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**The Mechanism of “Targeted Killing” as a Part of  
Israeli Counter-Terrorism Policy**

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## **Abstract**

The uniqueness of this research study is the attempt to offer other perspectives regarding the mechanism of “targeted killing” and its influence on factors of terrorism. One of the reasons for carrying out the research study lies in the essential difference of the world of the culture and values of the free and democratic countries, which is contradictory to the values of terrorism. The tendency in the research literature, including the legal literature, is to accept “targeted killing”, but with limitations. This research study discussed at-length the topic of the effective fight against terrorism and the use as a last option of the mechanism of targeted killing by democratic countries, with emphasis on Israel, during the Al-Aqsa Intifada in the years 2000-2009.

This research study addressed the rules of international law that balance between the humanitarian considerations and human rights and the military considerations. There is a conflict between human rights and state security. Counterterrorism activity is examined in two ways, harm to the terrorists carrying out the attack and/or to the commanders as self-defense, in aspects of morality and in aspects of law. It becomes clear that this possibility is legitimate, since it will cause the terrorist commanders to consider their steps, in light of the direct influence on them. In the research study it became clear that during the Al-Aksa Intifada and the researched period about 127 targeted assassination operations were carried out, in which 212 terrorists were killed, including field operatives and commanders at different levels, when the most senior was the leader of the Hamas movement, Sheikh Ahmad Yassin.

The events of September 11 increased the interest in the research of the phenomenon of terrorism, with emphasis on conceptual and theoretical articles. Research groups and academic conferences that engage in the phenomenon will promote the research processes. Effective counterterrorism is based on deterrence, but this fundamental assumption is cast in doubt when referring to terrorist organizations. Despite the research engagement in terrorism, there is still no definition that will be accepted in the academic community and will constitute an agreed-upon starting point for researches

in the field. This research study indicated according to the researchers Fleming, Stohl, and Shmid a variety of typologies in the field of terrorism, for these to constitute a basis for generalization and even theorization of a violent social phenomenon like terrorism. For example, a fundamental typology of the ideological characteristics of the terrorist organization can constitute a basis for the examination of the relationship between ideology, goals, and methods of action of such organization.

The research hypotheses and questions addressed the policy of the deployment and use of the mechanism of targeted killing and the success or lack of success in reducing the number of terrorist attacks against the State of Israel. The success or lack of success was examined through preventative arrests. Furthermore, the lack of influence of this mechanism was examined on the number of terrorist attacks. The research also examined the policy of targeted killing against low-level operatives and senior operatives of the terrorist organization and the degree of reduction of the terrorist attacks.

The findings indicate that targeted killing contributed to the decline of the number of terrorist victims. It became clear that the performance of arrests is sometimes more effective than targeted killings, since in arrest and interrogation intelligence is collected and the entire terrorist network is exposed. Arrests increase the risk to the security forces but also reduce the risk to the population. In addition, the findings disconfirm the influence of the harm to the senior terrorist operatives on the reduction of number of terrorist attacks. While it is possible to notice a significant decrease in the number of terrorist attacks, it is not possible to create a causal correlation on the issue of the seniority of the operatives. The findings show that the carrying out of targeted killing is effective but the status of the terrorist operative does not have considerable meaning although the number of terrorist victims decreased.<sup>1</sup>

The contribution of this research study enables the understanding that the mechanism of targeted killing contributes to the reduction of the number of terrorist attacks. In addition, the contribution of the research study is its broadening of the discussion, both theoretical and practical, development of knowledge and tools for

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<sup>1</sup> See Table Number 2 in the Appendices.

understanding components of terrorism, and examination of effective ways of coping with this threat by a democratic state, through the Israeli case.

# **Introduction**

## **Background and Context**

This research study will be discussed at length the topic of counter-terrorism and the use, given no other option, of the mechanism of targeted killing by democratic countries, with emphasis on the State of Israel during the Al-Aqsa Intifada in the years 2000-2009. One of the reasons for conducting the research lies in the fundamental change of the world of the culture and values of the free and democratic states, which are in complete contradiction to the values of terrorism. The terrorist organizations exploit the great openness of the free societies to plan and carry out different attacks. They rely on the assumption that the humaneness of the Western countries and the limitations that the rule of the law imposes on them will prevent them from responding with attacks to their actions. One of the most destructive and complicated influences of terrorism is the very blurring of the distinctions between combatants and citizens; this distinction is at the root of the rules of war. One of the main goals at the basis of the offensive terrorist activity is the harm to the organization and the thwarting of terrorist attacks. This goal is built on the evaluation that the harm to the infrastructures, the senior operatives, and the command rank of the terrorist organizations will cause the disruption of one of the stages of preparation of the terrorist attacks: the initiation of the terrorist attacks, the planning of the terrorist attacks, the training of the terrorists, the preparation of the explosive devices and weapons, the collection of intelligence for the terrorist attack, the preparation of ways of escape, or other assistive activity.

The uniqueness of this research study is its attempt to offer different viewpoints regarding the mechanism of targeted killing and its influence on the terrorist factors.

From independence in 1948 until today, and some say before that, the State of Israel has adopted, as a part of the perception of national security and as a part of its multidimensional counter-terrorism effort, a variety of ways of action, when one of the ways of action is expressed in the policy of targeted killing to promote its goals (David, 2002). The term “targeted killing” in the State of Israel was coined by the Former Attorney General and the Former Deputy Chief Justice (at the time of the research), the



Honorable Eliyakim Rubinstein, at the meeting of the Law and Society Forum (Kremintzer, 2005, p. 1).

The precise evaluation of the effectiveness of the offensive activity and in it targeted killing is an especially difficult task, if only since it is impossible to know how many terrorist attacks were thwarted because of the activity and what would have happened had the activity not been carried out. The tendency in the literature, including the legal literature, is to accept “targeted killing”, but with restrictions. Thus, for example, Rubinstein writes that the correct means is the detention of suspects and only if there is no possibility and the war crimes continue is there room for a targeted killing. It is very important to further the knowledge and examine whether the use of the mechanism of targeted killing is effective and helps reduce the acts of terrorism, and it will be possible to learn whether other countries will adopt the use of this mechanism in their battles against terrorism.

## **Research Goals**

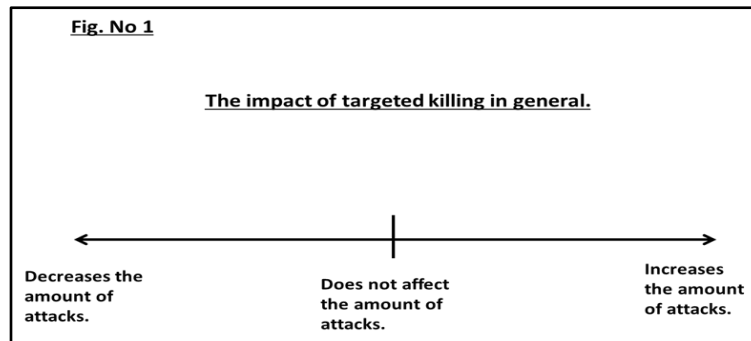
The objectives of the research study are:

- Analysis of a targeted killing mechanism as an effective tool in the fight against terrorism.
- To develop the existing knowledge and the theoretical basis in the field of counter-terrorism in the framework of asymmetric conflict.
- To develop the existing knowledge and to examine the complexity of the preservation of national security and innocent life, with the use of extreme tools such as the mechanism of targeted killing.
- To examine whether the use of the mechanism of targeted killing is effective in the long-term for the reduction of acts of terror.

The research intends to examine whether the use of targeted killing deters the terrorist organizations and reduces terrorist activity.

## Research Hypotheses

**Figure 1: The impact of targeted killing in general**



1. The use of a targeted killing mechanism against terrorist operatives reduces the number of terrorist attacks against the State of Israel, and there is a direct effect.
2. The use of a targeted killing mechanism against high-ranking and important activists in terrorist organizations disrupts and reduces the number of terrorist incidents, due to a lack of leadership and operational infrastructure for the organization.

**Figure 2: The status of the eliminated terrorist**

**Fig. No. 2**

The status of the eliminated terrorist.

		<u>Junior</u>	<u>Senior</u>
Amount of terrorist attacks carried out.	<u>Low</u>	The status of the terrorist does not affect.	Direct effect . There is significance to the terrorist's senior status.
	<u>High</u>	There is no significance to the status of the terrorist.	There is no significance to the status of the terrorist.

## Research Problems

1. The first research problem focuses on the identification and definition of the goals for which the mechanism of targeted killing was established, in the attempt to focus on the differences and significances of every goal: deterrence, self-defense, punishment. In the end, I will focus and emphasize one main goal – deterrence, when the question is as follows. **Is it possible to deter the Islamic terrorist organizations through the mechanism of targeted killing?**
2. The second research problem focuses on the attempt to clarify and evaluate the degree of effectiveness of the offensive activity in the framework of targeted killing. The question is as follows. **Does the use of the mechanism of targeted killing reduce the violent activity of the Islamic terrorist organizations?**
3. **Is the use of the strategy of targeted killing an effective method in the long term for the reduction of acts of terror?**

## Research Method

This research study is a comparative research study that will be performed on the basis on a qualitative content analysis with the combination of quantitative data from the fields of economics, the military, and law. The theoretical basis will rely on theoretical researches primarily from the modern era. In the analysis, the different parameters noted in the changing time circumstances will be examined and analyzed.

The research study copes with one of the main fields today in the topic of security in the global system, the attempt to combine between the security world and the world of law and morality. The basic fact indicates that the threats of terror to the countries of the West constitute an existential threat to these countries.

The possible contribution of the research study is the attempt to present at length the issue of the use of the mechanism of targeted killing as a part of the component of national security on the one hand, and the degree of effectiveness for the reduction of

terrorist action on the other hand and the dilemma between them, so as to understand how it is possible to reduce to the necessary minimum the use of this extreme mechanism without harming the security of the State and the security of its citizens. The understanding of the place and importance of the mechanism of targeted killing is supposed to help extend the knowledge and understanding on the need for the use of this mechanism in a measured and controlled but beneficial manner by additional democratic countries in the global system and the relations between the third world countries that support global terror against the West, especially since September 11, 2001. The work is also supposed to provide another perspective of the source of the authority and the main goal of the mechanism of targeted killing, which is effective fighting against murderous terror, in Israel in particular and in the world in general.

The manner of the performance of the research study will be based on the in-depth analysis of the researched topics through the detailed examination of articles and publications in the research field, with the examination of the reference and outlook of opinion leaders, including politicians, professionals in the field of political science and law, and people who engaged in practice in the use of the tool of targeting killing.

### **Analysis of Existing Materials**

1. Publications and research work on the topics of the perceptions of national security of the State of Israel in connection to Western countries, such as the United States.
2. Publications and research work on the topics of targeted killing.
3. Official and semi-official publications on democratic countries on the topics of counter-terrorism.
4. Databases that include the expressions of the shapers of policy and the statements of people with influence that were published openly in the media on the issue of targeted killing.

## **Manner of Choice of Methodology**

The methodology that will be used in the research study is a qualitative methodology, in the performance of a comparative research. The comparative research enables the engagement in a number of periods throughout the existence of the State of Israel. According to this approach, it is possible to research and examine in an in-depth and comprehensive manner the elements marked as the research topic. However, this examination does not undermine the primary goal of the definition of principles and rules with broad meaning, from explanations and support of the valid theory regarding other similar cases, which were not examined and checked in the framework of this research study.

The comparative method throughout the long period is the method that suits the investigation of state and sub-state systems, because of the difficulty with achieving data about them. Since this research study addresses a state with higher closeness than accepted on the topics of security information, the comparative approach is needed for the reliance on sorted and selected cases to research these systems.

## **Work structure**

### **Chapter 1: Counter-terrorism / targeted killing Main characteristics**

This chapter will deal with the definition of the problem being investigated, and the focus will be on the question of the effectiveness of the "targeted killing" mechanism, while addressing the issue of human rights violations as well as the legal dimension of this mechanism. In addition, there will be a reference to the characteristics and nature of the terrorist operatives who constitute a target of harm through this mechanism, through aspects of physical harm or political harm, and whether this mechanism helps to reduce the violent activity of the terrorist organizations and their supporters. In other words, the emphasis will be on examining the effectiveness of this mechanism in its various modes.

As noted previously, this chapter will discuss extensively in the different contexts the aspects of a number of characteristics that are directly associated with the manner of the differentiation of the manner of targeted killings and the degree of effectiveness of the targeted killings, such as physical killings, elimination or detention, or political killings of those involved in terrorism and the degree of their influence on the organization itself, the attitude of the population, technological abilities, and so on.

### **Chapter 2: Influence of the Use of the Mechanism of "Targeted Killing"**

This chapter will address at-length the influences of the use of the mechanism of "targeted killings". The chapter will describe the use of targeted killings that are undertaken by the State of Israel. In the main part of the chapter, the focus will be placed on the question that pertains to the effectiveness of the mechanism of "targeted killing" with reference to the characteristics and nature of the operatives who constitute the target for harm through this mechanism, through aspects of physical harm or political harm, and whether this mechanism facilitates the reduction of violent activity. In other words, the emphasis will be to examine the effectiveness of this mechanism in different ways.

### **Chapter 3: The challenges of the conflict between 2000 and 2009 and throughout the Al-Aqsa Intifada**

This chapter will address the analysis of the researched period of the conflict against Israel from the year 2000, when the Second Intifada began, until the year 2009, with reference to the difficult terrorist events and the response to them by the State of Israel. Since September 2000, the State of Israel has been found in a violent and continuous conflict with the Palestinians, in the framework of which the Palestinian side, with its different mechanisms and organizations, undertakes terrorist attacks against the Israeli citizens and residents. Until the year 2005, more than 24,000 terrorist attacks were performed against Israeli citizens and residents and more than 1,000 Israeli citizens and residents lost their lives in these terrorist attacks. From these terrorist attacks, 142 were suicide attacks performed by 159 male and female suicide terrorists against Israeli targets.

The chapter will present data collected during the researched period through official documents of the security factors in Israel and through interviews with senior members of the security systems who were in this period at the front of the struggles against the terrorist organizations and their significance.

### **Chapter 4: Discussion and Conclusions**

This chapter will address the discussion and conclusions that will arise from the analysis of the data of the researched period and their influence on the decisions of the leaders of the State of Israel whether the mechanism of targeted killing is effective and contributes to the reduction of the violent activity committed by the terrorist organizations. In addition, this chapter will discuss and express the complexity in the ability of the precise assessment of the effectiveness of the offensive activity since it is an especially difficult task and not only because it is impossible to know how many terrorist attacks were thwarted because of the undertaken activity and what would have happened had the action not been performed.

The research and discussion in this chapter will deal with the complexity of each one of the main areas today on the topic of the security in the global system and it is the attempt to combine between the world of security and the world of law and morality. The basic fact indicates that the threats of terrorism to the State of Israel, but not only to it, may constitute an existential threat to these countries. This chapter will attempt to present conclusions regarding the effective use of the mechanism of targeted killing.

## **Review of the Literature**

The literature review is divided into two parts. The first section presents the main theories regarding deterrence in general. The second part presents the approaches and theories regarding deterrence of terrorist organizations while presenting the theoretical infrastructure on which this study is based.

### **General Deterrence Theories**

In the second half of the 20<sup>th</sup> century, a rich body of literature that discussed the issue of deterrence developed. This literature primarily developed on the background of the appearance of nuclear weapons, and therefore it addressed first and foremost nuclear deterrence, and in its framework a balance of nuclear terror was presented as a main model. The first group (Lebow, 1989) of authors of the theories of deterrence established the theoretical basis of deterrence theory, which engaged nearly completely in nuclear deterrence. These researchers examined the deterrence in the framework of the international relations, foreign policy, and military strategy. In this framework, it is possible to mention Glenn Snyder (1961), Thomas C. Schelling (1966), Alexander George and Richard Smoke (1974), Bernard Brudy (1973), and in Israel Yehoshafat Harkabi (1964).

The Korean War (which was conventional despite the ability of nuclear deterrence of the United States), the Soviet Union's acquisition of nuclear weapons, and the ideas of the flexible response of the Kennedy government led to the development of a second group of authors of theories, beginning in the 1970s. These theories attempted to improve and develop the theory of nuclear deterrence and to create a theory of conventional deterrence. The second group extended the use of concepts and ideas that



were derived from the discussion on the theory of nuclear deterrence in different attempts to create a stable theory of conventional deterrence that would serve the decision makers. In this period, it is possible to see authors such as Samuel Huntington (1987), John J. Mearsheimer (1983), Patrick M. Morgan (1977), and others.

The complexity of conventional deterrence and primarily the lack of ability to achieve clarity on the question of the meaning of the military balance of power between the parties, alongside the development of the research literature, caused the development of another group of authors on the topic of deterrence. They can be called the group of critics of the theory of conventional deterrence, and prominent members include Robert Jervis, Richard Ned Lebow, and Janice Gross Stein. These researchers asserted that there are structural failures in the theory of conventional deterrence. In light of these failures, it was argued that the theory of conventional deterrence is almost impossible, primarily in the cognitive dimension, until it becomes non-relevant (Lebow, 1989).

Another important author is Patrick Morgan, who focused on the important distinction between immediate deterrence, which exists for the most part in a time of crisis, when it is clear that country A “has decided to act forcefully against country B”, and general deterrence. According to Morgan (1983), general deterrence is far broader deterrence, which in essence exists in an ongoing manner and over the years between countries, and its purpose is to prevent one of the countries from deciding to turn to the use of force. This important distinction is very important in the conventional realm and becomes, as I will present in the continuation, an essential issue in the treatment of the deterrence of terror (Morgan, 1983).

The differentiation posited by Morgan versus the perception of Lebow, Gross Stein, and Jervis, who negated the effectiveness of deterrence as a policy, encouraged a series of research studies in the 1990s, which attempted to investigate the success of deterrence over time, or in other words, to examine whether general deterrence is a possible and correct policy (Lieberman, 1995). These researchers have reached the conclusion that in light of the implementation of deterrence over a period of decades it is possible to see a decline in the level of violence between the two sides in light of the

cumulative deterrence built between the sides and to build a stability of deterrence between the sides.

The disintegration of the Soviet Union, the increase of the sub-conventional wars in the 1990s, and primarily the increase of the importance of terrorism in the international system led to the formation of another group, which attempted to deal with completely different areas of deterrence. Is nuclear weaponry still relevant and is nuclear deterrence still relevant in the 21<sup>st</sup> century?

### **Deterrence against Terrorist Organizations**

The second field of the research literature began to address the question of the suitability of the policy of deterrence of sub-conventional wars and primarily the deterrence of terrorism. This field of sub-conventional deterrence appears already in the writings of early theoreticians such as George and Smoke (1974). However, their reference to the topic was the form of deterrence that exists in principle, without analysis of in-depth theoretical reference. From the 1990s, this topic has received in-depth and extensive reference in the professional literature (George & Smoke, 1974).

As already noted previously, in actuality a clear and full theory about the deterrence of terrorism and sub-conventional warfare has not been written, in such a way that it will integrate all perceptions and abilities of the state and will synchronize the reference of the sub-state organizations to the deterrence implemented on them. As will be presented in the continuation, most of the research literature has addressed the attempt to understand the considerations of the state or the attempt to provide general explanations why this strategy is not applicable. Very little has been written on the response of terrorist organizations and terrorist operatives to the different forms of deterrence deployed against them or on the in-depth analysis of processes related to the policy of deterrence against terrorism and guerilla warfare – which may improve the effectiveness of the deterrence.

One of the first articles that addressed the deterrence against terrorism was the article of Ernest Evans “American Policy Response to International Terrorism: Problems

of Deterrence”. Evans (1977) presented an analysis of the policy of deterrence adopted by the United States in the 1970s, with focus on its political aspects. His article is one of the few articles fully dedicated to the question of the deterrence against terrorism, while attempting to examine the meaning of the use of the basic definition of the deterrence as influence on the cost/benefit calculations. Evans presented the difficulty of the negation of the “benefit” “in the use of terrorism by different organizations, as the United States attempted to realize in the 1970s through the refusal to negotiate with terrorists, for example). In addition, the article engaged in the reasons for the lack of success of the United States in creating an agreed-upon international policy against terrorism in this period. This article, perhaps because it was first, shed light on an important issue in the field of deterrence (the difficulty in negating the benefit that organizations achieve from the use of tactics of terrorism) and even presented recommendations for the improvement of the strategy. However, in essence it engaged in a very limited aspect of the failures of the deterrence against terrorism.

Hanan Alon (1987) also attempted to directly analyze the very ability to deter terrorist organization. Alon bases on the general historical experience of Israel and differentiates between three types of terrorism: terrorism directed by a state, terrorism by a terrorist organization independent of a sovereign state, and terrorist organizations that act from a state that does not succeed in realizing its sovereignty. According to Alon, the first two types can be deterred through the exertion of pressure on the state that supports the terrorist organizations or hosts them, through the conventional deterrence, without an attempt to directly influence the motivation of the terrorist organization or its policy of terrorist attacks. However, Alon maintains that in the case of the third type of terrorist organizations (which act from a territory that is not under the real control of a sovereign country) there is no point in adopting actions of punishment (reprisals as a basis for the creation of deterrence), since these serve the organizations in the extended media exposure and in the encouragement of other young people to join them. Hence, according to Alon, there is no ability to deter such terrorist organizations and therefore it is necessary to act against them in a wide variety of means, so as to prevent them from realizing their intentions, or to act to reduce the negative outcomes of the terrorist activity

in terms of the state (processes that primarily are in the framework of enforcement or defense).

Martha Crenshaw presents in a number of articles the political analysis of the causes of terrorism and views terrorism first and foremost as a political instrument intended to promote the organization's political goals. Crenshaw does not directly address the issue of the deterrence of terrorism, but she presents a number of key points in terms of the ability to deter terrorist organizations and primarily regarding the question of the ability to deter an organization from the choice of the path of terrorism (Crenshaw, 1990).

