

Drone Strike—Analyzing Public Perceptions of Legitimacy

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ABSTRACT

Mitt Regan evaluates the scholarship on the effectiveness of the U.S. drone program since the terrorist attacks of 9/11. In doing so, he raises an important question about the implications of public opinion for the sustainability of U.S. counterterrorism strikes and similar operations conducted by other countries. Whereas most researchers understand public attitudes in terms of support and approval, Regan's analysis suggests that perceptions of legitimacy are equally, if not more important for countries' drone policies. The purpose of this article is to address how Regan's book informs our understanding of the public's perceptions of legitimate drone strikes. While scholars, policy-makers, and practitioners often reference legitimacy, they rarely, if ever, empirically evaluate this outcome. After outlining the literature for public opinion and drone warfare, I relate Regan's analysis to our understanding of the public's perceptions of legitimate strikes. I then incorporate Regan's insights into an emerging research agenda that defines drone warfare based on countries' use and constraint of strikes to prevent unintended consequences, namely civilian casualties. Unlike qualitative studies that are difficult to falsify, replicate, and generalize, this approach allows researchers to analyze empirically derived data using statistical methods to determine the public's subjective beliefs on appropriate strikes.

INTRODUCTION

In his recent book, *Drone Strike—Analyzing the Impacts of Targeted Killing*, Mitt Regan evaluates the body of scholarship on the effectiveness of the U.S. drone program, which emerged in modern form following the terrorist attacks of 9/11.¹ In 2002, U.S. President George W. Bush authorized the first-known use of an armed and networked drone, the General Atomics MQ-1 Predator, to kill Ali al-Harthi in Yemen given his role in al Qaeda's bombing of the USS Cole several years earlier. Despite varying degrees of transparency, the U.S. drone program has enjoyed bipartisan support across successive—Republican and Democrat—presidential administrations for over two decades.

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1. MITT REGAN, *DRONE STRIKE: ANALYZING THE IMPACTS OF TARGETED KILLING* (2022).

Notwithstanding Americans' consistent endorsement of U.S. counterterrorism strikes, scholars continue to debate their merits.² There is broad consensus that strikes are tactically effective, enabling political and military officials to surgically remove terrorists while protecting their own forces.³ The implications of strikes for U.S. counterterrorism policy and strategy are less clear, however. According to Regan's analysis, the quantitative research shows that the strategic effectiveness of strikes is conditional on several factors that can moderate terrorist organizations' durability over time, including their maturity, religiosity, and response to drone strikes, the latter of which seems especially important for the resiliency of younger and smaller extremist groups.⁴

While Regan's principal aim is to benchmark the literature for the strategic effectiveness of the U.S. drone program against al Qaeda, his book also raises questions about the implications of public opinion for the sustainability of U.S. drone strikes abroad.⁵ Writing in 1922, Lippmann defined public opinion as "pictures" people have in their heads regarding current events that they act on when engaging political officials.⁶ Most contemporary researchers understand public opinion in terms of support or approval, reflecting a shared assumption that these attitudes characterize how people engage political officials' decision-making for drone strikes abroad. Rather, Regan's analysis suggests that the public's perceptions of legitimacy could be equally, if not more important for the sustainability of U.S. drone strikes over time and space.⁷

The purpose of this article is to address how Regan's analysis informs our understanding of the public's perceptions of legitimate drone strikes that scholars, policy-makers, and practitioners often reference but rarely, if ever, evaluate empirically. The remainder of this article unfolds in three parts. First, I outline the existing literature for public opinion and drone warfare, which I differentiate across two phases of research. Next, I relate Regan's analysis to how we understand the public's perceptions of legitimate strikes. Finally, I incorporate Regan's insights into an emerging research agenda that defines drone warfare based on countries' shifting use and constraint of strikes to prevent unintended consequences, namely civilian casualties. This suggests that while the public may construe tactically effective strikes as legitimate, perceptions of rightful wartime conduct are actually a function of why and how countries use drones to achieve military and political objectives. Contrary to the findings of other qualitative studies that are difficult to falsify, replicate, and generalize, this approach allows researchers

2. MICHAEL J. BOYLE, *THE DRONE AGE: HOW DRONE TECHNOLOGY WILL CHANGE WAR AND PEACE* (2020).

3. Paul Lushenko, *The Moral Legitimacy of Drone Strikes: How the Public Forms Its Judgments*, 6 TEX. NAT'L SEC. REV. 1, 11-34 (2022/2023).

