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The Best Defense is a Good Offense: The Necessity of Targeted Killing

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Over the last four decades, terrorism has grown to be recognized as not only the popular, but openly-accepted method among Islamic extremist factions in making a political statement. Through the practice of airline hijackings and bombings through the 1970s, 1980s and 1990s, to the astonishing blow to the United States on September 11th, 2001, radical Islamists have ultimately been successful in striking fear into the hearts and minds of people world-wide, innocents and combatants alike. Though most democratic nations of today have the standard policy of not accepting, sponsoring, or even negotiating with terrorists; very few have a policy of eradicating them. Israel, however, has maintained a practice of openly engaging terrorists through “targeted killings”. Israel has raised a great deal of controversy in the international community as to whether or not targeted killing is an acceptable form of warfare, and more specifically, whether or not targeted killing is identical to “assassination”.

Through a brief examination, I shall assert that targeted killing is distinctly different from assassination and fits within the guidelines of international law – though some changes should be made; additionally, with the changing face of the battlefields of today, I shall argue that targeted killing should be supported by the international community and embraced by the United States as not only an acceptable form of warfare, but the form of warfare against terrorism for the future.¹

Defining the Terms and International Law

Targeted killing differs from assassination on many different levels and vaguely fits within the boundaries of international laws. Steven R. David, in his article entitled “Fatal Choices”, defines targeted killing as “...the intentional slaying of a specific individual or group of individuals undertaken with explicit governmental approval.”² Though this definition sums up the black and white elements of targeted killing, it does not define the difference between it

¹ In preface there are a few administrative notes, or disclaimers, for the reader. First and foremost no classified information has been disclosed, cited, quoted, or paraphrased in the completion of this paper. Any reference to classification in this paper is in the context of the administrative existence of classified information, not in disclosure of any such information. Reference to the Central Intelligence Agency (CIA), U.S. Special Operations Forces (SOF), U.S. Special Forces (SF), or covert or clandestine actions on behalf of the U.S. military or intelligence organizations is unclassified and taken solely from open-source information and articles available to the general public. Theories of how to modify U.S. policies or the future employment of such forces are strictly the opinions of the author (myself), not the U.S. government, the U.S. Army, U.S. Army Special Operations Command (USASOC), the U.S. Army Psychological Operations community, the U.S. Army Military Intelligence community, or any other party with the exception of referenced quotes or paraphrased thoughts from open sources as referenced in the text.

² David, Steven R., “Fatal Choices: Israel's Policy of Targeted Killing,” *The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies*, No. 51, September 2002. P – 1. <http://www.biu.ac.il/Besa/david.pdf>.

and assassination. According to International Law(s), assassination is defined in summation as the deliberate murder for the purpose of removal of a political figure or government official from office or power (e.g.: not a lawful combatant). In Kristen Eichensehr's article "On the offensive: Assassination policy under international law", she clarifies some of the terms of these international laws dealing with assassinations and targeted killings:

Black's Law Dictionary defines assassination as "the act of deliberately killing someone especially a public figure, usually for hire or for political reasons." If termed "assassination," then attacks on leaders have been construed as prohibited by Article 23b of the Hague Convention of 1899, which outlaws "treacherous" attacks on adversaries, and by the Protocol Addition to the Geneva Convention of 1949, and Relating to the Protection of Victims of International Armed Conflict (Protocol I), which prohibits attacks that rely on "perfidy". But in recent years, and especially since the September 11, 2001, terrorist attacks, Israel and the United States have reframed such actions as "targeted killings," defining the victims as "enemy combatants" who are therefore legitimate targets wherever they are found."³

According to the laws of warfare, it is not assassination to target individuals who are "lawful combatants". Most of us tend to think of "lawful combatants" as uniformed soldiers fighting for the opposing enemy force. However, terrorists are not necessarily supported by a true state or true army and lack any uniformity in their clothing or equipment. Dr. Tamar Meissels explains the juxtaposition between terrorists as civilians or lawful combatants in the article "Targeting Terror". She states: "By their own admission, terrorists are not civilians. They controversially regard themselves as 'freedom fighters' or guerrilla warriors, but never claim to be unengaged in combat - on the contrary: terrorist leaders and the organizations they represent are always proud to publicly accept responsibility for the atrocities they plan and execute."⁴ Nevertheless, they can simply be considered armed lawful combatants because of the threat that they present to innocent civilians and military alike. As in the case with Israel, although Israel is not "at war" with Palestine because Palestine is not a true state and has no true (or official) army, it is still considered in an "armed conflict" in accordance with international law.⁵

This is also supported in international law via United Nations Charter, Chapter VII, Article 51, which states – "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence...."⁶ Therefore, because nations have the right to the self defense of their citizens, nations have the right under international law to use force against terrorists. In this case, "terrorist" is defined as those not only in the act of terrorism, but those considered terrorists prior to an attack, as well as leaders associated with the planning and funding of terrorism. With all this taken into account, the use of targeted killings can be fully supported by international law because terrorists are lawful combatants and under the auspice of active self-defense.

