

When to Target Leaders

Targeting regime leaders has resurfaced as a moral, legal, and practical debate worthy of serious consideration. Before ousting Saddam Hussein, U.S. officials argued that the Iraqi regime must be dismantled to prevent the use of weapons of mass destruction (WMD) and ensure the safety of the United States and its allies. As an instrument of foreign policy to combat WMD and act in self-defense, killing regime leaders not only might be fair game, but also might be the best alternative under certain circumstances. In examining the advantages and disadvantages of targeting regime leaders, what criteria should policymakers consider when determining whether to take such action?

Lessons from History

Ethical concerns have historically tended to bar killing heads of state as a policy option. In the United States, both for practical reasons and on moral grounds, killing foreign leaders as an instrument of foreign policy has been condemned; the United States is the only state that has enacted a clear declaratory policy renouncing assassination, through executive order. Furthermore, U.S. officials have publicly denied that targeting foreign leaders would be part of any U.S. foreign policy objective. In 1990, for example, Air Force Chief of Staff Gen. Michael Dugan stated that, if war were to erupt between the United States and Iraq, U.S. military planes would probably target Saddam, his family, and his mistress. When then-Secretary of Defense Rich-

Catherine Lotrionte is an adjunct professor in the School of Foreign Service and the Security Studies Program and a senior fellow in the Institute for International Law and Politics at Georgetown University. She previously served as an assistant general counsel at the Central Intelligence Agency.

Copyright © 2003 by The Center for Strategic and International Studies and the Massachusetts Institute of Technology
The Washington Quarterly • 26:3 pp. 73–86.

ard Cheney learned of the general's statement, he immediately fired Dugan.¹ In 1991, responding to questions about whether the U.S. military had targeted Saddam, President George H. W. Bush stated, "We're not in the business of targeting Saddam Hussein."²

Much public attention was given to the issue of killing foreign leaders in the mid-1970s, when Congress investigated alleged Central Intelligence

Killing regime leaders to ensure international security may not legally be assassination.

Agency (CIA) improprieties in conducting intelligence activities, including plots to assassinate state leaders. The most comprehensive investigation was conducted by the Church Committee, whose results were published in a report entitled "Alleged Assassination Plots Involving Foreign Leaders."³ The Church Committee opposed the use of assassinations because it "violates moral precepts fundamental to our way of life ... [and] traditional American notions of fair play."⁴

The Church Committee specifically questioned the CIA's role in the deaths or attempted killings of five world leaders: Cuba's Fidel Castro; the Congo's Patrice Lumumba; the Dominican Republic's Rafael Trujillo; South Vietnam's Ngo Dinh Diem; and Rene Schneider, commander in chief of the Chilean Army, who opposed a military coup against Salvador Allende. Each of these leaders other than Castro was killed in connection with a coup. The Church Committee concluded that:

- U.S. government officials initiated plots to assassinate Castro and Lumumba, apparently believing such activities were lawful and authorized;
- U.S. officials encouraged or knew about the coup plots that resulted in the deaths of Trujillo, Diem, and Schneider;
- no foreign leaders were killed as a result of assassination plots initiated by U.S. officials;
- the plots occurred in the atmosphere of the Cold War, perceived to be of crisis proportions; and
- assassinations should not be characterized as a legitimate method of foreign policy because the act of assassination is "incompatible with American principle, international order, and morality."⁵

The public outcry stemming from these investigations led President Gerald Ford to issue Executive Order 11905, which stated that "[n]o employee of

the United States Government shall engage in, or conspire to engage in political assassination.”⁶ Both President Jimmy Carter and President Ronald Reagan issued subsequent executive orders banning government-sanctioned assassination.⁷

In light of recent U.S. foreign policy actions overseas in places such as Kosovo and Somalia and those taken during the Persian Gulf War and in response to terrorist attacks against the United States, public debate has increased about the prohibition against targeting leaders such as Slobodan Milosevic and Saddam. An increasing number of calls have emerged from Congress and various commentators to rescind any legal ban on the use of assassinations as a foreign policy tool with an executive order or otherwise.⁸ The most recent of these congressional initiatives was the Terrorist Elimination Act of 2001, a bill proposed by Representative Bob Barr (R-Ga.) that asserted that the prohibition of assassination “limit[ed] the swift, sure and precise action needed by the United States to protect our national security.”⁹ Furthermore, the U.S. public’s views on the use of assassination reveal that Americans may be more receptive to killing leaders than they were in the 1970s.¹⁰ A poll taken during the Persian Gulf War revealed that 65 percent of the U.S. public favored “covert assassination of Hussein to end the war quickly.”¹¹