4. REGAN, *supra* note 1, at 88.

5. REGAN, *supra* note 1, at 332-40.

6. WALTER LIPPMANN, *PUBLIC OPINION* (1922).

7. Paul Lushenko, Shyam Raman & Sarah Kreps, *Multilateralism and Public Support for Drone Strikes*, 9 RSCH. & POL. 2, 1-9 (2022).

to analyze empirically derived data using statistical methods to determine the public's subjective beliefs in the appropriateness of strikes.

I. PUBLIC OPINION AND DRONE WARFARE

What are the implications of public opinion for countries' use of drones? Scholars have studied this question since the emergence of armed and networked drones following 9/11.⁸ Yet, there is little consensus regarding the impact of public attitudes on countries' drone policies.⁹ Though Regan does not aim to engage this debate in great detail, his book still helps inform the contours of the evolving research agenda. This is especially the case for chapter eleven, "Effects on Local Populations," which assesses the implications of U.S. drone strikes on citizens and their communities within targeted countries.¹⁰ Drones are appealing to political officials because they promise to surgically remove targets while protecting soldiers from battlefield harms and minimizing civilian casualties. At the same time, however, drones can impose social and economic costs on targeted communities that are not understood as well by scholars, policy-makers, and practitioners.¹¹ Regan's analysis, coupled with the existing literature, suggests that the inconclusive findings of public opinion researchers are a function of several factors.

First, most scholars poll the attitudes of U.S. citizens in their survey experiment research limiting the external validity of the results or how well they explain the attitudes of other people in different countries. Indeed, U.S. counterterrorism strikes no longer characterize the preponderance of drone operations globally, with Lin-Greenberg suggesting "states increasingly use drones as currency for interstate cooperation."¹² Second, scholars emphasize countervailing "bottom-up" and "top-down" directionalities of public opinion, which emphasize the rationality of citizens and manipulation of elected officials to shape the use of force abroad.¹³ Third, few scholars elucidate and explore the underlying values and beliefs—or microfoundations—of public attitudes.¹⁴ To be sure, public opinion researchers adopt similar dependent variables and methods to gauge public attitudes for drones, consisting of perceptions of approval or support as well as survey experiments. Regan notes that randomized controlled trials among

8. Sarah Kreps, *Flying Under the Radar: A Study of Public Attitudes Towards Unmanned Aerial Vehicles*, 1 RSCH. & POL. 1, 1-7 (2014).

9. Sarah Kreps & Geoffrey PR Wallace, *International Law, Military Effectiveness, and Public Support for Drone Warfare*, 53 J. OF PEACE RSCH. 830, 830-44 (2016).

10. REGAN, *supra* note 1, at 323-55.

11. See James Michael Page & John Williams, *Drones, Afghanistan, and Beyond: Towards Analysis and Assessment in Context*, 7 EUR. J. INT'L SEC. 283 (2022).

12. Erik Lin-Greenberg, *The Dawn of Drone Diplomacy*, FOREIGN AFF. (Dec. 20, 2022), <https://perma.cc/3K5Z-H9QM>.

13. BENJAMIN I. PAGE & ROBERT Y. SHAPIRO, *THE RATIONAL PUBLIC: FIFTY YEARS OF TRENDS IN AMERICANS' POLICY PREFERENCES* (1992); see also JOHN ZALLER, *THE NATURE AND ORIGINS OF MASS OPINION* (1992).

14. Joshua D. Kertzer, *Microfoundations in International Relations*, 34 CONFLICT MGMT. & PEACE SCI. 81, 81-97 (2017).

representative samples of a test population minimize bias that can distort the findings of other observational and statistical studies, notwithstanding persistent concerns for the treatment effects over time.¹⁵ Shifts in the unit of analysis, the directionality of public opinion, and a focus on microfoundations frame two phases of research that have resulted in uneven findings for public opinion and drone warfare since 9/11, which I explore below.