1. In her perspective, terrorism is a strategic choice adopted by the organization, undertaken in light of cost-benefit considerations and the values, goals, and mood prevalent among the members of the organization. Crenshaw presents the choice of the way of terrorism as a rational consideration (with its different limitations), and thus she presents terrorism as a part of the system of concepts relevant to the deterrence theory.
2. An organization that chooses the path of terrorism (in the framework of inner-state politics) is for the most part an organization that cannot achieve sufficient power for change in other ways, and therefore for the most part these will be weak and small organizations relative to their political environment.
3. Organizations can turn to terrorism from the feeling of need for the defense of their values (cultural, religious, or national) or the need to present power (Crenshaw, 2001).

In contrast, the researcher Jerrold M. Post presents in his article a series of psychological and sociological aspects of members of terrorist organizations that have considerable significance to the area of deterrence. Post maintains that the terrorists have a special logic of their own, which brings them to certain forms of thinking (different from those of most of the population) and which influences their outlook and the way in which they understand the reality around them. However, Post, like other researchers, does not identify significant and basic psychopathology among terrorism operatives and

agrees with the rational perception of terrorist operatives presented by Crenshaw (Post, 1990).

Professor Boaz Ganor in his book *The Counter-Terrorism Puzzle* presents a series of problems and important conclusions for the deterrence of terrorism. Ganor holds that it is difficult to deter terrorist organizations because of the centrality of the ideology in the operatives' outlook, because of their willingness for great self-sacrifice, because of different measures of success regarding their action, and because of lack of ability to predict the organization's reactions to the state's actions (Ganor, 2004). In addition, he notes the problem of attachment that exists in the transmission of the threat in the desired manner (in terms of the state) to the terrorist organization (Ganor, 2004).

Ian O. Lesser (1999) discusses deterrence in a broader framework of war against the "new terrorism" and sets the deterrence as one of the four elements of strategy against the "new terrorism" he proposes. Lesser holds that the deterrence of the terrorist organizations that operate in a network structure and the deterrence of isolated operatives are more difficult than the deterrence of state-supported terrorism, which is clearer in terms of the structure and the relationships that the organization holds with different factors and for the most part is more restrained in the intensity of its actions. Despite the importance of the deterrence in his perception, Lesser (1999) did not attempt to deal with the different elements of deterrence in this strategy and with the difficulties, failures, and questions that arise in the attempt to implement a deterrent policy or strategy against the "new terrorism".

Another important document on the topic of the deterrence of terrorism that engages primarily in the practical aspects of deterrence was written by Paul K. Davis and Brian Jenkins (Davis & Jenkins, 2002). In this document, the two present an unequivocal position that in their view, deterrence cannot serve as a theory and organizing idea against terrorism and therefore it is necessary to broaden the engagement in the conflict against terrorism to a possible variety of forms of influences. The concept of deterrence is both too limiting and too naive to be applicable to the war on terrorism. It is important to conceive an influence component of strategy that has both a broader range of coercive

elements and a range of plausible positives, some of which we know from history are essential for long-term success (Davis & Jenkins, 2002, p. 18).

Thus, in essence the two set a term and new and important insight: There is no room for the deterrence of terrorism as a policy and it is necessary to use the term influence to describe correctly the variety of activity required from the states against terrorism. Jenkins and Davis did not analyze the reasons and causes that lead in their perspective to the non-success of the deterrence (in its limited, classic manner). However, they established a series of guiding ideas that should be taken into consideration when planning a strategy of deterrence and influence on terrorism.

- It is necessary to create a broad strategy against terrorist organizations that will use all the means of influence existing in the hands of the state, including deterrence, enforcement, and creation of a positive incentive.
- It is necessary to characterize the terrorist organization as one organizational system and to provide a precise and appropriate solution for every part in this system.
- It is important to coordinate and synchronize all the systems of the state that act against the terrorist and guerilla organizations, while providing immediate response on the most senior levels to the different situations that develop and obligate an immediate response.
- It is necessary to preserve the values of the state and thus the balance between the different interests for the short term and the long term in the framework of the actions.

Israel's engagement in the deterrence of terrorism is a very complex and sensitive topic and its meanings pertain not only to the close history of the State of Israel but also to the question of the manner of current coping of Israel with the security and military challenges in the present versus the terrorist organizations. In this situation, there is the considerable influence of the outlooks and personal experience of the different researchers on the manner of analysis of Israeli deterrence in general and deterrence against terrorism in particular. The present research study will engage in the deterrence of the terrorist organizations through the mechanism of targeted killings.

## Summary

The supreme objective of terrorists is to achieve political change. However, only in rare cases has terrorism led to continuous radical political change in the modern era (Hoffman, 1996/97, 1998, pp. 183-184).

Fundamentally, terrorism is a violent action, with a political-strategic goal, and the target of the violence is civilian. Guerilla warfare differs from terrorism in that its targets are military and not civilian. The victims of terrorism are not the main goal; rather the harm to them is intended to convey a message to their community. The main objective of terrorism is similar to the goals of other types of warfare: to cause a change of policy, whether by increasing the cost to the enemy government or by taking down the existing government. However, the means of the achievement of the goal are different: instead of the elimination of the combatant force, terrorism attempts to destroy the population's support of the policy of its leadership through showy damage to the civilian home front. The choice of the home front, the non-combatants, as a target of violence is intended to emphasize the vulnerability of the broader public and the powerlessness of its government to protect it (Hoffman, 1998).

It should be further noted that the Federal Bureau of Investigations in the United States defines terrorism as “the unlawful use of force or violence committed against persons or property to intimidate or coerce a government, the civilian population, or any segment thereof in furtherance of political or social objectives” (Hoffman, 1999).

As mentioned in the chapter, the researchers Schmid and Jongman (1988) in their book *Political Terrorism* examined 109 definitions of terrorism that were obtained in response to their request from most of the academic researchers in the field. The authors isolated from these definitions the following components of the definition: violence, force – 83.5%; political objective – 65%; dissemination of fear and anxiety – 51%; threat to use violence – 47%; psychological effect of terrorism – 41%; difference between the group of victims and the target population – 37.5%; degree of consistency, planning, and organization of the terrorism – 32%; and terrorism as a method of warfare, a strategy, a tactic – 30.5%.

In parallel, the different researchers were asked to respond to the following question: “Which questions about the definition of terrorism have not yet been resolved?” In response to this question, the following answers were obtained: the boundary between terrorism and other forms of political violence, whether political terrorism and underground terrorism are a part of the same phenomenon, the separation between terrorism and ordinary crime, terrorism and regular warfare, terrorism and insane activity, whether terrorism is a separate subcategory of violence, repression, power, whether terrorism is legitimate, which goals justify the use of terrorism, what are the boundaries between terrorism and revolution, or violent protest, and so on (Schmid & Jongman, 1988).

Despite the attempts to conceptualize the term of terrorism, the concept of “terrorism” does not yet have an agreed-upon definition (Hoffman, 2006). Academic, political, security, and media factors make use of different definitions of terrorism. Part of the difference in the definition derives from the interests that different political factors attempt to advance. In this research study, terrorism is defined as the violent struggle in the framework of which intentional use is made of violence against citizens, in order to arouse fear and anxiety, for the achievement of political goals. The definition is commensurate with the most common elements in the academic definition of terrorism, as indicated by the findings of the researches of Schmid and Jongman (1988).

### **Contribution of the Research Study**

The contribution of this research study lies in its extensive discussion of the mechanism of targeted killing and the manner of its implementation and effectiveness as one of the instruments among the capabilities of the democratic country to fight terrorism effectively. The contribution of the research study is its extension of the discussion, both theoretically and practically, in the development of the knowledge and instruments for the understanding of the components of terrorism and the examination of the effective ways of coping with the threat by a democratic state through the Israeli case.

The research can help with the construction of a model that enables the democratic countries to examine a process of this type and to evaluate their future



security policy towards similar events in their territory and in the world and in the relations with other countries.

# **Chapter 1: Counter-terrorism/ targeted killing Main characteristics**

## **1.1 Definition of the Problem**

Does the use of the mechanism of “targeted killing” help reduce the violent activity of terrorist factors? To address this question in-depth, it is necessary to understand first the why and from where of the roots of the terrorist organizations and terrorist actions. Samuel Huntington maintains in his article “The Clash of Civilizations” that the great disputes in the human species and the main source of conflicts will be cultural. In addition, he maintained that the nation states will remain the main actors in the global arena but the essential conflicts in global politics will occur between nations and groups that belong to different civilizations (Huntington, 1993, p. 26). Huntington borrowed the expression “the clash of civilizations” from the Jewish historian who specialized in oriental studies Professor Bernard Lewis (Lewis, 1990, p. 49). This is the situation from the end of the 1960s. Huntington further maintained that people can redefine their identity and that consequently the boundaries and composition of civilizations change.

The main question why the civilizations will clash is answered by Huntington. The great conflicts will occur along the cultural fault lines that separate between these civilizations (Huntington, 1993, p. 31). It is possible to notice the difference between Western culture and radical Jihadist Islamic culture represented by the terrorist organizations and their supporters.

The clashes between the civilizations occur at two levels, the micro level and the macro level. The micro level is a territorial struggle between groups found along the fault lines between the civilizations, such as the spread of radical terrorist organizations such as Al Qaeda, the Islamic State, and others. On the macro level, states belonging to different civilizations compete over military and economic power and control of international institutions and other countries, while promoting their political and religious values. Iran can serve as a significant example of this argument (Huntington, 1993, p. 31).

At the end of the 1960s, the problem of international terrorism was not accorded the same degree of importance attributed to it today, and therefore it was not properly understood. Very few focused on the nature of the factors responsible for the worrisome spread of terrorism, very few believed that there were practical ways of fighting terrorists and even defeating them.

The Western world about seven decades after the end of World War II has been for years under the steadily increasing threat of international terrorism. These attacks reached new heights with the hijacking of a T.W.A. plane to Beirut, the hijacking of the *Achilles Lauro* ship, and the planned explosion of an American passenger plane from Rome to Athens. The crowning glory of the violent struggle of the terrorist organizations against the free world was the combined terrorist attack in the United States on September 11, 2001, when terrorists from Al-Qaeda hijacked planes and crashed them into settled regions, with emphasis on the Twin Towers in New York. This event is considered by many to be the watershed point. In addition, terrorist attacks in recent years in Europe and the threat posed by organizations such as the Hamas, Hezbollah, Al-Qaeda, the Islamic State, and other murderous organizations only intensified the fear of an upsurge in violent acts and in harm to innocents. All these events clarified to the world that there is a terrible global war that is spreading. This situation was supposed to cause the leaders of the free world to initiate activity and to make proposals regarding the ways that may lead to an effective struggle against the increasing threat.

It is emphasized that the countries of the West, which constitute the primary target of international terrorism, including Israel, but not only them, must embark on an uncompromising campaign against those who threaten freedom and the fabric of life that was recovered after World War II, in the work of many years. They must and can adopt for themselves a series of steps, political, economic, military, and legal, to fight back against the murderous terrorist organizations and their supporters.

One of the main questions that arise is as follows. Why do the terrorist factors and their supporters choose the Western World and other countries as convenient targets for terrorism? In ideological terms, the world of values of the free societies stands in stark

contrast to the values of terrorism (Netanyahu, 1996, p. 19). In democratic regimes, the government draws its authority from the consent of its citizens, and then its power is limited by the meticulous preservation of a person's basic freedoms. In these societies, conflicts between different groups are resolved by political means, which by nature are nonviolent. The terrorist organizations and the terrorists do not recognize these reservations. The terrorists and their supporters believe that the Western countries are soft and easy targets. They exploit the great openness of the free societies to plan and to execute different attacks. They rely on the assumption that the humaneness of the Western countries and the restrictions imposed on them by the rule of law will prevent them from responding with attacks at their actions (Shultz, in Netanyahu, 1996, p. 82).

It is possible to relatively easily notice the cultural difference between the civilizations supporting terrorism and the Western civilizations. In the Western civilizations, the cultural infrastructure sanctifies individual freedoms, pluralism, and democracy, while the civilizations that engage in radical terrorism express their path through the dissemination of terrorism and fear. For instance, the Islamic State disseminated many clips that their warriors filmed when or after they captured different places, in which they are beheading people, committing mass murder by firing into pits, drowning prisoners in cages, burning people alive, cutting off hands and feet, killing by stoning, throwing LGBT people from roofs, using children to commit brutal murderous attacks, and so on (Parlov, 2015, p. 94).

Terrorism generally flourishes when there is an atmosphere of weakness and disagreement regarding how to handle the execution of a terrorist attack or another violent activity. It should be noted that in a short period of about twenty years terrorism has become a global force. Terrorism attacks methodically, almost without exception, most of the democratic states. Terrorism threatens international transportation, international commerce, and international agreements. When focusing on the nature of international terrorism, it is necessary first to recognize the fact that terrorism of this type did not grow and develop only from social emotions of distress and frustration. International terrorism derives primarily from the cultural political aspirations of countries that desire to expand and that support terrorism, which have the goal of using

the weapon of terrorism and terrorist organizations that cooperate with these states and are at their disposal. Without the support of these countries, international terrorism would not exist and would not spread. One of the destructive influences of terrorism is in essence the blurring of the distinction between combatants and civilians, a distinction that is at the root of the rules of war (Harkabi, 1983, p. 59).

At this point, the terrorist is separated from the other combatants, since he proclaims total war on society and even challenges its institutions. In his eyes, every person is a legitimate target. The harm of women and children does not present a barrier for him.

Many researchers maintain that the terrorist organizations found in the democracy that characterizes Israel, Europe, and the West a comfortable place for action. On the one hand, the democratic regime is characterized by values and rules of government that give a variety of possibilities for the development of terrorist cells and the establishment of terrorist organizations. On the other hand, the values of democracy limit in a structural way the government's abilities of action in the country, actions that can reduce and cope successfully with the terrorist organizations (Farrell, 1982, p. 119).

Wilkinson holds that the liberal democracy that characterizes the countries of Europe and the West enables the terrorist organizations to exploit the variety of liberties provided by democracy, including the use of propaganda and the dissemination of messages intended to erode the values of democracy and its elected leaders, such as freedom of speech, movement, and organization. These freedoms enable the terrorist organization to establish itself and grow strong without interruption and even to move about the countries to undertake terrorist actions (Wilkinson, 1976, p. 11).

One of the challenges that must be addressed is the free and uncensored media that characterizes the democracies in Europe in particular and in the West in general. The very developed system of media in the West and in Europe is not subordinate to the government factors and thus does not "owe" anything to the government, including the censorship of the information it publishes. The terrorist organizations exploit the media openness and convey through it their messages from the regions of the terrorist attacks

and the outcomes of the terrorist acts directly to the citizens. The countries of Europe, Israel, and the West in general are found in a situation of a conflict of values between the strong desire to fight terrorism through the use of violent means and emergency legislation, including punishment for deterrence purposes that may lessen the threat and even the terrorist actions, and the democratic liberal values that characterize the democratic countries, a conflict that can lead to international critic in light of the use of non-democratic steps (Crenshaw, 1990, pp. 14-15).

It should be noted that the avoidance of the adoption of steps that will ensure the wellbeing and security of the citizens, through the preservation of the values of democracy, might cause the escalation of the acts of terrorism against the innocent citizens. This will cause the erosion of the legitimacy of the elected government. An elected government must maintain the personal and physical safety of the citizens of the state over which it has charge. There are cases in which the values of democracy and the preservation of human life conflict and in even certain cases contradict (Wilkinson, 1986, p. 17).

The aim of this research work is to discuss the phenomenon related directly to the system of international relationships, which has lasted three decades – “targeted killings”. The focus will be on the question that pertains to the degree of effectiveness of the mechanism of “targeted killing”, with reference to the characteristics and nature of the operatives who constitute a target for harm through this mechanism, through aspects of physical harm or political harm, and whether this mechanism helps lessen the violent activity of the terrorist organizations and their supporters. In addition, the emphasis will be placed on the examination of the degree of effectiveness of this mechanism in its different ways.

The Hebrew term סיכול ממוקד (*sikul memookad*), which can be translated into English as targeted prevention, is a term created by the government of Israel and the Israel Defense Forces (IDF) during the Al-Aksa Intifada to describe the military action of the IDF aimed at the killing of the Palestinian terrorists and others who are involved in

terrorism. The American press uses the English term “targeted killing”. The Arab press calls these actions اغتيالات, assassinations.

The term “targeted killing” has become common. The term was coined by the former Attorney General Eliyakim Rubinstein in the assembly of the forum for law and society (Kremintzer, 2005, p. 1). According to him, “motivated killing or ‘targeted killing’ is a means that serves the end of bringing about the killing of a certain person: a political or military leader, a commander or operative in an organization of terrorists, or a person who bears responsibility (according to intelligence information) for terrorist actions”.

Israel, which publicized this method of action in the early 2000s, in the first years was frequently condemned in the international arena for its use. Nevertheless, additional countries and militaries began, as aforementioned, to make use of this method over the years.

With the start of the use of this term, it was argued by Israel that in all the cases this is action against a “ticking bomb”, which clearly and immediately thwarts specific terrorist acts. In the continuation, the use of the concept was extended, and it describes every action of the elimination or arrest of a Palestinian operative involved in terrorism, whether he is a terrorist himself or a leader in an organization that engages in terrorism. Following the extension of the meaning of the expression, some maintain that the use is from purely explanatory motives and this is a semantic change, to avoid the use of the word “elimination”, and in essence, there is no difference between them. However, in actuality the arrest and trial of an operative do not constitute the “elimination” but rather the “thwarting” of the potential terrorist activity that was supposed to have been executed.

It is emphasized that this specific concept comes as a substitute for the concept of “elimination”, which was previously used to describe this type of activity undertaken in the context of the physical harm of the terrorists, as the example of the killing of Yahya Ayyash or Abu Jihad. Israel sees the activity of targeted killing, directed at terrorists,

with the attempt not to harm civilians who do not engage in terrorism, to be self-protection permitted according to law and morality.

As was noted previously, during the research study there will be detailed expression in different contexts of the aspects of a number of characteristics related directly to the manner of differentiation of the degree of effectiveness of the targeted killing, such as physical or political killings of those tangential to terrorism and their degree of influence on the organization itself, the attitude of the population, the technological abilities, and so on.

To focus on the complexity of the problem, we will follow the attempts of the international community to define what a terrorist act is. This definition is important not only for political needs and public discourse but also in legal terms. A legal definition of terrorism according to international law may enable the fight against the variety of channels that help terrorism grow stronger, through international cooperation (ways of coping with countries that support terrorism, reduction of the ability of terrorist organizations to transfer funds, extradition of terrorists, recruitment of terrorists, and so on) and the creation of an infrastructure for the anchoring of a normative legal system that will define what is permitted and what is prohibited, what is legitimate and what is illegitimate, in every political struggle (Ganor, 2003, p. 25).

The decisions of international organizations, and at their head the institutions of the United Nations, express the international position that terrorism harms human rights and freedoms, and first the right to life, to freedom, and to safety, endangers the existence of countries and moderate democratic politics, and threatens the peace and international security.

Bar Yosef and Simchoni hold that the asymmetry between Israel and its enemies is not new at all. Rather, the reverse is true: the recognition of the multidimensional asymmetry between Israel and its enemies is the most important factor of influence in the doctrine of security that was shaped after the establishment of the State of Israel. The limited raw power at the disposal of the State of Israel in its struggle against its enemies – in manpower, in territory, in resources, and in natural resources – has created since its



establishment a constant and essential asymmetry between it and its enemies. The dimensions of the asymmetry have changed over the years, but the fundamental lack of equality has been retained (Bar Yosef & Simchoni, 2010, p. 5).

The terrorist organizations may and do use their own citizens as human shields, so that the harm to citizens by the military forces will create asymmetry and crisis between the military forces and the political civilian system. In light of the asymmetry, the terrorist organizations will attempt at all times to build up their strength and to shape the conflict in such a way that makes it difficult for the military forces to act against it effectively (Tira, 2008, p. 73).

Ganor maintains that targeted killing constitutes the spearhead of the offensive activity, when the aim is to thwart a possible attack. The supporters of targeted killing maintain that the neutralization of a terrorist who is personally responsible for severe terrorist attacks in which innocents were killed obligated the direct harm to factors responsible for the violent activity. Some of the supporters of targeted killing restrict their support to the harm of the terrorist who has embarked on the terrorist attack, differentiating between the terrorist and the administrative system that helps him, which in their opinion should not be harmed. In contrast, some believe that the harm to the terrorist himself is a part of the handling of the terrorist organizations that obligates the infliction of damage to the administrative and organizational infrastructure that helps the terrorist and in essence constitutes an integral part of the constellation of the terrorist attack (Ganor, 2015).

It should be emphasized that beginning with its independence in 1948 and until today and some even assert before its independence, the State of Israel had adopted, as a part of its perception of national security and as a part of its multidimensional effort to fight terrorism, a range of ways of action, when one of these methods of action is expressed in the policy of targeted killing to advance its goals (David, 2002). The precise evaluation of the effectiveness of the offensive activity is an especially difficult task, which is a focus of the research study, not only since it is not always possible to know how many terrorist attacks were thwarted before they were actualized because of the

targeted killing activity undertaken and what would have happened without the action (Dershowitz, 2002). The tendency in the literature, including the legal literature, is to accept “targeted killing”, but under limitations. Thus, for instance, Rubinstein writes that the correct means is the arrest of suspects and only if there is no possibility and the war crimes persist is there room for targeted killing (Rubinstein, 2002). It is very important to further the knowledge and to examine whether the use of the mechanism of targeted killing is effective and helps reduce the acts of terrorism. This is the focus of the present research study.