³ Eichensehr, Kristen, "On the offensive: Assassination policy under international law", Harvard International Review, Cambridge: Fall 2003, Vol. 25, Issue 3. P – 36. <http://hir.harvard.edu/index.php?page=article&id=1149>.

⁴ Meissels, Tamar, "Targeting Terror", Social Theory and Practice, Jul 2004. Vol.30, Iss. 3; pg. 297, 30 pgs.

⁵ David, Steven R., "Fatal Choices: Israel's Policy of Targeted Killing," The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies, No. 51, September 2002. <http://www.biu.ac.il/Besa/david.pdf>.

⁶ Charter of the United Nations, "Chapter VII: Action With Respect To Threats To The Peace, Breaches Of The Peace, And Acts Of Aggression", Article 51; Secretary of the Publications Board, United Nations, New York, NY, 10017: 2010. <http://www.un.org/en/documents/charter/chapter7.shtml>.

Many might further argue that the claim of self-defense is a sort of “loophole” in the law. Of course, Palestinians completely disagree with any legality of targeted killing, citing several arguments against it. According to the Palestinian National Authority (PNA), Israeli targeted killings are war crimes. The PNA assesses that the killings are not intended to prevent future terrorist attacks, but are meant to be punitive. The PNA’s main arguments are that the targets (or victims, as they refer to them) of the attacks are assassinations or executions conducted without any prior judicial process, and in most cases that targeted killings also collaterally claim the lives of nearby civilians during the execution of the attacks.⁷

A group known as the Palestinian Human Rights Monitoring Group (PHRMG) documents human rights violations on the West Bank and Gaza Strip; according to the records of the PHRMG, out of the 209 Palestinians that have been killed by Israeli targeted killings in the last three years of the second intifada, a total of sixty-two killed were “bystanders”. However, further research reveals that the “bystanders” documented according to the PHRMG includes not only civilians but armed guards and unofficial leaders connected to the targeted terrorists, although they were not the actual targets themselves. In the opinion of most, this would be the best form of “acceptable” collateral damage. According to Israeli records from the second Intifada, 147 of the 209 killed were Palestinians purposely targeted in the killings; out of these seventy-eight were members of Hamas, thirty-four from the Islamic Jihad group, twenty-three from the Al-Fatah movement, seven from the Popular Front for the Liberation of Palestine, two from the Palestinian Liberation Front, and three others from Palestinian Military Intelligence. Undoubtedly, of the sixty-two remaining (in the collateral damage category), several were in some way connected to the targets killed as explained previously.

The Israeli Prime Minister at the time, Ariel Sharon, and the Israeli government argue in defense that the Palestinian National Authority had been given ample opportunity to take measures to intervene in attacks against Israeli civilians by arresting and rooting out Palestinian terrorists; therefore, several of the targeted killings could have been avoided completely. The Israeli government also argues that while the Palestinian government was headed by President Yasser Arafat, Israel had provided detailed intelligence regarding terrorists or “radical militants” planning attacks, but Arafat chose to take no action, thus leaving Israeli Mossad or military assets to take matters into their own hands. Of these targets, Israeli Intelligence argues that most are “ticking bombs” who will execute an attack against innocent Israeli civilians unless they are killed preemptively.⁸

In modern times, it seems that what is lacking is a re-working of international law to reflect the reality of policy and warfare as it stands today. Since international law is configured under the original intent to apply to conditions of war and peace between recognized States, the concept of non-state organizations and entities is not considered. This “new form of warfare” has to be not only considered, but examined looking at feasible and reasonable responses to terrorist attacks – and the future prevention of – on the behalf of a nation or state’s self defense; and international law should be reconfigured or re-worded to reflect it. According to Amos Guiora in his article, “Targeted Killing as Active Self-Defense”, “many experts have called for a ‘new

⁷ Wikipedia, “2006 Israel – Gaza Conflict”, Outlined history of the Conflict and Second Intifada, 2006. As taken from Google's cache of http://en.wikipedia.org/wiki/2006_Israel%E2%80%93Gaza_conflict.

⁸ Jerolimski, Ana, “Israel-Palestine: Targeted Killing - Self-Defence or War Crime?”, *Global Information Network*. New York: Sep 10, 2003. pg.1.

regime of international law' that specifically addresses circumstances unique to terrorism. Though international law as it currently exists appears to be ill-equipped to deal with terrorism, the concept of active self-defense could be a natural starting point for developing this 'new regime'.⁹ He further argues that the war against terrorism is, and will be, primarily fought in what many often call the "back alleys and dark shadows against an unseen enemy". Therefore, nations require the right to self-defense even prior to a terrorist attack by "taking the fight to the terrorist before the terrorist takes the fight to it".¹⁰

Active self-defense (in the form of targeted killing), if properly executed, not only enables the State to more effectively protect itself within a legal context but also leads to minimizing the loss of innocent civilians caught between the terrorists (who regularly violate international law by using innocents as human shields) and the State.¹¹

