

Fatal Choices: Israel's Policy of Targeted Killing

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FATAL CHOICES: ISRAEL'S POLICY OF TARGETED KILLING

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Israel has openly pursued a policy of targeted killing since the inception of the second intifada in September 2000. The Israelis have identified, located and then killed alleged Palestinian terrorists with helicopter gunships, fighter aircraft, tanks, car bombs, booby traps and bullets. Dozens of Palestinians have been killed, prompting international condemnation, domestic soul searching and bloody retaliation. Given its controversial nature and obvious costs, it is worth considering whether this policy is worth pursuing. Why has Israel embarked on a policy of targeted killings? Has the policy been effective in reducing Palestinian attacks on Israeli civilians? Are targeted killings permitted by Israeli and international law? Is it moral? Most important, is the policy of targeted killing in the Israeli national interest?

The answers to these questions are of critical importance. For Israel, it is necessary to know whether its policy of targeted killings is pragmatically and ethically justified. If it is, it makes sense for Israel to continue or even expand upon this approach. If there are serious shortcomings, they need to be highlighted so that the policy can be modified or discarded. For countries other than Israel, and especially the United States, assessing the worth of targeted killings is hardly less significant. Ever since September 11th, much of the world, with the United States in the lead, has sought ways to counter terrorism. If the Israelis have embarked upon a successful approach, it makes sense to emulate them. If Israeli policy is fundamentally flawed, however, better to understand that now, especially when voices demanding that terrorists be hunted down and killed have grown so loud. Either way, learning from the Israeli experience is central to those seeking to combat the threat from terrorism.

I argue that the policy of targeted killing is in Israel's interests and, subject to certain guidelines, should be retained. I argue this despite my conclusion that

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targeted killing has not appreciably diminished the costs of terrorist attacks and may have even increased them. Targeted killing is effective, however, in providing retribution and revenge for a population under siege and may, over the long term, help create conditions for a more secure Israel. So long as Israel's adversaries target innocent civilians as a prime goal of their military operations, Jerusalem will have little choice but to continue this practice.

This essay is in five parts. After defining targeting killing, I discuss the Israeli use of this practice from Biblical times to the present. I then consider the effectiveness of this policy in reducing Palestinian terrorism. Next, the legal and normative considerations of targeted killing are examined. My case in support of targeted killing follows. I conclude with some general recommendations for improving the implementation of this policy.

I. DEFINITION AND HISTORICAL BACKGROUND

Targeted killing is the intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval. It is not "assassination" for three reasons. First, assassination typically has a pejorative connotation of "murder by treacherous means." Whether the Israeli killing of alleged Palestinian terrorists is "treacherous" or not is a debatable proposition that should not be assumed *a priori* by employing loaded terms such as assassination. Second, assassination usually refers to the killing of senior political officials. For the most part—though not exclusively—Israel has focused on killing Palestinian terrorists and those who plan the actual attacks. Finally, Israel itself does not use the term, "assassination", and instead prefers "targeted thwarting" or "interceptions."¹ While it is not necessary to accept Israeli terminology for its actions, neither does it make sense to accept the terminology of its critics. Targeted killing accurately refers to what the Israelis actually do, with a minimum of semantic baggage implying approval or disapproval of their actions.

The practice of targeted killing by Israel is not new. The Bible offers many examples of murders undertaken to advance the political interests of the killer.² King David, for example, ordered the killing of the head of his army because he feared his ambitions. In the post-Biblical period, the Zealots of Massada fame freely killed opponents, Jews and non-Jews alike, in a failed effort to defeat the Roman occupiers. Underground Jewish groups in the period before Israeli independence such as the Hagana, Irgun and Lehi often cited Biblical and ancient historical examples to justify their own practices of targeted killing. These groups had little compunction about eliminating individuals who supported the British occupation of Palestine. A few of the victims were prominent political figures,

such as the mediator Count Bernadette. Most, however, were fellow Jews suspected of being informers.³ Some of the leaders of these groups, such as Menachem Begin and Yitzhak Shamir, assumed leadership positions in modern Israel. They did so having sanctioned targeted killings in the past and perhaps with the belief that this policy helped them achieve their aims.

From its independence in 1948 to the present, Israel has used the policy of targeted killings to advance its interests. When the intensity of the Arab-Israeli conflict was high, especially if the main antagonist were the Palestinians, the number of targeted killings rose. At times of relative peace, such as just after the signing of the Oslo Peace Accords in 1993, targeted killings dropped. While the numbers may fluctuate, this practice has never totally disappeared. Exact figures are difficult to come by, because the Israelis usually do not publicly acknowledge responsibility for a specific killing. Nevertheless, in most cases it is clear who is responsible. Israeli attacks are characterized by their professionalism, efforts to minimize innocent casualties, and (occasionally) the sophistication of the weapons used (e.g. helicopter gunships and F-16 fighters). The identity of the target also provides a strong indication of Israeli responsibility. The Israeli government will usually refuse comment regarding attacks they mount (except where Israeli involvement is obvious) but will emphatically deny responsibility for operations undertaken by others. In many cases, Israeli sources will unofficially admit to being behind specific attacks.

The persistence of the Israeli policy of targeted killing can be seen by a brief historical overview. Examples of targeted killings provided are meant to be illustrative, not exhaustive. In the 1950s, Israel focused its targeted killings on efforts to halt fedayeen attacks from Egypt. Two senior Egyptian military intelligence officials in charge of fedayeen operations were killed by mail bombs sent by Israeli intelligence.⁴ In the 1960s, Israel's policies of targeted killings had another key success when mail bombs were again sent, this time to German scientists developing missiles capable of reaching Israel from Nasser's Egypt. The bombs, sent to the scientists and their families, convinced the scientists to return to Germany, bringing about an end to the missile program.⁵

The administration of the territories following Israel's victory in the 1967 War and an increase in Palestinian terror operations dramatically increased the use of targeted killings by Israel. General Ariel Sharon commanded an anti-terror detachment in 1971 that attempted to eliminate Palestinian militants from Gaza. Often posing as Arab civilians or guerrillas, Sharon's unit killed 104 Palestinians and arrested 742 others.⁶ The slaughter of 11 Israeli athletes at the Munich Olympics galvanized the policy of targeted killing as no previous event had done. Israel established "Committee X" chaired by Prime Minister Golda Meir and Defense Minister Moshe Dayan. The Committee oversaw a mission in which

agents of the Israeli foreign intelligence service, the Mossad, systematically hunted down and killed the Black September members responsible for the Olympic massacre. Beginning in October 1972, the killings continued over the next year, resulting in thirteen deaths. A Moroccan busboy killed by mistake in Lillehammer, Norway, slowed but did not stop the Israeli effort.⁷ Israel's war with the Palestine Liberation Organization (PLO) escalated in April 1973 when three of its leaders were killed in separate apartments in Beirut. Ehud Barak, the future prime minister, led the successful operation.