A precise evaluation of the effectiveness of the activity of targeted killing is an especially difficult task, if only because it is impossible to know how many terrorist attacks were thwarted because of the undertaken activity and what would have happened if the operation had not been carried out. It is emphasized that sometimes an activity that would appear to be very successful in the short term may be revealed as a failure after time passes, and the opposite is true. Some emphasize the problems in the deployment of offensive measures in the framework of a counterterrorism policy, saying that when the targets and time of the operation are chosen, as well as the means and methods, it is necessary to examine in-depth the harm that may be caused to the country because of the use of these steps, both in the physical dimension and in the political and psychological dimensions. It is further noted that in this context it is necessary to take into consideration the implications of the actions.

The use of targeted killing during and after the Al-Aksa Intifada was intended to neutralize terrorists who were on the way to carry out a terrorist attack against innocents and to take out people in high levels of command in these terrorist organizations who directed and sent these terrorists. The method of targeted killing awakened a difficult value-based argument. The opponents of the method maintain that this is the circumvention of the rule of law and the execution of a sentence without any legal proceedings. The object of the targeted killing is only suspected of terrorism, and it is possible that there was a mistake in his identification. Moreover, the actions of targeted killing harm not only the target but also the surrounding population. Targeted killing encourages the de-humanization of the enemy and grants the victory to terrorism, since

the state is undertaking the same means that the terrorist organization uses. Conversely, the proponents of the method say that this is the only way to stop terrorists and to prevent them from carrying out terrorist attacks and that the targeted killings are performed against “ticking bombs”, namely terrorists on the way to carry out a terrorist attack. In addition, targeted killings should not be viewed as an act of punishment but as a step intended to prevent a terrorist operation. A targeted killing is carried out when there is no other way to stop the terrorist, and sometimes it prevents a large-scale activity that would cause greater suffering to the terrorist’s surroundings (Kremintzer, 2005, pp. 29-32). In January 2002 an appeal was filed with the High Court of Justice, which sought to stop the method of targeted killings, and only in December 2006 did the High Court hand down its ruling. “It should not be determined in advance that any targeted killing is prohibited under customary international law, like it should not be determined in advance that every targeted killing is permitted under customary international law. The laws of targeted killing are determined in customary international law, and the legality of each individual injury needs to be determined in their light” (Barak, in High Court of Justice 02/769, the Public Committee against Torture in Israel v. the Government of Israel, article 64).

It is necessary to remember that the purpose and the recruitment of the effectiveness of targeted killing are to prevent the harm to innocent people as a part of the country’s obligation to protect its soldiers and its citizens. Since there is the duty to avoid harm to the lives of innocent civilians, it is necessary to be very careful with the possibility of removing the protection of the law over the lives of citizens in the appropriate circumstances. In the framework of this caution, it is necessary to examine the level of information for the classification of a ‘citizen’ as taking a direct part in hostilities. The information must be well established, strong, and convincing regarding the risk that the terrorist poses to human life – a risk that includes also a continuous activity that is not limited to a concrete non-continuous or one-time activity. It is emphasized that under appropriate circumstances information about the activity of a terrorist in the past may be used for the purpose of the examination of the risk he poses in the future.

## **1.2 Counter-Terrorism and Human Rights**

### **1.2.1 Introduction**

This chapter will discuss the use of the components of asymmetric warfare in the 21<sup>st</sup> century against states that support terrorism and against terrorist elements, to deter them, with focus on the Israeli case. Professor Zaki Shalom holds that the phenomenon called “asymmetric conflict” or “low intensity conflict” confronts the international system and primarily the democratic states with a dilemma of a unique character. These dilemmas were not known in the period of the “classic wars”, when the regular armies fought wars against one another. These regular wars had their own rules. In these periods, generally it was clear when the war would start, who started the war, and how it ended. The decision in these wars was also generally clear and was frequently formulated in official documents. The situation was not the case when speaking about conflicts with non-regular forces (Shalom, 2009, p. 7).

Ariel Reichard maintains that one of the prominent characteristics of military conflicts today is that they are held not between sovereign countries but between countries and violent organizations that are not states and that do not belong to an accepted or recognized political framework. The expansion of this phenomenon in the last fifty years led certain researchers even to assert that traditional warfare, with military clashes such as in the Second World War, have disappeared. According to this outlook, a new pattern of war has been created, in which guerilla and terrorist organizations challenge the existing political and social order and aspire to change it by force. The growth of violent organizations that are not states in the accepted and recognized sense of the concept has profoundly influenced the manner of the management of conflicts in the past fifty years (Reichard, 2014).

In asymmetric strategy, every rival deploys the instruments at his disposal to exploit the weaknesses of the opposing side. The asymmetric action not only is military but also can be political; it acts in all dimensions – in different time intervals, intentionally or not, overtly or covertly, in the psychological dimension or the physical dimension or in all dimensions. Asymmetry means action commensurate to the rival's

weakness. Hence, frequently criticism is leveled against violent organizations that they are not fighting fair (Metz, 2001, p. 23).

In the field of deterrence, Boaz Ganor asserts that all types of deterrence are based on the rational fundamental assumptions of the rival. However, this basic assumption is cast in doubt when speaking about terrorist organizations. The cost-benefit consideration is an outcome of many variables, and an action perceived as effective by one side is not necessarily perceived as such by the other side. One of the main arguments emphasizing the problematic nature of deterrence is that the terrorists “have nothing to lose” and therefore they cannot be deterred. This argument is not necessarily correct. The terrorists do have something to lose, such as resources, manpower, future achievements, respect, and prestige. The terrorist organizations generally have rational considerations alongside cost-benefit considerations; however, they may attribute different importance to certain values that will be perceived as irrational by the country fighting the terrorism. If the expected cost exceeds the anticipated benefit, then the organizations will act in a rational manner and will not commit a terrorist attack. Hence, the decision makers must know the terrorist organizations and their cost-benefit considerations (Ganor, 2003, p. 75).

The State of Israel and its security forces are sometimes required to wage campaigns when the achievement required of them is limited or delineated. For the most part, this type of campaign will lead to a limited outcome in the aspect of the harm to the enemy, when the aim is to restore calm and to have deterrence again in the future.

The logic of action is characterized by a focused and limited action of operations for objectives with a strategic value, the integration with defensive effort and presentation of potential for the realization of military decision. These actions will illustrate to the enemy the intensity of the anticipated potential harm from the deterioration of the situation and from the low utility of its action, if it does not end its policy and will exert on it pressure to end his action (Eizenkot, 2015, p. 16).

In the framework of the thinking processes on the formation of a different perception of action that on the one hand will influence and harm seriously the terrorist elements but on the other hand will not deteriorate the conflict into war, it was necessary

to think creatively about the characteristics of operational activity that would concentrate all the operations waged between the wars and the localized actions into one overall strategy that was called by the term “the campaign between the wars”.

This strategy speaks of the full range of efforts of deterrence, counterterrorism, and infliction of a cost intended to influence the enemy’s considerations and abilities in the struggle against Israel, from the focused awareness of the fact that this is influence on the course of the conflict, including the prevention or postponement of a certain clash and not on the solution of the conflict. The fundamental assumption at the basis of the security of Israel is that the basic motivation of the countries supporting terrorism and of the terrorist elements that want to harm the State of Israel is given and that the enemy’s need for violence is unavoidable and that Israel can influence, also through violent means, primarily the operational dimension of this motivation, the characteristics of the clash, and the chances of the realization of the intentions of its rivals and enemies (Shiftan, 2018, p. 99).

This chapter will attempt to illuminate the issue of the fight against terrorism on the one hand and the matter of human rights on the other hand. This chapter will present the conflict and clashes between the desire to fight terrorism and the desire to uphold human rights.

### **1.2.2 Dilemmas in Determining a Framework for Fighting Terrorism**

The decision maker who intends to formulate a policy of fighting terrorism must first of all define the goal he intends to place at the basis of the fight against terrorism, the task that is to be assigned to the security forces and other government factors that take part in the fight against terrorism. The goal of the elimination of terrorism may be expressed in the elimination of the rival (the elimination of the terrorist organization itself), in the removal of the rival’s motivation to perform terrorist attacks and use violence against the state and its citizens, or in the solution of the problem of the dispute (since the motive of terrorism is a political motive, the solution found is also in the political realm). The goal of the reduction of the terrorism damages will include, as secondary objectives, the reduction of the number of terrorist attacks, the reduction of the number of victims, the

prevention of especially difficult terrorist attacks (suicide attacks, mass killing, and so on), the reduction of the damage to property, and so on (Gilon, 2000). The goal of the prevention of the escalation of the terrorism will be based on two secondary goals:

1. The prevention of the expansion of the conflict. The prevention of the growth and development of the organization through the recruitment of new operatives to its ranks, the prevention of the political achievements of the organization in the international arena, the prevention or neutralization of the support of other countries of the organization, and the prevention of the escalation of its aspirations and political objectives,
2. The prevention of the escalation of the terrorist attacks. The prevention of the rise in the number of terrorist attacks and/or the number of victims and the prevention of the most severe types of attacks (Gilon, 2000).

The goals and objectives that the decision makers present to the security forces often change according to the change in the terrorist trends, the constraints of the international system, the two-way systems of relationships between different countries, and the internal political situation in the state. For instance, the strategic goals of Israel in its counter-terrorism policy have changed over the years. At the end of the 1960s, immediately after the Six Day War, the goal was to eradicate terrorism and uproot it through the elimination of the organization's infrastructure and the detention of activists in the Gaza Strip and in Judea and Samaria. At the start and in the middle of the 1970s, the policy was to deter the terrorist organizations from performing terrorist attacks through the offensive activity against the heads of the terrorist organizations, and this included harsh actions of retribution in different countries following terrorist attacks. At the end of the 1970s and in the 1980s, in Israel there was greater recognition that under the international and regional political conditions created on the background of the achievements of the Palestinian movement in the political dimension and in light of the depth and complexity of the Palestinian problem, it is impossible to require a policy with the goal of the eradication of terrorism through purely military means. Therefore, the shapers of policy chose to pose a more realistic aim – the reduction of the damages of terrorism and not the eradication of the phenomenon (Dror, 1989).

To determine the objectives of the fight against terrorism, it is necessary to identify first that the factors that influence the scope of terrorism and the characteristics of terrorist organizations, which do not act in a void but are influenced by their environment. This environment may influence the objectives and goals of the organization, its strategy and methods of action, the motivation and cohesion of the organization's members, and consequently the scope of the violent activity of the organization, its characteristics, and its nature. The environmental factors that influence the violent activity of the terrorist organization include a variety of factors such as the international system; the terrorist organizations, which act by their very nature to achieve a political objective, are influenced directly or indirectly by the events and processes in the international arena. Events such as world wars, local wars, the rise and fall of super powers, economic crises, and political struggles may therefore influence the scope of violent activity and characteristics of the terrorist organization.

One of the important factors that may directly impact the scope of violent activity of the terrorist organization is the degree of support and assistance that the terrorist organization receives from a state that supports terrorism (Hoffman & Morrison, 1992). Many terrorist organizations receive, as aforementioned, a certain degree of support from different countries. This support may be expressed in political-ideological indoctrination, in economic and military aid, in operational guidance, and in the supply of weapons and even in operational assistance for terrorist attacks. Every change in the scope of the assistance that the organization receives from the supporting state may directly influence the organization's ability to conduct violent activity. The cessation of the support may therefore lead to the end of the organization's violent activity or at least to a significant

*The activity of the state that is dealing with terrorism.* One of the main factors influencing the scope of terrorism and its characteristics is the steps adopted by the state or the government harmed by the terrorism. This activity is expressed in actions of safety and security for the prevention of terrorist attacks and in offensive activity against the terrorist organization, its infrastructure, its facilities, its operatives, and its leaders, so as to disrupt the organization's activity and deter it from performing terrorist attacks. However, the political policy of the attacked state and not only its operational activity



against the terrorist organization may have influence on the scope and characteristics of the terrorism. For instance, the arrival at partial or general arrangements with the organization, gestures and willingness to make concessions, and political attitudes adopted by the government – all these may motivate the terrorist organization to change its policy.

The terrorist organizations grow and act generally from the population whose goals they presume to represent. This origin population serves as a reserve of support and main recruitment of the organization. The organizations use the origin population to recruit operatives, to obtain assistance and supplies, to find refuge and hiding places, and so on. The sympathetic population enables the terrorists to act with great freedom. Every change in the degree of support and sympathy that the organization receives from its origin population may therefore have direct impact on the terrorist organization's scope of violent activity and characteristics. Therefore, the terrorist activity that different organizations undertake in many cases has the purpose of conveying a message to the origin population, which primarily is that we are acting in your name and for you, enlist to assist us in our activities in order to achieve our common political goals (Gordon, 1998).

*The influence of the inter-organizational situation.* In many cases in one arena of activity there are a number of terrorist organizations, acting to achieve identical or similar political objective. These organizations sometimes splinter off from one another and in other cases unite or cooperate in different areas. The system of relationships and reciprocal relations between these organizations and the rest of the ideological and personal rivalries and competition between them, including cooperation between them, have immediate and direct impact on the scope of violent activity and characteristics of the terrorist organizations.

*The influence of the intra-organizational situation.* One of the factors that greatly influence the scope of the terrorist organization's violent activity is the internal process in the organization. This process is influenced by the personal rivalries in the organization, the institutionalization and functioning of the organization's parts, institutions and

disputes, the social cohesion of its members, the characteristics of the organization's preparation, and so on.

All these factors influence simultaneously the scope and characteristics of the terrorist attacks the terrorist organizations execute. This influence is translated in the end into an equation with two variables that determine the terrorist organization's level of violent activity – the level of motivation and the degree of operational ability of the terrorist organization to perform a violent activity.

The component of motivation in the equation of terrorism is a combination of, on the one hand feelings, desires, aspirations for vengeance, and so on and on the other hand, rational calculation of interests, ways of action, and possible outcomes. For instance, an organization may decide at a certain point of time to suspend for the time being its violent activity for tactical reasons. Alternatively, a terrorist organization may decide to completely abandon the path of terrorism from the recognition that this will not advance its interests and perhaps even will endanger them. Either way, when the organization lacks the motivation to carry out terrorist attacks, even if it has the ability to conduct terrorist attacks, it prefers to avoid undertaking them. The second variable that determines the scope and characteristics of the violent activity is the organization's operational ability. In certain cases, it is possible that a terrorist organization will aspire to execute terrorist attacks but will not have the ability to do so. The lack of operational ability may be a result of the lack of money, the lack of weapons or fighters, difficulties that derive from the steps adopted against the organization, and so on. There are situations that may influence the organization's ability to perform terrorist attacks: the eradication of the organization or its "hard core" – the offensive activity against the terrorist organization sometimes may lead to its eradication (when it is a small organization composed of a few dozen members) or the elimination of its "hard core" – the elimination or arrest of the main senior operatives who have the control of the organization's activity, with whom the organization cannot be revived.

Harm to the infrastructure of the organization, whether following offensive activity of the state harmed by the terrorism or whether following any international

activity (for instance, the removal of the support the organization receives from the country protecting it and removal of the organization's operatives and facilities from its territory) may have impact on the organization's ability to undertake violent activity.

Lack of manpower, funds or other means, such as weapons and operational equipment, may harm the organization's ability to undertake terrorist attacks and limit their number. Such a shortage may be caused as a result of the activity of the attacked state or international activity aimed against the financial sources and support base of the organization and as a result of change in the policy of the country supporting the organization or from the diminishment of the status of the organization in its target population. As aforementioned, all these situations influence – separately and together – the level of motivation and the degree of ability of the organization to undertake violent activity, and hence they have direct and immediate impact on the terrorist organizations' scope of activity and characteristics. The strategy of the fight against terrorism, which was intended to reduce the scope and damages of the phenomenon of terrorism, needs to focus on one of these components or on a number of them and to act in this way to reduce the organization's ability and motivation to conduct terrorist attacks.

Another issue is the degree of dominance of the military component in the policy of the fight against terrorism. Terrorism is therefore a political and war-oriented action that obligates the simultaneous use of military means and political-social-economic means. The following question is therefore asked. What is the degree of dominance that should be accorded to the military component in the constellation of the policy of the fight against terrorism?

The degree of dominance that the country ascribes to the military component in its policy against terrorism is the outcome of its general approach to the phenomenon of terrorism. One approach prefers to undertake military activity against terrorist organization, while another approach objects to military activity and sees it to be a catalyst of the escalation and exacerbation of the terrorism. Between these two approaches there is a third approach, which maintains that it is necessary to integrate

between military activity and political activity and to create one fabric that will strive to resolve the problem of terrorism

The experience of different countries in the field of the coping with terrorism illustrates the need for the management of a comprehensive campaign in all the possible arenas of action concurrently. For instance, in the first half of the 1980s the attempt of the Franco regime in Spain failed to cope with the rise of Basque nationalism and the growth of ETA through its increase of actions of repression and the use of military and security measures. Moreover, this policy did not eliminate the Basque national aspirations; rather, it catalyzed the development of the movement that the policy had intended to eliminate (Pollack & Hunter, 1988). Conversely, the single-value reference to international terrorism as a political problem, a reference that characterized the policy of France until the start of the 1980s, has not proved itself. France, which adopted the “doctrine of political asylum” in the attempt to prevent international terrorist attacks in its territory by making French territory “neutral”, was forced to change its policy after France itself became a target of terrorist attacks (Wieviorka, 1990).

Britain, which understood the problems with the use of military means, avoided to the greatest possible extent the involvement of its military forces in tasks of the fight against terrorism. In Israel as well, this issue was on the agenda, and this was expressed in the reference of Aharon Yariv, the former head of Aman (military intelligence), to Israel’s policy of the counter-terrorism. He holds that the desired goal of this policy is naturally the cessation of terrorist activity; however since the roots of Palestinian terrorism as well as its goals are political, it is not possible to eliminate Palestinian terrorism solely through military means, since this will necessitate extreme steps that will not meet the internal and international legal and political limitations. Nevertheless, in the 1970s and 1980s most of Israel’s effort in fighting terrorism was directed at the military coping with the terrorist organizations and their supporters in the different arenas, primarily in Lebanon and in the West Bank and Gaza (Gilon, 2000).

The position that characterized many of Israel’s policymakers in the field of the fight against terrorism on the eve of the Lebanon War and at its start was expressed in the

response to the question of whether it is possible to eliminate terrorism through military means. After the First Lebanon war the eradication of terrorism stopped being the declared goal of the policy of Israel, and instead the goal was determined to be the reduction of the dimensions and damages of the phenomenon. The Palestinian popular uprising at the end of the 1980s caused a further diminishment of the importance of the military component in the framework of Israel's policy to fight terrorism, and some assert that it caused the disillusionment of the political and security echelon with regard to the possibility of eliminating terrorism through military means.

To summarize this chapter that examines the dilemmas in the determination of the framework of the counter-terrorism, dilemmas related directly to the processes that shape the different ways of action that influence the manner of the determination of the counter-terrorism policy, after the definition of the tasks of the fight against terrorism and the determination of the degree of dominance of the military component in the policy of the fight against terrorism, the following question is asked. Should the decision maker determine a defined and clear policy of the fight against terrorism or should the decision maker be satisfied with a collection of methods of action that reflect the experience that has accumulated in the field of the fight against terrorism over the years, as a kind of oral guiding tradition?

On the one hand, the setting of a defined policy of the fight against terrorism may present to the state security forces the objectives of the fight against terrorism and the desired way to achieve them in the clearest manner. The setting of such a policy is a clear message that comes from the decision maker, accompanied by the demand to uphold the framework of expectations of the head of the security forces. On the other hand, the setting of a policy may harm the degree of dynamism required for the purpose of the adjustment of the cumulative knowledge and experience in the field of the fight against terrorism to the changing environment and conditions, as well as to the changing nature of the phenomenon of terrorism, the scope of the threat, and its characteristics.

The proponents of the approach according to which the decision maker would do well to define in advance the state's counter-terrorism policy maintain that the definition

of the goal will neutralize in the end, at least to some extent, the pressures that the public may direct towards the leader, especially after terrorist attacks. Crenshaw states in this context that a considerable part of counter-terrorism is determined and performed when the public emotions are at a high point following terrorist attacks. In this situation, although the correct action may be sometimes to ignore the terrorism, many democratic states find themselves forced to respond lest they lose their credibility among their supporters. In her opinion, “governments cannot refuse to play the game since too many people are watching”. It is interesting that she brings as support of her argument the example of Israel: in her opinion, the government of Israel was forced to respond after every terrorist attack because of public pressure. Indeed, examination of Israel’s counter-terrorism activity in the years 1982-1999 indicates that Israel did not have a written policy or even a continuous strategy in the field of counter-terrorism. The different governments in this period adopted similar means of the fight against terrorism in the field of offensive activity, in the field of defense, and in the field of punishment, but there was a difference between them in the scope of the use of these measures, in the timing of the activity, and in the emphases. It is possible that the avoidance of the formulation of a written strategy of counter-terrorism derived from the need to maintain considerable flexibility in the making of decisions and from the lack of desire to be thought a government that does not meet the principles of the strategy it formed for itself.

Another question that obligates a response during the formation of the counter-terrorism policy is as follows. Should the decision maker declare the outlines of its policy and the principles that guide it in its decisions? Is it necessary to adopt a public policy of counter-terrorism? On the one hand, a declared, consistent, and clear policy of counter-terrorism will clarify to the operatives and supporters of the terrorist organization the response they can expect if they deviate from the rules set by the state and thus can contribute to the deterrence of the terrorists and thus may even avert terrorist attacks. The knowledge ahead of time what the state’s response will be if and when a terrorist attack occurs may serve as a “red line” that the terrorist organizations will be afraid to cross. However, on the other hand, the publication of the principles of counter-terrorism may see every change in the policy to be submission and “folding” before the decisions. The

public may see every change in policy as submission and “folding” to the terrorist organization and may even demand that the decision makers pay a heavy political price.

