the design of the experiment primed respondents to disregard moral and legal taboos by focusing in detail on tactical cost/benefit ratios expressed through contested causal assumptions and emotionally-charged historical analogies.79

Simply put, the presence of “tactical” primes (US soldiers’ lives were at stake, the war would end if civilians were killed, and other options were unavailable, just like Hiroshima) coupled with the absence of “normative” information (e.g. the US has signed treaties prohibiting the targeting of civilians even under these circumstances) may have biased the original experiment in favor of a logic of consequences rather than a logic of appropriateness.80

Ironically, Sagan and Valentino specifically chose not to integrate any mention of US legal obligations into the experiment in order to avoid bias:

We have been careful in these experiments not to ‘prime’ the respondents in ways that might bias the results. For example, in our stories, we did not mention the possible environmental effects of nuclear weapons. We described the victims as ‘civilians’ rather than ‘innocent women and children.’ We mentioned only ‘immediate deaths and long-term fatalities’ from the nuclear attack, and did not describe the gruesome details of fatal burns or radiation sickness. We did not raise the possibility that an attack targeted against a city as a ‘shock strategy’ would violate both the laws of armed conflict and U.S. nuclear weapons employment guidance, and thus would also likely be opposed by many senior U.S. military leaders.81

Choosing to refer to civilians accurately as civilians rather than inaccurately as “women and children” is certainly a careful, sound choice. However, the existence of a rule against targeting civilians is not only a “possibility,” it is a relevant fact based in customary treaty law and US military doctrine.82 This produces a priming by omission since the facts that matter in preference formation are likely to be the ones respondents are presented with: the literature on public opinion research shows that respondents are

79 Indeed we suspect this may be a feature of much other experimental work on the laws of war, which may be discounting the likely impacts of international laws and norms by design.
81 Sagan and Valentino, “Revisiting Hiroshima in Iran,” 76.
82 Kahl, “In the Crossfire or the Crosshairs?”; Crawford, Accountability for Killing; Cronin, Bugsplat.
most likely to draw on material that is in their minds just prior to being asked a question.\(^{83}\)

We also know from the literature on norms that they are salient precisely when they are brought to mind in the context of a policy decision. Furthermore, the literatures on norm revisionism and norm decline suggest a strategy for \textit{minimizing} the strength of a norm is to evacuate it from political discussion.\(^{84}\) It is possible that respondents may have believed they were specifically being asked to disregard moral or legal considerations by the way in which the question was asked. There is some support for this hypothesis in Sagan and Valentino’s open-ended comments on their own survey. One had written:

> Prefer this option I did not. I marked it in the middle only because I was given no option "Neither". If you ask what option I would propose - it would be Bomb the Palace in Teheran, not in some other city! Bomb the infrastructure to disrupt the supply lines to the Iranian troops on the front lines. Thus, the casualties (on both sides) would be minimized (at least to some extent), and efficiency of the US actions would be increased.

Regardless, what no doubt weighed heavily on all respondents’ minds were the tactical primes: information about casualties, war aims, and war prospects. Sagan and Valentino explain their emphasis on tactical primes by arguing for the need to recreate the Hiroshima dilemma faced by policymakers at the end of World War II. Their reasoning is that scenarios featuring a Hiroshima-like trade-off are “among the most realistic and serious conditions in which a president and the public would be forced to contemplate the use of nuclear weapons in the future.”\(^{85}\) Much to their credit, they adopted troop casualty numbers that reflect some of the best estimates of the number of deaths that would have occurred in a ground invasion of Japan rather than the “half a million lives saved” myth.\(^{86}\) Consequently, the vignette and question do lead to the


\(^{85}\) Sagan and Valentino, “Revisiting Hiroshima in Iran,” 45.

same kind of rationale that U.S. policymakers made when electing to attack a city in World War II rather than, for example, conducting a demonstration strike.

However, something crucial to the validity of the experiment has changed since Hiroshima: the normative context. The saturation and nuclear bombings of cities during World War II led to the rise of powerful and widely held normative prohibitions against strategic bombing of civilians.87 As one of our survey respondents put it in an open-ended comment:

Iran is not Japan – there are codified international laws that must be abided by if we’re to continue to call ourselves a nation governed by the rule of law. Purposefully targeting civilians for a strike of any scale, let alone this large, would be an egregious violation of the Geneva Convention. Dresden, Hiroshima, Nagasaki... these should be viewed as lessons on what not to do, not blueprints to reuse.

Indeed, the civilian immunity norm, once a loose set of ethical rules, has been codified into treaty law and is so widely incorporated into military manuals that it is now considered a part of customary international law.88 This incorporation makes it questionable that the Joint Chiefs of Staff (JCS) would even offer saturation bombing as an option in the first place.89 The imprimatur of the JCS may be an additional factor in encouraging the strike. Professionals have given saturation bombing legitimacy in this case by even offering it as an option, and the absence of JCS commentary on the legality of the nuclear strikes carries a strong suggestion that the saturation bombing is permissible.

Opprobrium against nuclear weapons has reached the point that a multi-lateral treaty has been negotiated – if not yet entered into force – banning their use entirely.90 While scholars may and do disagree on whether these norms would likely constrain the use of force in certain scenarios, what is certain from our analysis and many others’ is


89 Kahl, “In the Crossfire or the Crosshairs?”

that American political and military elites and ordinary citizens have internalized these norms.