The 1980s saw Israel attempt to kill two Palestinian leaders, one of which was successful. The failed effort occurred following the Israeli intervention into Lebanon in the spring of 1982, when Israel tried several times to kill PLO leader Yasir Arafat. Despite the use of booby-trapped cars and air attacks, Arafat was able to escape unscathed. An Israeli sniper reportedly had Arafat in his sights during the PLO's withdrawal from Beirut, but he was not given the order to shoot given the presence of American and other diplomats at the farewell ceremony.⁸ In February 2002, Prime Minister Ariel Sharon lamented that Israel had not killed Arafat in Lebanon when it had the chance to do so. Israeli efforts proved more successful in killing Arafat's second-in-command, Abu Jihad (Khalil el-Wazir) by an Israeli hit squad in Tunisia in the spring of 1988. The decision to kill Abu Jihad stemmed from his planning of several terrorist activities against Israel, including the bloody hijacking of an Israeli bus in March 1988. More important, the Israelis saw Abu Jihad as an irreplaceable leader who held the PLO together and was key to the success of the first Arab intifada. Ehud Barak reportedly planned the joint Army/Mossad raid that killed Abu Jihad drawing from his 1973 Beirut experience.⁹

Three major efforts at targeted killing took place in the 1990s, one successful, one a failure, and one achieving mixed results. The successful operation killed Palestinian Islamic Jihad head, Fathi Shikaki in Malta in October 1995. No competent successor emerged to replace Shikaki, producing disarray in Islamic Jihad. The organization limped along for several years, unable to mount any serious attacks against Israeli interests.¹⁰ The mixed outcome stemmed from the January 1996 killing of Yahya Ayyash, known as "the engineer," in Gaza. Ayyash was killed while speaking on a mobile telephone that had been booby-trapped by the Israeli domestic intelligence agency (Shin Bet). Ayyash had been one of Hamas' most skilled and prolific bomb makers whose handiwork proved critical to many terror attacks against Israel. Although Jerusalem succeeded in removing a key figure from Hamas, Ayyash's death also unleashed four suicide bus bombings in the next two months, killing more than fifty Israelis. Finally, in an embarrassing, almost comic episode, the Israelis failed to kill Khaled Meshal, the chief of Hamas' political bureau in Amman, in September 1997. Two Mossad

agents succeeded in poisoning Meshal, but were captured by Jordanian authorities before they could leave Jordan. In order to secure the return of the two operatives, Israeli Prime Minister Benjamin Netanyahu agreed to provide the antidote for the poison (thus bringing about Meshal's recovery) and released Hamas' founder, Sheik Ahmed Yassin from an Israeli prison. As a result of this episode, Israel damaged relations with Jordan, a friendly Arab country, and infuriated Canada when it was revealed that the Mossad agents had used Canadian passports. Most important perhaps, the aura of invincibility and shrewdness that surrounded Mossad had been badly compromised.¹¹

Targeted Killings During the Second Intifada

A wave of targeted killing began in November 2000 as an outgrowth of the second Palestinian intifada. Following the failure of the Camp David accords in the summer of 2000 and Ariel Sharon's visit to the Temple Mount in late September, the Palestinians unleashed a violent revolt against Israel. Unlike the first intifada, in which the ratio of Palestinians to Jews killed was roughly 25 to 1, in the second intifada a well-armed Palestinian force, making free use of suicide bombers, reduced that proportion to three to one.¹² Israel responded to these increasingly lethal attacks with military incursions into Palestinian-controlled areas, increased use of checkpoints to control Palestinian movements, and a dramatic rise in the slaying of Palestinian militants.

In one sense, there was nothing new about Israel's policy of targeted killing during the second intifada. As indicated above, Israel has pursued targeted killings throughout its history. What was new was the scale of the effort—never have so many militants been killed in such a short span of time. Also new were some of the tactics, particularly the use of helicopter gunships to execute individuals. Because of the extent of the campaign and the obvious use of Israeli military assets, the Israeli government has been forced to acknowledge its role in targeted killings to a much greater extent than previously, although it still refuses to routinely claim responsibility for its operations.¹³

Several high-ranking Palestinians have been killed during the second intifada. They include the head of the Palestinian Front for the Liberation of Palestine (PFLP), Abu Ali Mustafa, the Secretary-General of the PFLP, Mustafa Zibri, and one of the leaders of the Tanzim movement, Raed al-Karmi. Most of those killed, however, were mid-level fighters, important enough to disrupt a terrorist cell but not so important as to provoke murderous retaliation. The targets of the attack usually knew they were being sought. Israel identified them through its intelligence apparatus and through collaborators. The Israelis claim they only target those who are on their way to a terrorist attack or are actively planning one. During the early months of the second intifada, when the Israelis had ongoing

talks with the Palestinian Authority (PA), they would hand over a list to the PA of the suspected terrorists. If the PA did not arrest the individuals, Israel killed them.¹⁴ Once talks broke down with the PA in the spring of 2002, it is not clear if the Israelis attempted to provide a list for the Palestinians before taking action.

II. HOW EFFECTIVE IS THE POLICY OF TARGETED KILLING?

There is no question that Israel's policy of targeted killing has hurt the capability of its Arab adversaries to prosecute attacks against Israel. Terrorism is essentially an offensive action, making counter-offensive actions such as targeted killing an especially effective response. It is exceedingly difficult for Israel to defend itself from terror attacks or to deter terror attacks by Palestinians. In terms of defense, there are literally tens of thousands of targets in Israel for Palestinian terrorists. Power stations, government bureaus, bus depots, airports, skyscrapers, open-air markets and sport stadiums—the list is endless. It is impossible to defend them all, especially against a determined adversary that can choose the time and place of attack. Although, as discussed below, some level of deterrence of terrorism is achievable, dissuading potential terrorists is not easy when they are eager to die for their cause. In such situations, the best response to terrorism is to go on a counter-offensive, that is, to eliminate the terrorist threat *before* it can be launched. One of the most successful means of eliminating terrorists before they can strike is the policy of targeted killing.¹⁵

As alluded to above, Israel has achieved some notable triumphs from its policy of targeted killing. In the 1950s, terrorist infiltration from Egypt lessened as a result of the killing of Egyptian intelligence officers in charge of the operation. In the 1960s, Nasser's plan to build ballistic missiles capable of reaching Israel collapsed when his German scientists fled in the wake of Israeli mail bomb attacks. Black September was all but destroyed as a functioning terrorist organization in the 1970s, following the Israeli campaign to avenge the Munich massacre. The 1995 Israeli assassination of Islamic Jihad leader Shikaki in Malta undermined the effectiveness of this group for several years, as successors struggled over policy and power.¹⁶

Several other benefits of Israel's policy of targeted killing became apparent from its heightened practice during the second intifada. First, targeted killings have impeded the effectiveness of Palestinian terrorist organizations where leadership, planning, and tactical skills are confined to a few key individuals. There are a limited number of people who have the technical ability to make bombs and plan attacks. If these people are eliminated, the ability to mount attacks is degraded. There is some evidence that targeted killings have reduced the

performance of Palestinian operations. The large number of intercepted suicide bombers (Israelis estimate they stop over 80 percent of attempts) and poorly planned attacks (e.g. suicide bombers who appear with wires sticking out of their bag or detonations that occur with little loss of life) indicates that there are problems either with the organization of the operations or those available to carry them out.¹⁷ There are individual leaders whose charisma and organizational skills keep a group together. If they are eliminated, they are not easily replaced.¹⁸ Shikaki of the Islamic Jihad falls into this category.