Therefore, it is recommended as a rule to avoid openly declaring the counter-terrorism policy of the country. It is possible to determine in public general themes that will explain to the public the goals of the government in the field of the dealing with terrorism but will leave to the policymakers a sufficiently broad space of action to provide an adequate response to the dynamism of terrorism that can suit itself to the conditions of the time and the changing circumstances.

It appears that the decision makers would do well to adopt a general framework of a flexible counter-terrorism policy that will enable a rapid transition from one tactic to another according to the changing needs. It is desired that they define goals and form guiding rules and preferred methods of action without delineating this policy by a written and rigid strategy.

### **1.2.3 Challenges of the Democratic State in Fighting Terrorist Factors**

Acts of terrorism and terrorist organizations are not a new phenomenon relevant to the recent era. However, the field of the research of terrorism is a field that has developed more strongly and has resonated in the past decades. These fields of research include considerable theoretical and empirical challenges. This reality is a result of a number of reasons. Research on terrorist organizations and terrorist activities has generated considerable interest only in recent decades, and therefore the researches on these topics are not large in number. It is difficult to fashion an unequivocal definition of a terrorist phenomenon (Slike, 2004). Furthermore, there are many factors related to the characterization of the “actors” in the field of terrorism (Ganor, 2008).

According to Ehud Sprinzak, terrorism is not a random and unexplainable attack. Rather it is a political phenomenon that can be defined in political terms (Sprinzak, 1988).

Crenshaw supports this approach and holds that the use of terrorism or extreme violence against civilian targets is not a result of a sudden change of the terrorist or his

organization. Rather, it is a part of the gradual development that in the end has a violent expression (Crenshaw, 1996).

Many researchers hold that terrorist organizations found in democracy that characterizes Europe and the West a comfortable platform for their actions. On the one hand, the democratic regime is characterized by values and government arrangements that provide a range of possibilities for the development of terrorist cells and the establishment of a terrorist organization. On the other hand, the values of democracy limit in a structural manner the ability of action of the government in the country, actions that can restrict and cope better and more successfully with terrorist organizations (Farrell, 1982, p. 119).

Paul Wilkinson asserts that the liberal democracy that characterizes the countries of Europe and the West enables the terrorist organizations to maximize the variety of the liberties that democracies allow, including the deployment of propaganda and the dissemination of messages intended to erode the values of democracy and its elected leaders, such as freedom of speech and freedom of organization. These liberties enable the terrorist organizations to establish themselves and grow strong without hindrance and even to move around the countries so as to perform acts of terrorism (Wilkinson, 1976, p. 11).

One of the challenges that must be addressed is the free and uncensored speech that characterizes the democracies of Europe and the West. The very developed media system in the countries of the West and Europe is not subordinate to the factors of the government and thus does not “owe” a report to the government, including censorship of the information it publishes. The terrorist organizations exploit this media openness and transmit through it their messages from the regions of the terrorist attacks and the results of the terrorist actions directly to citizens who are attentive to the media (Janke, 1992, p. 213).

The countries of Europe and the West, including Israel, are found in a value-oriented conflict between the strong desire to fight terrorism using violent means and emergency legislation including punishment for deterrence that may reduce the threat and



even the acts of terrorism and the liberal democratic values that characterize the democratic countries. This conflict can lead to international criticism in light of the use of non-democratic steps (Crenshaw, 1990, pp. 14-15).

It should be noted that the avoidance of the adoption of steps that will ensure the wellbeing and security of the citizens, with the preservation of the values of democracy alone, might cause an escalation in the acts of terrorism against innocent civilians. This may cause the erosion of the legitimacy of the elected government, for the elected government must maintain the personal and physical safety of the citizens of the State over which it has charge. There are cases in which the values of democracy and the preservation of human life clash, and in certain cases, they are even contradictory (Wilkinson, 1986, p. 17).

Wilkinson holds that the conflict how to behave is prominent primarily after a terrorist attack that results in the loss of many lives. Then the citizens of the country call upon the government to act strongly against terrorism, including damage to the individual liberties, with the aim of coping effectively with terrorism (Wilkinson, 1988, p. 42).

Albert Bandura has a similar argument. The tendency is to adopt extreme and undemocratic steps by the government when the terrorism becomes more than a nuisance, when the country and society cannot function, and thus there is pressure on the government to fight terrorism and defeat it by all necessary means (Bandura, 1998, p. 167).

It should be emphasized that another significant question is the question of the preservation of human life in the country and the “price” that the governments of the West will need to pay in the framework of the war against terrorism. The terrorist organizations, which are always looking for the soft spots, can inflict a heavier “price” on a country that holds the values of democracy dear than on a country that does not act in a democratic manner and does not hold the value of human life sacred (Danforth, 1980, p. 117). Furthermore, it is necessary to take into consideration that the democratic countries are more exposed to harm following the openness and pluralism that characterize them (Guiffrida, in Alexander & Denton, 1986, p. 24).

When an attempt is made to solve the dilemmas that relate to a solution to the terrorist challenges that will be effective and also will preserve the values of the democratic states, such as liberalism and democracy, the researchers are required to build a fabric of principles and recommendations for action. Wilkinson determines that to cope effectively with the challenges of terrorism it is necessary to combine two characteristics of war: first, a military security war so as to reduce the act of terrorism in a physical manner, and second a political and psychological war so as to ensure the support of broad publics that constitute the basis for a democratic society and a democratic regime (St. John, 1991).

Dan Harel maintains that for democratic states to act according to democratic rules against the terrorist elements that force upon the countries an asymmetric war, it is necessary to first examine what asymmetry is. Asymmetry between factors is measured not only in terms of power but also exists in every place where there is difficulty in the nature of the clashing factors, their objectives, their strength, their mode of action and primarily in the rules of the game according to which they act (Harel, 2012).

Harel adds that the clash of patterns of action leads the democratic countries also to act with asymmetric means as a part of the coping with the dilemmas with which they are required to cope. One of the examples is the use of offensive activity against the terrorist elements, or in other words, activity in which the democratic country initiates offensive actions against the terrorist elements that endanger the fabric of life of the citizens of the democratic state. In this context, Boaz Ganor (2004) maintains that one of the types of offensive actions that is criticized is the mechanism of targeted killing.

According to Harel (2012), between the State of Israel and the entity of Hamas in the Gaza Strip, there is profound and structural asymmetry that pushes for a certain form of coping unique to this conflict. Therefore, it is necessary to map in a comprehensive manner the asymmetry from the strategic level to the tactical level. On the strategic level, in a structural viewpoint, the State of Israel is a democratic state, in which there are elected institutions of government that are greatly influenced by the public opinion and the media. In the Gaza Strip, in contrast, there is a terrorist entity that is not defined as a state. While Israel acts according to the Western logic that expresses a variety of opinions

and in which the government is examined according to the results of its activity, in the Gaza Strip there is a government which has a fundamentalist ideology and is guided by the Messianic Jihadist idea according to which the terrorist organization is prepared to make many sacrifices (Harel, 2012).

The essential difference in terms of the objectives of coping is expressed in that while the State of Israel wants to maintain the geopolitical reality and attain quiet, in the Gaza Strip they want to change the reality and wipe out Israel and are willing to pay the necessary price. In terms of the constraints, while the State of Israel is obligated to the accepted political behavior code, the Hamas terrorist entity in Gaza dictates for itself the rules and behavior code (Harel, 2012).

#### **1.2.4 Challenge of the Deterrence of Terrorist Factors in the 21st Century**

One of the challenges facing the democratic countries when they go to defend their policies, including Israel, is the way in which they will adopt actions against terrorist elements so as to deter them. However, they are subject to limitations of punishment that constitute a foundation stone in a democratic regime. The democratic regimes cannot act with all effective means, since some are not in the framework of the state laws. Moreover, the governments themselves are subject to laws that impose on them limitations. Patrick Clawson maintains that the enforcement of law in democratic governments will be effective when it will be through consensus, or in other words both of the government and of the citizens who belong to the state in all that pertains to the allocation of resources and the adoption of operative actions against the threats (Clawson, 1990, p. 28).

Ron Tira maintains in addition that the terrorist elements generally seek to avoid direct coping with a significant military force in one large battle, understanding that they have low chances of essentially and significantly harming the operative strength of the military. In other words, the terrorist organizations will find it difficult, if at all possible, to achieve a military-operative decision opposite a regular army. Therefore, the terrorist organizations will generally choose to harm the military forces or civilian objectives of the country with which the terrorist element is found in conflict, from the intention to

erode the strategic focuses of the state it is fighting. The terrorist organizations may even use their citizens as a human shield, so that the harm to the civilians by the military forces will create asymmetry and crisis between the military forces and the political civilian system. In light of the asymmetry, the terrorist organizations will attempt all the time to build their strength and shape the conflict in a way that will make it difficult for the military forces to act against it effectively (Tira, 2008, p. 73).

Bar Yosef and Simchoni (2010) add that the asymmetry between Israel and its enemies is not at all new. Rather the reverse is true: the recognition of multidimensional asymmetry between Israel and its enemies is the most important influential factor in the doctrine of security shaped after the establishment of the State of Israel. The limited raw strength at the disposal of the State of Israel in its fight against its enemies – in personnel, in territory, in resources, and in natural resources – has created since the establishment of the country essential and constant asymmetry between it and its enemies. The dimensions of the asymmetry have changed over the years, but the lack of fundamental equality has been retained (Bar Yosef & Simchoni, 2010, p. 5).

To cope with the structural difference between the democratic country, especially in the 21<sup>st</sup> century, and terrorist organizations and terrorist elements, it is necessary to search for a component that will deter, influence, and to a certain degree halt the terrorist activity. As noted previously, in actuality a clear and complete theory has not been composed on the deterrence of terrorism and sub-conventional warfare, in such a way that will combine all the perceptions and abilities of the state and will synchronize the reference of the sub-state organizations for deterrence deployed on them. As will be presented in the continuation, most of the research literature has addressed the attempt to understand the country's considerations or the attempt to provide general explanations why this strategy is not applicable. Very little has been written about the responses of the terrorist organizations and terrorists to the different forms of deterrence deployed against them or the analysis of processes related to the policy of deterrence against terrorism and guerilla warfare that may improve the effectiveness of the deterrence.

One of the first articles addressing deterrence against terrorism was the article of Ernest Evans, who presented an analysis of the policy of deterrence against terrorism

adopted by the United States in the 1970s, with focus on its political aspects (Evans, 1977). This article is one of a few articles fully dedicated to the question of the deterrence of terrorism, attempting to examine the meaning of the use of the basic definition of deterrence as influence on the cost/benefit calculations. Evans presented the difficulty of the negation of the “benefit” in the use of terrorism by different organizations, as the United States attempted to realize in the 1970s (for instance, through the refusal to negotiate with terrorists). In addition, the article addressed the reasons for the lack of success of the United States in the creation of an agreed-upon international policy against terrorism in this period. This article, perhaps because it was first, shed light on the important issue in the field of deterrence (the difficulty negating the benefit that organizations achieve from the use of tactics of terrorism) and even presented recommendations for the improvement of the strategy. However, in essence it addressed a very limited aspect of failures of deterrence against terrorism.

Hanan Alon (1987) also attempted to analyze directly the very ability to deter terrorist organizations. Alon bases on the general historical attempt of the State of Israel and creates a differentiation between three types of terrorism: terrorism directed by the state, a terrorist organization that acts independent of a sovereign state, and terrorist organizations that act from a state that does not succeed in actuality in realizing its sovereignty. According to Alon (2012), the first two types can be deterred through the exertion of pressure on the state that supports the terrorist organizations or hosts them through conventional deterrence, without the attempt at direct influence on the motivation of the terrorist organization or its policy of terrorist attacks. Alon maintains that for the third type of terrorist organizations (that act from a territory that is not under the real control of a sovereign state) there is no point to adopt actions of punishment (actions of retaliation as a basis for the creation of deterrence), since these give the organizations extensive media exposure and encourage additional young people to join them. Hence, in Alon’s opinion, there is no ability to deter these terrorist organizations and therefore it is necessary to act against them in a wide variety of means so as to deny them the fulfillment of their intention or to act to reduce the negative results of the terrorist activity in terms of the state (actions that primarily are in the framework of enforcement or defense).

Martha Crenshaw presents in a number of articles the political analysis of the causes of terrorism and sees terrorism first and foremost as a political instrument intended to promote the political goals of the organization. Crenshaw does not directly engage in the issue of the deterrence of terrorism, but she presents a number of key points in terms of the ability to deter terrorist organizations and primarily the question of the ability to deter an organization from the choice of terrorism (Crenshaw, 1990).

First, in her view terrorism is a strategic choice of the organization, which is performed in light of the cost-benefit considerations in light of the values, the goals, and the way of thought prevalent among the organization members. Crenshaw presents the choice of terrorism as a result of rational consideration (with its different limitations), and thus she places terrorism as a part of the system of concepts relevant to the theory of deterrence. Second, organizations can direct to terrorism out of the feeling of the need for protection of their values (cultural, religious, or national) or the need to present strength (Crenshaw, 2001).

In contrast, the researcher Jerrold Post presents in his article a series of psychological and sociological aspects of members of terrorist organizations that have considerable meaning to the field of deterrence. Post holds that terrorists have a special logic of their own, which leads them to certain forms of thinking (which are different from those of most of the population) and influences their outlook and the way they understand the reality around them. However, Post, like other researchers, does not identify significant and basic psychopathologies among terrorists and agrees with the rational perception of terrorists presented by Crenshaw (Post, 1990).

Yair Naveh (2015) maintains that deterrence among non-state actors and primarily among Jihadists lacks an academic and doctrinal infrastructure. The military in Israel, like other Western militaries, is forced to adjust the concept of deterrence shaped for the field of nuclear deterrence and was converted to the field of conventional deterrence, which is directed against states and coalitions and militaries to deterrence against non-state actors, namely terrorist organizations. At the beginning of the State of Israel, the “founding fathers” developed a perception of security, in which deterrence was a main part. The Prime Minister of Israel David Ben Gurion emphasized that the State of

Israel cannot strategically defeat all the Arab states, and therefore in every military conflict it is necessary to achieve a clear result in the battlefield so as to distance as much as possible the next round of fighting, to ensure years of quiet and calm, and to enable the construction of a strong and prosperous state (Naveh, 2015, p. 1).

Bar Yosef and Simchoni added that a decision is required, and it is the breaking of the enemy's desire to continue to fight during the given round of fighting. The development of a significant and crushing power out of the realization that the endurance and especially that of civilians is limited led to the establishment of the aspiration to wage a short and decisive war. The reason is that in war of this type the striking force is expressed while in a continuous war of attrition the endurance is of greater influence. The adoption of the offensive approach in the State of Israel derived from the absence of strategic depth. When there is no strategic depth, it is not possible to conduct effective defense and to halt the forces outside the borders of the state. Among the decisive majority of the designers of the security doctrine there is consensus that the different methods of defense cannot provide a solution to the challenges of defense that the State of Israel faces and it must adopt an offensive approach (Bar Yosef & Simchoni, 2010, p. 6).

Shaul Shai (2015) maintains that in an asymmetric conflict between Israel and terrorist organizations Israel is the strong side and a terrorist organization or even a coalition of terrorist organizations does not have the strength to destroy the State of Israel. Therefore, the armed conflicts with Hezbollah and the Palestinian organizations do not entail an existential danger, as did the conflicts with the Arab militaries in the past (Shai, 2015, p. 2).

According to Shai, in the above pronouncement there is a paradox, since the Hezbollah and the Hamas and its allies want to eliminate the State of Israel. He adds that in the political dimension, this is definitely an existential threat but their power does not allow this and therefore this largely is a futile threat without existential danger. Shai directs to the statement of Professor Yizchak Ben Yisrael, who adds that the harm that can be caused to Israel, unlike to the armies of the Arab countries, is not existential in the security sense, although of course it cannot be ignored. In his opinion, as aforementioned,

the threat is existential but the risk is not in the foreseeable future, although it may develop gradually into existential threat if it does not receive an adequate response (Ben Yisrael, 2014, p. 14).

Shai asserts that the State of Israel can if it wants defeat a terrorist organization in a given space, in such a way that it will lose control in the field, will suffer a severe blow to its infrastructures, and will be forced to agree to a ceasefire or its terrorist activity will be considerably lessened. It is not possible to eliminate terrorism and to destroy a terrorist organization that receives great support from the population, but it is possible to considerably reduce its terrorist activity so that it will not significantly influence the life routine and security of the citizens of the State of Israel (Shai, 2015, p. 3).

To conclude this part, the deterrence is a central component, and perhaps the most decisive one, when going to examine the conflict with terrorist organizations, although sometimes it appears that the terrorist organizations act without an orderly strategy. In the 21<sup>st</sup> century, this is not the case. Most terrorist organizations are under the auspices of radical regimes from states that provide for them financial, ideological, and political support. These states arm the terrorist organizations so as to use them to undermine global stability. These radical states and the terrorist organizations attempt to undermine global stability so as to strengthen their international status and interests, by acquiring balance-breaking weapons and abilities that will make them strong.

### **1.2.5 Definition of Terrorist Operatives – Terrorists or Combatants?**

When we go to define the status of the Palestinian operatives who take part in belligerent operations, it is necessary to determine the context relevant to the definition of phenomenon. Is this a group committing crimes that are included under the title of criminal deeds and the reference to them needs to be in the criminal dimension or is this a war-oriented action and the reference to it needs to be according to the norms and laws relating to the laws of war?

It is emphasized that more than a few researchers who engage in this field differ in their opinions regarding the reference to the terrorist as a criminal or as a person who engages in a political-war-oriented phenomenon. Bryan Jenkins (formerly the head of the



terrorism project in the Rand Institute) addressed this dispute. In his opinion, if we address terrorism as a crime, then we must collect evidence, arrest the criminals, and put them on trial.

This approach awakens problems of international cooperation. It does not constitute an appropriate response to the terrorist campaign by an organization or a state involved in terrorism. In contrast, when addressing terrorism as a war, there is less engagement in the degree of personal guilt, and it is sufficient to have an approximate evaluation of the guilt and relevant intelligence. The focus is not on the single criminal but on the characterization of the phenomenon on the one hand and the identification of the enemy on the other hand.

Some maintain that the difference between a regular criminal and a terrorist is primarily in the mental element of the performance of the deed, or in other words, the mental element that accompanies terrorism is generally the intention to create anxiety and fear in the public so as to achieve a political goal. It is further emphasized that what makes terrorism unique from regular criminality is that in essence it is organized and sophisticated crime with total indicators in terms of the negation of the rival and in terms of the extreme measures.

Another approach that should be brought up in the framework of the setting for the definition of the status of the Palestinian operatives is the assertion that the operatives are acting for political protest. In other words, the goal at the basis of the terrorist activity is always a political goal, namely, a goal that strives for achievements in the political arena and even for change of the existing regime, change of the form of regime, and so on.

The differentiation addresses the fact that the violent activity against civilians that has no political aim is at the most purely criminal activity, a crime, or just an act of madness. There is no relationship between it and terrorism. Therefore, according to this way of looking at things, some people argue that it is possible to see terrorist actions also as a type of extreme political protest.

According to the assertion of Ehud Sprinzak (1988), terrorism is not a random attack that cannot be explained but rather a political phenomenon that can be defined in political terms. Crenshaw (1996) supports this approach and holds that the use of terrorism or extreme violence against civilian goals is not an outcome of the sudden change of the terrorist or his organization but a part of gradual development at the end of which there is a violent expression.

Some will attempt to compare between terrorist activity and activity with the purpose of national liberation. There is a clear difference between terrorist actions performed by individuals or groups or states and the legitimate struggle of enslaved and repressed people against foreign occupation of any type.

In these statements too there is the attempt to validate the means (terrorism) based on the objective - (national liberation). It would seem that it is not important what activity is undertaken, when talking about the liberation from foreign occupation this is not terrorist activity but rather justified and legitimate activity. On this background there is the statement “one man’s terrorist is another man’s freedom fighter”. Leonid Brezhnev, the former president of Russia, maintained that “imperialists have no consideration of popular will or the laws of history. Struggles for national liberation cause them resentment. They call them terrorism” (Cline & Alexander, 1986).

In light of the aforementioned statements, there will be more than a few proponents of this approach that the concepts of “terrorist” and “freedom fighter” are not contradictory. The difference, in their opinion, between “terrorist” and “freedom fighter” is not a subjective difference that derives from the point of view of the person giving the definition but an essential difference that addresses the goals and ways of action of the person committing the terrorist attack. The statement that a certain organization or person is engaging in terrorism is based on the manner of action of the organization members when they go to achieve the objectives they defined for themselves, while the freedom fighter addresses the goal that the organizations want to achieve.

Therefore, a situation is likely in which a terrorist organization at the same time is also a national liberation movement that acts to free the homeland from the foreign

occupation. It should be said that some would argue for an additional way through which it will be possible to discuss the definition of the nature of terrorism or those who engage in it and it is the intention to describe those who engage in terrorism as guerilla fighters. It is emphasized that there is an essential difference regarding the nature of the struggle or alternatively the focuses to which it directs – terrorism is a violent struggle in the framework of which there is intentional use of violence towards citizens so as to achieve political goals, while guerilla warfare is a violent struggle in the framework of which there is use of violence towards military targets for the achievement of political goals.

One of the problems entailed by the use of the term “guerilla” derives from the duality of the term’s meaning. Harkabi (1983) differentiates between guerilla fighting and guerilla war. In his opinion, guerilla is a very lengthy war of attrition that begins with a low level of violence that steadily increases over time: war with blurred boundaries, with a liquid line of contact, war that emphasizes the human factor and that during it the militant forces become regular forces until the achievement of the victory, namely, the departure of the other side.

In contrast, Thornton sees guerilla war and terrorism as two separate phenomena on one continuum and notes five stages in the development of the uprising: pre-violent, the stage of terrorism, the stage of guerilla war, the stage of conventional war, and the post-violent stage.

