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DECAPITATION AS A COUNTERTERRORISM TACTIC.docx

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A RESEARCH PAPER:

DECAPITATION AS A COUNTERTERRORISM TACTIC

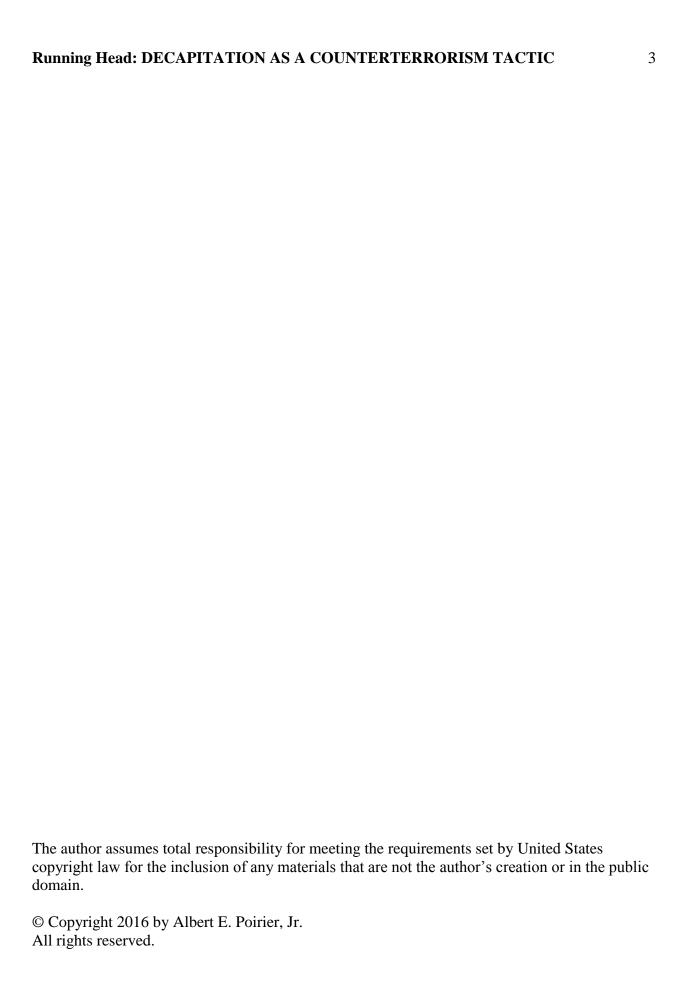
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Abstract

One of the most contentious issues in the United States counterterrorism efforts against Al Qaeda and the Islamic State of Iraq and Syria (ISIS) has been the use of Unmanned Aerial Vehicle (UAVs or, as they are more commonly known, drones) to seek out and assassinate, using precision guided weapons, the leaders of those terrorist organizations. This paper will address the efficacy of organizational decapitation. First and primarily, is organizational decapitation an effective tool in counterterrorism? Does decapitation adversely affect the operation of a terrorist organization? Secondly, what is the legality of decapitation under United States and International Law? Thirdly, is decapitation morally justifiable under our system of mores? Fourthly, is decapitation ultimately counter-productive? Does it increase the ability of terrorist organizations to recruit new members or garner public sympathy? Does it increase the likelihood that terrorist organizations will retaliate against targeted killings by targeting United States leaders for assassination?

Introduction

One of the most contentious issues in the United States counterterrorism efforts against Al Qaeda and the Islamic State of Iraq and Syria (ISIS) has been the use of Unmanned Aerial Vehicles (UAVs) to seek out and assassinate, using precision guided weapons, the leaders of those terrorist organizations.

This paper will address the efficacy of organizational decapitation. First and primarily, is organizational decapitation an effective tool in counterterrorism? Does decapitation adversely affect the operation of a terrorist organization? Secondly, what is the legality of decapitation under United States and International Law? Thirdly, is decapitation morally justifiable under our system of mores? Fourthly, is decapitation ultimately counter-productive? Does it increase the ability of terrorist organizations to recruit new members or garner public sympathy? Does it increase the likelihood that terrorist organizations will retaliate against targeted killings by targeting United States leaders for assassination?