A. *Phase One of Public Opinion Research*

The first phase is framed by the exclusive study of Americans' attitudes, a bottom-up interpretation of public opinion, and inattention to the microfoundations that may underlie U.S. attitudes. Even given the expanding proliferation of drones globally, the United States remains the most studied user of strikes.¹⁶ Capitalizing on their ease of access to U.S. citizens, scholars study Americans as a convenient litmus test for global public opinion, which reflects scholars' assumption for how U.S. citizens constitute a barometer for the international arms trade.¹⁷ At the same time, the data for U.S. strikes is better curated than the data for other countries' use of drones. Watchdog groups such as New America are designed to aggregate the number, frequency, and outcomes of U.S. drone strikes to hold political officials accountable to International Humanitarian Law (IHL), namely the obligation to prevent civilian casualties.¹⁸ Pairing existing databases with Americans' intuitions may provide interesting results. Yet, it imposes a tradeoff for the external validity of the results, especially in comparative or cross-national contexts.

Scholars also share an assumption that public opinion can shape political officials' preferences for drones though they never actually prove this point. Kreps, for instance, finds that while Americans generally support drone strikes abroad, their perceived compliance with international law can moderate the magnitude of effect, implying that U.S. citizens more or less support strikes based on the degree to which they are perceived to be legal.¹⁹ This is consistent with a body of related research.²⁰ While these studies benchmark how scholars think about at least U.S. attitudes toward drone strikes, they share a common theme in that none of the

15. REGAN, *supra* note 1, at 22.

16. Michael Richardson, *How to Witness a Drone Strike*, 3 DIGITAL WAR 38, 41 (2022). Richardson, for instance, states "I focus here on the US because it continues to be the principal practitioner of interstate drone warfare, although Israel's sustained use of drones in Gaza, Russia's deployment of unmanned systems in Ukraine, and the growing drone power of Turkey, Azerbaijan, China, India, and others remain important loci in the transformation of war in the age of increasingly intelligent machines." *Id.*

17. JENNIFER L. ERICKSON, DANGEROUS TRADE: ARMS EXPORTS, HUMAN RIGHTS, AND INTERNATIONAL REPUTATION (2015).

18. DANIEL R. BRUNSTETTER, JUST AND UNJUST USES OF LIMITED FORCE: A MORAL ARGUMENT WITH CONTEMPORARY ILLUSTRATIONS (2021).

19. Kreps, *supra* note 8.

20. See Jacquelyn Schneider & Julia Macdonald, *U.S. Public Support for Drone Strikes: When Do Americans Prefer Unmanned Over Manned Platforms?*, CTR. FOR NEW AM. SEC. (Sept. 20, 2016), <https://perma.cc/7E2K-92NU>; Michael C. Horowitz, *Public Opinion and the Politics of the Killer Robots Debate*, 3 RSCH. & POL. 1, 1-8 (2018).

studies addresses how or to what extent the public can influence political officials' use of strikes. Further, the tendency for scholars to privilege a bottom-up explanation for public opinion and drone warfare is surprising because experts also caution that drones allow political officials to evade democratic accountability through public debate, which helps explain their fundamental appeal.²¹

Finally, most studies do not explore the microfoundations of Americans' preferences for drones. This may reflect a shared belief among scholars that public attitudes belie deeper convictions. Ceccoli and Bing argue that "ideology and core policy beliefs shape respondent sentiment toward drone strikes in clear and convincing ways."²² Yet, scholars do not theorize about nor test the underlying mechanisms that may shape public attitudes for drones, which can relate to cognitive or affective processes. For instance, Kreps and Wallace survey Americans and find that public opinion for drone strikes seems to relate more to normative (for example, moral and legal) concerns rather than simply instrumental (such as security) interests.²³ At the same time, they encourage more empirical research to identify the exact mechanisms that can shape U.S. attitudes toward drone strikes.²⁴

B. Phase Two of Public Opinion Research

Building on this research, the second phase studies public opinion cross-nationally, attempts to reconcile bottom-up and top-down interpretations, and explicitly explores microfoundations. First, the ongoing proliferation of drones has encouraged scholars to expand their unit of analysis to include foreign audiences among targeting countries, especially across Europe. Whereas a majority of Americans consistently express support for U.S. strikes abroad, public opinion is mixed in Europe.²⁵ While Ceccoli and Bing show that the reasons for this result are complicated, they also find that a consistent preference for security ties with the United States can significantly moderate European citizens' approval for drones.²⁶

Second, scholars attempt to reconcile bottom-up and top-down perceptions for public opinion by reconceptualizing drone warfare as a leader-driven practice. Indeed, strikes are not authorized by countries, but by leaders. Stein, for instance, argues that countries "cannot think, process information, estimate probabilities, or calculate, only their leaders can."²⁷ This suggests public opinion may be

21. Jack Goldsmith & Matthew Waxman, *The Legal Legacy of Light-Footprint Warfare*, 39 WASH. Q. 7, 7-21 (2016).

22. Stephen Ceccoli & John Bing, *Taking the Lead? Transatlantic Attitudes Toward Lethal Drone Strikes*, 16 J. OF TRANSATLANTIC STUD. 247, 249 (2018).