In contrast to them, Zeev Laqueur asserted that guerilla is a small war and all the rules of large wars apply. Thus, it is different from terrorism (Sprinzak, 1985).

To summarize, the characteristics of the struggle of the guerilla fighter are a part of a legitimate struggle, as defined near to the framework of the law, while a terrorist acts against the law (“good terrorist and bad terrorist”). Both use terrorism, and the motive does not matter. The ideological / religious / social / financial background is not relevant to the determination that the action undertaken is a forbidden terrorist action.

In its war against terrorism, the State of Israel adopts different steps. As a part of its security activity, intended to deal with terrorist attacks, the state implements what it

calls a “policy of targeted killing”. In the framework of this policy, the security forces act to kill operatives in terrorist organizations who are involved in the planning, sending, or performance of terrorist attacks against Israel. During the Second Intifada, preventative attacks were conducted throughout Judea, Samaria, and the Gaza Strip. From when these actions began until the end of the year 2005, nearly three hundred operatives in terrorist organizations were killed in such attacks. More than thirty attempts at targeted killing failed. About one hundred and fifty civilians who were close to the targets of the targeted killing were killed during these actions. Hundreds of others were injured. The policy of targeted killing is the focus of this research study.

The conflict between Israel and the terrorist organizations in the region is not internal-national but international. The law applying to the conflict is the customary international law that discusses armed conflict. This law is anchored in a number of sources: the Fourth Hague Convention, of which Israel is a party, for the directives of the status of customary international law. It was not adopted in Israeli legislation. Its customary directives constitute a part of the law of the State of Israel.

Regarding the additional protocols of the Geneva Convention, the first and the second, Israel is not a party in these protocols. Namely, Israel signed them but its provisions were not assimilated in Israeli law. The courts however address them as an outside source of authority.

According to the ruling of the President of the High Court of Justice, Aharon Barak (who innovates in his ruling), all the parts of article 51 (3) of the first protocol reflect customary international law since:

1. This position is commensurate with directive of article 3 that is shared with the Geneva Convention, in which Israel is a party and which is accepted by all since they reflect customary international law.
2. The Court for War Crimes in Yugoslavia determined that article 51 of the first protocol constitutes customary international law.
3. The military manuals of many countries present this directive as it is worded or with the adoption of its main tenets.

However, Barak notes that the new reality necessitates a dynamic and flexible interpretation. Therefore, he analyzes the article through the clarification of the terms in the following manner:

1. Act of hostility. All the actions that by nature and objective are intended to cause harm to the military and even to the civilian population of the state. A citizen takes part in a hostile act through the use of a weapon, the collection of intelligence, or the preparation for hostile acts. It is possible to take part in acts of hostility without using weapons at all.
2. Status of terrorist operatives. There is a distinction between fighters and civilians (article 48 of the first protocol). Fighters constitute legitimate targets for a military attack. The terrorist organizations from the region and their individuals do not fulfill the conditions of fighters – they do not belong to the military personnel and they do not fall into units to which customary international law gives a similar status to that of fighters (such as the law of captives and the prohibition of putting them on trial because of their participation in a war).

The rules of international law that discuss armed conflict are based on balances between the humanitarian considerations pertaining to human rights and human dignity of people hurt as a result of the conflict and the military considerations. The principle of differentiation obligates the sides in the conflict to differentiate between the fighters and military goals and the citizens who do not take part in the fighting.

The division that the laws of war make between the classes of the enemy is between combatants and citizens and not among the combatants themselves. Therefore, the additional goal of article 4 of the Third Geneva Convention, which determines the conditions that every person who is called a “combatant” must uphold, is to determine also who is not included under the Third Geneva Convention and who is not protected by the Fourth Geneva Convention. These statements are true if this person upholds the principle of nationality, which applies the defense of the Convention to the members of the nation of a side in a conflict found in the hands of the other side (Geneva Convention, article 4).

## **1.2.6 Definitions for the Examination of the Characteristics of Terrorist Operatives**

### **1.2.6.1 Civilians**

Any person who is not a fighter is a civilian. Civilians, unlike combatant, are not allowed to participate in acts of fighting, and if they do so, then they will not be entitled to the status of prisoners of war, and it will be possible to place them on trial for the actions they committed according to the local law of the state that arrested them.

All civilians, including those who participated in acts of warfare, enjoy the protections of the Fourth Geneva Convention on the protection of citizens during war. It is possible to deny them some of the rights granted to citizens according to this convention, but only when the granting of the rights will significantly harm state security. In any event, even if they were denied rights, they should be treated humanely and if they are put on trial then the process should occur according to the rules determined in this convention, including putting them on trial as soon as possible, with the painstaking adherence to the rules of due process, and upon completion of the period of detention that was imposed on them, they must be released.

The Fourth Geneva Convention also permits administrative detention of the citizens of a hostile state or civilians in an occupied territory, but only when there are real and vital security considerations. There is an absolute prohibition to adopt administrative detention as a collective measure, and it is mandatory to discuss each case of detention separately. In any event, the necessity of the continuation of the detention needs to be examined as soon as possible by the Court or administrative committee. If the decision is to keep the person in detention, then it is necessary to examine periodically, at least twice a year, whether there is still justification to continue with the detention.

Customary international law regarding the armed conflict protects “civilians” against the harm to them as a result of acts of hostility. The International Court focused on this issue in the case of the legality of nuclear weapons, when it noted that: “states must never make civilians the object of attack” (Fourth Geneva Convention, First Protocol, 1977, p. 257).

This customary principle is expressed in article 51(2) of the first protocol, according to which: “The civilian population as such, as well as individual civilians, shall not be the object of attack.”

Therefore, it is obligatory to do everything so as to minimize the collateral damage inflicted on the civilian population when undertaking attacks on fighters (Benvenisti, 2006). On the background of this defense provided to the “civilians”, the following question arises. Who is a “civilian” for the matter of this law? The approach of customary international law is that “civilians” are those who are not “combatants”.

In the Blaskic matter (Blaskic, 2000) the War Crimes Court in Yugoslavia noted that civilians are “Persons who are not, or no longer, members of the armed forces”. This definition is “negative” in character. It derives the concept of “civilians” as the opposite of “combatants” (High Court Case 02/769).

It is emphasized that customary international law regarding the armed conflict determines that a civilian who plays a direct part in acts of hostility does not enjoy the same defense given to a citizen who does not take a direct part in the same actions (see article 51(3) of the first protocol).

In contrast, there are also civilians who willingly act as a “living shield” for terrorists, as well as those sending them, ammunition carriers, recruiters, planners, and decision-makers – all these may be considered to take a “direct part” in the acts of hostility. When the emphasis is on the duration of the period – there is no agreement in the international literature regarding this aspect as well. Professor Barak analyzes four conditions. First, established information is required before the civilian is classified as falling into one of two situations – a civilian who once or sporadically had a direct part in hostile actions but who disconnected himself from them and therefore is eligible for protection, versus a civilian who joined a terrorist organization and in the framework of his role in this organization he performs a series of hostile acts, with short breaks for rest in between them but loses his immunity during these breaks. Second, a civilian who has a direct part at that time in acts of hostility should not be attacked, if it is possible to undertake towards him means of less harm (such as detention, since a trial is preferred to

the use of force). In situations in which the alternative entails great danger to soldiers or innocent civilians, then there is no need to undertake alternative measures. Third, after the performance of the attack, it is necessary to conduct an examination (in retrospect) fundamentally and independently regarding the accuracy of the victim's identity and the circumstances of the harm to him. Fourth, if the harm is not only to the civilian who participates directly in acts of hostility but also to innocent civilians found near him, then the harm to them is collateral damage. This damage needs to meet the test of proportionality.

It should be emphasized that the principle of proportionality is a customary principle anchored in article 51(4) and (5) of the first protocol. This principle has an essential part in international law regarding armed conflict (article 51(5)(b) and 57 of the first protocol) and applies in every case in which civilians who do not play a direct part at that time in the hostile acts are injured. An attack is proportional if the benefit that derives from the achievement of the appropriate military goal is equivalent to the damage caused to the innocent civilians harmed by it. It is required that the military benefit be direct and anticipated (article 57(2)(3) of the first protocol) (Fourth Geneva Convention, First Protocol, 1977).

#### 1.2.6.2 Combatant

A “combatant” is any person who is found among the armed forces of a side in a conflict. This definition applies not only to the fighters of a regular army but also to the fighters of militias that belong to one of the sides in the conflict and as long as they meet a number of conditions that were determined, for instance, that they bear their weaponry openly and they differentiate themselves from the civilians through uniforms or other indications that can be identified from a distance. The First Protocol of the Geneva Conventions extended the definition of “combatant” also to fighters in guerilla groups, under certain circumstances, but Israel did not sign this protocol and therefore does not recognize them as combatants.

Only people who were defined as combatants are entitled to participate in acts of fighting. They are entitled to use force and to perform actions that in the civilian



framework would be considered crimes, such as murder, assault, and damage to property, without being considered criminals.

Combatants who were detained by the state against which they fought are entitled to the status of prisoner of war according to the Third Geneva Convention, which obligates the preservation of their life, health, and dignity. It is possible to hold prisoners of war in prisoner of war camps, but it is forbidden to put them on trial for the actions they committed during the war unless they violated the rules of war, but this will not harm their status. Prisoners of war are entitled to send and receive letters, to receive visits of the Red Cross, and to maintain the tenets of their faith. Immediately with the end of the fighting, it is compulsory to return the prisoners to their country, even if a peace treaty has not yet been signed.

The legal question of “who are combatants?” is asked. This category includes of course members of the armed forces. In addition, this framework includes people who fulfill the following conditions (article 1 of the appended regulations of the Fourth Geneva Convention from 1907):

“The laws, rights, and duties of war apply not only to the military but also to the militia and volunteer units that fill the following conditions –

- (1) The commander is the person who is responsible for those under his command;
- (2) They have a regular indicator that can be distinguished from afar;
- (3) They bear weapons openly;
- (4) And they conduct their actions according to the laws and customs of war.”

This phrasing is repeated in article 13 of the First and Second Geneva Convention and article 4 of the Third Geneva Convention. (Compare also article 43 of the First Protocol).

In the legal literature, these conditions are examined, and additional conditions that are required are derived from the relevant conventions (Dinsten, 2001).

We do not need to discuss all these, since the terrorist organizations from the region and individuals do not fulfill the conditions of combatants (Gross, 2003). It is

enough to mention that they do not have a regular indicatory mark that can be distinguished from afar and they do not conduct their actions according to the laws and customs of war.

#### 1.2.6.3 Guerilla Fighters

Guerilla fighters are not necessarily terrorists. From the intention to blur the distinctions between terrorism and guerilla warfare, the terrorist organizations tend to describe themselves as guerillas, but this is not the case.

Generally, guerilla fighters are irregular soldiers who fight regular military forces and not civilians. In essence, guerilla fighters are the opposite of terrorists; as opposed to guerilla fighters who go into battle against military forces that for the most part are far stronger than they are, the terrorists choose to attack primarily weak civilians lacking in protection when alongside they attack military forces (Netanyahu, 1996).

Regarding the legal dimension about the status of the guerilla fighters mentioned above, the first protocol reduced the conditions that entitle a combatant to the status of a prisoner of war. This easement was sharply criticized. Yoram Dinstein maintains that the protections detailed in article 44 of the First Protocol on the guerilla fighters are too broad and according to them, a combatant can hide in the civilian population and hide his weapon until the last moment at which the enemy discovers it. Dinstein also maintains that article 44 adopts a vague language, which undermines the cognitive structure of the rules of war, since the conditions for fulfillment that gives the person a status of a combatant were greatly relaxed. Moreover, when the combatant does not uphold the sole condition he is called to heed according to the protocol, he is not denied the protections accorded to the prisoners of war (Dinstein, 2001). As article 44(4) states: “a combatant who falls into the power of an adverse party while failing to meet the requirements set forth here (bearing his weapon openly during a military maneuver and when he is visible to the enemy during the deployment before the attack that he is to participate in) shall forfeit his right to be a prisoner of war”. However, he is entitled to the same protections given to prisoners of war according to the Third Geneva Convention and the Protocol (Protocol from the year 1949 and from the year 1978).

The conclusion that arises from these statements is that the combatant does not lose his eligibility to the protections given to the prisoner of war, with the exception of the fact that he is anticipated to be put on trial because of the illegal actions he has performed. This is, according to Dinstein, even if he violates all the principles of the laws applying during the fighting and will use prohibited weapons or will harm civilians and other protected factors. Dinstein concludes that article 44 creates a baseless rule and that consequently the countries that fight against guerilla forces cannot meet the requirements of the protocol. This is also the reason why Israel and the United States did not sign the protocol.

The requirements of them appear in article 44 of the first proposal. Regarding this category, it is possible to see that the article makes things much easier for the guerilla combatants in terms of the requirements for their differentiation from the civilian population. At the same time, it enables judging them and punishing them for actions that do not fill certain conditions, such as attack from a civilian population, attack of civilian targets, and use of civilians are combatants (for instance, civilians who commit suicide at the instructions of guerilla fighters).

The choice of the issue through the Israeli aspect awakens two problems. First, it is known that Israel objects to the recognition of the terrorist organizations as combatant organizations whose members are entitled to the protections of prisoners of war for the very fighting and for the legal actions they performed during it. It is difficult to accept the assumption that members of organizations with the goal to destroy a state, nation, or religion (in contrast to organizations with the goal to achieve freedom from occupation) will be protected against being put on trial, even when they carry out actions that are not considered to be war crimes. Second, it is not clear whether every person who is defined as an operative in an organization is also a “combatant” as per the definition of humanitarian law. The person’s very affiliation with an illegal organization, without having adopted a certain action as a member of the organization, may in itself be considered an offense, but it is not enough to make the person a combatant according to humanitarian law.

The use of the category “combatant” is important in two respects. First, it determines the person’s eligibility for the status of a prisoner of war when he is captured by the enemy. Second, when a person is defined as a “combatant”, he serves as a legitimate target and can be harmed. From a legal perspective, it is not reasonable to define people who have expressed identification with or who have joined (officially) terrorist organizations but have not undertaken any real action as a legal target for harm. If the legislature is interested nevertheless to take steps against these people, then possibly it is necessary to create another subcategory, as it is accepted to call them unlawful combatants.

#### 1.2.6.4 Unlawful Combatants

The category of “unlawful combatants” awakens a number of problems. First, the very use of the expression “unlawful” hint that the person himself is “unlawful”, or in other words, is not entitled to the protection of the law. It is true that the use of this term in our matter is not intended to permit the shedding of these fighters’ blood. The foundational documents of humanitarian law do not include such a category, and therefore it can be assumed that the codification of humanitarian law has reservations about it. Nevertheless, it is possible to find reference to the category in the military instruction books, in the legal literature, and even in rulings.

An “unlawful combatant” is one “for whom the conditions that bestow the status of a prisoner of war in international humanitarian law do not exist, as they are detailed in article 4 of the Third Geneva Convention” (Protocol from the year 1949 and the year 1978).

Article 4 of the Third Geneva Convention determines the conditions that define a “combatant”, and it would seem that a person who does not meet them is not defined as such. Of course, it is necessary to examine each case specifically on the question of whether the person being examined meets the conditions set in the article, and it is necessary not to define ahead of time that the members of an organization will not be entitled to the status of combatants.

The term “unlawful combatants” focuses on people who carry out combat operations without filling the conditions determined in article 4 of the Third Geneva Convention and who do not fit the criteria set out in articles 43 and 44 of the First Protocol amended to the Fourth Geneva Convention.

The First Protocol sought to relax the conditions that determine the status of a combatant and to thus enable the protection of guerilla fighters (who are frequently identified with freedom fighters) through their inclusion under the laws of war. In our matter, the condition set in article 44 is important. This condition focuses on the recognition that the guerillas cannot fill most of the conditions set in the Third Geneva Convention. These conditions make it difficult for warfare characterized by secrecy and concealment. Therefore, the article determines that the sole condition for the status of a combatant who is entitled to the status of a prisoner of war is bearing weapons openly (and this only during the time of the military action and when it is visible). As aforementioned, the people called “unlawful combatants” do not meet the conditions listed in Article 4 of the Third Geneva Convention, which include wearing a regular distinguishing mark and obedience of the rules of law. They even do not fill the sole conditions required in the First Protocol: carrying the weapon openly, in other words, they carry their weapon on their body or under concealment (for example, a suicide bomber with an explosive belt under his clothing).

The creation of the category of “unlawful combatants” is guided by the goal of denying the people included in it the protection of the conventions. The creators of the category seek to position these people outside of the status of “protected” according to the Fourth Geneva Convention and thus to deny them the protection given to those who are not combatants. Simultaneously they seek to influence the attitude towards these combatants in terms of the laws of their capture and in terms of the laws of fighting them. Through the laws of capture of these unlawful combatants, the creators of the category seek to differentiate between the treatment provided to the regular combatants and the treatment of the unlawful combatants through the negation of the status of prisoners of war from the unlawful combatants captured. Thus, all those who do not fill the conditions set in Article 4 of the Third Geneva Convention and Articles 43 and 44 of the First

Protocol do not receive the status of prisoner of war when they are captured by the side with which they are engaging in conflict.

Despite these statements, the international court does not accept leaving people who are found on the battlefield – as victims or as combatants – defenseless. International law does not seek to grant the full status of prisoner of war to somebody who has not fulfilled the necessary conditions. The conclusion is that a person who participates in fighting without fulfilling the criteria that those called “combatants” are supposed to fill will receive in principle the protection of the Fourth Geneva Convention and the status of the protected people. However, it is possible to deny them certain protections for a limited period of time, as will be described in the following. While the category of “unlawful combatants” is used until today in military practice, the position of international law, according to which people should not be left without protection, leads to the conclusion that the very existence of the category has no meaning in all that relates to the status of these people.

#### 1.2.6.5 Reference to Unlawful Combatants in Israel

In the State of Israel, when the attempt was made to deal with the issue of the definition of the people who are committing acts of hostility against the citizens of Israel, it became clear that there is no adequate legal solution for the field in which the Palestinian operatives are found. Therefore, the law proposal that attempts to create a new category in international law was formed, the “unlawful combatant”, which includes those who are not civilians and are not combatants and therefore are not entitled to enjoy the protections that humanitarian international law grants to these groups.

Some assert that the definition in the law proposal applies equally to people who play an active part in the fighting and those who do not participate, as long as they are found in the “force that carries out hostilities against the State of Israel”. Thus, according to the definition in the law, a person who works in a clinic that established such a force will receive identical status to that of a person who is a member in the military arm of the same force and has killed an Israeli citizen, since the presumption prescribed by law that they endanger Israel's security will apply to both of them. Thus the law proposal

eliminates the distinction upon which humanitarian international law is based between combatants and citizens and applies to them an equal law.

Moreover, the law proposal seeks to apply a special law to a group of people, collectively, only because of the fact that the people in this group fight Israel or are found in the force that fights it. Hence, a person who is entitled to enjoy certain privileges because of his status as a citizen or a type of combatant according to humanitarian international law may not enjoy them in Israel but will enjoy them in another place in the world. This definition places a kind of reservation on the very existence of international law, whose main goal is to determine shared standards for all the states in the world and to prevent the situation in which every state fights according to the rules it determined itself unless the international law does not provide an optimal response to the complex situations with which the state is required to deal, such as murderous terrorist attacks without distinction and without control.

It is emphasized that the intensive engagement in the definition of these operatives who play an aggressive part in the carrying out of the combative actions, the unlawful combatant, that these are people who play an active and continuous part in the armed conflict, and therefore they are considered combatants in the sense that they constitute a legitimate target for attack and are not entitled to the protections given to civilians. They are not entitled to all the rights and protections given to combatants, since they do not differentiate themselves from civilians and do not uphold the laws of war. Thus, for instance, they are not entitled to the status of prisoners of war. The position of the state is that the terrorists who participate in the armed conflict between Israel and the terrorist organizations fall into this category of unlawful combatants.

In the framework of the interpretation of the Hague and Geneva Conventions, there is a difficulty to clearly delineate that these definitions indeed are exhaustive, since the entirety of the data that enable the pronouncement that this category was recognized in customary international law has not been presented. The approach of customary international law is that “civilians” are those who are not “combatants” (article 50(1) of the First Protocol). Hence, the unlawful combatant (the terrorist operative) is not a

combatant but a civilian, who is supposed to enjoy the comprehensive protection of his life, body, freedom, and property – but article 51(3) of the First Protocol determines that “civilians will enjoy the protection granted according to this article, unless at this time they take a direct part in the hostile actions”. The difficulty that exists, as stated, can be summarized in the fact that Israel is not a party in the First Protocol. It was not adopted in Israeli legislation. According to the position of the state, the non-customary part in article 51(3) of the First Protocol is what determines that the civilians do not enjoy the protection against attack “for this period of time” in which they play a direct part in the acts of hostility.

To summarize, according to the Incarceration of Unlawful Combatants Law, 2002, an “unlawful combatant” is defined as “a person who has taken part in hostile actions against the State of Israel, whether directly or indirectly, or who is found with the force carrying out hostile actions against the State of Israel for whom the conditions that grant the status of a prisoner of war in humanitarian international law does not exist, as detailed in article 4 of the Third Geneva Convention from August 12, 1949 in relation to the treatment of prisoners of war.”

#### 1.2.6.6 Summary

For more than two decades, the State of Israel has been found in a constant, murderous, and unending campaign of terrorist attacks directed against Israelis everywhere, without any distinction between soldiers and civilians or between men, women and children. In the framework of the terrorist campaign called the Al-Aksa Intifada, from the end of September 2000 until now, more than one thousand Israelis have been killed and thousands of Israelis have been hurt. Thousands of Palestinians have been killed and wounded in this period. The terrorist attacks occur both in the territories of Judea, Samaria, and the Gaza Strip and in the State of Israel. They are directed both against civilians, at civilian population concentrations, at shopping centers and markets, against the soldiers of the IDF, at the bases and facilities of the security forces. The terrorist organizations make use of these terrorist attacks with means of a significant military character, when the common denominator of all of them is their brutality and



lethality. These means include shooting attacks, suicide attacks, firing of mortar shells, firing of rockets, use of car bombs, and so on.