The policy of organizational decapitation is not new. Israel has used targeted killing as a matter of policy since the start of the second *infitada* in September of 2000. Israel is a nation surrounded by terrorists groups. There can be no doubt that those leaders of Hamas and Hezbollah that have been targeted for assassination had as their principal object the destruction of Israel through the use of terror. To Israel, the failure to root out those who would destroy it because of vague international laws would amount to a "suicide pact" and, as Louis Rene Beres, Professor of International Law at Purdue University, tells us in his work, *On Assassination as Anticipatory Self-Defense: the Case of Israel*, "international law is not a suicide pact" (Beres 1991, 323). One way that Israel prevents this, its own destruction, is to destroy the offending terrorist before he can offend. In the same way, many argue, the United States has the right to

kill those who would kill us. According to Beres, a nation's right to anticipatory self-defense was first established by Hugo Grotius in Book II of his *De iure belli ac pacis* (*On the law of war and peace*). As Benes quotes Grotius, "[i]t be lawful to kill him who is prepared to kill" (Ibid). Brenda L. Jordan also opined, "[t]his idea [assassination] is the most effective and least harmful alternative in the arsenal of self-defense" (B. L. Jordan 2003, 496).

It is the purpose of this paper to determine whether decapitation, the targeted killing of the leaders of terrorist organizations is a legal, moral, and effective tool in counterterrorism. Many scholars have opined on these questions. There are those who say that eliminating mid to-high range leaders of an organization damages the capacity of that organization to effectively complete its missions (Carvin 2012). On the other hand, there are those who are of the opinion that the devil you know is better than the devil you do not know, and that the replacement leader may be worse than the one eliminated (Ibid).

Definition of Terms

For the purposes of this study, the following words are defined as indicated below:

Decapitation: "the assassination or targeted killing of a leader or leaders of an organization."

Drones: Unmanned Aerial Vehicles (UAVs)

Transnational terrorism: "organizations that use terror as a weapon and operate in more than one country."

Review of the Literature

Among the literature on which this study relied were two articles by Jenna Jordan who, at the time of the writing of the first was a PhD candidate at the University of Chicago. In the first of these, *When Heads Roll: Assessing the Effectiveness of Leadership Decapitation* was published

in the journal *Security Studies* in 2009. Ms. Jordan reviewed 298 incidents of leadership decapitation to determine if one of three results occurred. First, did leadership decapitation result in the dissolution of the organization? Second, did leadership decapitation result in organizational collapse faster than the normal attrition of organizations? Third, if leadership decapitation does not result in the collapse of the organization, to what degree does it degrade the effectiveness of the organization? After a lengthy review of the statistics, Ms. Jordan concludes that organizational decapitation is not an effective tool in counterterrorism (Jordan 2009).

Ms. Jordan's second article, *Attacking the Leader, Missing the Mark: Why Terrorist Groups Survive Decapitation Strikes*, was published in the journal *International Security* in 2014, after Ms. Jordan was appointed as Assistant Professor of International Affairs at the Georgia Institute of Technology. After a detailed, and impressive, list of Al Qaeda leaders who have been eliminated due to decapitation strikes, she goes on to say that despite these losses, Al Qaeda remains an effective terrorist organization. In the end, Ms. Jordan is slightly more inclined to see the decapitation strikes as effective in certain situations. She cites young, small, and ideological groups are most prone to degradation from leadership decapitation (Jordan 2014).