23. Kreps & Wallace, *supra* note 9.

24. Kreps & Wallace, *supra* note 9.

25. C.T. Davis, *Morality as Causality: Explaining Public Opinion on US Government Drone Strikes*, (May 2019) (Ph.D. dissertation, Arizona State University) (on file with the Arizona State University Library).

26. Ceccoli & Bing, *supra* note 22.

27. Janice Gross Stein, *The Micro-foundations of International Relations Theory: Psychology and Behavioral Economics*, 71 I. INT'L ORG. S1, S249-63 (2017).

endogenous to political officials' use of drones. In other words, political officials, especially U.S. presidents, both constitute and are constituted by public opinion. In my research, I find that U.S. presidents use "cognitive frames"—worldviews—to inform their understanding of drones and shape their decisions to use strikes. Importantly, these cognitive frames can influence and reflect public opinion, including the public's perceptions of legitimacy.²⁸

Finally, scholars increasingly use causal mediation analysis to determine how microfoundations may shape public approval or support for drones. This statistical method allows researchers to determine the proportion of approval or support attributed to certain microfoundations, including political ideology and morality.²⁹ Kerstin Fisk, Jennifer Molla, and Jennifer Ramos study the implications of public anger and fear toward strikes in a cross-national—France, Turkey, and United States—context. They find statistically significant evidence for the shaping effect of anger but a null effect for fear.³⁰ Adopting this same approach, Lushenko and Kreps show that while Americans mostly emphasize international law when assessing the legitimacy of a strike, French citizens' perceptions of legitimacy are explained by several core beliefs. These include preferences for the use of force abroad, the morality of a strike in terms of little collateral damage, and the perceived merit of an operation based on international approval through the United Nations (UN).³¹

II. PUBLIC PERCEPTIONS OF LEGITIMACY

While these two phases of research benchmark our understanding of public opinion and drone warfare, they are riddled with oversights that Regan's book illuminates. Chief among these is scholars' reticence to treat the public's perceptions of legitimacy, defined as subjective beliefs in the appropriateness of countries' wartime conduct, as a dependent variable in quantitative research. Lewis and Vavrichek caution that there has been an "inadequate consideration of *legitimacy*" in drone policy and scholarship.³² Admittedly, legitimacy is a contestable concept. It is also difficult to measure and test. This is especially the case when adopting an empirical definition of legitimacy rather than one that relates legitimacy to compliance with IHL. Critics also caution that an empirical or pragmatic definition of legitimacy borders on tautology.³³ A drone strike, in other words, is

28. Paul Lushenko, *U.S. Presidents' Use of Drone Warfare*, 38 DEF. & SEC. ANALYSIS 31, 31-52 (2022).

29. Kosuke Imai, Luke Keele, Dustin Tingley & Teppei Yamamoto, *Unpacking the Black Box of Causality: Learning About Causal Mechanisms From Experimental and Observational Studies*, 105 AM. POL. SCI. REV. 765, 765-89 (2011).

30. Kerstin Fisk, Jennifer L. Merolla & Jennifer M. Ramos, *Emotions, Terrorist Threat, and Drones: Anger Drives Support for Drone Strikes*, 63 J. OF CONFLICT RESOL. 976, 976-1000 (2019).

31. Paul Lushenko & Sarah Kreps, *What Makes a Drone Strike 'Legitimate' in the Eyes of the Public*, BROOKINGS INST. (May 5, 2022), <https://perma.cc/BXC4-L4GV>.

32. LARRY LEWIS & DIANE M. VAVRICHEK, *RETHINKING THE DRONE WAR: NATIONAL SECURITY, LEGITIMACY, AND CIVILIAN CASUALTIES IN U.S. COUNTERTERRORISM OPERATIONS* 172 (2016).