Israeli law does not differentiate between terrorist actions and criminal actions, with the exception that it is possible to add to the indictment also membership in a terrorist organization. However, for the most part Israel uses its authority according to the Geneva Convention and puts those people accused of terrorist activity on trial in a military court established because of the military government in the regions of Judea, Samaria, and the Gaza Strip. Israeli law also enables the Chief of Staff of the IDF to declare certain people to be unlawful combatants and order their detention, but so far the law has been used only against Hezbollah members and not against Palestinians living in areas controlled by Israel or the Palestinian Authority. On their matter, there is a tendency to place them on trial or to use the power granted to the Minister of Defense to issue an administrative detention order against suspects who, for various reasons, cannot be tried in an ordinary proceeding.

Humanitarian international law differentiates between lawful combatants and unlawful ones. A lawful combatant is one who participates in war actions recognized in international law in the framework of an organization that openly participates in the fighting, clearly distinct from the civilian population and obeying the laws of war. An unlawful combatant is one who participates in the fighting but does not fit the conditions defined previously. Therefore, to define members of a terrorist organization as unlawful combatants it is necessary first to prove that there exists a state of war between the country and this terrorist organization and that in the framework of the war the members of the organization do not meet the criteria defined in the Geneva Convention.

The High Court of Justice determined in its decision that between Israel and the Palestinian terrorist organizations that operate from Judea, Samaria, and the Gaza Strip a state of armed conflict exists. Therefore, the normative system that applies to the Israeli-Palestinian conflict is composed of the articles of international law dealing with armed conflict of an international character. This is especially in all that pertains to customary international law and international treaty law that has been absorbed into Israeli law.

Where there is a lack, it is supplemented by human rights law as well as basic principles of Israeli law.

In light of these statements, it is rather prominently apparent that the status of the Palestinian operatives who take part in the combat actions against the State of Israel regarding the Geneva Convention and in it the protocols from the year 1977 according to international law is that of unlawful combatants that enables the State of Israel and the security forces to adopt against them diverse means so as to cope effectively with the murderous terrorist attacks, whether after they are carried out or beforehand, when the preferred way for the most part is the prevention of the attacks beforehand while capturing the potential terrorists and putting them on trial. It is emphasized that more than once it is not possible to realize the principle of the capture of the terrorist beforehand and thus the neutralization of the criminal act and then a different preventative activity is possible – the physical neutralization of the potential terrorist and thus preventing the future harm to civilians or other factors that are not connected to the conflict / are innocent.

### **1.2.7 Human Rights – The Right to Life and Security**

Human rights are rights that the person has as a part of the human species (Ishay, 2004). These are rights shared by all equally, regardless of differences in sex, race, nationality, and economic background. The right to life is the first and foremost right (Ishay, 2004, p. 32). Therefore, the protection of life is the protection of the infrastructure that enables the meaningful discussion of human rights in general.

The regular legal way to protect this right is to impose the prohibition to kill (Gabizon, 1994, p. 33). This perception originates in the Bible and continues to exist until today. According to Cohen (1988), God does not tolerate the shedding of blood, since a person who sheds the blood of another person is killing the image of God, since “God made man in His image”. Thus, in the taking of life, whether through murder or killing, there is intervention in the Divine privilege to take life (Cohen, 1988, p. 16).

This negative approach, which denies the taking of life (McClosky, 1975), is expressed in the writings of thinkers even in the Middle Ages. Thus, for instance, Thomas Aquinas wrote in *Summa Theologiae* about human life as the property of God.

In the 17<sup>th</sup> century, Locke wrote about the right to life on a religious basis. According to him, we are the property of God and therefore we do not have the right to take the life of another. In his book, *On Political Governance*, he presented his perception regarding the “natural state of people”, and this became very accepted and a basis of modern liberalism.

Locke maintained that in a “natural situation”, the situation in which “all people are found naturally” (Locke, 1959), the person is completely free. In this situation, the person is entitled to do as he sees fit with his body or with his property, as long as he does not harm himself or another person. The reason is the fact that all people are God's creations and gifted with similar mental strengths. Therefore, no person has the right to destroy another. This natural situation acts according to natural rules, which obligate all people.

Therefore, the person has the basic right to life, and no one person has the authority to destroy another. Hence, a person who faces the risk of death must defend himself. Cohen writes that if a person who comes to kill you then it is permitted to kill the other person first, and there is even a religious commandment to save a person who is being pursued from the pursuer “even with the killing of the pursuer” (Cohen, 1988, p. 20). In this case, this killing is the same right to safety and is discussed in the following.

Personal safety, in the sense of the individual's freedom from threat, danger, or harm from another person, is a basic good and an essential condition of successful human existence (Pham, 2004). State security, as we know it today, is expressed in human history in its early form in the right to security (or personal safety). This right is

mentioned already in the Gemara<sup>2</sup>: “He who rises to kill you, kill him first” (*Berachot* Tract, p. 58) and is expressed also in modern literature.

The right to life appeared further in the early writings of the thinkers in Greece and Rome. The right to life was recognized already in the period of Judaism, but in the “Age of Reason”, the basis for this right became logic and not mystical belief or revelation. Religion had frequently disappointed, and this right was harmed by different justifications. The appeal to logic created a shared basis for all people.

As noted by Hobbes, the logic of the sovereign state is in the security arrangements. Therefore, national security is similar to personal security, and consequently represents shared politics, as well as the common good, although it is valid for the population of the nation states and not individuals (Pham, 2004, p. 92). Hobbes maintained there is a basic natural right: the right to life (Ishay, 2004, p. 85). To protect this right, a person can consider joining by social compact a community. Thus the social compact is void if it does not protect this right.

Hugo Grotius, who experienced personally the wars of religion between Catholics and Protestants, determined that the person is morally equal to the state. In his opinion, the state does not own the powers that cannot be owned by the individual in nature (Tuck, 1999, p. 82). This state, which he addressed, was a sovereign state, composed of individuals who had collected together. According to him, the state and civilian society developed to protect life in the best possible way (Tuck, 1999, p. 89). Therefore, the state has the right to go to war to protect its citizens. Here the connection between the single individual (the right to safety) and the sovereign state (state security) in its modern form was completed.

Locke too saw the individual’s consent to be a part of the community to be an issue that creates responsibility on the part of the state. The individual is interested in protecting his property, which includes his material assets and his person (Locke, 1959,

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<sup>2</sup> The Gemara the component of the Talmud (the codes of Jewish religious law dealing with all aspects of life) composed of rabbinical analysis of and commentary on the Mishnah, a first major written collection of the Jewish oral traditions known as the "Oral Torah" (oral bible).

p. 175). Hence, the role of the state is to protect him. From the moment it is established, the political government is the common standard, the judge with the authority to decide in disputes and with the power to implement the ruling (Tuck, 1999, p. 84).

In a state of war, when a person announces in speech or deed, in a considered manner, the intention to kill another, he brings upon himself the danger that he will be killed by that person (Tuck, 1999, p. 13), since the person has the right to destroy one who threatens to destroy him, because of the basic understanding that it is necessary to maintain the person's existence as much as possible. Therefore, I am permitted – and even required – to protect my life, but what happens when this right clashes with the right of another person? The following question is asked: What are the boundaries of self-defense, when self-defense may lead to harm of innocents on the other side? Is there not a clash here between the person's right to life (in this case it is expressed in the state security) and the right to life of the attacker and the innocents?

#### 1.2.7.1 Clash between Rights

Gabizon (1994, p. 33) writes that the question of the boundaries of self-defense arise sharply where there is a reality of terrorism. In the war against terrorism, there is a difficult moral dilemma. The state obligates the protection of its citizens' lives (and the lives of its fighters), but this defense may entail a bad outcome (harm to innocents on the other side). In essence, two clashing obligations apply here (Gross, 2004).

According to the theory of utilitarian morality, the correct action will be one that will yield the most social happiness. Thus, if the harm to the civilian population is a precondition of the harm to the terrorists, the rate of its positive results (preventing terrorist attacks) exceeds its negative results (injury to innocent people). In contrast, according to the theory of deontological morality, the moral value of an action is determined according to its inner nature and not according to its results. A positive outcome is not relevant to the determination of its moral value, and therefore it does not permit the harm to the lives of innocent people (Gross, 2004, p. 538). Hence, according to Kant (1973), it is not possible to resolve this dilemma, since the categorical order instructs that all people are equal and therefore each one of them is an end in itself.

Gross holds that it is difficult to accept this statement. In his opinion, only a person who is blind to the modern reality of war that entails the harm to innocent people will accept a statement similar to that of Kant (Gross, 2004, p. 537). Moreover, it will be an even more difficult moral failure if the state chooses to remain indifferent to the danger to its citizens (Gross, 2004, p. 540).

Thus, what is the solution? According to Gross, in a situation in which only one side accepts the laws of war, which are built on the principle of reciprocity, the solution to every dilemma is a subjective solution adjusted to the changing reality and to the different circumstances of the range of situations creating it.

According to Zamir (1990, p. 18), security is a condition of existence, and without it there is no meaning to other interests. "...when a frontal clash is created between national security and one of the human rights, and there is no way to reconcile them, national security prevails". However, the interest of security also has a limit, which ranges according to the severity of the anticipated harm to the clashing interest, to the creation of balance (Zamir, 1990, p. 19). In his opinion, it is possible to find in actuality an intermediate way and for the most part, there is no need to sacrifice human rights for state security.

#### 1.2.7.2 Right to Self-Defense – In International Law and Customary Law

This chapter addresses at-length the perception of self-defense according to international law, with reference to customary law, the United Nations Charter, and Israeli law. First, we define what self-defense is. Self-defense is "the legal use of power in the relationships between states that is undertaken in response to the illegal use of power undertaken first and meeting conditions imposed on it according to international law" (Dinstein, 2001). Self-defense is a response, so there always must be an illegal action that pertains to the illegal use of power (or the threat of this use) preceding the implementation of self-defense. Self-defense never comes in response to self-defense. Self-defense is a right. International law does not obligate a country to exert power in response to the illegal use of power (Dinstein, 2001, p. 161). The right to self-defense is anchored also in customary law according to the Caroline interpretation (The Caroline

Case B.F.S.P.29.1837), which emphasizes the condition of need and proportionality. In the Nuremberg Trials (194) it was determined that these rules reflect international custom and contract law that is mentioned in the United Nations Charter (Article 51, 1945). Therefore, the conditions for the realization of the right to self-defense are:

1. Threshold condition

- 1.1 In customary law – The decisive and immediate need that does not leave any other option and judgment, when a vital interest is harmed and threatened.

- 1.2 In treaty law – An armed attack

2. Essential condition

- 2.1 In customary law – proportionality – an act that is not excessive and whose purpose is to remove the threat and repel the aggressor while maintaining the laws of war and humanitarian law and defining a clear objective and time.

- 2.2 In treaty law – as long as the Security Council has not undertaken the necessary means and report to the Security Council.

To examine in-depth the issue noted previously, it is necessary first to engage in the examination of the legality of the harm to these terrorists and harm to their commanders in view of the tactic of targeted killing under the framework of self-defense. I first examine the threshold condition, namely the need and the armed attack, and then the condition of proportionality.

First, the condition of the need and armed attack: what is the intention by “armed attack” under the Charter? The concept of armed attack does not have a clear definition. Analysis of the concept entails the definition of aggression from the year 1974, which interprets that the use of armed force by a state so as to harm another state or its citizens, even without the intention to violate its sovereignty and territorial integrity or political independence, still is under the concept of aggression. However, the definition of aggression does not provide a complete picture of the concept of armed attack. Other actions of aggression suit the definition of aggression, but are not necessarily severe enough to be included under an armed attack. In another article in the definition of aggression it appears that there is reference to terrorism. Therefore, the definition of aggression covers the action of a person who is not a part of the regular force of a state

but is sent by it or acts in its name, when the action is equal in scope to the action of a regular military force of the state (United Nations Charter, article 3(g), from 1974). In the court ruling Nicaragua (from the year 1986), this perception was confirmed: a state will be responsible for the actions of rebels in another state, when the actions are of a scope and under the influence of a regular military force. There is a significant dispute on the question of whether article 51 constitutes the “last stamp” regarding the realization of the right of self-defense. The prevalent opinion emphasizes that this is a natural right. In the Nicaragua ruling, the international court determined that the right to self-defense is natural and innate, so that it constitutes a custom. Thus, article 51 only emphasizes the right to respond to an armed attack but does not negate it in light of customary law – Caroline. Neither the International Court for Justice in Hague (ICJ) nor the United Nations determined the precise meaning of article 51. Consequently, article 51 is subject to two interpretations regarding the degree of permissibility of preliminary actions.

In the world of sophisticated and global terrorism, it is necessary to adjust article 51 to cope with the security challenges facing the states of the world today. Following the events of September 11 and the threat from Iraq, the Bush government implemented a new strategy of national security, called the “Bush doctrine”. A central element in this strategy is the perception of prevention, namely the use of force before the attack, which is not necessarily imminent and realized. This is a very controversial issue in international law. Although traditional international law requires that there be “immediate danger of attack” before the preventative actions are possible, the Bush government maintained that the United States must adopt the concept of immediate threat according to the ability and targets of the rivals today. In modern international law pre-emptory, self-defense consists of the following elements (Brown, 2003).

- The armed attack began or is realized and is against the country’s territory, citizens, and/or forces.
- There is urgent need to defend against this attack.
- There is no other alternative.
- The adopted means are to stop or to prevent the attack.
- In the case of collective self-defense, the victim must ask for help.



After the issue how it is possible to deal with threats from the terrorist organizations in a time of peace is discussed, it is important to clarify the concept of assassination in a time of peace.

The word derives from the Arab context, *hashishiyyin*, which addresses the practice in the eleventh century of Muslim fraternity, which was dedicated especially to the killing of political and religious enemies at any available time (Addicott, 2003, p. 37). There are historical examples in which the concept merged and became an inseparable part of religious beliefs. Western researchers in the early period discussed the concept in the context of war, as well as in the context of peace. They all saw this “assassination” as a direct action against the leaders of countries. In an interesting manner, some believed that to kill an evil leader for the common good could be legally justified. This perception stood for only a short period, primarily following the Westphalia Treaty in the year 1648 and the rise of the nation state. Therefore, it is possible to conclude from the statements of Western researchers of the early period that assassination is defined as an illegal action, associated with the killing of the leader of the enemy in time of peace and in time of war.

The following question is asked. Does the killing of a known terrorist in essence constitute an assassination? From a first look, it would appear it does, since the terrorist is a public figure who is acting for political goals. But the elimination of a terrorist is not considered an assassination but an act of self-defense, since the elimination is not intended to realize political objectives but to prevent the murder of innocents. Thus, the aim of the elimination is defense and not murder. The elimination of a leader must be a legal political option. When this needs to happen depends on the certain circumstances of every given case. However, in any event, the United States must explain its behavior and differentiate it clearly from assassination that constitutes a crime. In action in the framework of the United Nations Charter, the decision to carry out a clandestine or open action is not considered assassination if it is directed against the military of another country, guerilla fighters, or terrorists, or any organization whose action constitutes a violation of the national security. At what point does the threat to the national security of a state justify elimination? A more extensive threat than the existence of nuclear

weapons. Because of the secret nature of the weapon and the fact that the custodians of this weapon are generally in financial distress, there is the risk that it will be sold through the black market to terrorist factors. The state must be careful and not act only according to suspicion or doubt, since it risks therefore becoming the aggressor in the process. Of course, states cannot carry out eliminations while arguing that they are defending their security but if there are satisfactory intelligence facts, logical and fair, then the state has the right to protect itself against imminent harm.

Therefore, in light of the potential of destructive terrorist attacks that involve weapons of mass destruction, the right to self-defense needs to include the option of assassination. In this light, the killing of known terrorists is not assassination but an action of preventative self-defense. Israel of course does not call this assassination although the concept is sometimes used in criticism. The Israeli government calls this “elimination” or “targeted killing”. People who disapprove of this form of response claim that here in essence is an act of murder conducted by the State and the negation of the right of the suspect to a fair proceeding and trial, thus constituting severe harm to the basic rights and the democratic character of the state. Palestinian terrorism is crime originating from a place outside the territory of the State of Israel, when the authority in charge of the place not only does nothing but also encourages it. In such a case, it is permissible for the state to adopt actions of defense, including going to and harming the enemy. It is true that as a whole the state is committed to ascertain that it does harm the correct person and it must make certain that the harm to this person meets the requirement of proportionality. Thus, for instance, if Israel can realize the purpose of the neutralization of the terrorist through his arrest, then it must do so. However, if such harm may cause an unreasonable risk of its forces, then it is permitted to search for another way. This way is focused harm on the same terrorist – and neutralization. In this case, we do not talk about the denial of this terrorist’s basic rights, since nobody will seriously claim that in the battlefield the harming of the enemy is the denial of his constitutional rights. Those who seek a trial for every terrorist ignore the risk often entailed by the very attempt to arrest the terrorist. This is not the arrest of a criminal in the territory of the state but the arrest of an enemy in his territory. There is no norm in international law that

obligates a state to conduct arrests in the territory of another state, with the exception of those cases in which the enemy surrenders or again does not endanger our forces. In other cases, there is no obligation to avoid harming him (Gross, 2003). A state that hesitates to act against a terrorist can lose the possibility of acting in general. It is difficult to identify and find terrorists, especially in light of the fact that their actions have a clandestine nature. The correct standard for the assessment of the preliminary action must be according to the question of whether or not actions of defense occurred during the last option given to realization. If an action does not meet the standards of self-defense and it is from political motives, then it can be considered assassination. When the legitimacy of the use of force is not secure under international law, targeted killing is very controversial (Schmitt, 1992, p. 17).

Regarding the conditions of proportionality, it is emphasized that the responses of the United States to the attacks of September 11 changed the laws existing in the fight against terrorism, especially in terms of proportionality. This derives primarily from the fact that there was never an agreed-upon definition what is and what is not a proportional response to terrorism. Proportionality can be considered a sub-doctrine of self-defense, which limits the severity and duration of time of the actions undertaken under self-defense. After September 11 there was a change in the countries' practice, enabling action according to self-defense and proportionality in the context of international terrorism. Proportionality is the assurance of non-excessive action aimed at removing the threat and repelling the aggressor, while maintaining the laws of war and humanitarian law and the definition of a clear objective and time. In the abstract sense of the principle of proportionality, this is an action according to self-defense that must be proportional to the threatening danger and must not deviate. The intention is cumulative proportionality, the use of one action force of a large scope in response to the accumulation of the little wrongs of terrorism under certain circumstances. It is clear that it is necessary to respond differently towards the single terrorist attack than towards a terrorist attack that is a part of a chain of attacks, especially when it is clear that there is assistance from the refuge country. When every single attack of the chain of attacks does not constitute an armed attack, the total of all attacks constitutes an armed attack.

More than once terrorist organizations declare that they prefer attacking periodically than once seriously and at a large scale. Therefore, an organized campaign of a terrorist organization which can be proven clearly or easily that it is supported by a government constitutes an armed attack. The theory of accumulation plays an important role in additional respects, since according to article 51 it is possible to realize the right to self-defense only after an armed attack and in this case the “after” can also be considered the “before” the occurrence of the next attack. Is the earlier elimination of a terrorist considered to be proportional to the threat of the attack?

It will be proportional if there is a high likelihood that one or more people will be killed in the terrorist attack. Beyond this, the alternative to the elimination is the increased use of force with a nature of defensive military strikes, when in the cost-benefit examination, the option of elimination is preferred. It is logical to reduce the damage as much as possible so as to protect the state. The terrorists need to have minimal protection under international law. The United Nations did not object to the actions of the United States in response to the attacks of September 11, and also apparently there will be no objection to the elimination of Bin-Laden by the United States as an action of self-defense. The limitations of proportionality need to become more flexible in the fight against terrorism. Diverse actions should be undertaken against different places and objectives in response to one terrorist attack, especially taking into account the abilities of international terrorism today to harm an unimaginable amount of innocent people. The need to increase the flexibility of the traditional norms is more necessary than in the past. It would not be logical to be aware of the existence of a terrorist organization and to attack it only after it committed the terrorist attack. If there is no cooperation from the state where the organization is situated, then the threatened state has the right to preserve its interests. However, the use of force in the framework of self-defense will be legal only after sufficient evidence of the existence of international terrorism sources is found. Moreover, if the United States does not clarify its actions after September 11 and other countries feel that proportionality no longer constitutes a requirement, then the result will be the deterioration of the legitimacy of the United Nations in the determination of arrangements about armed conflicts (C.M. 2002). Self-defense needs to become more

flexible, when customary international law dictates a new interpretation of article 51 of the Fourth Geneva Convention, First Protocol, 1977, of the requirement of proportionality in the context of fighting terrorism. The change is not simple since there is the concern about remaining without boundaries and the harm of the United Nations principles. All the states fighting terrorism as well as the United States need to fight terrorism, but under international law, and therefore international law must develop according to the changes. A delicate balance of interests is necessary, and it is necessary to adjust the laws to reality. Otherwise, the United Nations Charter will be perceived as ineffective.

However, it is important to preserve the boundaries of the doctrine of proportionality even after the change. First, it is necessary to uphold the laws of war and to avoid the harm of civilians. It is necessary to prove a relationship between the goals and terrorism. The war against the enemy that is a terrorist organization requires the formation of new rules of law or a creative interpretation of existing rules of law. Israel is laden with experience in the war against terrorism, and therefore it needs to find the appropriate balances between the preservation of human rights and the rules of humanitarian law and effective protection of its citizens and soldiers (Gross, 2003).