A scholar who takes a somewhat different view of the effectiveness of leadership decapitation is Patrick B. Johnston, who is Associate Political Scientist at the RAND Corporation. His article, also published in *International Security* in 2012 is titled, *Does Decapitation Work? Assessing the Effectiveness of Leadership Targeting in Counterinsurgency Campaigns*. Early in his article, he claims that Ms. Jordan's evaluation (from her 2009 work) that leadership decapitation is a "misguided strategy" is premature. He then points out a number of cases where leadership decapitation played a major role in the destruction or degradation of terror organizations. Johnston goes on to opine that the method used by the anti-decapitation scholars is flawed

because it used an unreasonably high standard of success. As he explains, "except in cases where the target was quickly and decisively defeated following a leader's capture or death, scholars have usually coded decapitation as a failure" (Johnston 2012, 49). Johnston then goes on to analyze a number of decapitation attempts and comes to the conclusion that decapitation is in fact effective in increasing the chance of war termination; increasing the chance of government victory; reducing the intensity of military violence; and reducing the intensity of military violence (Johnston 2012).

Two other scholars who also believe that leadership decapitation, particularly through the use of drones, are Joseph T. Karam of Norwich University, and David H. Gray of Campbell University. Their article, published in 2013 in Global Security Studies, focuses on the Central Intelligence Agency's use of drones. In The Impact of CIA Drone Strikes and the Shifting Paradigm of U.S. Counterterrorism Strategy assesses both the pros and cons of decapitation. They point out that drone strikes act as a force multiplier for the military, and the intelligence community. That is because they give them the ability to engage the enemy on a global scale, eroding their operational capabilities, and denying them safe haven. Karam and Gray call drone strikes weapons of necessity, not weapons of choice. Drones allow us to combat a decentralized organization, such as Al Qaeda, far from the normal battlefield and counteract their ability to freely cross borders. According to Karam and Gray, our use of drones as a counterterrorism measure has "made significant progress in disrupting and degrading the operational capabilities of al-Qaeda and its affiliates" (Karam and Gray 2013, 58). After considerable discussion of the political and legal considerations in using drone strikes, Karam and Gray conclude that targeted drone strikes are a powerful weapon against terrorists. But they caution that their use must be

restricted to senior leadership or individuals in critical command and control functions (Karam and Gray 2013).

For every scholar who favors the use of leadership decapitation as a weapon against terrorism, there is a scholar opposed to their use. For example, Professors Leila Hudson, Colin S. Owens, and David J. Callen, from the Southwest Initiative for the Study of Middle East Conflicts (SISMEC), published an article in 2013 titled, Drone Warfare in Yemen: Fostering Emirates through Counterterrorism? The article was published in the journal Middle East Policy. In their article, Hudson, et al, take opposition to the current U.S. policy regarding the use of drones, at times, their comments are tinged with sarcasm, as when they state, "the use of "signature strikes" designed to eliminate groups of people who appear (conveniently and posthumously) to be militants, will likely produce an increase in the lethality and frequency of drone strikes in Yemen" (Hudson, Owens and Callen 2012, 143) The results of this, they opine will be an increase in Al Qaeda's ability to recruit, especially among those who have had family or friends killed in drone attacks. In addition, drone strikes create a general "blowback" from the local population. They point out that the U.S. drone campaign has contributed to instability in the Yemeni government. In their concluding paragraph, Hudson, et al, lament that the use of executive executions and signature drone strikes, if not legally checked, "takes the U.S. commander-in-chief one step closer to his own kind of emirate" (Hudson, Owens and Callen 2012, 155).

In their article dealing with the legality of targeted drone strikes in the war on terror, *The Legality behind Targeted Killings and the Use of Drones in the War on Terror*, published in *Global Security Studies* in 2014, Michael Coleman and David H. Gray do a comprehensive analysis of the legal basis for the drone campaign. They point out that, in their own interest,

most states have agreed upon certain standards in the conduct of war, but do these standards apply to non-state actors whose major goal is to simply inflict pain on its enemies? Coleman and Gray point out those asymmetric enemies, such as Al Qaeda and ISIS, do not respect borders, and, for the most part, do not respect international law. They, at one point, remark, "one must fully understand the ideas behind 'combatant status' as addressed by the Geneva Convention and the additional protocols. Once these three points—boundaries, neutrality laws and combatant status—have been established, the use of drones becomes congruent with international law standards (Coleman and Gray 2014, 42). Because terrorist groups do not recognize international law, the argument goes; they cannot be considered "combatants" in the sense of the Geneva Conventions. As far as United States law is concerned, the Congress in 2001 passed the Authorization to Use Military Force act (AUMF). This action gave the president the authority to use whatever force was necessary to defeat Al Qaeda. After a lengthy discussion of the three points of "combatant status," Coleman and Gray conclude that the use of drones is legal *in jus Bello*, and is a legitimate means to a desirable end.