33. Robert Grafstein, *The Failure of Weber's Conception of Legitimacy: Its Causes and Implications*, 43(2) J.POL. 456 (1981).

perceived as legitimate to an individual because he or she thinks so. Yet, research also shows that the public does not dispute countries' security policies that it deems appropriate, such as a military intervention abroad.³⁴ Political and military officials understand this trend, helping to explain why they typically emphasize drone strikes as legitimate or "righteous," even when they result in egregious errors including civilian casualties. In light of this process of "legitimation,"³⁵ Hodges contends that "militaries in a democracy are concerned that their actions must be perceived as legitimate, since to lose legitimacy may well undermine the realization of strategic benefits."³⁶ To the extent scholars explore the public's perceptions of legitimacy, their studies are framed by several theoretical, conceptual, and methodological consistencies.

Scholars share the theoretical expectation that legitimacy is integral to the sustainability of drone strikes. McDonald, for instance, posits that "perceptions of illegitimacy may shape public attitudes towards military capabilities," including drones.³⁷ It is puzzling, then, that scholars often impugn studies that attempt to empirically analyze the public's intuitions for rightful wartime conduct. Lake counsels that any conception of legitimacy is dubious because scholars cannot hold social conditions constant.³⁸ Scholars that spurn the advice of Lake and other positivists generally conceptualize legitimacy in terms of one of three moral norms or standards of behavior.³⁹

Some argue that legitimate drone warfare is tantamount to the physical risk soldiers incur on the battlefield in executing strikes.⁴⁰ Other scholars contend that the outcomes, namely enhanced safety for soldiers pursuing military and/or political objectives, shapes the perceived legitimacy of drone warfare.⁴¹ Still other scholars posit that enhanced *jus in bello* (justice in war) constraint can prevent civilian casualties that inform the public's perceptions of legitimacy.⁴² These explanations reflect the complexity of the public's perceptions of legitimate strikes. Yet, they are monocausal and fail to appreciate that the public may combine moral norms in unique ways to adjudicate the legitimacy of drone warfare,

34. Erik Voeten, *The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force*, 59(3) INT'L ORG. 527 (2005).

35. Stacie E. Goddard and Ronald R. Krebs, *Rhetoric, Legitimation, and Grand Strategy*, 24 SEC. STUD.S 1, 5-36 (2015).

36. Doyle K. Hodges, *Let Slip the Laws of War! Legalism, Legitimacy, and Civil-Military Relations* 17 (Sept. 2018) (Ph.D. dissertation, Princeton University) (on file with the Princeton University Library).

37. Jack McDonald, *Remote Warfare and the Legitimacy of Military Capabilities*, 21 DEF. STUD. 528, 541 (2021).

38. See David A. Lake, *Why "isms" Are Evil: Theory, Epistemology, and Academic Sects as Impediments to Understanding and Progress*, 55 INT'L STUD. Q. 465, 465-80 (2011).

39. Lushenko, *supra* note 3.

40. See NEIL RENIC, *ASYMMETRIC KILLING: RISK AVOIDANCE, JUST WAR, AND THE WARRIOR ETHOS* (2020).

41. See Bradley Jay Strawser, *Moral Predators: The Duty to Employ Uninhabited Aerial Vehicles*, 9 J. OF MIL. ETHICS 342, 342-68 (2010).

42. See JANINA DILL, *LEGITIMATE TARGETS? SOCIAL CONSTRUCTION, INTERNATIONAL LAW, AND US BOMBING* (2015).

which can be especially problematic in a cross-national context. According to Hodges, “the concept of legitimacy is highly contingent on context and on the audience performing the assessment.”⁴³ Scholars that reify the perceived legitimacy of drone warfare to one moral norm or the next almost always adopt a “classical” method, which is to say one that relies on judgment.⁴⁴ Though interpretation is an established method in political science research, it is subject to endogeneity or bias. The results are non-falsifiable, non-replicable, and difficult—if not impossible—to generalize.

How does Regan’s analysis relate to these trends? Regan shares the belief that legitimacy is central to countries’ adoption of drones, though he cautions that scholars have failed to systematically explore this social-psychological outcome.⁴⁵ In contrast to moral philosophers that privilege soldiers’ martial-virtue of physical courage in combat, or political officials’ obligation to protect friendly forces on the battlefield, Regan emphasizes a deontological—rules-based—explanation of legitimate drone warfare. That is, Regan frames public expectations of appropriate wartime conduct in terms of civilian protection. Regan, for instance, claims “avoiding civilian harm may be important to the perceived legitimacy of [strikes].”⁴⁶ He also offers that “when force protection is not regarded as a relevant consideration, people believe that there is a greater responsibility to avoid civilian casualties.”⁴⁷ Both of these statements suggest the need for more empirical study. According to Regan, and when certain assumptions are met, randomized controlled trials, especially survey experiments, are the “best method for establishing causal relationships” between strike attributes and the public’s perceptions of legitimate drone warfare.⁴⁸ Fortunately, an emerging research agenda attempts to capitalize on Regan’s suggestion.