A permissible form of self-defense, or lawful preemptive strikes, according to a rewritten international law, would leave nations less vulnerable to terrorists that hold no regard for international law and no remorse or moral objections to the killing of innocent civilians. Rather than fighting back through an internationally acceptable and politically correct form of public due process, essentially leaving nations "with their hands tied behind their backs", a nation could actively defend itself by targeting, hunting down, and killing known terrorists. The U.S. currently does not participate in International Criminal Courts (ICCs) due to the ridiculous bureaucracy involved in bringing those deserving to justice – and due to the fact that it puts potentially innocent Americans at risk. According to Global Foreign Policy, "The Obama administration, however, has no intention to join the ICC, due to its concern about possible charges against U.S. nationals."¹² Therefore, the suitable alternative is execution of targeted killings with redefined international laws. Nations in disagreement to these defensive actions would have less ground for argument if officially accepted according to international laws. Plus, guidelines could be put in place quantifying differences between assassination, targeted killing, and/or active national self-defense.

The Arguments Against

"Killing adversary leaders can fall within the bounds of international law and can provide enormous gains, but in employing this strategy, the United States and countries that follow its example must be prepared to accept the exploitation of the new policy by adversaries who will not abide by the standards of proof or evidential certainty adhered to by Western democracies."¹³ This point leads us to the other arguments against targeted killing dealing with

⁹ Guiora, Amos, "Targeted Killing as Active Self-Defense", Case Western Reserve Journal of International Law. Cleveland: 2004. Vol.36, Iss. 2/3; pg. 319, P 3. As taken from NGO Monitor: http://www.ngo-monitor.org/article/amos_guiora_targeted_killing_as_active_self_defense.

¹⁰ Guiora, Amos, "Targeted Killing as Active Self-Defense", Case Western Reserve Journal of International Law. Cleveland: 2004. Vol.36, Iss. 2/3; pg. 319, 16 pgs. As taken from NGO Monitor: http://www.ngo-monitor.org/article/amos_guiora_targeted_killing_as_active_self_defense.

¹¹ Guiora, Amos, "Targeted Killing as Active Self-Defense", Case Western Reserve Journal of International Law. Cleveland: 2004. Vol.36, Iss. 2/3; pg. 319, P 4. As taken from NGO Monitor: http://www.ngo-monitor.org/article/amos_guiora_targeted_killing_as_active_self_defense.

¹² Global Policy Forum, "U.S. Opposition to the International Criminal Court", GlobalPolicy.Org, 2010. <http://www.globalpolicy.org/empire/us-un-and-international-law-8-24/us-opposition-to-the-icc-8-29.html>.

¹³ Eichensehr, Kristen, "On the offensive: Assassination policy under international law", Harvard International Review, Cambridge: Fall 2003, Vol. 25, Issue 3. <http://hir.harvard.edu/index.php?page=article&id=1149>.

morality and effectiveness. Many arguments have been made as to the moral issues of targeted killing as well as its possible lack of effectiveness. Many regard it as morally wrong in addition to being illegal because it essentially deletes due process, giving security forces sole discretion of killing individuals, leaving foreign political sovereignty out of the equation. Though arguments of sovereignty are valid, what most fail to examine are the alternatives. The alternative in the case of Afghanistan was full-scale warfare.

In retrospect, had the Taliban leadership in Afghanistan known their fate, they would most likely have taken the original deal presented to turn over Al Qaeda leadership responsible for 9/11, or allowed full access (and assistance) for targeted killing. In the eyes of other nations potentially harboring terrorists, the breach of sovereignty to eliminate a handful of terrorists may be a much more preferable alternative than full-scale U.S. occupation. If anything, providing access (and in a best case scenario assistance) to the U.S. to conduct targeting killings allows a state (harboring terrorists) the opportunity to take credit in the international media for helping eradicate extremism. Past history has shown that the U.S. can effectively cooperate with other nations to expedite the targeted killing of terrorists despite issues of sovereignty. In 2002, U.S. CIA, U.S. Marines and other DoD elements worked hand-in-hand with Philippine Defense Forces to hunt down and kill Abu Sayaf terrorists responsible for kidnapping American hostages taken from a Philippine resort. The year and a half long hunt resulted in the successful killing of the majority of the terrorists responsible and freeing of their American hostages.¹⁴ The other side of the argument regarding sovereignty is – what if other nations feel they have a right to conduct such operations in the United States? There are two responses to this. First, if the target is legitimate, the U.S. can (and should) cooperatively engage via the Department of Justice to apprehend the accused; this demonstrates U.S. legitimacy to respond to another state's issues or accusations against a U.S. citizen. Second, if the claim is not legitimate, the U.S. has sufficient intelligence, counter intelligence and defense assets to guard against an unauthorized breach of sovereignty.