Lieutenant Commander Victor D. Hyder, in his monograph, *Decapitation Operations: Criteria* for Targeting Enemy Leadership, published by the School of Advanced Military Studies United States Army Command and General Staff College, is a major work that assumes that the targeting killing of enemy leadership is an acceptable tool in warfare. With that in mind, Hyder's monograph analyzes previous operations carried out by the U.S. to decapitate enemy leadership, and then goes on to establish what criteria should be used in deciding who will be targeted. He then analyzes five case studies in American history where individuals were selected for decapitation. As he points out, the U.S. has used three methods to achieve leadership decapitation; invasions, insurgencies, and surgical strikes. After reviewing his five case studies:

General Emilio Aguinaldo, Philippines 1901; Francisco "Pancho" Villa, Mexico 1916; Admiral Isoroku Yamamoto, Japan 1943; General Manuel A. Noriega, Panama 1989; and Pablo Escobar, Colombia 1993, Hyder concludes that the U.S. should never hesitate to consider the use of leadership decapitation when the conditions warrant it, and the value of the target is worth the risk.

Stephanie Carvin, who holds a PhD in International Relations from the London School of Economics, as is a lecturer in International Relations at the University of London, would not agree with Lieutenant Commander Hyder's attitude that leadership decapitation is an effective tool in counterterrorism; instead she would argue that the jury is still out on the effectiveness of targeted killings. In her article, The Trouble with Targeted Killing, published in Security Studies in 2012, Carvin takes a detailed look at the pros and cons of targeted killing, citing other studies done by scholars on both sides of the issue. She first reviews the arguments for targeted killing. For example, the death of a leader or highly skilled operative disrupts the terrorist organization making it more difficult to carry out terrorist operations. Also, the threat of drones has caused terrorist leaders to go underground which makes communications within the organization more difficult. It also disrupts their lives in the sense that they cannot visit with family or friends without fear of sudden death from the sky. Another is the proportionality of drone strikes. Targeting killing requires considerably less resources than an invasion, or major combat actions. She points out that drone attacks make it possible to attack the terrorists directly without having to fight through an entire country to attack them. In areas such as the tribal areas of Pakistan, drone strikes might be the only method of attacking terrorists. Any form of traditional raid or attack on terrorist in areas like the tribal areas would probably result in the escape of the terrorists and the loss of some or all of the friendly forces (Carvin 2012).

After a brief discussion of the use of targeted killings by the Israelis, Carvin then moves on to arguments against targeted killings. She points out that, "many of the pervasive arguments against targeted killing come from those who find the policy distasteful, immoral, and illegal" (Carvin 2012, 536). And, "even in making their moral/legal arguments, these approaches also tend to raise another major concern: targeted killing is ineffective because it causes more problems than it solves (Ibid). For example, she points to the problem of "blowback," and that terrorist leaders, enraged at the deaths of their comrades might decide to strike back in kind, and, as she observes, leaders in the West democracies are much more vulnerable to targeted killing than are the leaders of clandestine organizations. Another problem she points out is the unpredictability in targeted killings. There is no guarantee that the leader that replaces the slain one will be any better, and quite possibly, might be worse. Nor can anyone know what the long-range impact of such a policy of targeted killing will have.