III. THE LEGITIMACY OF EVOLVING PATTERNS OF DRONE WARFARE

Most researchers define drone warfare in terms of countries’ varying use of strikes. Gusterson, for instance, conceives of “pure” and “mixed” strikes, noting drones can be used separate from or in support of deployed forces.⁴⁹ In reality, drone warfare is a function of several distinct attributes. These include shifts in the use and constraint of drones to help minimize potential harms against non-combatants. This understanding, which considers drone use in the context of why and how they are used to balance security objectives with the protection of

43. See Hodges, *supra* note 36, at 19.

44. See, e.g., Hedley Bull, *International Theory: The Case for a Classical Approach*, 18(3) *WORLD POL.* 361 (1966).

45. REGAN, *supra* note 1, at 314.

46. REGAN, *supra* note 1, at 314.

47. Telephone Interview with Mitt Regan, Co-Director, Center on National Security and the Law (June 5, 2022).

48. REGAN, *supra* note 1, at 18.

49. See HUGH GUSTERSON, *DRONE: REMOTE CONTROL WARFARE* 14-15 (2015).

civilians, allows researchers to better relate strikes to the public's intuitions. Rather than emphasize one dimension of drones over others, whether the platform, intended target, or effects,⁵⁰ strikes reflect unique purposes and accountability for unintended consequences.⁵¹

A. *The Use of Drone Strikes*

Countries use drones during discrete engagements with combatants to achieve near-term and limited military objectives in declared theaters of operations, such as Iraq or Afghanistan.⁵² The tactical use of drones suggests several observable indicators. In a majority of strikes, commanders use drones during engagements in support of ground forces. Drones loiter above conflict zones waiting to identify "someone to be killed or something to be destroyed."⁵³ Drones are also deployed on an expeditionary basis, meaning strikes do not typically breach countries' territorial integrity or sovereignty.

Countries also use drones strategically. The strategic use of drones is more comprehensive, deliberately planned, and based on a theory of victory against threats, particularly in undeclared theaters of operations such as Pakistan.⁵⁴ This theory of victory relates to an assumption held by officials that strikes enable decapitation—the removal of charismatic leaders to hasten an enemy's demise—that is an effective way to achieve wartime aims while inuring their soldiers to battlefield harms.⁵⁵ In practical terms, the strategic use of drones links limited resources—analysts, maintainers, crews and pilots, munitions, and drones themselves—to an operational approach—strikes—to achieve long-term outcomes. The observable implications of the strategic use of drones include centralization of authority to conduct strikes under the purview of executive officials; the lack of reciprocal risk between combatants; a network of globally distributed bases to launch, recover, and maintain drones; and, the potential erosion of sovereignty, should intervening countries abuse the scope of their mission.

50. See JOSEPH O. CHAPA, *IS REMOTE WARFARE MORAL? WEIGHING ISSUES OF LIFE + DEATH FROM 7,000 MILES* (2022).

51. This approach is consistent with recent "After Action Reviews," such as that pertaining to the U.S. military's operations against the Islamic State in Raqqa, Syria, in October 2017, which found "detailed post-operation analysis of the relationship between strikes and civilian casualties can help improve targeting, reduce civilian casualties, and support achieving mission objectives," including legitimacy. See MICHAEL J. MCNERNEY, GABRIELLE TARINI, NATE ROSENBLATT, KAREN M. SUDKAMP, PAULINE MOORE, MICHELE GRISE, BENJAMIN J. SACKS & LARRY LEWIS, *UNDERSTANDING CIVILIAN HARM IN RAQQA AND ITS IMPLICATIONS FOR FUTURE CONFLICTS* (2022).

52. Lushenko, *supra* note 3.

53. See WAYNE PHELPS, *ON KILLING REMOTELY: THE PSYCHOLOGY OF KILLING WITH DRONES* 72 (2021).

54. Lushenko, *supra* note 3.

55. See John Hardy & Paul Lushenko, *The High Value of Targeting: A Conceptual Model for Using HVT Against a Networked Enemy*, 12 DEF. STUD. 413, 415-17 (2012).