Consequently, any public debate on bombing civilians today, whether with conventional or nuclear weapons, would certainly include invocations of those laws and norms by an array of actors including some political elites, many NGOs, and a number of important international organizations. It is thus unclear whether a mock scenario that includes tactical information but not legal or normative information accurately captures the situation the US public would face in a potential Hiroshima-like scenario in today’s world.

A number of recent studies in international law and public opinion emphasize how such framing effects of surveys can either capture or dampen measured American sensitivity to international norms, predisposing respondents toward policy positions they might in fact abhor. For example, Alexandria Nylen and Charli Carpenter have conducted a systematic discursive analysis of nearly 200 national security poll questions, determining that the structure of the questions in many cases predisposes respondents to disregard international law and ethics in favor of tactical concerns or misinforms respondents about the nature of US treaty obligations.91

Sarah Kreps’ important study in 2014 examined poll questions whose findings shows widespread US support for drone attacks and determined that they typically “presented as uncontroversial two main assumptions about the US drone policy… first, that the policy adheres to IHL and second, that it has legal authorization.”92 By conducting a survey experiment where some groups were treated with more or less accurate information about US legal obligations, Kreps found public support for drone strikes to in fact be much more heavily contingent on perceived adherence to the immunity norm that suggested by mainstream polls.

In light of these findings, what we think Sagan and Valentino have demonstrated is not the weakness of the immunity norm or the nuclear taboo, but rather the ability, by framing a dilemma in purely utilitarian terms and invoking historical analogies, to increase public support for attacking civilians despite the stopping power of international norms.93 We are less convinced by the inference that Americans are generally insensitive to international rules and norms on civilian immunity – though that sensitivity does vary and also seems related in part to whether or not international law is invoked in the context of a political discussion.

If anything, we think our measures of international law sensitivity are conservative, because we asked respondents only to think about the norms themselves,

91 See Nylen and Carpenter, “Questions of Life and Death.”
93 Kinder and Sanders, “Mimicking Political Debate with Survey Questions”; Lewis, Constructing Public Opinion.
in isolation from any social context other than the survey experiment; in real life, they would be subject to many social pressures. A treatment on the fictional narrative might have included information on what political elites, generals, human rights groups, or other American citizens were saying, creating intersubjective as well as subjective context to mirror what Americans might feel in the real world. Future studies might take this up.

We think our experiment confirms a second policy-relevant argument about how international norms work: that the stopping power of ethical and legal norms is enacted through a dynamic of communicative action in which actors make choices about how and whether to invoke norms. In conversational settings where considerations at play carefully exclude the role of law and ethics, their impact will be weaker than in settings where participants are provided information or primed to consider them. Predictions we can make about public support for saturation or nuclear bombing in a future war scenario hinge greatly, therefore, on the extent to which norms, laws, and ethics would be invoked in any such political conversation in that eventuality.

Conclusion

If we are right, one conclusion of our study when combined with Sagan and Valentino’s is that what will matter in preventing the use of saturation bombing or nuclear weapons against Iran or North Korea will not be the nascent goodwill of the American people, but the ability of international law-minded actors to influence the parameters of political debate should the question arise. Indeed, Beth Simmons’ work demonstrates that a key value added of international treaty law is precisely the way that it empowers domestic publics and activist elites to weigh in on political debates. Recent survey experiments by Kreps and Wallace suggest that Americans are highly likely to trust sources such as human rights organizations and modify their opinions based on their recommendations.

An additional consideration raised by the combination of our studies is the power of survey experiments themselves to shape public opinion. Some literature

94 See Kreps and Wallace, “International Law, Military Effectiveness, and Public Support for Drone Strikes.”
95 Risse, “Let’s Argue!”
shows that public opinion pollsters regularly field surveys designed to predispose public debate toward the narratives of political elites rather than international law-minded actors.\textsuperscript{99} Thus we take seriously Sagan and Valentino’s question about whether US public opinion would be a constraint against or rather a goad to encouraging a president to use nuclear weapons in international crises. The answer is that it depends on how that public opinion is measured.

That said, we wish to end by raising an important “so what?” question begged by all these studies on public attitudes toward the laws of war. It is important to note that nothing in the laws of war states that adherence or obligation to treaties is or should be dependent on the whim of the national public. Rather, the laws of war bind national-level policy-makers and weapons-bearers. It is not anticipated by most war law advocates that the general public is informed or cognizant of the nuanced distinctions in international ethical rules. Rather, it is very much anticipated that the public is fickle and security-minded in time of war. Therefore, this and other studies on American attitudes toward the means and methods of combat must be taken in context.

Several factors beyond our own survey result give us cause for optimism. Senior members of the military pushed back when Republican presidential candidates spoke of carpet-bombing Iraqi civilians.\textsuperscript{100} A new global humanitarian disarmament treaty has been negotiated by middle-power states and global civil society organizations banning any use of nuclear weapons, potentially increasing a stigmatizing effect.\textsuperscript{101} And the robust civil society response to U.S. violations of the laws of war mitigated and rolled back those violations after the Bush Presidency.\textsuperscript{102}

What studies do consistently show is that the U.S. public is generally in favor of the United States following its international legal obligations – whatever those may be. It is therefore important to take efforts to minimize public fickleness or confusion at the meaning of the law, holding national leaders and military personnel to their legal obligations under international treaties designed to protect both enemy and American civilians from the scourge of war and bolstering the stopping power of norms.


\textsuperscript{101} Gibbons, “The Humanitarian Turn in Nuclear Disarmament and the Treaty on the Prohibition of Nuclear Weapons.”