In the section of her work titled, Success, Dr. Carvin points to the work by Patrick B. Johnston (see page 2), where she utilizes the same quote from Johnston to the effect that those scholars who found decapitation ineffective did so because they set the definition of effectiveness too high. She goes on to say, "it may not be possible to state whether or not targeted killing is universally an effective or ineffective counterterrorism tactic, there are still certain ideas upon which there seems to be a consensus" (Carvin 2012, 552). Among these is that targeted killing is a risky business, and that it is unpopular in many parts of the world, especially when there is a high risk of civilian casualties. Nor is targeted killing likely to end terrorism on its own, it is a tactic, not a strategy. In her concluding sentence Carvin cautions, "[i]n seeking further answers about the effectiveness of targeted killing, it is important not to neglect the larger ethical issues that arise when a state resorts to lethal force" (Carvin 2012, 555).

Bryan C. Price is a major in the U.S. Army and former Assistant Professor of Social Sciences at the U.S. Military Academy. His article, published in *International Security* in 2012, is titled, *Targeting Top Terrorists: How Leadership Decapitation Contributes to Counterterrorism*. In the beginning of his article, Price points out that targeted killings are a feature in the counterterrorism strategies of many countries, most notably Israel and United States. Price comes right to the point early in his article when he states, "I argue that leadership decapitation significantly increases the mortality rate of terrorist groups, even after controlling for other factors" (Price 2012, 11). He then goes on to explain how he analyzed the effect of targeted killing of terrorist leaders on the mortality rates of 207 terrorist groups over a 38 year period from 1970 to 2008 (Price 2012).

Price argues that for leadership decapitation to be successful two things are required. The first is the importance of the leader to the group's success overall. If the leader is, for example, primarily a figurehead, or spiritual leader with little involvement in the operations of the group, decapitation is unlikely to be successful in disrupting the group's operations. The second is that leadership replacement must be difficult. If the organization can easily replace the leader with someone appropriately skilled the risk of the decapitation may make it untenable. Price argues that terrorist groups, unlike insurgencies or state actors, have unique organizational patterns that make decapitation more effective. In terrorist groups the leaders tend to have an amplified importance, and it is often difficult for terrorist groups to easily replace the loss of their leader.

As Price puts it, "[t]errorist leaders . . . can wield enormous power and influence over all aspects of their organizations, from their structure and identity to the pace and scale of group activities" (Price 2012, 16). As a result, finding a replacement for a terrorist leader is more difficult than in other types of organizations. He further points out that the clandestine nature of terrorist groups

also increases the importance of the leader. In addition, knowing that they lead a violent group, terrorist leaders are reluctant to provide subordinates with the knowledge and skills to run the organization for fear of a coup or assassination (Price 2012).

Price summarizes his argument in favor of leadership decapitation by stating that the unique nature of terrorist organizations makes them particularly vulnerable to decapitation. He concludes with an assessment of the decapitation of Al Qaeda by the killing of Osama Bin Laden. Even though Bin Laden was succeeded by al Zawahiri, it took two months for the organization to respond to the death of Bin Laden and announce the succession of al Zawahiri. While capable, al Zawahiri lacks the charisma of Bin Laden, as almost anyone in Al Qaeda would.

The Legality of Decapitation

Is the targeting of terrorist leaders for "targeted killing" legal under international law? Often cited as the legal prohibition on assassination is Article 23(c) of the Hague Convention IV of 1907, which states, in part, "It is especially forbidden . . . to kill or wound treacherously [to assassinate] individuals belonging to [a] hostile nation or army" (Convention Respecting the Laws and Customs of War on Land (Hague IV 1907) n.d.). However, there are two problems with Article 23(c) as it would relate to the use of assassination as a matter of defense policy. The first is that 23(c) was written to control the behavior of armies in wartime. It presupposed that the armies of one sovereign state would be engaged in battle against the armies of another sovereign state. The second problem is the time in which 23(c) was written, 1907. At that time, Europe, and most of the world, was ruled by four families, the Hapsburgs, the Hohenzollerns, the Romanovs, and the Mountbattens (soon to be renamed Windsor). It was still believed that war was a gentlemen's game fought by carefully prescribed rules intended to reduce civilian

involvement in the military process. At that time they had not yet experienced the horrors of the World Wars, atomic weapons, and international terrorists that kill innocent civilians as a matter of policy.