Some analysts have highlighted the “ethical disconnect” between prohibiting killing a tyrannical ruler while allowing the casualties of a bombing campaign to claim the lives of thousands of civilians and soldiers.¹² Others, such as George Washington University law professor Jonathan Turley, have added the practical objection that the assassination ban encourages an alternative policy of using military strikes, which not only target and kill those leaders anyway but also claim innocent lives in collateral damage. Collectively, these commentators argue that when considering the alternatives—full-scale war, massive casualties, and devastating diplomatic and economic sanctions—killing the regime leader appears comparatively humane.

When Is Killing Leaders Not Assassination?

One of the primary challenges of analyzing the legality of killing regime leaders is reaching a clear definition of the term “assassination.” According to Black’s Law Dictionary, assassination is an “act of deliberately killing someone, especially a public figure, usually for hire or for political reasons.”¹³ In addition, the 1980 Oxford Companion to Law states that assassination is “the murder of a person by lying in wait for him and then killing him, particularly the murder of prominent people from political motives, e.g., the assassination of President Kennedy.”¹⁴ Based on these definitions, a case can

be made that killing regime leaders in self-defense to ensure international security is not an assassination as it is not for political beliefs.

As for U.S. laws that define assassination as a foreign policy tool, there are none. Furthermore, in the U.S. Constitution, specifically those provisions enumerating the president's foreign affairs powers, there is no mention of assassination. A usable body of law that governs assassination can be compiled, however, from U.S. domestic laws related to intelligence activities and international legal conventions related to the conduct of armed conflict.

U.S. DOMESTIC LAW

Nowhere in the executive orders of Ford establishing—nor those under Carter or Reagan that continued—the ban on assassination is there a definition for the term. Although this omission may possibly have been a mere oversight in drafting, it was more likely an intentional effort to grant the president flexibility in interpreting the applicability of this order. The congressional hearings that led Ford to sign the first intelligence executive order can, however, shed light on its intent.

Based on these hearings, the presidential orders against assassination were intended to prohibit the killing of foreign political leaders as long as the United States was not engaged in armed conflict with the countries of those leaders.¹⁵ Nothing in the language of any of these executive orders indicates that their intent was to replace any aspect of the legal framework of the law of armed conflict with something more restrictive. In fact, the ban in the executive orders meant to control the activities of the intelligence community during a time of peace, not the military or the intelligence community during times of armed conflict.

Among the Church Committee investigations into the five cases in the 1950s and 1960s, two—Castro and Lumumba—involved plots to kill political leaders as ends in themselves, in the absence of any broader political-military effort to overthrow a regime. The remaining plots against Diem, Trujillo, and Schneider were incidental to coups. In making its recommendations, the Church Committee made a distinction between the “targeted assassinations instigated by the United States” in the absence of any military conflict and “support for dissidents seeking to overthrow local governments.”¹⁶ The committee recommended that “targeted assassination” be prohibited, but it did not recommend any restrictions on U.S. support for coups, whether supported by the military or otherwise, even though the committee recognized that “the death of a foreign leader is a risk foreseeable in any coup attempt.”¹⁷ Indeed, the Reagan administration interpreted Executive Order 12333 specifically to “exempt[] death incidental to a military action”¹⁸ from any executive order banning assassination.

In its final report, the Church Committee endorsed Ford's order, which banned government-sanctioned assassinations.¹⁹ A Senate anti-assassination bill was pending at the time Ford issued his executive order. Ford did not endorse the Senate bill when he issued the order, although he agreed to support "legislation making it a crime to assassinate or attempt to conspire to assassinate a foreign official in peacetime."²⁰ In the 1970s and early 1980s, a number of legislative proposals that would create a flat ban against assassinations were introduced.²¹ None of the proposals were ever successfully enacted into law. Numerous commentators writing during the Church Committee investigations have offered explanations for Congress's failure to legislate such a ban, including the apparent lack of public support,²² Congress's unwillingness to fight with the intelligence community,²³ and difficulties involved in acquiring sufficient information from the intelligence community.²⁴ Ultimately, the reason why Congress has not legislated a ban against assassinations is probably the ambiguity that exists over the meaning of the term "assassination" itself.