Another clear benefit of targeted killing is keeping would-be bombers and bomb makers on the run. When the Israelis informed the Palestinian Authority who they were after, this information was often passed to the targeted individuals so that they knew they were being hunted. Some voluntarily chose to place themselves in Palestinian custody to avoid being slain. The threat they posed to Israel was consequently diminished. There are numerous accounts of others on the "hit" list taking precautions against being killed such as sleeping in a different location every night and not letting others know of their whereabouts.¹⁹ Even for those Palestinians who have not been told they are being hunted, the very possibility they might be targeted is likely to cause a change in behavior. Time and effort undertaken to avoid Israeli dragnets are time and effort not undertaken to plan or carry out operations against Israel.

Targeted killing also acts as a deterrent. In one sense, it appears virtually impossible to deter people willing and even eager to lose their life. But behind every suicide bomber are others who might not be as ready for martyrdom. The large number of Palestinian commanders who surrendered meekly to Israeli forces during the large-scale military incursions in the spring of 2002 lends support to the notion that many senior officials do not wish to die for their cause. It is also reasonable to assume that there are skilled, capable Palestinians who do not engage in terrorist operations for fear of Israeli reprisals. Most important, there is strong evidence that the policy of targeted killing hurts Palestinian organizations to the extent to which they are willing to alter their behavior. Israeli Prime Minister Ariel Sharon met with three Palestinian leaders (though not Yasir Arafat) on January 30, 2002. When Sharon asked the Palestinians what they wanted from him, first on their list was an end to targeted killings.²⁰ Islamic Jihad and Hamas agreed to refrain from launching attacks in pre-1967 Israel in December 2001 so long as Israel refrained from killing its leaders. Although the cease-fire eventually broke down, their willingness to abide by the cease-fire, even temporarily, indicates the deterrent power of targeted killing.

Targeted killing is popular with the Israeli public. A poll published by *Ma'ariv* in July 2001 found that 90 percent of the Israeli public supported the policy. There appears to be a near-universal belief that targeted killing represents an appropriate

response to the terror attacks that afflict the population. No other Israeli policy, including incursions into Palestinian territory, arrests of militants, the erection of a wall, or forced transfer of Palestinians from the territories to neighboring Arab countries enjoys the support received by targeted killing. Since the approval spans the Israeli body politic, it is well received by a coalition government representing diverse Israeli views. Democracies follow public opinion and targeted killing is a policy that has never lost favor with the Israeli electorate.

Targeted killing has also proven effective in the battle for public relations throughout the world. Although Israel has been criticized in the media for slaying Palestinian militants, the criticism has been far less than afforded other policies. When, for example, Israel attacks Palestinian cities, there is no lack of coverage of the innocent deaths that result or the widespread suffering imposed on a mostly non-combatant society. Targeted killings, at least, focus on specific adversaries who mean Israel harm. That there is rarely television coverage of the actual operation is another benefit.²¹

In sum, the policy of targeted killing has prevented some attacks against Israel, weakened the effectiveness of terrorist organizations, kept potential bomb makers on the run, deterred terrorist operations, gained the support of the overwhelming percentage of the Israeli population, and done so while largely avoiding the sharp glare of publicity. It has not prevented all acts of terrorism, nor can it. But as part of a larger array of policies, including blockades, checkpoints, and incursions, it is seen to be a successful response to an intolerable threat.

The Limited Effectiveness of Targeted Killing

There are also strong arguments that targeted killing is an ineffective and even harmful policy for Israel to follow. No compelling evidence exists that targeted killing has reduced the terrorist threat against Israel. By May 2002, after eighteen months of targeted killings carried out at an unprecedented scale, the number of Israeli victims of Palestinian terror had reached an all-time high of nearly 500. It is, of course, always possible to assert that the number of Israeli deaths would have been even greater if not for the targeted killing. But this is an unfalsifiable proposition that is based more on faith than on reasoned analysis.

It is not difficult to understand why targeted killing has not been effective in stopping terrorism. Political entities promoting terror against Israel such as Hamas, Islamic Jihad and the Palestinian Authority are very decentralized. They are made up of many cells, the destruction of some having little or no impact on others. Moreover, the number of young men (and women) who are willing and eager to be suicide bombers appears to be virtually limitless. Outfitting these martyr wannabes with primitive bombs capable of wreaking murderous assaults appears to be relatively easy—at least within the capability of many Palestinians

who the Israelis have not yet killed. No greater evidence of the failure of Israeli policy exists than the dramatic escalation of terrorist attacks and Israeli casualties in the first half of 2002, after more than a year of targeted killings.

A much stronger case can be made that targeted killing actually increases the number of Israelis killed, by provoking retaliation, than it saves lives by eliminating key terrorists. Four examples of targeted killing that produced a murderous response are especially compelling. First, as mentioned above, the Israeli killing of "the engineer" Yehiya Ayash in January 1996 provoked four retaliatory suicide bombings of buses, killing more than 50 Israelis. Second, the first-ever killing of an Israeli cabinet minister occurred in October 2001, when members of the PFLP killed Rehavam Ze'evi. The PFLP stated it killed Ze'evi in retaliation for the Israeli killing of its leader, Mustafa Zibri, two months earlier. Third, the January 2002 targeted killing of Tanzim leader, Raed al-Karmi ended a cease-fire declared by Yasir Arafat the previous month. During that tenuous cease-fire, the violence of the intifada had been reduced to its lowest point since its inception. Following the slaying of Karmi, however, the Palestinians unleashed an unprecedented wave of suicide bombers, killing large numbers of Israelis. Both Fatah leader Marwan Barghouti and senior Israeli military officers agreed that Karmi's killing transformed a situation of relative calm into one of murderous violence. Even more important, Karmi's death reportedly caused the Al-Aksa Brigades—a secular group owing allegiance to Fatah—to engage in suicide bombings. Previously, only Islamic Jihad and Hamas employed this weapon. The result was record casualties among Israelis combined with the added complication of having to confront women suicide bombers (which Islamic Jihad and Hamas have not employed) as well as men.²² Finally, the Israeli killing of Hamas leader, Sheik Salah Shehada, in July 2002, derailed what many believed to be promising negotiations. Only days before Shehada's death, Israel had been engaged in serious talks with Palestinian leaders. The Palestinians put forth a proposal that called for a cease-fire and Palestinian promises to provide for Israeli security in exchange for an Israeli withdrawal from West Bank cities. The Palestinians also pledged, "From this moment forward, we will end attacks on innocent, noncombatant men, women and children." It is impossible to know whether these talks would have amounted to anything because the Israeli killing of Shehada (and 14 innocent civilians) derailed the negotiations, after which renewed violence (including a suicide bombing attack on Hebrew University) quickly followed.²³

Targeted killing also hurts Israeli interests by removing current adversaries who may prove to be useful negotiating partners in the future. One of the vexing problems confronting Israeli decision makers is the absence of any credible alternatives to the failed leadership of Yasir Arafat. This problem exists mostly because of the corrupt and dysfunctional politics of the Palestinian Authority. But

Israeli actions, particularly its policy of targeted killing, have also contributed to this situation. When Israel killed Arafat's second-in-command, Abu Jihad, in 1988, it eliminated not only an individual behind several bloody operations, but also someone on the right wing of the PLO who many saw as a pragmatist capable of making peaceful compromises. As Ezer Weizman, then a member of the Israeli cabinet, remarked referring to Abu Jihad's killing, "We are trying to find Palestinians to talk to us. We are trying to get the US to bring the two sides together. I don't think the assassination contributes to this. Liquidating individuals will not advance the peace process."²⁴ Reported Israeli efforts to kill Marwan Barghouti fall into the same trap. Barghouti, who was taken prisoner in April 2002 in a major military sweep, supposedly was marked for execution. Only a mistake in communications resulted in his being imprisoned instead. Barghouti is widely considered as a reasonable alternative to Arafat. Like virtually every potential successor to Arafat, however, Barghouti has been implicated in terrorist acts against Israelis, hence the reported decision to have him killed. If Israel kills everyone who has been involved in terrorism, however, there will be no one left with any standing among the Palestinians with whom to negotiate. When targeted killing eliminates those who can potentially arrange a settlement, Israeli interests are severely damaged.