Others point to the moral issues associated with targeted killing. Tamar Meissels, in the article "Targeting Terror" in *Social Theory and Practice* feels that targeted killing is not the "morally appropriate response" to the actions of known terrorists. She claims that it is an immoral measure and compares targeted killings to extra-judicial execution. In her point of view, terrorists should be captured and allowed to be judged through a trial process; or when capture is impossible or not feasible given the circumstances, decisions concerning their targeted killing should be properly addressed under judicial scrutiny and international supervision. Meissels is quite presumably not a soldier or warrior of any fashion judging from her impracticality of theory. Even the simplest attempt at arresting terrorists can be extremely costly in terms of the lives of soldiers and civilians in the area. However, she continues by stating that sometimes targeted killing is ineffective as a means of combating terror because in the end, it only strengthens the commitment of the victims' fellow freedom fighters/terrorists to engage in further terrorist activities against the executors of targeted killing, their state, and associated nations eventually deteriorating future prospects of peace.¹⁵

¹⁴ Bowden, Mark, "Jihadists in Paradise: A kidnapping at a Philippine resort triggered a yearlong hunt for pirate terrorists and their American hostages. A behind-the-scenes tale of intrigue, spycraft, and betrayal," *Atlantic Magazine*, March 2007. <http://www.theatlantic.com/magazine/archive/2007/03/jihadists-in-paradise/5613/1/>.

¹⁵ Meissels, Tamar, "Targeting Terror", *Social Theory and Practice*, Jul 2004. Volume 30, Issue 3; 30 pgs.

Several other critics simply consider targeted killing as “operationally senseless”. They inevitably consider it operationally senseless because in the past, Israeli assassinations of Palestinian terrorists or militants have resulted in additional violent retaliation and more Israeli casualties. The most compelling argument internationally is that there is little evidence that targeted killings, specifically Israel’s, have made any gains in reducing the frequency and destructiveness of terrorist attacks; and, in fact, they may have increased them. One such supporting example is an incident that occurred in Israel in October 1995, when a series of suicide attacks conducted by the Palestinian Islamic Jihad (PIJ) killed dozens of Israelis. Immediately following, Mossad agents tracked down, shot, and killed Fathi Shiqaqi, the head of the PIJ, in Malta. However, three months later suicide attacks ensued in which fifty Israelis died and 340 were wounded. The Israeli Mossad eventually retaliated by booby-trapping a cell phone; Hamas member Yahya ‘Ayyash, also known as “The Engineer,” who had masterminded the attacks, received his last phone call when the cell phone exploded in his hands.¹⁶

Another such example is a suicide bombing that took place in Beersheba, a desert city south of Tel Aviv that had been isolated from suicide bomber attacks during the previous four years of the Israeli-Palestinian conflict. Reporters and officials stated that militants had decided to move south due to Israel’s construction of a massive barrier and in retaliation to military operations in the northern West Bank which blocked attacks. Hamas claimed responsibility for the bombings stating that they were retribution for Israel’s targeted killing of senior Hamas leaders in Gaza and the poor treatment of Palestinians held in Israeli jails (currently in their second week of a hunger strike at the time).¹⁷

The evidence of the incidents and the rhetoric of critics are compelling in convincing us that targeted killing encourages terrorist retaliation and makes little dent in the operations of terrorists; however, according to Gal Luft, in his article entitled “The Logic of Israel’s Targeted Killing”, this is how the critics are mistaken. He claims that there is no doubt that terrorist acts continue regardless of Israeli targeted killings and that Israel’s policy in particular is flawed; however, what is below the surface is the actual effect on the internal workings of the terrorist organizations. The systematic targeting and eventual “elimination” of terrorist leadership creates disruptions and destroys the command and control of terrorist organizations leaving them in a “state of confusion and disarray”.¹⁸ The unseen advantages of targeted killing also lie in satisfaction of the public’s desire for revenge and retribution and the immediate prevention of civilian casualties prior to an attack, not to mention those that could have been carried out by the targeted terrorist in the future.¹⁹ He further states: “Fighting terror is like fighting car accidents: one can count the casualties *but not* those whose lives were spared by prevention.”²⁰

¹⁶ Luft, Gal, “The Logic of Israel’s Targeted Killing”, The Middle East Quarterly, Winter 2003, Volume X: Number 1. P 1. <http://www.meforum.org/515/the-logic-of-israels-targeted-killing>.

¹⁷ Anderson, John Ward and Molly Moore, “Suicide Bombings Kill 18 in Israel; Attacks on Two Buses Shatter a Five-Month Respite”, The Washington Post. Washington, D.C.: Sep 1, 2004. pg. A.01. <http://www.washingtonpost.com/ac2/wp-dyn/A48690-2004Aug31?language=printer>.

¹⁸ Luft, Gal, “The Logic of Israel’s Targeted Killing”, The Middle East Quarterly, Winter 2003, Volume X: Number 1. <http://www.meforum.org/515/the-logic-of-israels-targeted-killing>.

¹⁹ David, Steven R., “Fatal Choices: Israel’s Policy of Targeted Killing,” The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies, No. 51, September 2002. <http://www.biu.ac.il/Besa/david.pdf>.

²⁰ Luft, Gal, “The Logic of Israel’s Targeted Killing”, The Middle East Quarterly, Winter 2003, Volume X: Number 1. P 1. <http://www.meforum.org/515/the-logic-of-israels-targeted-killing>.