According to Kendall (2002), Israel meets all the conditions of Caroline: need, immediacy, and proportionality.

- Need. The Palestinians refuse to arrest the planners and executors of the terrorist attacks. There is no better alternative.
- Immediacy. The elimination is performed immediately relative to the terrorist attack or threat. A considerable delay is forbidden since this will be considered retaliation.
- Proportionality. Harm to the executor or planner that aspires to harm as many people as possible. Israel also avoids harming innocents.

Israel's actions are actions under self-defense, with deterrent force, for the prevention of repeated attacks and not for punishment. In addition, Kendall says that according to the practice of the countries, the elimination actions of Israel are considered lawful under self-defense.

Regarding the reference to Israeli law, it should be noted that in Israel there is a restriction on criminal responsibility, of self-defense. For this defense to stand, the accused must show that the action he argues he performed from self-defense was necessarily immediately and that the act he went to prevent was an attack that was unlawful and endangered his life, liberty, body, or property in actuality –his or another person’s (Criminal Appeal 99/4856). The idea of this defense is based on the fact that the person, from the instinct innate in him, will defense himself against an anticipated attack when he feels the danger that he will be attacked.

The defense will stand for a person if he did the deed to prevent an expected attack. If the attack was performed and no further risk to the person is expected, then the qualification of self-defense does not stand (Criminal Appeal 95/357). As can be seen, if this is an action of vengeance or punishment, then it is not considered the prevention of the anticipated danger, and therefore is not considered self-defense. In addition, self-defense is not a war of the desire to fight. In the past Judge Haim Cohen focused on this distinction: For the qualification of self-defense to stand for the accused, he must also prove that he was not the catalyst for aggression, through an unlawful action, and that he could not have anticipated the chain of events ahead of time. This defense entails in essence the fine balance between society’s desire to avoid acts of violence on the one hand and its desire to allow the person who anticipates danger to attempt to protect himself, even with the harm of his attacker.

The requirement of proportionality in the defensive response in light of the anticipated attack appeared in the past clearly and explicitly in the section of self-defense against attack. It is possible to see that the requirements of domestic law are not very different from those of international law, although the former speaks about individuals and the latter about countries. In domestic law, for the purpose of the justification of the use of lethal force, it is necessary to show that it was the least harmful way that could have been adopted. The same is true in self-defense in domestic law; it is necessary to show that there was no other way to resolve the conflict, since the action taken was required as an immediate and unplanned response. It is necessary to note that even if the actions of prevention are planned actions, then they come in response to an immediate

threat. The military is not equivalent to the individual who can act spontaneously. A military needs some planned mode of action, so that it will succeed to function. Therefore, when an immediate, spontaneous, and unplanned response is required, so that we can see it as an action of self-defense, the intention is not to say that the military cannot preplan its steps as long as it attempts to prevent a real and immediate threat, in the analogy to the single person. To conclude, it is possible to clearly note that the perception of self-defense in international law that is seen through customary law, the United Nations Charter, and reference to Israeli law, provides a good perspective for the international legal setting that it is possible to use for help when examining the “rightness of our path” when we examine the option of localized harm to the terrorist or to their senders or commanders.

### **1.2.8 Issues in the Field of Legislation and Punishment**

One of the most problematic issues in the framework of the fight against terrorism, strongly connected to the “democratic dilemma”, is the question of legislation, namely, the attainment of special laws for terrorism in order to maintain and improve the fight against terror. In actuality, generally such laws were legislated as emergency laws or as special regulations, following the need created or because of the demand of the security factors to give them a legal basis for a certain activity of counter-terrorism (Wilkinson, 1976). The laws and regulations against terrorism can be classified into subgroups as follows:

1. Legislation that prohibits terrorism. Legislation that defines what terrorism is and what terrorist organizations are and prohibits the membership in a terrorist organization and terrorist activity, as well as assistance, support, and encouragement, identification with, and incitement to carry out such activity.
2. Legislation that determines special legal arrangements when putting on trial people suspected of terrorist activity.
3. Legislation that defines the types of punishment that will be imposed for offenses related to terrorism and their severity and that sets minimum sentences for people convicted of these offenses.

4. Legislation that obligates the public to enlist to the struggle against terrorism – legislation that determines the obligation to participate in activity of defense and protection, such as special means of defense, payment of a tax to fund security costs, etc.
5. Legislation that determines the authorities of the security forces in the framework of the counter-terrorism activity – authorities of search, surveillance, listening, etc.

The countries dealing with terrorism around the world have legislated a wide range of laws against terrorist activity and against the terrorists carrying them out, ranging from the declaration of a state of emergency and a military government, through counter-terrorism legislation and reinforcement of the authorities of the enforcement organizations, the increased severity of the policy to punish terrorism, to reduce the rights of suspects of terrorist activity, and so on, to the relaxation of the requirements for the admissibility of legal evidence in relation to terrorism. Hoffman and Morrison (1992) note in this context a special type of legislation in the field of terrorism – “laws of remorse”. Laws of this type were legislated in Italy, Britain, and other countries, and they mainly address the forgiveness and restriction of the punishment when the terrorist is “repentant”, has surrendered himself and his companions to the security forces, and is willing to testify against them in the court. The effectiveness of these laws is not uniform – in certain cases it is possible to indicate relative success but in Britain, for example, they were proved to be ineffective and even detrimental.

Indeed, one of the countries prominent in its activity in the field of counter-terrorism legislation is Britain. Over the years, in Britain strict laws and regulations have been enacted to address the Irish terrorism. In the year 1971, for example, the government broadened the powers of the security forces to arrest people without a trial in cases of the suspicion of involvement in terrorism. However, these steps failed, and in the end were suspended by the government only seven months after they went into effect. As aforementioned, the attempt to the British to use terrorist “collaborators” who consented to testify against their companions (called “supergrass”). The emergency legislation of the North Ireland Law (in the year 1973) and the Prevention of Terrorism Act (in the year



1974) determined that terrorist trials would be held under one senior judge and not by jury. The Police were given the power to arrest suspects for up to seven days without a judge's order and soldiers were given the power to arrest and conduct searches even without reasonable suspicion. After a difficult terrorist attack in Birmingham, which caused the death of 21 people, in the year 1975 in Britain the Prevention of Terrorism Act was amended. The amendment to the law gave the Home Secretary the power to exile from Britain a person suspected of involvement in and support of terrorism. Moreover, the burden of the proof of innocence was imposed on the accused of terrorist involvement and not on the State. In the year 1988, the government of Britain proposed an amendment to the law, which would eliminate the suspects' right to remain silent. With regard to this amendment, the British Home Secretary of the time, Douglas Hurd, stated that, "democratic governments must consider in-depth and at-length before they propose such measures, even when they are dealing with the enemies of democracy. We did this. Our conclusion is that it is forbidden to deny the Courts the powers necessary to identify and stop the fuel that drives the engines of murder". In the year 1989, the law that is perhaps the most far-reaching was legislated: the prohibition to hold interviews in the media with terrorists and their supporters. At the same time, a law was passed that enables the confiscation of the bank accounts considered to be serving terrorist organization. The British example presented here depicts the problems embodied in the emergency legislation and far-reaching laws against terrorism and the danger innate in the exaggerated use of this type of legislation. It should be noted that from 1975 to 1980 4,345 people were arrested on the basis of these laws. Only 205 were expelled, 381 were arrested by a request submitted to the Home Secretary, 46 were accused of offenses set in the law, and another 187 were accused of other criminal offenses. The vast majority of the arrested people were never convicted and their guilt was not proven. The legal system in Britain criticized the strict policy.

In Israel, until today the amendments and certain changes in the Terrorism Prevention Ordinance remain in effect (Hapnong, 1991). Some assert that the order was used in the year 1948 as a tool in the hands of the new government primarily to restrict the underground organizations (especially the Lechi group) that did not accept the

authority of the state and to facilitate the de-legitimization of these organizations, so as to concentrate the military power in the IDF and the security services under the political and party command (Barzilai, 2000). There are two problems in principle with the ordinance. First, it gives the state the special right, which can barely be challenged and refuted, to determine that a certain collection of people is a terrorist organization, and second, there is the extensive normative application of the Ordinance not only to the people involved in terrorism and to the terrorist organizations, but also to those who support, sympathize with, identify with, or encourage terrorist organizations (Terrorism Prevention Ordinance, Amendment 1, 1986).

Regarding the Emergency Defense Regulations, many researchers criticize the fact that Israel did not throughout all its years of independence legislate primary legislation that would take the place of the regulations from the British Mandate and chose the path of additional amendments and adjustments to the spirit of the time and to the needs. The legislation of the Basic Laws, and most importantly the Basic Law: Human Dignity and Liberty, did not detract from the powers of the operative arm because of the directive to preserve laws determined in this law, which in essence determined that the legality of laws and regulations legislated according to the Basic Law, including Emergency Defense Regulations, will not be tested in light of the legislation of the Basic Laws (although their interpretation will be in the spirit of the basic laws).

Some maintain that it is necessary to level criticism not only at the political system in Israel but also at the legal system, which generally avoids intervening in the considerations of security forces on security topics entailing interpretation of the Terrorism Prevention Ordinance. Instead of cultivating a mechanism of legislation for the prevention of terrorism, it is necessary to maintain a tolerant culture, which necessarily would make the growth and action of terrorist organizations difficult in a democratic society. Some maintain that Israel constitutes an example of a state that does not have a culture of political tolerance and in such a state emergency legislation may harm the foundations of democracy more than contribute to their preservation (Barzilai, 2000).

One of the examples of the problems of the use of legislation for the needs of prevention of terrorism is the issue of the forfeiture of funds by terrorist organizations. In the modern era, the management of the terrorist organization obligates a broad economic basis for the ongoing operations of the organization. The Palestinian terrorist organizations maintain an administrative and command system comprised of “professional terrorists”, who not only are motivated by ideological considerations but also earn their livelihood from this activity. In the 1970s and 1980s some of the Palestinian terrorist organizations, and the PLO at their head, maintained a large system of hundreds – and sometimes thousands – of operatives in the framework of their “military forces” in Lebanon and other regions and paid them a monthly salary. Beyond the payment of salaries, the terrorist organization needs of course large sums of money to purchase infrastructure and build them, to purchase of weapons, to train operatives, to perform terrorist activity, and so on. Therefore, one of the effective ways of dealing with a terrorist organization is to halt the flow of fund to the organization or at least to make the flow of funds difficult.

These actions necessitate, as aforementioned, individual legislation and international cooperation (especially in light of the fact that terrorists are helped by Western bank for the purpose of the transfer and laundering of these funds and the banks tend to preserve the confidentiality of their clients). Regulation 74(2) in the Defense Regulations (Emergency) enables – and in essence obligates – the confiscation of every object that is related to the performance of a security offense (the object can be money). Articles 32-39 of the Criminal Law enable the confiscation of assets for security offenses, but here the confiscation of the property is not obligatory. In any event, the person with the right in the property who was not involved in the offense is entitled to ask the Court to cancel the confiscation (Zur, 1999).

The law therefore enables the security system to use the sanction of forfeiture of property in cases of security and terrorist offenses. The problem arises when the issue is the money and property of organizations that act under a supposed humanitarian guise, when their legal activity conceals the ongoing or ad hoc financial assistance to the terrorist organizations, which is difficult to identify and prove with legal means. In this

framework, the government submitted to the Knesset in May 1998 a law proposal to amend the Terrorism Prevention Ordinance, according to which it will be possible to confiscate property that has some association “with a terrorist organization, terrorist actions, or the promotion of terrorism”. The proposal was intended to enable the confiscation of money and property of charity and health organizations, primarily in East Jerusalem, which served as a cover for the flow of funds to terrorist organizations, terrorists, and their family members. The law proposal determined that in cases for this offense the court will not be subject to the ordinary rules of evidence and can impose confidentiality on the evidence and not present it to the defendant and his representative.

Another issue that constitutes a main step is the issue of the individualized legislation against terrorism. This legislative dilemma entails another dilemma, and it is the definition of terrorism. The approach that maintains that it is impossible to define terrorism or that there is no need to do so also notes that it is possible to prohibit activity related to terrorism without being required to define the phenomenon, since the terrorists perform similar and even identical actions to those prohibited actions of “regular” criminals, namely, they murder, blackmail, commit arson, threaten, and so on. Just like it is possible to put the heads of the mafia behind bars without proving their involvement in the mafia activity but only on the basis of tax evasion and other offenses, so too is it possible to distance the terrorist from society and to judge him for his actions (Moss, 1976). The argument is therefore that the criminal law code customary in the different countries is supposed to provide a satisfactory response to the legal needs required to put the terrorist on trial, without needing the definition of the term terrorism.

This approach addresses terrorism as a type of crime and it holds, according to its supporters, not only for internal legislation in this or another political framework but also for the framework of international legislation. According to the supporters of this approach, there is no need for international agreement regarding the definition of terrorism in order to achieve international cooperation. The commitment of the different countries to act against terrorists, to capture them, and to extradite them is derived from the criminal acts they carried out, which are prohibited according to any international norm. Therefore, according to the supporters of this approach, the conventions existing

today in the criminal domain are satisfactory since they prohibit the actions attributed to terrorists. At most, it is possible to develop and expand the international agreement framework in order to include acts such as suicide bombings, shooting at airplanes, and so on. In any event, the international normative system can continue to be effective even without needing the definition of the term “terrorism”. In contrast, the objectors to this approach hold that even if the terrorists carry out acts similar to the criminal acts, the crime of terrorism is essentially different and even more severe than the criminal acts since it attacks society at large, endangers the public peace, and even threatens the stability and safety of the entire world.

This is not the only reason why it is necessary to differentiate this phenomenon from “regular” crime and to dedicate to this phenomenon specific legislation that will set binding norms and prohibitions both in the state itself and in the international normative system. Similar to the solution proposed to the dilemma of the definition of terrorism, it appears that the reference to terrorism as a certain type of war crime solves the legislative dilemma and decides in favor of the approach that requires the definition of terrorism and the dedication of different legislation to this phenomenon (Sasar, 1992). Since terrorism is a war-oriented action in all respects, the accepted criminal laws and norms do not apply but rather the laws of war. As such, terrorism is not punishable but since terrorism is not a permissible and normative belligerent action but a flagrant violation of the laws of war, it is possible to punish the terrorist just as war criminals are punished. However, for this purpose it is necessary to dedicate concrete domestic and international legislation that will enable the trial and conviction for terrorist activity and involvement in this type of activity.

It is further note that there is a dilemma of the emergency legislation connected directly to the other dilemma that addresses another type of legislation – individual legislation. Some maintain that special laws should not be dedicated to the phenomenon of terrorism, and generally and in every case the governing system must deal with the terrorism to act in the existing framework of legislation, and if a change and extension of this legislation are required then it is necessary to do so as a part of the primary

legislation and according to the regular legislation processes and not as emergency legislation.

In contrast, others maintain that the severity of the threat of terrorism and the urgency of the problem do not generally allow slow and lengthy legislative conduct that may take weeks and months, with political bargaining and negotiations between parties, interest groups, and various people. The threat of terrorism obligates a rapid response and it is necessary to give those who do this important work of the eradication of terrorism all the legislative means they need for effective preventative activity – even when it is necessary to take short cuts or to bypass regular legislative proceedings and to use emergency legislation and temporary regulations. However, it appears that along with the definition of the need for this type of legislation, it is necessary to set rules that will reduce the danger of arbitrary legislation that will be used by the government for illegitimate needs that deviate from the original intention of the emergency legislation and that will remain in force for a long period of time after the problem for which it was legislated has vanished. Hence, it is necessary to determine that this type of emergency legislation will be passed only with an absolute majority in the parliament and for a predetermined and set period of time, at the end of which it will automatically expire unless a decision is made to extend it – and again with an absolute majority in the parliament. In addition, it is necessary to determine that parliamentary supervision will be imposed on the manner of implementation of this legislation by the executive branch and the security forces.

To conclude, it appears that the solution to the democratic dilemma in the field of legislation is found between the two extreme positions, the position that determines that there is no benefit in special legislation against terrorism and the position that holds that the existing legislation interferes with the thwarting of terrorism. There is no dispute that special counter-terrorism legislation always entails the risk of the harm to liberal-democratic values and the freedoms of a person and a citizen. However, the question is whether it is possible to fight terrorism in the framework of regular criminal law. Do the unique characteristics of terrorism and the dangers it entails not obligate legislation that will allow the security forces to deploy special means against terrorism? Hapnong

proposes three tests for the examination of the judgment of the decision makers in security issues. What is the protected interest? What is the severity of the danger? And what is its immediacy? He asserts that as the correlation between the severity of the danger, the likelihood of its realization, and its immediacy is higher, the limitations imposed because of the danger are more justified (Hapnong, 1991). However, the tests he proposes are not enough. In all that pertains to the danger of terrorism, it is necessary to incorporate the following factors: the extent of the terrorism, its immediate and long-term damage, its characteristics, and the physical and morale danger it poses to the state and to society as a whole. When the state is required to deal with terrorism on a large scale, it must establish a special legal basis that will enable it to adopt the necessary steps (offensive, defensive, legal, and intelligence) for an effective fight against terrorism. However, even when this vital need exists, it is necessary to limit the legislation, in its scope, in the degree of its encounter with the liberal-democratic values, and in its duration. The legislation must be for a defined period of time, when the hope is that this period will be sufficient for the complete eradication of the terrorism or at least for the reduction of its scope and damage to dimensions that will enable society to continue to function.

However, temporary legislation is not enough. As a part of the emergency legislation, it is necessary to determine a clear and defined system of checks and balances that will enable effective oversight by the judicial branch and the legislative branch of the activities of the security forces. Such a supervisory mechanism will enable critical examination of the fight against terrorism and will constitute an address for the complaints of those who see themselves as harmed by the arbitrary use of this legislation. The complexity of the task assigned to the legislators and to the legal system, to find the balance required in the framework of the democratic dilemma, is depicted in the statements of the President of the High Court of Justice, Judge Aharon Barak (1987):

I hope that Israeli society will not find a naïve judge, who sees every problem to be a security problem. The rule of law is the security of the state. I hope that Israeli society will not find an innocent judge, who sees the basic rights to be the essence of

everything. The constitution is not a prescription for suicide. I hope that Israeli society will find a cautious and reasonable judge, who seeks to see the picture in all its aspects, who is aware of his role that creates, that weighs objectively the different interests, that implements the basic principles in a neutral manner and seeks to find a delicate balance between majority rule and the basic rights of the individual, a balance that constitutes the democratic equation of the regime.

### **1.2.9 Offensive Activity against Terrorists**

One of the main steps of counter-terrorism is offensive activity, or in other words, initiated actions of the security forces against the terrorist objectives, undertaken in the regions where they stay and prepare. The offensive activity is generally carried out in the territory of the country providing refuge or alternatively the territory of the attacking country in regions not under the control of the security forces or in underground bases around the country. In regions where the terrorist organizations enjoy full or partial control or at least relative freedom of action, the offensive activity will be based on invasive land operations, aerial bombings, artillery bombardment, naval actions, and special operations intended to harm localized targets in the organization.

In light of the above statements, the heads are required all the time to assess the effectiveness of the offensive activity, whatever it is, and therefore the following question is asked. Is it possible to determine objective standards for the evaluation of the need and effectiveness of the performance of different steps of counter-terrorism, such as localized activity against terrorists or against their commanders? For the purpose of the examination of the effectiveness of the offensive activity, it is necessary to define, first, the goals at the basis of these actions and to examine whether these goals will be achieved through the chosen methods of action and means.

First, we clarify the goals of the offensive activity. The goals at the basis of the offensive activity include prevention of terrorist attacks, disruption of the terrorist organization's routine, revenge and punishment, deterrence, harm to the morale of the



terrorist organization's operatives and supporters, increase of the morale of the country's residents, and sometimes even other considerations, such as domestic political considerations.

One of the main aims at the basis of the offensive activity is this prevention of terrorist attacks. This goal is built on the assessment that harm to the terrorist organization's operatives and infrastructure will disrupt one of the stages of the preparation of the terrorist attacks: the initiation of the terrorist attacks, the planning of the terrorist attacks, the training of the terrorists, the preparation of the explosive devices and weapons, the collection of intelligence before the terrorist attack, the preparation of escape routes, or any other assistive activity. Sometimes the action is intended to prevent a concrete terrorist attack, and not necessarily to disrupt the general ability of the terrorist organization to carry out terrorist attacks (Haaretz, 1984).

Another goal of offensive activity is the disruption of the terrorist organization's routine. This goal can be achieved, for instance, through harm to a senior operative in the organization, following which there will be a "war of inheritance" among the operatives who seek to fill his position, or destruction of the organization's infrastructure, which obligates the people to allocate resources, personnel, and time to restore the prior situation. There is another no less important goal, the deterrence of those responsible for the terrorism; they will pay the price and others will see and be afraid. This message is conveyed periodically by Israel's leaders and by the heads of its security system.

The leaders and senior operatives of the terrorist organizations are aware all the time of the possibility of the personal attack on them and on the infrastructure of their organization. This sometimes influences their functioning, behavior, and life routine. However, the offensive activity has impact not only on the senior operatives in the terrorist organizations but also on all the members of the organization and on the sector supporting it and sympathizing with its actions and aims. The harm to the morale of the terrorist organization's operatives derives both from the harm caused to the organization by the offensive activity, from the illustration of the technological, operational, and intelligence supremacy of this activity, and from the fear that the information that served

for the purpose of the offensive activity originated from a “mole” in their organization. This fear often causes a bout of “purifications” in the organization. For instance, the head of Hezbollah, Sheikh Hassan Nasrallah (who inherited his position from his predecessor, Abbas al Moussawi, who died as a result of an explosion in his car in South Lebanon) announced that his first task, after he inherited Abbas al Moussawi’s position, is to discover whether there is an Israeli spy network in the organization (Maariv, 1996).