The policy of targeted killing also hurts Israel's security by damaging the effectiveness of its intelligence organizations. By diverting scarce resources away from the collection and analysis of intelligence on the threat posed by adversarial states, Israel runs the risk of paying less attention to existential threats in order to combat critical but less than vital challenges to its security. Following the Munich Olympics massacre, Israel focused much of the attention of its intelligence services on tracking down and killing the perpetrators. This effort may have led, in part, to diverting Israel's attention away from the growing threat posed by Egypt and Syria, which led to Israel being caught by surprise at the outbreak of the October 1973 War.²⁵ Even where the effect is not so dramatic, targeted killing can hurt Israel's ability to gather critical intelligence. Locating and killing key Palestinian terrorists requires timely intelligence, much of which can only be supplied by informers. Given that a limited number of people will know the whereabouts of the targets, it will not be difficult to isolate those who have collaborated with Israel. Increasing reports of informers being killed during the second intifada, with their bodies publicly displayed, may partly be a result of their identities becoming known as a result of the targeted killing policy.²⁶

Israel's policy of targeted killing has produced worldwide condemnation. UN Secretary-General Kofi Annan repeatedly urged Israel to end targeted killings, saying it violates international law and undermines efforts at achieving a Middle East peace. In the United States, Secretary of State Colin Powell has also

condemned the policy, declaring at one point, "We continue to express our distress and opposition to these kinds of targeted killings and we will continue to do so."²⁷ While serving as American Ambassador to Israel, Martin Indyk provided a harsh criticism of targeted killing on Israeli television saying, "The United States government is very clearly on the record as against targeted assassinations." They are extrajudicial killings, and we do not support that."²⁸

The European Union and, of course, the Arab states, have also been vocal in their condemnation of Israel for killing Palestinian militants. Although the criticism from the United States abated some in the aftermath of the September 11th terror attacks, Israel nonetheless faces continuing international disapproval as a result of following this policy. This is especially the case when, as often happens, innocent Palestinians are killed in the course of Israeli operations. The July 2002 slaying of Hamas leader Shehada provoked especially harsh criticism—including from the United States—since 14 innocent bystanders (nine of whom were children) also died in the bombing attack. In its struggle for worldwide support, there is little question that the policy of targeted killing hurts Israel's standing.

Selectively killing Palestinian terrorists enhances the effectiveness of Palestinian attacks by encouraging new recruits for suicide bombings. Each time the Israelis kill a would-be suicide bomber or Palestinian official, a "martyr" is created. Palestinian organizations feverishly publicize and romanticize the victims by putting on lavish funeral processions and displaying the "martyr's" pictures. At these funerals, it is common to see dozens of young men (and women) pledging their willingness to become suicide bombers. Some of this, undoubtedly, is just for show. But as the spike in suicide bombings beginning in early 2002 attest, the supply of suicide bombers does appear to have grown.

Inasmuch as becoming a victim of an Israeli targeted killing has become a badge of honor among Palestinians, when the Israelis slay an alleged terrorist they unwittingly enhance the popularity of the organization to which he or she belonged. Many of the targets of Israel's attacks have come from Hamas and Islamic Jihad. These organizations then exploit their casualties in a manner designed to curry support among the Palestinian people. With public opinion polls showing skyrocketing approval of these groups, their efforts appear to be succeeding. In an effort to compete with Hamas and Jihad's success, Arafat's organizations dramatically stepped up their own terrorist attacks in 2002. A competition developed as to which group could launch the most costly attacks against Israel. The policy of targeted killing, by affording prestige to those planning and committing these attacks, has encouraged that which it most seeks to deter.

The Israeli policy of targeted killing has also enhanced cooperation among Palestinian groups. Islamic Jihad, Hamas and the Palestinian Authority have long been at odds with one another. Nothing, however, unites adversaries like a common enemy. At the funeral of the PFLP's Mustafa Zibri, leaders of Hamas, Islamic Jihad, and the Palestinian Authority put aside their many differences and joined together in a spirit of anti-Israeli unity. The common fear of being victims of Israeli attack may have the unintended consequence of promoting cooperation among Israel's enemies who otherwise would find it difficult to work together.²⁹

The case against targeted killing on pragmatic grounds is compelling. Targeted killings have provoked murderous retaliations, eliminated individuals who might have become pragmatic negotiators for peace, diverted the resources of intelligence agencies away from existential threats, "burned" informers, generated international condemnation, recruited new volunteers for terrorist acts, enhanced the standing of organizations whose leaders have been marked for death, and promoted the unity of groups confronting Israel. Israel has secured some real benefits from this policy. But taken as a whole, targeted killing, especially in the second intifada, has not thus far enhanced the security of Israel, and probably has cost more Israeli lives than it has saved.

III. NORMATIVE AND LEGAL ISSUES

Norms are broad guidelines of behavior that are largely followed by states and other actors. There is no established norm against targeted killing, but there is one against assassination. Although I have argued there is a substantial difference between the two concepts, they are related in public perceptions. Understanding the difficulty Israel has had in justifying the practice of targeted killing stems, in part, from the norm against assassination. More important, continued Israeli employment of targeted killing can work to erode that norm, with negative consequences for Israel and the world community.

The norm against assassination is relatively recent. Before the 17th century, assassination was a normal means of states doing business, similar to diplomacy and war. Statesmen, philosophers, and even the Catholic Church approved of the practice as a means for states to pursue their interests while limiting harm done to innocents.³⁰ The support of assassination dropped precipitously, however, in the 1600s. Both in terms of rhetoric and practice, assassination became frowned upon. The norm against assassination became so strong, that even as odious a character as Hitler was not seen as a legitimate target by the British who deemed any effort to kill him as "unsportsmanlike."³¹

What changed? According to Ward Thomas, who has done some of the best work in this area, norms stem not only from moral considerations, but also from the interests of the great powers. Moral concerns regarding assassination existed before the 17th century, but so long as assassination served the interests of the major states, they were not enough to support a norm against its practice. The rise of the sovereign state and the mass army in the mid-1600s, however, changed the thinking about the acceptability of assassination. By limiting "legitimate" conflict to clashes of large military forces, the leaders of the great powers established rules of the game that maximized their advantages while sidelining the weaker states that did not have mass armies with which to compete. Similarly, the norm against assassination protected leaders of great powers by depriving the weak of an instrument that allowed them to threaten those leaders. So long as there was general agreement that the way to resolve violent conflicts was through conventional war and that assassination was unacceptable, the hierarchy of the international system and the interests of the leaders of the major powers would be preserved.³²

The reasons for the emergence of the norm against assassination illustrate some of the costs Israel could be expected to bear if the norm is eroded. Assassination is a weapon of the weak. It benefits those with limited resources, but with fanatical devotion to a cause. In other words, it plays to Palestinian strengths. So long as conventional military operations hold sway, Israel is in an unassailable position. Its use of multi-million dollar sophisticated jet fighters and modern tanks manned by trained crews makes it the strongest power in the Middle East. But when the arena switches to the world of assassination, young men and women armed with a couple of hundred dollars worth of explosives eager to achieve martyrdom are able to inflict grievous harm on Israel that Arab armies cannot match. Insofar as Israel erodes the norm of assassination, it transforms the rules of conflict in a manner that benefits its most fervent adversaries.