B. *The Constraint of Drone Strikes*

Countries also use drones with different constraints. Unilateral constraints are implemented by officials within a single country. This type of constraint does not require the consent or approval of other countries and is best characterized by “delegatory” accountability.⁵⁶ Enforcement of internal targeting constraints is the remit of political and military officials responsible for theaters of operations. One example is Barack Obama’s Presidential Policy Guidance announced in May 2013, the genesis of which Regan comprehensively explores in chapter five—“Overview of US Targeted Strikes.”⁵⁷ Among other requirements, this policy conditioned strike approval on the “near” certainty of no civilian casualties.⁵⁸ According to Regan, “[t]hese standards are very similar, although not identical, to law enforcement standards that are governed by human rights law.”⁵⁹ Obama’s adoption of a stringent targeting protocol dramatically enhanced the protection of civilians during U.S. drones strikes against al Qaeda in Pakistan. It resulted in a reduction of approximately 13 civilian deaths per month to one or less; improved the precision of strikes to 95%, meaning only combatants were killed; and, averted nearly 300 civilian deaths.⁶⁰

Multilateral constraints, on the other hand, obligate states to meet the oversight requirements of allies and partners. Strikes conducted under multilateral constraint typically demonstrate a shared responsibility across countries to ensure non-combatant immunity, though this does not necessarily mean such measures will be effective at protecting civilians. While U.S. officials claim that drones result in little collateral damage, Regan reminds us that they have also “underestimated civilian casualties compared to the estimates from other sources,” such as the Bureau of Investigative Journalism.⁶¹ Multilateral constraints best relate to a participatory model of accountability where “the performance of power-wielders is evaluated by those who are affected by their actions.”⁶² The most well-known multilateral constraint is UN approval for countries’ use of drones abroad. International approval is thought to impose stricter targeting protocols enforced during an inclusive coordination process involving political and military officials from many countries. This results in a negotiated process, usually under the sponsorship of a coalition, for the use of strikes based on their anticipated advantages. Chief among these benefits is surgically removing terrorists while protecting friendly forces and preventing civilian casualties.

56. See Allen Buchanan & Robert O. Keohane, *The Legitimacy of Global Governance Institutions*, 20 ETHICS & INT’L AFFS. 405, 405-37 (2006).

57. REGAN, *supra* note 1, at 95-113.

58. See Paul Lushenko, Sarah Kreps & Shyam Raman, *A More Just Drone War Is Within Reach: The Case for Tighter Targeting Restrictions*, FOREIGN AFF. (Jan. 12, 2022), <https://perma.cc/HBR2-AZP2>.

59. REGAN, *supra* note 1, at 104.

60. Lushenko, Kreps & Raman, *supra* note 58.

61. Regan, *supra* note 1, at 11.

62. Ruth W. Grant & Robert O. Keohane, *Accountability and Abuses of Power in World Politics*, 99 AM, POL. SCI. REV. 29, 31 (2006).

C. Cross-National Models of Drone Strikes

Integrating the use, constraint, and consequence attributes frames four models of drone strikes that are emerging globally. First, countries can use drones strategically with unilateral constraint. This suggests that countries use drones to destroy terrorists without deploying forces abroad. This pattern of drone warfare best relates to U.S. strikes against al Qaeda in Pakistan, which Regan adopts as his central unit of analysis throughout his book.⁶³

Second, countries can use drones strategically with multilateral constraint. One example of this pattern of strikes is Obama's use of drones during the humanitarian intervention in Libya in 2011. Because this pattern enshrines the presence of drones within other countries, it threatens to undermine their sovereignty. It also complicates the question of "who is a legitimate target," according to Regan.⁶⁴ Feldman cautions that drones can constitute "racialization from above" because the intended targets tend to be darker skinned people, though this observation suffers from selection bias considering most transregional terrorists targeted by at least the United States are not White.⁶⁵ At the very least, this suggestion warrants more empirical research to determine if—or the degree to which—strikes are discriminatory due to targets' skin color.