I would charge that targeted killing is the key to the future of asymmetrical warfare against terrorism. In 2002, President Bush remarked in a speech to the graduating class at West Point that September 11th illustrates “a new kind of war fought by a new kind of enemy.” Ten years earlier, in 1991, Martin van Creveld predicted in his book *The Transformation of War* that in the future the “fourth generation enemy” would consist of network based terrorist organizations using our advanced technology for connection, would have the ability to blend into the populations of their victims, would not be constrained by national or international laws and conventions of war, and would rarely consist of targets vulnerable to conventional weapons systems.²¹

To counteract them, warriors of the fourth generation would need to be well-versed in intelligence tradecraft, stealth, and deception. These warriors would likewise need to be able to wear no uniforms and blend into the populations that harbor the terrorist operatives and planners. The Office of the Undersecretary of Defense for Policy at the time criticized van Creveld stating that he was “not a balanced thinker” and had “scant evidence for his view”.²² Today, we see an overwhelming amount of evidence in support of van Creveld’s theories. In the completion of his 2002 speech to the graduating West Point Cadets, President Bush outlined his new national security strategy. He explained to the cadets that they will be part of a new military that “must be ready to strike at a moment’s notice in any dark corner of the world through preemptive action when necessary.”²³ This “preemptive action” is related to the type of warfare Israeli intelligence units have engaged in for over three decades but on a much smaller scale.

Although as discussed previously, Israel has not been effective in stopping local terrorism altogether (and in some cases may have incited more), if one is to consider the fact that Palestinian terrorists have potentially been refitted by the vast expanse of sympathetic terrorist networks throughout the Middle East – then Israel has done quite well against insurmountable odds. With a better understanding, a bigger and more diverse military, and a significantly larger defense budget, the U.S. has the capability of taking this type of warfare to much higher levels of success. This type of warfare would certainly be better received by the international community rather than that suggested by Paul Wolfowitz, the former U.S. Deputy Secretary of Defense, who supposedly recommended action against Iraq, Syria, and Hezbollah in Lebanon prior to the Iraq war of 2003. To conduct random skipping from country-to-country throughout the Middle East with large scale conventional forces set on rooting out terrorists would appear to be an anti-Islam campaign by the U.S. This would cause the U.S. to lose any support from Saudi Arabia, Egypt, and other Middle Eastern states potentially escalating the price of oil affecting the overall global economy. Additionally, the citizens of the U.S., already upset with the un-timeliness of operations in Iraq and Afghanistan, and the extensive loss of U.S. troops, would simply not stand

²¹ Van Creveld, Martin, *The Transformation of War*, The Free Press – A Division of Simon & Schuster Inc., New York, NY, 1991.
http://books.google.com/books?id=mHLIKApIEA8C&dq=Martin+L+Van+Creveld&printsec=frontcover&source=an&hl=en&ei=GYvnS7vFKITuswPdn icCQ&sa=X&oi=book_result&ct=result&resnum=6&ved=0CCcQ6AEwBQ#v=onepage&q&f=false.

²² Shultz, Richard H. and Andreas Vogt, “the Real Intelligence Failure on 9/11 and the Case for a Doctrine of Striking First”. Excerpt from Chap 8 of *Terrorism and Counterterrorism: Understanding the New Security Environment*, McGraw-Hill/Duskin, Connecticut: 2002. pp 405-425.

²³ Shultz, Richard H. and Andreas Vogt, “The Real Intelligence Failure on 9/11 and the Case for a Doctrine of Striking First”. Excerpt from Chap 8 of *Terrorism and Counterterrorism: Understanding the New Security Environment*, McGraw-Hill/Duskin, Connecticut: 2002. pp 405-425.

for what would appear to be a crusade across the Middle East.²⁴ There are a few cases in which the U.S. has already initiated targeted killings. In November 2002, CIA operatives had located Qa'id Sinan al-Harithi, a suspected member of Al Qaeda and planner of the 2000 U.S.S. Cole bombing in Djibouti. The operatives used a remote-controlled Predator unmanned aerial vehicle (UAV)/drone to fire a missile at al-Harithi's car traveling through the Yemeni desert, killing al-Harithi and his five other passengers. Once this attack was publicized, U.S. leaders and diplomats quieted their previous criticism of Israel's policy on targeted killing. U.S. officials reversed their previous stance by making claims that just because they had condemned the policy in some of Israel's practices did not mean that it was prohibited in all instances - specifically, not those involving the retaliation for the death of citizens, soldiers, and sailors of the United States.²⁵