Amnesty International makes the claim that the use of decapitation is forbidden by Article 6(1) of the International Covenant on Civil and Political Rights. That article states that "every human being has the inherent right to life. No one shall be arbitrarily deprived of his life" ("Will I be next?" US drone strikes in Pakistan 2013, 43). They also claim that, the USA targets individuals on a 'kill list.' This suggests that the United States is not doing a case-by-case analysis of whether those targeted persons are taking direct part in hostilities at the time they are targeted. Amnesty International claims that international humanitarian law is clear on this issue. They argue that making the civilian population or individual civilians not taking direct part in hostilities the object of attack is a war crime (Ibid). However, in the global war on terror, similar to the war in Vietnam, there is no drawing line between civilians and combatants. With a few exceptions, terrorists do not wear uniforms. Should combatants who deliberately mingle with the civilian population be granted the privilege of protection under international humanitarian law?

The Morality of Decapitation

In May of 2011, U.S. Navy SEALS, travelling deep into Pakistan, raided the compound of Osama Bin Laden, killing him, and taking a treasure trove of intelligence material (Johnson 2012). While neither the first, nor the last, example of organizational decapitation carried out by the United States, it certainly was the most spectacular. For the most part, the United States has used drones, equipped with high-precision, guided armament, in its decapitation strikes. These

drones are piloted from locations far from the battlefield and, being unmanned, avoid putting pilot lives in danger.

According to the Pakistani Defence Ministry, between 2008 and 2013, drone attacks killed 2160 terrorist and, unfortunately, 67 civilians (Syed 2013). The number of civilian casualties, or "collateral damage" as it is sometimes known, is surprising small, and according the Pakistani Defence Ministry, it has been reduced until practically nil (Ibid). Since 2013, hundreds more terrorists have been killed by drone strikes in Syria, Iraq, Afghanistan, Yemen and Somalia. In Yemen alone, there were over 200 terrorists killed by drone strikes in 2011 and 2012 alone (Hudson, Owens and Callen 2012).

However, according to Amnesty International, the USA, which refuses to release detailed information about individual strikes, claims that its drone operations are based on reliable intelligence, are extremely accurate, and that the vast majority of people killed in such strikes are members of armed groups such as the Taliban and al-Qa'ida. Critics claim that drone strikes are much less discriminating and have resulted in hundreds of civilian deaths. They claim that some of these deaths may amount to extrajudicial executions or war crimes. They argue that these drone attacks fosters animosity that increases recruitment into the very groups the USA seeks to eliminate (WillI I Be Next? US Drone Strikes in Pakistan 2013).

The Rationale for Decapitation

The threat from transnational terrorism is very real. Thousands of innocent lives have been lost around the globe due to the actions of terrorists groups such as Al Qaeda and ISIS. Who does not remember the awful visions of people being led out of the World Trade Center on February 26, 1993 when transnational terrorism first came to the United States? And, of course, who does not remember the image of the second jetliner crashing into the South Tower of the World Trade

Center on September 11, 2001? Nor can we erase the images of desperate people jumping from the upper floors of the smoking towers. All of these images, all of these events struck fear into the hearts of all Americans; fear of an unknown enemy, and fear of death wrought suddenly, violently and without warning. The only way to allay these fears is to contain and/or destroy international terrorist organizations.

However, what tools to use in this Global War on Terror? Is any tool that is effective justified? Would it, for example, be justified, as some have suggested, to "carpet bomb," or use tactical nuclear weapons against ISIS strongholds, thereby making "the sand glow in the dark" (Magerian 2015)?