The executive order ban meant to control the intelligence community during peacetime.

Today, both scholars and policymakers alike have argued that changes in the contemporary security environment seriously undermine the continued peacetime applicability of any legal prohibition against killing regime leaders. One scholar of international relations, Ward Thomas, attributes the weakening of the "international norm against assassination" to two specific structural changes in the post-World War II international system.²⁵ The first is the increasing prevalence of unconventional violence, including guerrilla warfare and terrorism.²⁶ The second is the destructive and brutal nature of modern warfare, including but not limited to the advent of nuclear weapons and WMD. Indeed, the high level of concern in U.S. security considerations regarding asymmetric threats such as WMD use is unmistakable. The increasing challenges to state sovereignty, particularly from nations that threaten the peace with WMD; the very nature of the international political order; and its inability to contain such threatening actors may require policymakers to reexamine preexisting policies concerning foreign leaders.

Under any circumstances, the prohibition of peacetime killings of specifically targeted leaders was never intended to apply to all cases in which a leader's life may be lost. When the United States is engaged in armed hostilities with another country, it acts in accordance with the laws of war as developed under international law.

INTERNATIONAL LAW: *JUS IN BELLO*

The principles derived from international law dealing with the use of force can be used to develop the pertinent criteria to consider when deciding whether to kill regime leaders during armed conflict. Under international law, two elements deal with the use of force: *jus ad bellum*—the rules related to when a state can use force—and *jus in bello*—the rules related to how a state must conduct hostilities when engaged in the use of force. These inter-

The president may legally order to kill a regime leader as part of an armed conflict.

national rules that guide states in their conduct against other states are based on both the practice and behavior of states, as well as the rules codified in international conventions or agreements between states.

To guide conduct during war, states, including the United States, abide by the principles of the laws of war as codified in the 1907 Hague Convention on the Laws and Customs of War and the 1949 Geneva Con-

ventions.²⁷ When the United States is engaged in a state of armed hostilities, whether as a result of congressional declaration or presidential initiative,²⁸ the killing of enemy combatants is considered a legitimate act. Such enemy combatants may include regime leaders. Although no international law, including the Hague and Geneva Conventions, bans “assassinations” per se, the laws of war do recognize that there are limits to the means combatants may use to injure the enemy. These prohibitions would apply to any legitimate targets, including regime leaders.

According to Article 23(b) of the regulations annexed to the Hague Convention, “It is especially forbidden to kill or wound treacherously individuals belonging to the hostile nation or army.”²⁹ Treacherous behavior would include deceit, such as a breach of confidence or a perfidious act or attack on an individual who justifiably believed that he had nothing to fear from the attacker. For example, the convention prohibits fighting under false pretenses that would include flying the enemy’s flag or wearing the enemy’s uniform to lure him to his death. The Hague Convention also forbids the use of weapons that would cause “unnecessary suffering” to the enemy, such as projectiles filled with glass, dum-dum bullets, or lances with barbed heads.³⁰ Also, according to the 1977 Protocols Additional to the Geneva Convention, Article 51 prohibits “indiscriminate attacks,” defined in part as attacks where incidental injury to civilians or incidental damage to civilian objects would be “excessive in relation to the concrete and direct military advantage anticipated.”³¹

There is precedent in U.S. military history of targeting regime leaders or aiming at targets that put leaders at risk during conflict. In 1986, U.S. Air

Force and Navy planes bombed Libya after a Libyan terrorist attack against a nightclub frequented by U.S. soldiers in Berlin; Mu'ammarr Qadhafi's tent was one of the targets. During Operation Desert Storm in 1991, the U.S. military bombed Saddam's official residences and command bunkers. Under international law, both of these actions were legitimate acts of self-defense against an ongoing threat; for purposes of the law, it is irrelevant whether an individual, including a regime leader, was a target. Under international law, if the United States had known that these attacks were going to occur before they actually had, it could have acted in self-defense preemptively, thus preventing the attack; killing the regime leader as part of this act of self-defense also would have been legitimate under international law, provided that the action was not carried out under any of the means of killing prohibited by the laws of war.