Regardless of the arguments over the policy or openness of this instance of targeted killing, there is no argument over the psychological effect on the terrorist organizations targeted. Knowing that they are being targeted (whether or not they are the specified targets of the hour) puts terrorist leadership on the run, causing a significant disruption in command and control of the terrorist cell's operations. As we saw immediately following attacks on Afghanistan, coordinated terrorists attacks from al Qaeda (regardless of continuous threats) experienced a lull while U.S. SOF forces and CIA were actively hunting Osama Bin Laden and other elements of his leadership. Other examples include the active hunting for terrorist leaders such as al Zarqawi in Iraq. PSYOP campaigns and continuous SOF activity put these individuals on the run, stifling the coordination between terrorist cells for effective attacks and demoralizing the mid-level leadership. Publicizing events such as the targeted killing of key al Qaeda leaders such as al Zarqawi in 2006, and the issue of reward money to Iraqi citizens for subsequent captures, also greatly aided in demoralization and isolation of terrorist groups. In some instances, the members of terrorist organizations turned-in their own leadership, providing pertinent information to Iraqi Security Forces resulting in the kill or capture of high-value individuals. Even though the media has repetitively made it quite apparent that terrorist actions within Iraq have not ceased, there is no doubt that attacks could have grown more coordinated and destructive in nature had the leadership not been stifled and likely recruits hesitant due to the active hunting of terrorist leadership during "the surge".

To some extent, the international community still remains at odds with the U.S. maintaining troop presence in Iraq. So, it is clear that in today's atmosphere of globalization and the current attitude of the international community, (combined with the gaps in U.S. and Middle East relations), the U.S. will not be able to deploy troops en-mass to root out terrorists in other Middle Eastern countries anytime in the near future. The only plausible answer to combat terrorism - while maintaining the resolve of the people of the U.S. and salvaging foreign relations with the Middle East - is to engage in well-organized targeted killing.

²⁴ Posen, Barry R., "The Struggle Against Terrorism; Grand Strategy, Strategy, and Tactics". Excerpt from Chap 8 of *Terrorism and Counterterrorism: Understanding the New Security Environment*, McGraw-Hill/Duskin, Connecticut: 2002. pp 429-439.

²⁵ Eichensehr, Kristen, "On the offensive: Assassination policy under international law", *Harvard International Review*, Cambridge: Fall 2003, Vol. 25, Iss. 3, pg 36. <http://hir.harvard.edu/index.php?page=article&id=1149>.

A Potential Way Ahead

In order for the U.S. to begin a campaign of organized targeted killing in the new realm of irregular warfare, transformations will have to take place within the U.S. military and intelligence arena, and in the political arena a few concessions will have to be made. The first and most important step in military and intelligence changes would be the continued growth of well-emplaced military human intelligence (HUMINT) assets. These teams would be in addition to any possible existing CIA intelligence assets. Military HUMINT teams could be spread throughout the Middle East and Northeast Africa to conduct covert surveillance and location of members of terrorist networks – “hunter teams”.

The Post 9/11 Commission unquestionably founded the need for more expansive human intelligence which was neglected in the later years of the Clinton administration. Second is the development of more Special Operations oriented military units capable of conducting covert direct action operations – “killer teams”. This is already underway to a certain extent as seen in the massive increase of trainees into programs such as the U.S. Army Special Forces pipeline. However, widening of the pipeline is not enough. The allocation of teams will need to be specially trained and oriented towards serving as “killer” teams - conducting more surgical direct action (DA) missions. Third, is to enhance the capabilities of current (non-direct action) SOF units such as signals intelligence elements, Civil Affairs and PSYOP in support of Public Diplomacy, and others. One aspect is to extensively train them in how to conduct operations in a clandestine manner, as part of the local civilian populace, ingrained in the local culture in order to become less obtrusive and more effective. This means all SOF, or SOF related forces, should receive in-depth cultural and language training including aspects ranging from the use of weaponry all the way up to the politics of a particular region.

A similar initiative has already been initiated by Admiral McMullen to support the Afghanistan and Pakistan region, known as AFGHAN Hands. In the joint program, certain Military Occupational Specialties are selected to attend advanced language and cultural training and are employed in the Afghanistan/Pakistan Area of Operations for three to five years.²⁶ What is also required is a widening the boundaries and streamlining (or even creating a “blanket policy” for) the approval process of PSYOP products and messages. PSYOP elements cannot begin to be effective while supporting a targeted killing campaign, which requires pre-emptive or immediate exploitive PSYOP, (or any other campaign for that matter) when they are constrained by an extensive approval processes often chaired by senior officers with far less cultural and combat experience than the troops on the ground. One example of an effective employment of these troops would be deploying PSYOP soldiers to work hand in hand with the local media to perform supporting effort operations, aiding to keep the local populace safe and shaping the urban battlefield while terrorists are being rooted out by SOF hunter-killer teams.