It is of course true that norms do not determine behavior. Terrorists, almost by definition, are not constrained by established norms. The long history of plane hijackings and other murderous attacks against innocent civilians by terrorists throughout the world gives brutal testimony to their willingness to violate established codes of conduct. In confronting this challenge, states have also had to depart from usual norms. Terrorists typically do not appear in identifiable uniforms or hold clear swaths of territory, making conventional responses to their threats all but impossible. Insofar as Israel (and other states) make war on terror, traditional norms of combat will have to be eroded no matter what the long-term implications may be.

Nevertheless, when a major regional power and democracy such as Israel openly proclaims its right to pursue a policy of targeted killing, it helps to create a

new standard of behavior that may work to its and other states detriment. Norms may not be determinative, but neither are they irrelevant. Rather than simply disregarding norms because they interfere with its war on terror, Israel needs to act in a way that preserves its right of self-defense without bringing about future harm to itself and to the international community.

Law and Targeted Killing

The policy of targeted killing is fully consistent with Jewish and Israeli law, and is in accordance with most interpretations of international law as well. Regarding Jewish law, the "Rodef" injunction that appears in the Bible (Exodus 22:1) makes it abundantly clear that if someone is coming to kill you, you are obligated to kill them first. This obligation applies not only for one's protection, but for the defense of one's community as well. As such, killing a terrorist before he can act is not only permitted by Jewish law, it is *required*.³³

Israeli law is a bit more problematic, but here too the legality of targeted killing is not in much doubt. It is true that Israel does not allow capital punishment for its citizens. It is also true that Israel's Basic Law (the closest Israel comes to a constitution) guarantees that, "There shall be no violation of the life, body or dignity of any person as such." However, the Basic Law does allow these rights to be suspended, "by a law befitting the values of the State of Israel, enacted for a proper purpose, and to an extent no greater than is required, by a regulation enacted by virtue of express authorization in such law."³⁴ Israeli law has allowed for just such a suspension. The Judge Advocate General of the Israeli Defense Forces has issued three conditions under which targeted killing can take place. Before suspected terrorists are killed the Palestinian Authority must first ignore appeals for their arrest, the Israelis must conclude that they would be unable to arrest the individuals themselves, and the killing must be done to prevent an imminent or future terrorist attack—not for revenge or retribution. The Israeli High Court supported these conditions in a strongly worded opinion that rejected petitions calling for an end to targeted killing. Provided these conditions are followed, targeted killing is clearly consistent with Israeli law.³⁵

As for international law, the situation is more complicated. Both international treaty and customary law outlaw assassination. The 1937 Convention for the Prevention and Repression of Terrorism and the 1973 New York Convention are prominent examples of efforts undertaken to formally codify the illegality of assassination. Customary prohibitions against assassination have been even more influential than written law. The notion that assassination is not an accepted practice of statecraft became prominent with the writings of Hugo Grotius and Emmerich de Vattel in the 17th and 19th centuries. The prohibition against assassination was strengthened in the mid-1970s following congressional

investigations into activities by American intelligence agencies. The Church and Pike Committee investigations were especially outraged by Central Intelligence Agency efforts to assassinate several world leaders including Patrice Lumumba of the Congo and Cuba's Fidel Castro. The Committee hearings led to the establishment of an Executive Order stating that, "No person employed by or acting on behalf of the United States Government shall engage in or conspire to engage in, assassination." This Executive Order has been reaffirmed by each succeeding American president. Although pertaining only to the United States, given America's leading role in the world, the Executive Order contributed to the general agreement that assassination is unacceptable.³⁶

There is a clear consensus that assassination violates international law. Nevertheless, as already discussed, there are strong reasons to believe that the Israeli policy of targeted killing is not the same as assassination. The Director of the Center for National Security Law and the University of Virginia Law School, John Norton Moore, explains, "If one is lawfully engaged in armed hostility, it is not 'assassination' to target individuals who are combatants." An American military lawyer, Charles J. Duncan agrees, "Contrary to popular belief, neither international law nor US domestic law prohibits the killing of those directing armed forces in war. Nations have the right under international law to use force against terrorists."³⁷

There are two points of ambiguity in the Israeli case regarding its adherence to international law. First, is whether Israel is actually at war with the Palestinians. As the head of the international law branch of the Israeli army's legal division remarked, "International law actually only recognizes two situations: peace or war. But life isn't as simple. Israel is not at war since war is between two armies or two states and the Palestinians have neither. But since Israel is in armed conflict with Palestinians, you are allowed to target combatants."³⁸ If Israel is in "armed conflict" with the Palestinians, that is tantamount to war, and in war, Israel has every right to target those combatants it believes are its enemy. Just as a soldier will feel no compunction about firing on an opposing army in wartime before they attack, so Israel is legally justified in pre-emptively killing terrorists regardless of whether they have attacked Israel. War—or armed conflict—is a legal license to kill opponents whether it is targeted killing or more traditional combat.

The second area of ambiguity rests in whether Israel is using "treacherous" means when it kills suspected terrorists. For many, "assassination" is murder by treacherous means, and so *how* one is killed is as or even more important than *who* is killed in determining whether the ban on assassination applies. As former American Secretary of Defense Casper Weinberger notes, "Thus it is considered lawful in warfare for a skilled and daring soldier (perhaps a Delta Force commando) to steal into the enemy's camp and enter the general's tent and kill

him. But it would be a forbidden assassination if someone disguised as the general's doctor was admitted to his tent, and then killed him."³⁹ The issue of what constitutes "treacherous" killing is not just semantics. The United States had little trouble justifying its efforts to kill Khadaffi in 1986 or Osama bin Laden in 1998 using bombs and cruise missiles. Precisely because they were military operations and not carried out under false pretenses, the ban against assassination did not apply. It is true that the Israelis have used deception in some of their killings. There are reports that Israelis have disguised themselves as women or Arabs to facilitate getting their target. What distinguishes the killings in the second intifada from the past, however, is precisely the open and military nature of the attacks. The use of helicopter gunships or F-16s to kill suspected terrorists, for example, fits much more the conventional modes of warfare than it does the shadowy, deceitful world that characterizes assassinations. International lawyers may disapprove of the Israeli actions, but few would argue that it violates the ban on assassination.