There have been several significant terrorist leaders who have fallen victim to drone strikes that particularly targeted them. Other than Osama Bin Laden, these have included Anwar al-Awlaki, an American citizen and one of Al Qaeda in Yemen's leading recruiters. Others include:

Sa'ad bin Laden, one of Osama bin Laden's sons who served as a senior al-Qaeda leader and was killed in Pakistan; Baitullah Mehsud, top Taliban leader also killed in Pakistan; Abdullah Said al Libi, top commander of the Lashkar al Zil, al-Qaeda's shadow army, also killed in Pakistan; Sheik Fateh al Masri, a leader of al-Qaeda in Pakistan and Afghanistan, also killed in Pakistan; and Ahmed Abde Godane, leader of al-Shabaab, an al-Qaeda affiliate in Africa, who was killed in Somalia. His group was behind the attack on the Westgate Mall in Nairobi, Kenya, that killed 67 people in 2013 (Prominent Terrorist Suspects Killed in Drone Strikes 2015).

Does targeted killings of terrorist organization leadership invites retribution in kind? We are all familiar with the case of Gabby Giffords, the Congresswoman from Arizona, who was seriously

injured when she was shot. While that case was not an act of terror, it would not be difficult to imagine ISIS operatives in the United States setting out to assassinate as many "soft" leadership individuals as they could find. It is not necessary for them to target, for example, the President of the United States, the assassination of a few members of Congress or federal judges, would be sufficient to spread fear throughout the government. Kydd and Walter point out that, "because terrorist organizations operate more freely in democracies and politicians must interact with the public to maintain political support, terrorists have an easier time targeting prominent individuals for assassination" (Kydd and Walter 2006, 62).

Conclusion

In determining the effectiveness of a counterterrorism strategy or tactic, it must be determined if, first of all, the strategy or tactic achieves the goals for which it was developed. In addition, the strategy or tactic must meet the requirements of international law. Finally, the action to be taken must be appropriate to the moral conscience of the country.

Based on the criteria that the goal of organizational decapitation is to create disorganization and fear in the terrorist group, and not to necessarily eliminate it then, from the literature studied, it would seem to be effective. Johnston studied 119 decapitation attempts and provided the following statistics on the percentage of successful decapitations (Johnston 2012, 57):

Table 1. Summary Statistics: Decapitation Attempts

				Leader Removed (percentage
Type	Observations	Percentage of Attempts		successful)
Shooting	34		29%	44%
Bombing	17		14%	29%
Raid/Sweep	25		21%	64%
Combat	41		34%	32%
Unknown	3		2%	0%
Total Attempts	119	1	L00%	40%

Johnston also demonstrates that the likelihood of conflict termination increases by 27% when leadership decapitation is successful and that the likelihood of counterinsurgency victory also increases significantly (32%) when there is a successful decapitation. Johnston also shows that, contrary to conventional wisdom, it is more effective to kill terrorist leaders that to capture them (Johnston 2012). Karam and Gray assert that leadership decapitation has seriously eroded Al Qaeda's operational capabilities and has driven its leadership further underground and that has hampered its communications (Karam and Gray 2013).

The legality of organizational decapitation by the use of drones could be argued *ad infinatum*, but for the purpose of this study it is sufficient to note that in 2001 the United States Congress passed the Authority to Use Military Force Act that authorized the President to use *any means necessary* to destroy Al Qaeda or its affiliates (emphasis added). This *carte blanche* is the legal authority for the use of drones to target leaders of terrorist groups (Karam and Gray 2013).

As to the morality of decapitation, it is a given that one of the first duties of a government is the protection of its people. On September 11, 2001 over three thousand people were murdered in a terrorist attack. The government of the United States has an obligation to insure that this never happens again. It must use whatever resources are appropriate to achieve this end. If the disruption of terrorist organizations operations is possible through the targeted killing of its leaders, then the government has the moral obligation to see to it that that is done. If the method also results in achieving that end without putting its own fighters in harm's way, then it is an even a greater moral requirement.

Finally, it must be kept in mind that organizational decapitation is a tactic, not a strategy. By itself decapitation alone is unlikely to defeat a terrorist organization. However, it can severely degrade its operational ability, demean the quality of its leadership, impair the morale of the

organization's members, and put the fear of sudden death from the skies or at the hands of highly-trained commandos into the hearts of the membership of the organization. Because of this, it must be said that decapitation is an effective tactic in counterterrorism.

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