According to international law and U.S. domestic law, the president of the United States, in executing his constitutional authorities as commander in chief of the U.S. armed forces, may legally order the killing of a regime leader as part of an armed conflict as long as it is not a "treacherous" killing, an indiscriminate killing, or cause "unnecessary pain and suffering." As commander in chief, the president alone is directly responsible for the use of force by the armed forces, and he alone must determine the appropriate, most effective means by which to bring the conflict to a conclusion. If the president were to determine that the most effective way to bring the armed conflict to a successful conclusion—minimizing the loss of life while accomplishing the objective of the conflict—is to eliminate the enemy state's leader, he has the legal authority to do so.

Policy Merits to Targeting a Regime Leader

To evaluate the complex moral and practical, as well as legal, considerations involved in any policy of regime change by killing leaders, a close analysis of the consequences of such an action is necessary. Depending on the specific circumstances, the particular costs and benefits involved should be weighed in making a final decision. Some of the advantages and disadvantages may be different or nonexistent, and other factors may emerge. Nevertheless, considering, in advance, some of the general advantages and disadvantages of killing regime leaders can help security planners formulate criteria for evaluating specific cases.

- *Preclude greater atrocities.*

Can killing a regime's leader be morally justified? If a leader's death would prevent the murder, torture, serious injury, or continued suffering of many in-

nocent people, then killing that leader is clearly the best option, at least according to some. Alternatively, large-scale use of force or devastating economic sanctions might be employed, but such actions are likely also to harm the same individuals who have already suffered at the hands of the dictator. If international legal principles based on moral considerations allow states to use deadly force in self-defense, the same principles should provide for the use of deadly force in defense of others. If an Adolf Hitler or a Milosevic had been assassinated, millions of lives would have been saved from genocide. When other policy alternatives are found to be ineffective, international law grants states the right to take action, including removing a leader by deadly force.

- *Minimize military and civilian casualties.*

Killing a regime leader and any other leaders in control of the regime takes a far smaller toll on both sides' militaries than conventional war would. Considering the dramatic differences in the numbers of deaths likely to result from the two types of warfare—warfare against a state and warfare against a leader—some, such as Ralph Peter, have criticized any notion of ethical restrictions on killing a leader: “While it was acceptable to bomb those divisions of hapless conscripts, it was unthinkable to announce and carry out a threat to kill Saddam Hussein, although he bore overwhelming guilt for the entire war and its atrocities. ... Where is the ethical logic in this?”³²

Moreover, killing a leader would prevent fewer innocent victims from becoming the collateral damage of an armed conflict. Even with precision-guided weapons, any type of armed conflict will inevitably cause the deaths of innocent victims. Although these victims may not have been direct targets in the conflict, that will matter little other than to provide legal protection to war fighters. Modern warfare is destructive, and the consequences of such wars may reverberate for far longer than the armed conflict itself. A world in which nuclear weapons are no longer the anomaly and WMD are readily available to both state and nonstate actors willing to use them must be especially wary of large-scale war.

For those such as Michael Walzer, a contemporary scholar on principles of just war, the military codes—principles of norms that control behavior in armed conflict—must “first be morally plausible” and “must correspond to our sense of what is right.”³³ Only then can such principles, codes, or norms constrain behavior in conflict. Where, exactly, is the sense—or moral plausibility—in prohibiting the killing of one individual while allowing for the deaths of thousands of innocent people?

- *Disrupt the regime's brutal activities.*

Strategically removing a tyrannical regime leader may impair followers' ability to operate and carry out any command and control decisions. If the

leader is a charismatic individual who cannot be replaced easily, his loss is likely to cause confusion and disarray. Particularly in the case of authoritarian regimes, where a single individual is often in power for many years, eliminating that leader is apt to lead to a lack of direction at the top level. Indeed, if a number of potential successors emerge, their vying for control may further exacerbate the disorder. If there is doubt about who perpetrated the killing, speculation may arise about an inside traitor and cause further deterioration among the leadership. The cumulative result of the confusion and disruption may lead to the interruption of operational direction, which, even if temporary, may give enough time to complete a regime change.