IV. IN SUPPORT OF THE ISRAELI POLICY OF TARGETED KILLING

Thus far, the case for targeted killing appears weak. While it may disrupt and deter some attacks, this policy has likely provoked far more killings of Israeli civilians than it has saved lives. As one of the few Western democracies that openly proclaim the right to commit extra-judicial killings, Israel has been criticized by the United States, its Arab neighbors, the international community and the United Nations. While it may be technically legal, the policy has helped erode the norm against assassination, thus endangering the lives of world leaders while empowering the weak and fanatic. Based on its past record and likely future impact, there seemingly is little basis to continue this failed approach.

And yet, the policy of targeted killing makes sense for Israel for five reasons. First, is the question of morality. Yes, there is widespread agreement that targeted killing raises disturbing moral issues. After all, Israel is killing individuals without any trial or due process. Innocent people are sometimes killed in these operations. It offends our sense of moral sensibility when government officials are reduced to the role of hit squads, as if they were part of some Mafia-like organization. The bedrock of Western democracy established by philosophers such as Thomas Hobbes and John Locke is limited government. How can that principle reconcile itself with a government that deprives people of their life without proper judicial proceedings? The moral squeamishness that the policy entails is demonstrated by the reluctance that Israel manifests when it refuses to comment on various killings for which it is clearly responsible. Israel may defend its right in the abstract to

pursue a policy of targeted killing, but clearly the specifics of doing so are not something with which it is comfortable.

Its qualms notwithstanding, the Israeli policy of targeted killing rests on an unassailable moral foundation. Just War tradition from the time of Saint Augustine to the present has emphasized the need for armed conflict to be discriminate and proportionate in the pursuit of legitimate ends for the use of force to be moral.⁴⁰ There is no question that the policy of targeted killing meets these criteria. Targeted killing is discriminatory in that it focuses exclusively on one's adversaries. Civilian casualties and collateral damage are minimized. It is proportionate in that only enough force is used to accomplish the task. Targeted killing does not employ large numbers of troops, bombers, artillery and other means that can leave in their wake far more destruction than they prevent. And targeted killing serves a legitimate end by striking at those who threaten the lives of innocents. Since the policy is applied against those on their way to terrorist attacks or those who make such attacks possible, targeted killing enables Israel to protect its civilians by eliminating those who would murder them. Far from being morally questionable, it would be difficult to come up with an approach in warfare that rests on stronger moral ground.

Targeted killing also serves Israel's interests because it affords the Israeli public a sense of revenge. Revenge is seen by many as a destructive and even evil motivation that should be avoided at all costs. This explains the Israeli High Court decision to prohibit targeted killings in the name of vengeance. But revenge is also a natural desire by an individual or society for obtaining justice when other means are not available. Achieving revenge can bring about a sense of fulfillment and justice for people who believe they have been wronged. Failing to achieve revenge can lead to despair, frustration and anger. Politically, this can lead to the downfall of governments unwilling or unable to avenge attacks on its people. More fundamentally, withstanding repeated attacks without responding can lead to a sense of impotence and malaise that ultimately weakens a society's ability to protect itself. Revenge becomes problematic when there are no guidelines for how to act and against whom. If there is too much space for arbitrary retaliation, revenge can indeed get out of hand and become disruptive. That is why states regulate and oversee the exercise of revenge. For domestic infractions, revenge is realized through the rule of law. In the international realm, revenge is pursued through foreign policy, ranging from diplomatic rebukes to war.⁴¹

Israel's use of targeted killing is a form of state-sanctioned revenge. Since the government decides on who is to be killed according to established criteria, the issue of arbitrary retaliation is resolved. Because the killers of Israeli civilians are themselves killed, the desire for revenge from both families of the victims and

society at large is met. Anger at the government is dissipated as the perpetrators of terror receive the same punishment as their victims.

Retribution is an even more powerful justification for the Israeli policy of targeted killing. Retribution, in its purest sense, has no utilitarian component. It is not motivated by vengeance. Even if the victims do not care about the offense committed or are opposed to punishing the aggressors, punishment nevertheless must be carried out. Nor is retribution motivated by deterrence or a need to satisfy the demands of an aggrieved population. If it can be shown that deterrence will not be enhanced by retaliation or that the community has no wish to strike back, retribution still demands the punishment of the guilty. Retribution is driven by the belief that offenders need to be punished because such punishment is warranted. This concept of "just deserts" is compellingly put forward by the theorist Michael Moore who writes, "Retributivism is the view that punishment is justified by the moral culpability of those who receive it. A retributivist punishes because, and only because the offender deserves it."⁴²

Israel's policy of targeted killing, stripped of its utilitarian contributions, is retribution, plain and simple. Palestinian suicide bombers seek out the most innocent of Israeli civilians—old men, women, children and infants—and attempt to kill as many of them as they can. Stopping these operations before they can inflict their horrific harm is of obvious importance and provides some of the justification for targeted killings. But what of those who plan the attacks, arm the bombers and send them on their way? How are they to be punished? The Palestinian Authority is unwilling or unable to arrest the perpetrators, many of whom are PA officials. Who, then, aside from the Israelis will provide the just deserts to these terrorists? Even if the policy of targeted killing does not reduce Israeli casualties, even if it increases them, such a policy is justified because it is only through this approach that the terrorists get what they inflict on others—a violent death.

Public opinion polls support the vengeful and retributive goals of targeted killing. In the United States, for example, 65 percent of Americans polled supported assassinations in the Mideast, even though 40 percent said such actions would *increase* the likelihood that more attacks would be carried out against the United States (only 28 percent said assassinations would decrease attacks against Americans). Similarly, only 19 percent of Israelis polled said targeted killings have decreased terrorism while 32 percent said it has done the opposite (37 percent believe it has had no effect on terrorism).⁴³ And yet, more than 70 percent of Israelis (in this poll) supported the policy of targeted killing. In both the United States and Israel, therefore, there is a shared belief that targeted killing (or assassinations) will not enhance security, will in fact hurt security, and yet should

be carried out. Although the polls do not ask the question directly, the desire for revenge and/or retribution appears to be stronger than the quest for security.

Aside from revenge and retribution, targeted killing supports Israel's interests because among the possible responses Israel can mount against terrorism, it is the least bad option. As discussed, Israel has responded to Palestinian terror in several ways, all of which have major drawbacks. Checkpoints humiliate and inconvenience large numbers of the Palestinian population, producing resentment and seething hatred. Israeli raids to arrest militants result in civilian casualties. For both of these responses, innocent Palestinians are hurt in the effort to get at the guilty. Not only is this morally repugnant, it also plants the seeds for future terrorism.

Major incursions into Palestinian territory to root out the terrorist infrastructure have been especially controversial. In the spring of 2002, the Israelis carried out two massive interventions producing thunderous international condemnation. Following the Israeli incursion of early March 2002, United Nations Secretary-General Kofi Annan sent a letter to Israeli Prime Minister Ariel Sharon that was sharply critical of Israel's actions. The message of the letter, however, seems to suggest that more discrete, focused actions (such as targeted killing) would be preferable to the policy of mass intervention that Israel had undertaken. As the letter says, "In the process (of incursions) hundreds of innocent non-combatant civilians—men, women, and children—have been injured or killed and many buildings and homes have been damaged and destroyed...Israel is fully entitled to defend itself against terror. ..It is incumbent on all parties to take urgent steps to de-escalate the level of violence. Israel should contribute to this effort by ensuring that the I.D.F. uses only weapons and methods that minimize the danger to the lives and property of Palestinian civilians, in conformity with its humanitarian obligations...".⁴⁴ Targeted killing is clearly a policy that "uses weapons and methods that minimize the danger to the lives and property of Palestinian civilians." Similarly, *The New York Times*, which had editorialized against targeted killings, seemed to endorse the policy when confronted with Israeli military incursions. As a March 14, 2002 editorial stated, "Israel must cut way back in its use of military force as Washington urges, and direct its actions against suspected terrorists rather than against the broader Palestinian civilian population. Its current methods are causing great civilian suffering and unnecessary humiliation. With Palestinian police failing to make arrests, Israel is justified in sending its own forces after specific terrorist suspects."⁴⁵ A stronger defense of targeted killing would be difficult to find.