As the SOF arena moves into a more clandestine approach of doing business, conventional units will need to continue to move in a more “unconventional” direction of engaging the enemy in the new arena of irregular warfare. There is already taking place already at the battalion and company level with troops deploying to Afghanistan and Iraq. Currently,

²⁶ Department of Defense, Chairman of the Joint Chiefs of Staff, “AFGHAN PAKISTAN HANDS PROGRAM (APH)”, MARADMIN Active Number: 0599/09, 07 Oct 2009.
<http://www.marines.mil/news/messages/Pages/MARADMIN0599-09.aspx>.

company level leadership of support units train their soldiers in close quarters battle (CQB) techniques previously only taught to elite special operations or specialized light infantry units in order to counter the current threat. Many of these units, such as transportation units, include female soldiers who are being taught not only infantry react-to-ambush techniques, but also CQB techniques including room-clearing and hand-to-hand combat. Non-traditional organizations now exist in the U.S. Army arsenal such as the “Asymmetrical Warfare Group” and “Improvised Explosive Device Defeat Organization” to study and counter the evolving enemy threat, the employment of improvised explosive devices (IEDs), and the thought process and recruitment of suicide bombers. As we see the conventional military venture more and more into the realm of unconventional or irregular warfare, it only makes sense that SOF units and highly classified intelligence assets should raise the bar into the realm of clandestine and covert acts of targeted killing to achieve decisive victory against an evolving threat with no rules or morals. Ultimately, this transformation would limit the loss of U.S. soldiers deployed abroad and reduce the need for mass deployments – viewed in the international community as “invasions”.

The final step is linking all of this together with synchronized intelligence. Though the Bush Administration emplaced the Directorate of National Intelligence to synchronize efforts and ensure information/intelligence sharing, multiple bureaucratic and cultural barriers between the various communities still exist. One significant hurdle to successfully conducting targeted killing campaigns is the act of streamlining the passing of intelligence from HUMINT hunter teams to the SOF killer teams and the supporting assets. One of the current pains with intelligence today often joked about by company grade officers is the endless levels and depths of classification for Top Secret/ Special Compartmentalized Information (TS/SCI) that exist. It is virtually impossible to get valid, real-time intelligence (especially HUMINT) down to the soldiers on the ground who actually need it prior to or while conducting operations. As a matter of fact, the majority of non-commissioned officers on U.S. Army Special Forces Direct Action Operation Detachment Alphas (ODAs) only hold a “Secret” level clearance.

The extreme compartmentalization of HUMINT and difficulty in funneling down the information is absurd considering that the intelligence ODAs dearly need to effectively conduct operations against high value targets or individuals (HVTs/ HVIs) is rarely afforded to them. Though great strides have been made, some of these remaining barriers will have to be broken and on-the-ground intelligence re-routed in order for targeted killing warfare to be successfully engaged. Of course, in order for all of the above to take place, the Department of Defense will need to continue realigning spending from highly advanced modern weaponry to small scale, simple signals, surveillance and other equipment to advance the capability of troops on the ground. Some remaining stigmas on DoD spending of funds on “hardware” rather than “humans” will have to be reversed in order to be successful in future asymmetrical warfare and targeted killing.

Finally, as Steven R. David and many other authors have reported in articles supporting targeted killing, a couple of political concessions will need to be made. David’s first point in the case with Israel is that Israel should openly admit their practices of targeted killing. Likewise, the U.S. will have to openly admit to their employment of (and policy for) targeted killing and give harboring countries a chance to arrest terrorists within their borders. Furthermore, the U.S., like Israel, should not be apologetic in its actions because targeted killing should be considered a “legitimate and moral response to terrorist attacks”. Once actions are inevitably taken, the U.S. can explain its reasons in the realm of self-defense of the nation and its allies, reminding the

international community that significant loss of troops and collateral damage was avoided by not pursuing a course of armed conflict; however, we should not be apologetic in this explanation. U.S. statements such as this will not only explain the necessity of U.S. actions but also dismiss any international perception of denial on behalf of the U.S. government – a mistake Israel has made many times in the past, leaving them open to accusations of unethical behavior.²⁷ As in experiences with the use of PSYOP in the past, the first report is usually considered the “true” report of an action. By the U.S. government reporting these actions first, we show that we have nothing to hide. Most international criticism or media scrutiny would most likely be seen as quibbling.

David’s second point is that Israel needs to ensure that its targeted killing practices do not become warped into a form of vigilantism similar to terrorist acts in themselves. What he describes is the open possibility for the decline into acts of “lawlessness and savagery” making targeted killing “undistinguishable from the threat it seeks to counter”.²⁸ David asserts that Israel needs to institute new guidelines for targeted killing and reinforce existing ones through a process of “open debate”. He suggests that Israel should implement policy ensuring that targeted killing is carried out only against lawful combatants en-route to carrying out terrorist acts, those proven to be in the planning or facilitation process of terrorist acts, and those who have just committed them. He also states that Israel should have elected officials make decisions on targeted killings, trusting them as the democratic representatives of the Israeli people rather than the Israeli Defense Forces or Intelligence Services. Likewise, the U.S. should establish a working group to review potential targets prior to action. Professor Avery Plaw, of New York University, proposes a Federal Counterterrorism Oversight Court modeled around the Foreign Intelligence Surveillance Court to tenably process potential targets while maintaining some legal, moral and ethical standards.²⁹

David’s third point is that Israel must cease any targeted killings of political leaders. As in cases dealing with the Palestinian Authority this has often been a fine line in Israel’s experience; however David asserts that a distinction must be made between political leaders (with the potential to negotiate peace in the future) and combatants prior to any questionable targeted killings or else the norm against assassination could be broken. The United States has implemented and exercised an executive policy against assassinations. In fact, according to the U.S. Executive Order 12333, Part 2.11, “Prohibition on Assassination”, it states – “No person employed by or acting on behalf of the United States Government shall engage in, or conspire to engage in, assassination.”³⁰ Though it does not specify, the U.S. Government has clearly drawn a distinction between assassinations and targeted killing; otherwise, terrorists previously hunted and killed by U.S. DoD and CIA would be in violation of the Executive Order 12333. What will be needed for the U.S. is to clearly define, even if only on a case-by-case basis, the distinction

²⁷ David, Steven R., “Fatal Choices: Israel’s Policy of Targeted Killing,” *The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies*, No. 51, September 2002. <http://www.biu.ac.il/Besa/david.pdf>.