Depending on the status of the individuals immediately surrounding the regime leader who have command and control authority, removing those individuals by force may become necessary as well. At a minimum, a plan ought to be in place for dealing with those individuals until some stability has been reached. If these individuals resist with deadly force, however, nothing would prevent the armed forces from defending themselves and responding with deadly force.

- *Avoid complications of taking high-profile prisoners.*

If a regime leader is eliminated, he will not be in jail nor will he stand trial. The elimination of the leader avoids the potential for acts of reprisal or retribution against the state that holds the leader prisoner. It also prevents the leader from becoming a talisman for his followers or from seeking sovereign immunity for any illegal actions taken while he was head of state. Furthermore, if the leader remains at large or in criminal custody, he may still be able to communicate and to direct and control certain operations.

- *Prevent WMD use.*

Once a dictatorial regime leader and his command and control apparatus are eliminated, security forces and armed forces may take action to eliminate WMD that the regime may have acquired. By killing such regime leaders, the threat from these weapons is eliminated once and for all. Further, by using the element of surprise inherent in killing a regime leader, the leader will likely have little or no time to issue orders and coordinate the use of any of these weapons, thus preventing the unnecessary suffering those weapons could have inflicted on civilians and military personnel. By preventing the devastating harm that would befall victims of WMD use and minimizing the

Killing a leader would prevent fewer innocent victims from becoming collateral damage.

feelings of bitterness that would have ensued, the removal of the regime's leader may also bring the two sides closer to a lasting settlement with less of a chance that hostilities will reignite.

Policy Arguments against Killing Leaders

Few observers would deny that some of these advantages are quite attractive, but national security planners also must consider the disadvantages to be weighed against them.

- *Moral questions.* Times may have changed, but in 1976, the Church Committee concluded that assassination “violates moral precepts fundamental to our way of life ... traditional American notions of fair play” and is not an acceptable foreign policy tool.³⁴ Irrespective of legal considerations and notwithstanding any policy considerations that support killing foreign leaders, consensus in the international community has historically held that it is an inappropriate means of conducting foreign policy. As far back as 1598, scholars such as Alberico Gentili condemned it on moral grounds, calling it a “shameful” and “wicked” practice and arguing that objectives of war should be achieved by valorous means.³⁵ Even in light of some recent congressional support to rescind Executive Order 12333's ban on assassination, a significant outcry might arise in Congress nonetheless if the president were formally to authorize killing a leader, whether at a time of war or peace.
- *Possible loss of U.S. domestic and international legitimacy.* If a presidentially approved policy to kill a regime leader were publicly disclosed, it might fracture any international support the president had garnered for the military conflict. For most of the international community, such a public approval of a morally questionable action would not be acceptable. Even if these nations privately supported the president's actions, it would be unlikely that they would be able to show their support of such an action publicly. Any perceived loss of legitimacy and any damage to the president's reputation could also have further long-term political implications, both domestically and internationally.
- *Retaliation.* A state that engages in plots to kill leaders also faces some short-term consequences that would be harmful to the interests of its leaders and to the interests of the state itself. For one, killing an enemy leader will inevitably arouse hostile feelings among the successors or followers of the regime leader against the perpetrators. Acknowledgement

or disclosure of a state's involvement to the world would likely incite revenge against the individuals who authorized the targeting, creating a dangerous situation for any president. In a political system that is open to the public and where presidents frequently travel the globe, leaders are particularly vulnerable to such retaliatory assassination attempts.

One way to minimize this danger would be to pursue assassination through covert means—never acknowledging any authorization of, or involvement in, an assassination—rather than as part of an overt military campaign. That nations find yielding to or accepting the terms of a secret, rather than public, threat much easier is well established. It is one thing for a president secretly to condone or authorize an activity that some states may question, whether for legal, political, or moral reasons. It is another thing for a president to broadcast the activity to the world, forcing states to respond, potentially causing a rift in otherwise positive relationships with those opposing such a U.S. action and potentially resulting in the withdrawal of support for the armed conflict.

By killing regime leaders, the threat from WMD may be eliminated.