The far greater Israeli intervention into the West Bank following the March 28th Passover massacre produced even more international opposition. This intervention saw a massive call-up of Israeli reserves as key Palestinian cities

including Jenin, Nablus, Ramallah, and Bethlehem were attacked in an effort to destroy terrorism at its roots. However legitimate the intentions may have been, the operation produced casualties in the hundreds (including the deaths of 23 Israeli soldiers) and widespread destruction of civilian areas. Both sides acknowledged that innocents were killed, though they differed greatly on the numbers. Inevitably, the Israeli action provoked harsh international criticism to the point where only the United States stood by Israel and even American support was called into question. The European Union, for the first time, threatened sanctions against Israel. Public opinion polls revealed greater support for Palestinians than Israelis in such countries as France, Italy and England. The UN envoy to the Middle East, Terje Roed-Larsen, an architect of the Oslo Accords, called the destruction wrought by the Israeli army, "morally repugnant," and declared that "combating terrorism does not give a blank check to kill civilians." The Israelis found themselves defying President Bush's order to withdraw their troops, "without delay" while American officials, Assistant Secretary of State for Near Eastern affairs William J. Burns and Secretary of State Colin Powell, criticized Israeli actions.

The Israeli incursions harmed non-combatant Palestinians to a far greater degree than the policy of targeted killing. They also produced much more intense condemnation of Israel throughout the world. It is not the purpose of this essay to assess whether such operations were nonetheless justified. What is clear, however, is that Israel must pay a large price to carry them out. Over the long term, a policy of targeted killing may offer Jerusalem the same benefits and far less the cost.

As this review of Israeli policies suggests, it is not enough to oppose Jerusalem's policy of targeted killing. Critics of this approach need to provide an alternative. Aside from anti-Israeli extremists and pacifists, few counsel Israel to simply endure suicide-bombing attacks and do nothing. The question then becomes what for Israel is the correct response to terrorism. For hawks, Israeli incursions into Palestinian areas are attractive options, though not so much to replace targeted killings as to supplement them. For Israel's legion of international critics, there are precious few suggestions for how Israel should combat terrorism, only condemnation of whatever armed response Israel undertakes. As we have seen, targeted killing may achieve international approval in retrospect not so much for what the policy has achieved, but rather because it is less objectionable than the alternatives. Although not a ringing endorsement, targeted killing may survive because it is indeed the last bad choice for a state confronted with the threat of terrorism.

Finally, it is worth briefly revisiting the question of effectiveness of targeted killing. I have argued that there has been no clear benefit from this approach as record numbers of Israeli civilians have been killed in terror attacks at the same

time that targeted killings have also reached unprecedented levels. But the absence of a short or even medium term benefit does not mean that targeted killings will not, over the long haul, eventually undermine the infrastructure of terror constructed by the Palestinians. As noted above, leaders of Palestinian organizations have acknowledged that the slaying of their leaders and operatives has hurt them and that they are prepared to modify or cease attacks against Israeli civilians if Israel would suspend its practice of targeted killings. Over time, the relentless elimination of the foot soldiers and planners of terrorism may well have an impact that is not discernible at present. It is far too early to declare targeted killing an ineffective or failed policy.

V. CONCLUSION

The policy of targeted killing is in Israel's interest. Terrorists on their way to operations against Israeli civilians are intercepted before they unleash their assault. Bomb makers and commanders are eliminated, with skilled replacements not always available. Enemies spend time trying to survive rather than planning attacks and potential recruits are discouraged from offering their support. Targeted killing signals to the Israeli people, adversaries of Israel, and the world at large that those who seek to kill the innocent in an effort to spread fear for political purposes will pay the ultimate penalty. Revenge is achieved for horrific acts, thus helping mollify a restive Israeli population and enabling the government to remain in power. Revenge also carries with it the hope of deterrence, the notion that over time Palestinians will calculate that the costs of terrorist actions against Israel will not be worth the benefits. Targeted killing provides retribution. Given the Palestinian Authority's inability or unwillingness to punish terrorists, the task of rendering justice to those who attack innocent civilians falls into the hands of the Israelis. It is true that targeted killing provokes murderous retaliation, exposes informers, and uses scarce intelligence resources. But given the range of options open to the Israeli government to respond to terror, it remains the most effective and least morally problematic policy for Israel to follow.

There is little doubt that Israel will continue to pursue targeted killing, raising the question of how this policy can be improved. I suggest four improvements, all designed to make certain that the benefits of targeted killing are not overwhelmed by the very real dangers that such a policy can bring about. First, Israel should be open and unapologetic about its pursuit of targeted killings. Targeted killing is a legitimate and moral response to terrorist attacks. There is no need for Israel to evade responsibility for carrying out this policy, especially when Israeli involvement is obvious. Denial or refusal to comment leaves Jerusalem open to the

charge that it is behaving improperly or has something to hide. Neither is the case and Israel should not behave like it is.

Second, Israel needs to make sure that its pursuit of targeted killing does not degenerate into lawlessness and savagery that makes it undistinguishable from the threat it seeks to counter. The guidelines that Israel has already instituted for targeted killing need to be strengthened and be the subject of open debate. Along with the directive that targeted killing should be carried out only against combatants on their way to committing terrorist acts or who are known to be behind them, Israel must also do more to ensure that decisions on actual killings are overseen by elected officials. As a democracy, Israel needs to entrust the monumental decisions on who to kill to those who are responsible to the Israeli people.

Third, Israel must refrain from killing political leaders. Granted, the distinction between political leaders and those who plan terrorist attacks is at best ambiguous and at times non-existent. Nevertheless, for the norm against assassination to survive—a norm that Israel needs as much as any state—a distinction must be drawn between political leaders and combatants. Just as the Israeli government has announced it will not kill Yasir Arafat, despite his active backing of terrorist operations, so too must it avoid the targeting of lesser leaders provided their main activities are political. The killing of Palestinian leaders such as Abu Jihad and Abu Ali Mustafa must stop. Finally, Israel needs to announce publicly that the policy of targeted killing is a temporary expedient while it is engaged in armed conflict with Palestinians. Israel must unambiguously declare that if a Palestinian Authority emerges that makes peace with Israel, and proves itself capable and willing to curb terrorism, targeted killing will stop. Targeted killing makes sense and is justifiable only as a weapon of war. Once that war is over, the policy must end.