²⁸ David, Steven R., “Fatal Choices: Israel’s Policy of Targeted Killing,” *The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies*, No. 51, September 2002. P 22. <http://www.biu.ac.il/Besa/david.pdf>.

²⁹ Plaw, Avery, “Fighting Terror Ethically and Legally: The Case of Targeting Terrorists”, A working paper prepared for the CPSA Conference, New York University, NY, June 2006. <http://www.cpsa-acsp.ca/papers-2006/Plaw.pdf>.

³⁰ Executive Order 12333, United States Intelligence Activities, 04 December 1981. <http://www.tscm.com/EO12333.html>.

between assassination and lawful targeted killing – as well as the distinction between political leaders and lawful combatants.

David's last point is that Israel should publicly declare that their policy of targeted killing is merely a temporary means to an end while remaining in armed conflict with Palestinians. Once the PNA demonstrates that it can and will actively fight to reduce terrorist acts then Israel should reduce or discontinue its policy of targeted killing. He emphasizes that targeted killing is a temporary measure only justifiable as a "weapon of war". Likewise, the U.S. should only implement this practice while actively engaged in the war on terror. Once significant reduction in terrorist attacks among our allies is achieved targeted killing should diminish as the preferred form of warfare. However, most would argue that conclusion of the war on terror – which has already persisted for almost a decade – will take more than a few more years. Judging from the four-year hunt for Zarqawi and the still unending hunt for Osama bin Laden, the U.S. has a long road ahead in the war against terrorism. With this in mind, David makes a resounding point:

*Until a settlement (or victory) 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.*³¹

According to the 06 April 2010 edition of the New York Times, "The Obama administration has taken the extraordinary step of authorizing the targeted killing of an American citizen, the radical Muslim cleric Anwar al-Awlaki, who is believed to have shifted from encouraging attacks on the United States to directly participating in them..."³² Not only is this a great stride in the acceptance of targeted killing, the targeting of an American citizen brings some legitimacy to a potential U.S. policy on targeted killing to the international community.

Conclusion

Though several arguments exist it is clear that targeted killing is distinctly different from assassination and falls legally into the realm of international laws under the nation's right to self defense. However, due to the compelling arguments and continued confusion international law should be revised and updated to reflect the conditions of fourth generation warfare and how to adequately fight terrorism today. Because of this new age of warfare and rampant terrorism targeted killing is rapidly becoming a more acceptable form of warfare and could one day be tolerated internationally, if not accepted. Within the minds of war-weary American society and the international community, targeted killing may be far more palatable than full-scale warfare, or occupation of yet another unstable country.

Targeted killing offers the benefit of reducing the risk of collateral damage, mass casualties/death of innocent civilians, and reduces the loss of American military personnel. Economically, targeted killing is far more beneficial than full-scale warfare. Targeted killing with the prior notification and open support of (witting or unwitting) harboring nations provides

³¹ David, Steven R., "Fatal Choices: Israel's Policy of Targeted Killing," *The Begin Sadat Center for Strategic Studies, Mid-east Security and Policy Studies*, No. 51, September 2002. <http://www.biu.ac.il/Besa/david.pdf>.

³² Shane, Scott, "U.S. Approves Targeted Killing of American Cleric", *The New York Times*, 06 April 2010. <http://www.nytimes.com/2010/04/07/world/middleeast/07yemen.html>.

a platform for partnership against terrorism, or at minimum, forces action on their part. Most importantly, the greatest argument on behalf of a policy for targeted killing is the fact that the U.S. is already conducting it – as evidenced by the previously noted statements by the Obama Administration.

There is no doubt that in order for the U.S. to pursue active terrorist leaders and avoid further turmoil in U.S. and Middle Eastern relations, the U.S. will have to embrace targeted killing as policy in the war against terror rather than further occupation of Middle Eastern countries. Perhaps the best avenue for this policy would be to make (or keep) targeted killing as an “unwritten policy” that continues to reside in the gray areas. It is comprehensible that full disclosure of these actions into the international spotlight may erode our access in certain areas to conduct these covert actions. So, if not embraced openly, at minimum it should be embraced internally with proper emphasis on training, equipping and oversight of all those involved. Regardless of a determination of policy, targeted killing will continue to be required as a means of conducting modern warfare to avoid long-term, full-scale conflicts.

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