- *International or regional instability.* Losing a leader may diminish a state's safety and security and may cause regional instability and unpredictability. To minimize this risk, any plan to kill a regime leader would have to exist within a broader strategy that contained options such as working in a cooperative fashion with any successors, legitimate followers of the former regime leader, and neighboring states in the region. Here the United Nations could play a useful role, helping to provide humanitarian aid and establishing legitimate domestic institutions that would accompany any regime change, with or without the loss of the former leader's life, although the level of international and UN support may well depend on the hidden identity of those responsible for killing the former leader. Particularly if the UN Security Council did not authorize the use of force in the first place, UN member states would be less likely to condone any intentional killing of a regime leader and may limit the support in building stability in the area.
- *Chances for success.* Targeting a regime leader and killing him may not be that easy. In fact, the United States does not have a good record of success in this area, particularly during times of peace. According to the Church Committee investigations, the United States made numerous attempts to kill Castro but failed repeatedly. Spy planes, bombers, and

tanks can be quite effective in destroying an enemy's infrastructure. The targeted killing of a single or a few individuals, however, is much more difficult. With conventional weapons, it is rather easy to kill a lot of people but difficult to kill just one moving target. The ability to locate, track, and target an individual will depend on accurate and timely information. During a time of armed conflict, this task may not be easy to accomplish.

When to Target Leaders

In the international community, states have always reserved the right to use force to maintain world order and safeguard their own defense. When containment fails, diplomacy is ineffective, and a full-scale war is too costly, killing a regime leader is an option a state should seriously consider. In a world in which states will amass WMD, unlawfully invade their neighbors, and threaten other's national and international security, national security experts and policymakers may need to reexamine their choices, including killing regime leaders, as a means of ensuring security.

If the international system were more adept at preventing threats to the peace of other nations or if the system were more effective at deterring or punishing such actions, a discussion about the legality, morality, and utility of killing regime leaders would not be necessary. In the absence of an effective collective security system, and in a world with increasingly dangerous weapons in the hands of actors willing to use them, killing regime leaders, however regrettable, may be an appropriate policy option.

When deliberating over some of the complex consequences of such a policy, policymakers may want to consider satisfying the following criteria:

- *The target.* The killing itself should be limited to the greatest extent possible to the persons within the regime that are responsible for the threats.
- *A level of certainty.* Accurate and reliable intelligence information that provides a high level of certainty of the identity of the individuals responsible for the threats should be accessible.
- *A likelihood of success.* It should be likely that the attempt to eliminate the leader will be successful and that the elimination of the leader will remedy the problem and do less harm to civilian populations than another option would.
- *A last resort.* There should be no other feasible, reasonable, less extreme way of stopping the regime leader's actions.

- *A proportionate action.* The killing of the regime leader should be proportionate to the threat posed by that leader, and the consequences of killing the regime leader should be less destructive than the use of conventional warfare to resolve the threat.
- *A discriminate action.* Targeting the responsible individuals should be likely to avoid the deaths of innocent victims.

It could be exceptionally difficult to determine these criteria, particularly in the fog of war, and decisions may be founded on erroneous information or assumptions. The only alternative to making these difficult determinations, however, would be a general renunciation of the killing of regime leaders as part of lawful armed conflict or a general reliance on more aggressive uses of force, such as full-scale war. This alternative, under a general ban on killing regime leaders, could ultimately result in thousands of innocent victims and the physical devastation of war—a far costlier means of ensuring international security.

Notes

1. George J. Church, "Saddam in the Cross Hairs," *Time*, October 8, 1990, p. 29.
2. Eric L. Chase, "Should We Kill Saddam?" *Newsweek*, February 18, 1991, p. 16.
3. John Prados, *Presidents' Secret Wars: CIA and Pentagon Covert Operations Since World War II* (Chicago: Ivan R. Dee, Inc., 1986). See also Select Senate Committee to Study Governmental Operations with Respect to Intelligence Activities, *Alleged Assassination Plots Involving Foreign Leaders*, S. Rep. No. 94-465 (Washington, D.C.: U.S. Government Printing Office, 1975), p. 1 (hereinafter Church Committee report).
4. Church Committee Report, pp. 257, 259.
5. *Ibid.*
6. *Ibid.*, p. 101; Executive Order No. 11,905, 5(g), 3 C.F.R. 90 (1976).
7. Executive Order No. 12,036, 3 C.F.R. 112 (1978); Executive Order 12,333, 3 C.F.R. 200 (1981).
8. See Paul Richter, "Congress Ponders Whether the U.S. Should Ease Ban on Assassinations," *Los Angeles Times*, September 18, 1998, p. A6; George Stephanopoulos, "Why We Should Kill Saddam," *Newsweek*, December 1, 1997, p. 34; Newman and Bruce Bueno de Mesquita, "Repeal Order 12,333, Legalize 007," *New York Times*, January 26, 1989, p. A23.
9. 107th Cong., 1st sess., H.R. 19.
10. Brian Jenkins, "Assassination: Should We Stay the Good Guys?" *Los Angeles Times*, November 16, 1986, p. A2; Allan C. Miller, "Americans Favor Killing Saddam Hussein," *Los Angeles Times*, June 29, 1993, p. A6.
11. Miller, "Americans Favor Killing Saddam Hussein."
12. Ralph Peters, "A Revolution in Military Ethics?" *Parameters: The Journal of the Army War College* 26, no. 2 (summer 1996): 104.