Targeted killing is an unsavory practice for an unsavory time. It can never take the place of a political settlement, which is the only solution to the terror that confronts Israel. Until such a settlement is achieved, however, targeted killing stands out as a measured response to a horrific threat. It is distinctly attractive because it focuses on the actual perpetrators of terror, while largely sparing the innocent. For a dangerous region in an imperfect world, the policy of targeted killing must remain a necessary evil.

Notes:

- ¹ Samantha M. Shapiro, "Announced Assassinations," *The New York Times Magazine*, 9 December 2001, p. 54.
- ² For biblical references to political killings, see Franklin L. Ford, *Political Murder: From Tyrannicide to Terrorism* (Cambridge, MA: Harvard University Press, 1985), pp. 7-24.
- ³ Nachman Ben-Yehuda, *Political Assassinations by Jews: A Rhetorical Device for Justice* (Albany, NY: SUNY Press, 1993), pp. 99-104.
- ⁴ Nachman Ben-Yehuda, *Political Assassinations by Jews* p. 304; Dan Raviv and Yossi Melman, *Every Spy a Prince: The Complete History of Israel's Intelligence Community* (Boston, MA: Houghton Mifflin, 1990), p. 122.
- ⁵ Raviv and Melman, *Every Spy a Prince*, p. 122.
- ⁶ *Ibid*, p. 247.
- ⁷ Ian Black and Benny Morris, *Israel's Secret Wars: A History of Israel's Intelligence Services* (New York: Grove Weidenfeld, 1991), pp. 272-277; Raviv and Melman, p. 189. Ali Hassan Salameh, the Black September operations officer who planned the Munich massacre and was the target of the Lillehammer attack, was eventually killed by a car bomb in Beirut in 1979.
- ⁸ Raviv and Melman, p. 276.
- ⁹ *Ibid*, p. 392.
- ¹⁰ Michael Eisenstadt, "Pre-Emptive Targeted Killings As a Counter-Terror Tool: An Assessment of Israel's Approach," *Peacewatch*, No. 342, The Washington Institute for Near East Policy, Washington DC, 28 August 2001, p. 1.
- ¹¹ Barton Gellman, "For Many Israelis, Assassination is Only as Bad as Its Execution," *The Washington Post*, 12 October 1997, p. A1.
- ¹² James Bennet, "Mideast Turmoil, News Analysis," *The New York Times*, 12 March 2002, p. A1.
- ¹³ Samantha M. Shapiro, p. 54.
- ¹⁴ Aaron Harel and Gideon Alon, "IDF Lawyers Set 'Conditions' for Assassination Policy," *Ha'aretz*, (English Edition) 4 February 2002; Shapiro, p. 54.
- ¹⁵ For a similar view regarding dealing with terrorism in general, see Richard K. Betts, "The Soft Underbelly of American Primacy: Tactical Advantages of Terror," *Political Science Quarterly* (Spring 2002), p. 33.
- ¹⁶ Nachman Ben-Yehuda, pp. 304, 307, 318; Michael Eisenstadt, p. 1.
- ¹⁷ Eisenstadt, p. 2.
- ¹⁸ Brian Michael Jenkins, *Should Our Arsenal Against Terrorism Include Assassination?* (Santa Monica, CA: The Rand Corporation, 1987), p. 4.

¹⁹ See for example the account of a victim in *Israel's Assassination Policy: Extra-Judicial Executions*, position paper by Yael Stein, translated by Maya Johnston, p. 6, available at <http://www.btselem.org>.

²⁰ William Safire, "Sharon Enters Armistice Talks," *The New York Times*, 4 February 2002, p. A27.

²¹ Jonathan Snow, "Countering Global Terrorism: Lessons from the Israeli Experience," (unpub. ms.) p. 21.

²² James Bennet, "Israeli Army Seizes One West Bank City and Enters Another," *The New York Times*, 22 January 2002, p. A4; "For Fatah, Only Anwar Can Bring Peace to Mideast," *The New York Times*, 7 March 2002.

²³ James Bennet, "Stalemate in Mideast After Deadly Bombing," *The New York Times*, 28 July 2002, p. A6.

²⁴ Black and Morris, p. 471.

²⁵ Raviv and Melman, p. 194.

²⁶ On the killing of informers, see for example, Joel Brinkley, "Israel Promises a Pullback as Death Toll Keeps Rising," *The New York Times*, 15 March 2002, p. A9.

²⁷ Herb Keinon, Janine Zacharia, and Lamia Lahoud, "UN, US: Stop Targeted Killings," *Jerusalem Post*, 6 July 2001, p. A1.

²⁸ Joel Greenberg, "Israel Affirms Policy of Assassinating Militants," *The New York Times*, 5 July 2001, p. A5.

²⁹ Clyde Haberman, "How Not to Win the Battle but Lose the War," *The New York Times*, 2 September 2002, p. 1.

³⁰ Ward Thomas, *The Ethics of Destruction: Norms and Force in International Relations* (Ithaca, NY: Cornell University Press, 2001), p. 56.

³¹ Ward Thomas, p. 60.

³² Thomas, pp. 60-62.

³³ The *Rodef* injunction achieved notoriety when Yitzhak Rabin's assassin, Yigal Amir, claimed that Rabin was a *Rodef* (a pursuer) because his pursuit of peace through the Oslo process constituted a danger to the Jewish community. The overwhelming consensus of Jewish scholars was that this justification had no foundation. See, for example, Rabbi Howard Jachter, "The Halacha of Rodef and the Rabin Shooting," <http://www.koltorah.org/ravj.rodef-rabin> (21 April 2001).

³⁴ Basic Law: Human Dignity and Liberty, *Sefer Ha-Chukkim*, 1992, p. 150; Basic Law: Human Dignity and Liberty, footnote 13, article 8; Cited in Yael Stein, *Israel's Assassination Policy: Extra-judicial Executions*, p. 8.

³⁵ Harel and Alon, "IDF Lawyers Set 'Conditions'".

³⁶ Ward Thomas, p. 49 (note 8); Tim Weiner, "Rethinking the Ban on Political Assassinations," *The New York Times*, 30 August 1998, Section 4, p. 3.

³⁷ Harry Levins, "Military Experts Debate Moral Ramifications of Killing Leaders," *Post Dispatch*, 3 August 2001.

³⁸ Tim Weiner, "Making Rules in the World Between War and Peace," *The New York Times*, 19 August 2001, Section 4, pp. A1, A4.

³⁹ Henry Levins, "Military Experts Debate Moral Ramifications of Killing Leaders," *Nation and World*, 3 August 2001, p. A10.

⁴⁰ For one of the best accounts of Just War theory, see Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1992).

⁴¹ For an interesting discussion of revenge as it applies to capital punishment (but with relevance to Israel's policy of targeted killing) see Ernest van den Haag and John P. Conrad, *The Death Penalty: A Debate* (New York: Plenum, 1983), pp. 247, 250.

⁴² Michael S. Moore, "The Moral Worth of Retribution," in Jeffrie G. Murphy (ed.), *Punishment and Rehabilitation* (Belmont, CA: Wadsworth, 1995; 3rd edition), pp. 94, 97.

⁴³ <http://www.cnn.com> (16 December 2001).

⁴⁴ "Kofi Annan's Blunt Words Criticizing Israeli Tactics," *The New York Times*, 19 March 2002, p. A12.

⁴⁵ "Israel's Unwise Offensive," *The New York Times*, (editorial) 14 March 2002, p. A30.

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