Third, countries can use drones tactically with unilateral constraint. This pattern of strikes often happens during intrastate conflicts and border disputes, including the conflicts in Ukraine and the contested Nagorno-Karabakh region between Armenia and Azerbaijan. Finally, countries can use drones tactically with multilateral constraint. Some scholars refer to this as a "French model" given that France only uses drones with international approval, such as its use of strikes in Mali.⁶⁶

What are the implications of this framework for our understanding of the public's perceptions of legitimate drone warfare? My research suggests that the public's perceptions of legitimate strikes can be a function of why and how drones are used, and the outcomes for legitimacy can also be moderated by international approval, civilian casualties, and the country conducting strikes.⁶⁷ In a recent survey experiment conducted cross-nationally in France and the United States, which are the most prolific users of strikes beyond their borders and regions, we found that respondents prefer distinct models of strikes.⁶⁸ Whereas French citizens prefer the tactical use of drones with multilateral constraint, Americans understand the strategic use of drones with unilateral constraint as most legitimate.⁶⁹ In another cross-national survey experiment in France and the

63. REGAN, *supra* note 1, at 4.

64. REGAN, *supra* note 1, at 231.

65. Keith P. Feldman, *Empire's Verticality: The Af/Pak Frontier, Visual Culture, and Radicalization from Above*, 9(4) COMPAR. AM. STUD. 325, 329-30 (2011).

66. Jean-Baptiste Jeangène Vilmer, *Not So Remote Drone Warfare*, INT. POL. 1, 10 (2021).

67. Lushenko & Kreps, *supra* note 31.

68. *Id.*

69. *Id.*

United States, we found that international approval is associated with both higher public support and greater perceived legitimacy for a strike.⁷⁰

These two studies show important moderating effects of civilian casualties and the targeting country for the public's perceptions of legitimacy. Anticipation of civilian casualties during strikes shapes Americans' preference for multilateral constraint implying they otherwise prefer unilateral constraint. Americans and French citizens also identify a strike conducted by their own country as more legitimate than one conducted by another country, although this result is more pronounced among U.S. citizens, who also demonstrate a higher degree of ethnocentrism—a “predisposition to reduce all social life to in-groups and out-groups”⁷¹—in terms of U.S. strikes abroad. This is not entirely surprising since Kinder and Kam find that “ethnocentrism plays a major role in motivating American support for the war on terrorism,” with drone strikes being a key instrument.⁷²

IV. CONCLUSION

Together, these findings reiterate Regan's suggestion that the public's perceptions of legitimate drone warfare deserves more empirical research. At the beginning of his book, for instance, Regan argues “[t]he fact that human judgment is unavoidable does not mean that all analysis is simply the reflection of subjective preferences that cannot be subject to rigorous assessment.”⁷³ In light of this observation, the body of my empirical research regarding the public's perceptions of legitimacy suggests that experts who study the relationship between public opinion and drone warfare should explore at least three key questions going forward.

First, what is the effect of the number of civilian casualties on the public's perceptions of legitimate strikes? Regan reasons that civilian casualties are the locus of legitimacy. Yet, we need to know more about the threshold for civilian harm that encourages the public to discount the probity of strikes and how this threshold can be conditioned by other considerations. Second, how do people within the targeted countries understand the legitimacy of drone strikes? Though Regan notes that “[c]ivilian casualties also can affect persons beyond the direct victims of a strike,” we need to know more about the attitudes of citizens within countries afflicted by drone strikes.⁷⁴ Indeed, Silverman notes that citizens within the targeted countries can shape the information environment through social media that conditions international support to a conflict.⁷⁵ Finally, how do people interpret the legitimacy of global order given the evolving proliferation of drones? The globalization of drone warfare, which Regan helps trace in terms of U.S. strikes,

70. Lushenko, Raman & Kreps, *supra* note 7.

71. DONALD KINDER AND CINDY KAM, *US AGAINST THEM* vii (2010).

72. KINDER AND KAM, *supra* note 71, at 84.

73. REGAN, *supra* note 1, at 12.

74. REGAN, *supra* note 1, at 364.

75. Daniel Silverman, *What Shapes Civilian Beliefs About Violent Events? Experimental Evidence from Pakistan*, 63 *J. OF CONFLICT RESOL.* 1460, 1461 (2019).

suggests that scholars should explore the implications of drones for global order—the pattern of relations between countries that helps ensure global security and peace. This question relates to an emerging wave of research that my colleagues and I explore in a new book, *Drones and Global Order: Implications of remote warfare for international society*.⁷⁶ Regan's book further justifies this line of research for which it is also possible to perform rigorous empirical assessment, as he encourages scholars to do when investigating drone warfare in comparative context.

76. DRONES AND GLOBAL ORDER: THE IMPLICATIONS OF REMOTE WARFARE FOR INTERNATIONAL SOCIETY (Paul Lushenko, Srinjoy Bose & William Maley, eds., 2022).