13. *Black's Law Dictionary*, 7th ed. (1999), p. 104.
14. David M. Walker, *Oxford Companion to Law* (1980), p. 84.
15. Church Committee report, p. 1; app. A; 1118(e)(2), p. 289.
16. *Ibid.*, p. 258.
17. *Ibid.*, pp. 256–258.
18. See Daniel Schorr, “Stop Winking at the Ban,” *Christian Science Monitor*, September 20, 2001, pp.1–2.
19. *Foreign and Military Intelligence: Final Report of the Select Committee to Study Governmental Operations With Respect to Intelligence Activities*, 94th Cong., 2d sess., 1976, S. Rept. 755, p. 448 n. 29.
20. “Special Message to the Congress Proposing Legislation to Reform the United States Foreign Intelligence Community,” vol. I (public papers of Gerald R. Ford, February 18, 1976), p. 362 at 2.
21. See 94th Cong., 2d sess., H.R. 15542, sec. 9(1) (criminalizing assassination, introduced by Representative Robert N. McClory [R-Ill.]); 95th Cong., 2d sess., S. 2525 (banning assassination, introduced by 20 senators); 96th Cong., 2d sess., H.R. 6588, sec. 131; 96th Cong., 2d sess., S. 2284, sec. 131.
22. Nicholas M. Horrock, “The Meaning of Congressional Intelligence Inquiries,” *New York Times*, April 30, 1976, p. A20.
23. Leslie Gelb, “Spy Inquiries Begun Amid Public Outrage, End in Indifference,” *New York Times*, May 12, 1976, p. A20.
24. *Ibid.*
25. Ward Thomas, *Ethics of Destruction* (Ithaca: Cornell University Press, 2001), pp. 80–83.
26. For scholars analyzing terrorism and the implications for assassinations, see Jami Melissa Jackson, “Legality of Assassination of Independent Terrorist Leaders: An Examination of National and International Implications,” *North Carolina Journal of International Law and Commercial Regulation* 24 (1999): 669; Daniel B. Pickard, “Legalizing Assassination: Terrorism, the Central Intelligence Agency and International Law,” *Georgia Journal of International and Comparative Law* 30 (2001): 1.
27. *The Hague Convention on the Laws and Customs of War on Land, with Annex of Regulations*, October 18, 1907, 36 Stat. 2277, T.S. No. 539, 1 Bevans 631, Annex, art. 23, e (hereinafter Hague Convention).
28. U.S. Air Force, “International Law: The Conduct of Armed Conflict and Air Operations,” AFP 110-31, November 19, 1976.
29. Hague Convention, arts. 22 and 23(b).
30. Hague Convention, art. 23e.
31. *The 1977 Protocols Additional to the Geneva Conventions*, December 12, 1977, 16 I.L.M. 1391, DA Pam 27-1-1, art. 51. Although the United States is not a signatory to Protocol I, it recognizes Article 51 as well as other articles of Protocol I as legally binding customary international law.
32. Peters, “A Revolution in Military Ethics?” p. 104.
33. See Michael Walzer, *Just and Unjust Wars*, rev. ed. (New York: Basic Books, 1991), p. 133.
34. Church Committee report, p. 257.
35. Alberico Gentili, *De Jure Beli Libri Tres* (1612), reprinted in *The Classics of International Law*, trans. John C. Rolfe (Oxford: Clarendon Press, 1933), p. 166.