To summarize, at the basis of the offensive activity are many diverse goals. These goals are generally entwined, and the degree of their importance changes according to the conditions of time and place. In any event, the effectiveness of the offensive activity is directly derived from the degree of success of the action in achieving the goals at the basis of the implementation in actuality or at least some of them.

While there are benefits in offensive activity, it is also necessary to take into account five types of possible prices (Sprinzak, 1985):

- Intelligence price. The attacking state may pay a price in the form of the exposure of the intelligence source that conveyed the information necessary for the action.
- Physical price. The offensive activity obligates the allocation of many resources, in the stage of the collection of the intelligence, in the stage of the planning and practice, and in the stage of the execution.
- International price. The offensive activity, especially if it is carried out in the territory of foreign countries, generally causes protest in many countries, including those whose outlook is similar to that of the terrorist organization or that support it in actuality.
- Price of possible complications. The decision makers must take into account the possibility that the offensive activity will fail if it is not managed according to the planned outline.
- Price of response. As aforementioned, it is necessary to take into account that following the offensive activity the motivation of the terrorist organizations to carry out revenge attacks will increase.

It should further be noted that there is a variety of additional considerations in the assessment of the effectiveness of the offensive activity, such as cost-benefit

considerations, which themselves are not sufficient for the examination of the effectiveness of the offensive activity.

To conclude, a precise evaluation of the effectiveness of the offensive activity is an especially difficult task, not only because it is impossible to know how many terrorist attacks were thwarted because of the undertaken activity and what would have happened had the action not been carried out (Dershowitz, 2002). It should be emphasized that sometimes an activity that appears to be very successful in the short term may be revealed to be a failure over time, and the reverse is also true. Some emphasize, including Aharon Yariv, the problematic nature of the performance of offensive measures in the framework of the counter-terrorism policy, stating that when the targets and timing of the action are chosen, as well as the means and methods, it is necessary to study in-depth the harm that may be caused to the state because of the deployment of these measures, both in the physical dimension and in the political and psychological dimensions. They further note that in this context it is necessary to take into account the implication of the actions on the international public opinion. It should be noted that the Israeli doctrine determines that offensive activity against terrorist organizations should not be given up, but according to the proponents it is necessary to adopt it only after meticulous review and judgment about the benefit of the actions. In any event, only when the security factors and decision makers ponder all the considerations and assessments described above and the benefit nevertheless outweighs the costs is it possible to decide upon the performance of offensive activity against the terrorist organization.

#### **1.2.10 Summary**

The September 11 terrorist attack caused a change in the perception of the threat that derives from terrorism. If before September 11 terrorism was perceived as a criminal activity, after September 11 it was understood that the present terrorism constitutes a threat towards both national and global security. It was understood that there is a difference between the need to deal with terrorist actions that occur, periodically and at a small scale, and the need to deal with the continuous threat of terrorist attacks with a significant scope and destructive impact at a large scale. The manner of coping with this threat constitutes a professional and operational challenge for all states that want to

attempt to deal with this problem, since the way of handling of this problem and threat is twice as hard. The issue is not armies, which for the most part act according to the laws of war, but irregular forces of fighters, when the strategy leading them is their presence in the underground, with their assimilation in the civilian population. In other words, their guiding strategy is the breaking of all the existing rules of the game that were customary until now. One of the tactics for dealing with this complex threat is the harm to those implementing terrorist attacks or the commanders who send them or the planners of the terrorist attacks.

In this work, the activity of targeted killing is examined in two main contexts, the harm to the operatives and/or commanders as an act of self-defense and aspects of morality and law. Regarding the commander who is found in the hierarchical chain of command, and he even plans and sends operatives and is responsible for the activity, the following question is asked. Is it possible to harm him, and even kill him? In my opinion, this option is legitimate, since this possibility will cause the rank of commanders and leaders of these terrorists to consider their steps carefully, before they implement them in practice, knowing that the outcome of these actions will have direct impact on them. Like the leader has the ability to make decisions, he must bear the responsibility for these decisions to execute a terrorist attack or any terrorist action. Regarding the terrorists themselves, here too it is important to emphasize that the intention is not to harm without precise differentiation; there needs to be proven a high level of relative certainty that this terrorist may cause considerable harm and even kill innocent civilians. Therefore, in this case too, the state, which wants to halt the terrorist activity, has the right to harm the terrorist before he has realized his desire.

Regarding the issue of the legal aspect of the harm and elimination, it should be said that in all that pertains to the danger of terrorism, it is necessary to also weight factors such as the scope of the terrorism, its immediate and long-term damage, its characteristics, and the physical and moral danger it poses to the state and to society in general. When the state is forced to cope with terrorism of a broad scope, it must establish a special legal basis that will enable it to adopt the steps necessary to increase the degree of effectiveness in the fight against terrorism. Moreover, the state needs to be

able to protect its citizens and if the way of coping with the special and complex threat called terrorism is found in the elimination of the terrorist, then it is necessary to allow this activity according to the right to self-defense. However, the countries should not act without supervision in the realization of the right to self-defense, and they must deploy a system of restraint and self-control, so that they will not become in the process aggressive themselves. They must implement the means that are at their disposal so that they will benefit all the innocent citizens, only under the necessary circumstances and according to the rules of international law.

## **Chapter 2: Influence of the Use of the Mechanism of “Targeted Killing”**

### **2.1 Introduction**

This chapter will address at-length the influences of the use of the mechanism of “targeted killings”. The chapter will describe the use of targeted killings that are undertaken by the State of Israel and will refer to the targeted killings performed by the United States. In the main part of the chapter, the focus will be placed on the question that pertains to the effectiveness of the mechanism of “targeted killing” with reference to the characteristics and nature of the operatives who constitute the target for harm through this mechanism, through aspects of physical harm or political harm, and whether this mechanism facilitates the reduction of violent activity. In other words, the emphasis will be to examine the effectiveness of this mechanism in its different manners.

The Hebrew words, *sikul memukad*, is a term created by the government of Israel and the IDF during the Al-Aksa Intifada to describe the military operation of the IDF intended to kill Palestinian operatives who are involved in terrorism. In the American press this is called “targeted killing” in English, while in the Arabic press this is called “assassination” (اغتيالات).

With the use of the term, it was argued by Israel that in all cases this is an action against a “ticking bomb”, which clearly and immediately thwarts the specific terrorist actions. In the continuation, the use of the term was extended, and it describes every action of the neutralization or detention of a Palestinian operative involved in terrorism,

whether he is a terrorist himself or a leader in an organization that engages in terrorism. Israel sees the action of targeted killing, directed against terrorist operatives, with the attempt not to harm citizens who do not engage in terrorism, as self-defense allowed by the rules of law and morality. In the part that will address the use made by the United States of the mechanism of targeted killing, the chapter will analyze when and why the United States began to use this mechanism and against whom primarily. The United States, after the attacks of September 11 against the Twin Towers, began to form the perception and deploy this mechanism, when in this way a number of operational commanders of Al-Qaeda were neutralized through aerial targeted actions. In the year 2002, the local commander in Yemen, Abu Ali al-Harithi, was killed; in 2005, the commander of the abroad operations unit in Pakistan, Abu Hamza Rabia, was killed, and in 2006 the commander of Al-Qaeda in Iraq, Abu Musab al-Zarqawi, was killed. The targeted killings continued in an irregular manner, exploiting the prominent technological advantages of the United States, primarily through precise shooting from unmanned aerial vehicles armed with missiles. The choice of this operational pattern of action as the main instrument for the targeted killing derived from the fact that it strikes at the attacked rival by surprise, can be deployed from a distance without risk to the fighters, and enables the difficulty to physically reach the targets to be overcome. When Barak Obama was elected as President of the United States, more actions of targeted killing were performed than under any other president in modern history, and under his government the number of targeted killing attacks was nearly doubled, from 33 in the year 2008 to 53 in the year 2009 and then this number rose again, to 118 in the year 2010.

As noted previously, this chapter will discuss extensively in different contexts the aspects of a number of characteristics that are directly related to the manner of differentiation of the way of targeted killings and the degree of the effectiveness of the targeted killings, such as physical targeted killings, neutralization, or detention, or political liquidation of those who engage in terrorism and their degree of influence on the organization itself, the attitude towards the population, the technological abilities, and so on.

## **2.2 Objectives of “Targeted Killings”**

This chapter will focus primarily on the definition of the goals for which the mechanism of targeted killing was established, in the attempt to focus on the differences and meanings of every goal: deterrence, self-defense, and punishment, when in the end we will focus on one main goal, the goal of self-defense. It should be noted that this mechanism comes to fill the goal for which it was established, or in other words, the establishment constitutes a functional response for the operational need that arose as a result of the desire to cope effectively with murderous terrorist attacks.

The goals and objectives that the decision makers set before the security forces change periodically according to the change in the trends of terrorism, constraints of the local and international system, bilateral systems of relationships between different countries, and the internal political situation in the country. For instance, the strategic goals of Israel in its counter-terrorism policy have changed over the years. In the end of the 1960s, immediately after the Six Day War, the goal was to eliminate terrorism and uproot it, through the elimination of the infrastructures of the organization and the arrest of operatives in the Gaza Strip and in Judea and Samaria. At the start and the middle of the 1970s, the policy was to deter the terrorist organizations from undertaking terrorist attacks through offensive activity against the heads of the terrorist organizations, including actions of severe reprisals in various countries following attacks. At the end of the 1970s and in the 1980s, in Israel the recognition increased that, under the international and regional political conditions created on the background of the achievements of the Palestinian movement in the political dimension and in light of the depth and complexity of the Palestinian problem, it is impossible to have a policy that has the goal of the elimination of terrorism through military means alone. Therefore, the policymakers chose to pose a more realistic goal – the reduction of the harm of terrorism and not the elimination of the phenomenon (Dror, 1989).

To examine the degree of effectiveness of the mechanism of targeted killing, it is necessary to define, first, the goals at the basis of the activity and this so as to examine what accelerates the use of this mechanism and thus to clarify whether this mechanism

faithfully serves the goal for which it acts. The goals at the basis of the deployment of the mechanism of targeted killing include the thwarting of terrorist attacks; the disruption of the routine action of the organization; revenge and punishment; deterrence; self-defense; harm to the morale of the organization's operatives and supporters; increase of the morale of the state residents; and sometimes even foreign considerations, such as internal political circumstances, elections, etc.

In this work, three goals were chosen for examination. Through these goals, we will attempt to understand how the Israeli system acts and which aims it supports when it deploys the mechanism of target killings as a means that facilitates the reduction of violent activity against the citizens of Israel.

### **2.2.1 Self-Defense**

Self-defense means "the lawful use of relationships between the states undertaken in response to the unlawful use of force performed beforehand and that meets the conditions assigned to it according to international law" (Dinsten, 2001). Self-defense is a response so that there always must be an unlawful action pertaining to the unlawful use of power (or the threat of such use) that precedes the use of self-defense. Self-defense never comes in response to self-defense. One of the main goals at the basis of the use of the mechanism of targeted killing is the prevention and/or disruption of terrorist attacks. This aim is built on the assessment that the harm of the terrorist organization's operatives, whether physically or politically, and of their infrastructures will cause the disruption of one of the stages of the preparation of the terrorist attacks: the initiation of the terrorist attacks, the planning of the terrorist attacks, the training of the terrorists, the preparation of explosive devices and weapons, the collection of intelligence for a terrorist attack, etc. Sometimes the action is intended to prevent a concrete terrorist attack and not necessarily to disrupt the organization's general ability to perform terrorist attacks.

In the continuation of the previous statements, self-defense is a right. International law does not obligate a state to deploy force in response to the unlawful use of force (Dinsten, 2001, p. 161). The right to self-defense is anchored in customary law according to the Caroline case, which emphasizes the condition of need and proportionality.



Of the goals that will be cited in the continuation, the goal of the prevention of terrorist attacks as a part of self-defense is the most comfortable to accept, even among those who strongly do not belong to the approach that supports the use of this mechanism, since this action is intended to save human life directly and immediately, through the prevention of terrorist attacks. Some will argue that therefore decision makers may use the argument of the concrete prevention of terrorist attacks even when the true goals at the basis of the attack are different. Moreover, sometimes it is difficult to prove significantly that the deployment of the mechanism against an object of a terrorist organization will cause the disruption or prevention of the terrorist attack. More than a few professionals assert that the deployment of the mechanism and the performance a more physical prevention may increase the motivation of the terrorist organizations to escalate their action and therefore the effectiveness of the targeted killing is doubted.

Moreover, some hold that the term of targeted killing is a “whitewashing” of an action of assassination. An initial look appears to affirm this, when the terrorist is a public figure who acts for political goals. However, the physical elimination of a terrorist is not considered an assassination but an act of self-defense, since the prevention is not intended for the realization of political objectives but to prevent the murder of innocents. Thus, the goal of the counter-terrorism action is defense and not harm for its sake. However, the physical elimination of a leader obligates that there is a legal political option. When this needs to be done depends on the certain circumstances of every given case.

According to international law, which Kendall described well, it is possible to discern three components that facilitate the understanding of the issue of self-defense when Israel meets all the conditions of Caroline: need, proportionality, and immediacy (Kendall, 2002).

- Need. The Palestinians refuse to arrest the people planning and carrying out the terrorist attacks. There is no better alternative.
- Proportionality. The harm to the person planning or carrying out the terrorist attack who aspires to harm as many people as possible. Israel also refrains from

harming the innocent, who are defined as “uninvolved” as a guiding motif in the planning of the offensive activity.

- Immediacy. The prevention/harm happens immediately and near to the terrorist attack or threat. A great delay is prohibited, since otherwise the action is seen as a reprisal.

Such actions are actions under the definition of self-defense, established on the dimension of deterrence, for the prevention of recurring attacks and not for punishment. In addition, Kendall (2002) says that according to the practice of the states Israel’s counter-terrorism actions are lawful under self-defense.

### **2.2.2 Punishment**

The declared goal is to punish the heads of the terrorist organizations for their actions, or in other words, to create a direct equation in which every terrorist operative who takes part in the initiation, direction, or performance of terrorist activity directly risks being harmed or detained. It should be noted that the special characteristics of the coping with terrorism, the great brutality of the terrorist attacks, the harm of innocent people, and the harm to the citizens’ feeling of security sometimes encourage among the decision makers and in the public at large the strong desire for revenge against those who are involved in the terrorist attacks and their punishment. Therefore, some of the offensive activity undertaken by the state can be attributed also, but not only, to this desire.

### **2.2.3 Deterrence**

The meaning and role of deterrence are to cause the terrorist operatives, their senior members, their potential heirs, and the residents to fear helping support and perform terrorist attacks and specially to live with the constant effort of preserving their lives, with the limitation of their freedom of maneuvering. Simultaneously with the element of punishment that constitutes a preliminary stage of the element of deterrence, the targeted killings were intended to create a tangible basis of deterrence. These two goals generally coexist, in terms of those responsible for terrorism will pay the cost and the others will see and be afraid. This message is conveyed periodically by the leaders of

Israel and the heads of the security system. For instance, after the elimination of Abu Jihad, the deputy of Arafat, the Prime Minister at the time, Yizchak Shamir, declared at the Memorial Day ceremony for the Fallen Soldiers of the Israel Defense Force: “Let us hope and believe that our enemies will reach the recognition and understanding that the people of Israel know how to fight back and that anyone who harms us is harmed sevenfold.”

In the framework of the conference of solidarity with the United States, held on September 11, 2002 at the Interdisciplinary Center of Herzliya, the head of the Military Intelligence Major General Aharon Zeevi Farkash addressed the issue of punishment and deterrence of Israel in the framework of the Al-Aksa Intifada and said that the goal was to create unending military pressure against the leaders of terrorism, the directors, the trainers, the coordinators, and the launchers, and this by all means, through the adoption of a clear theme of determination and perseverance in the fighting of terrorism and the pursuit of the perpetrators without mercy.

To conclude, in this chapter an attempt is made to map and characterize the main goals that the state in general and the State of Israel in particular need to define for the security factors as a part of their counter-terrorism efforts. The clear definition of the goal will necessarily lead to the fact that the different security forces can prepare as broad a response as possible so as to fight effectively the threats of terrorism. When the state is forced to build a range of operational “suits” so as to cope effectively with the terrorist organizations, in light of the constraints to uphold the framework of the law on the one hand and the desire not to harm innocents on the other hand, there is little space for maneuvering. Therefore, “operational creativity” is necessary to bridge the limitations on the one hand and to perform what is assigned to it on the other hand.

Without a clear definition of the country’s leaders regarding the goals and objectives that they want to achieve in the fight against terrorism, and the reference is also to empirical definitions, the security system, with its different organizations, will find it difficult to create security and a sense of security.

## **2.3 Influences of the Use of the Mechanism of “Targeted Killing”**

This chapter will address at-length the effectiveness of the mechanism of targeted killing. This mechanism intends to help the security force cope effectively when dealing with the range of terrorist organizations that is directed by the states supporting terrorism and radical regimes that provide massive financial assistance, extreme Messianic ideological support, and current technological assistance. In this chapter, the degree of effectiveness of this mechanism will be examined and whether it facilitates the reduction of the violent activities.

Beyond the argument on the morality or lack of morality of the targeted killings, some cast doubt on their effectiveness as a military strategy. They maintain that despite the large number of terrorist operatives and leaders who have been killed in this way, it does not appear that the neutralization of these people had significant impact on the terrorist activity in terms of its scope and effectiveness. It is possible that the reason is the networked and decentralized character of the terrorist organizations that lead to the situation in which the loss of one person or a number of people, no matter how senior, does not have significant impact on the organization’s ability to function. In addition, often the deputies and the substitutes of these terrorist operatives who have been killed have adopted a more combative and vengeful tone and in essence increased the terrorist activity of their organization and thus increased the cycle of blood. As an example, the killing of Ra’id Karmi is frequently cited, when it caused a significant radicalization in the attitudes of the Fatah towards terrorist attacks in Israel and some attribute “Black March”, a month and a half after he was eliminated, to it, when nearly 130 Israelis were killed. Another example is the killing of Abu Ali Mustafa, which caused the assassination of the Israeli Minister Rehavam Ze’evi by terrorists of the Popular Front.

However, the supporters of targeted killings hold that the extensive use of this mechanism harmed the quality of the leadership of the terrorist organizations and caused the considerable loss of experience and knowledge that had accumulated in the hands of the terrorists and engineers of terrorism. Consequently, the “quality” of the terrorist attacks considerably declined, thus causing far more “work accidents” (in which the

terrorists caused explosions when they attempted to construct explosive devices) and making it easier for the security system to thwart terrorist attacks and to expose terrorist organizations. Against the argument of the bloody cycle, they present as an example the relative quiet after the targeting killing of the senior of the Palestinian terrorists and the founder of the Hamas, Sheikh Ahmed Yassin, when the motivation for vengeance should have been at an unprecedented level.

There is barely any argument that the physical harm of a terrorist on the eve of his embarking on an attack is legitimate and constitutes an action of self-defense intended to save life. Similarly, every operational activity directed towards operatives who are involved in the chain of command, planning, and performance of terrorist attacks needs to be taken into account for legitimate action in a situation of a terrorism war.

The personal offensive activity of Israel against the different terrorist organizations was directed for many years towards a number of types of operatives: the heads of organizations, senior operatives in the military arm of the organization, operatives who initiate terrorist attacks, operatives who plan and organize terrorist attacks, heads of terrorist cells, and members of terrorist cells.

### **2.3.1 Influence of the Physical Dimension of the “Targeted Killing”**

**Influence of the Harm to the Chain of Command:** The decision makers are divided, therefore, regarding the effectiveness of the personal offensive activity. However, it is possible to summarize and determine that when the goal is to deter a terrorist organization from terrorist activity and to disrupt its activity, it appears that it is possible to achieve it through harm to the senior operative of the organization, so that a “war of inheritance” will develop between the operatives who aspires to fill his position. It is difficult to locate another leader, with professional skills, charisma, and other fundamental traits, to fill the place of the operative who was eliminated may disrupt the organization’s activity. The disruption of the organization’s routine may be a continuous phenomenon, and not necessarily short term. Such a disruption may derive from the many resources that the organization must invest in the defense and ongoing protection of its senior operatives - financial resources, manpower resources, and time resources. In

certain cases, the senior members of the organization adopt steps of prevention and security and sometimes adopt for themselves different life habits because of the fear of personal attacks. Sometimes they change their habits following information or a rumor they obtained about the intentions of Israel to execute a personal attack in the near future or on the background of the harm to the life of another operative in the same organization or in a fellow organization. Thus, following the attempt to eliminate Dr. Abdel Aziz al-Rantisi, the spokesperson of the Hamas and a member of the political leadership of the movement, the Izz ad-Din al-Qassam Brigade directed its operatives not to travel in private vehicles because of the fear of harm by Israel. "Harm to the mujahedin has become an easy task for the Zionist enemy and its agents, because of the mistaken use of vehicles. In the past 36 hours Israel has succeeded to assassinate six operatives from the Izz ad-Din al-Qassam Brigades through the harm to their vehicle."

The change of the leadership of a terrorist organization or its operational arm may have significant influence on the motivation to execute terrorist attacks. Many terrorist organizations form around a central figure and the organization's operatives are captivated by the leader's personal charisma. The removal of the head of the organization or a central operative who concentrated the terrorist actions in the organization may therefore lead to the reduction in the motivation of the terrorist operatives to perform terrorist attacks despite what was said previously and the importance of the harm to the heads of the terrorist organizations should not be underestimated. The change of the leader for a more dominant leader may lead the organization to rapid recovery and radicalization and even encourage the motivation to carry out terrorist attacks.

The arrangements of security because of the fear of harm are very burdensome on the terrorist operative's conduct, on their families, and on their neighborhoods. For instance, the constant fear of the attack on their lives of the PLO seniors, for instance, led to the establishment of a special department in the Fatah organization, "Force 17", one of the main roles was to guard the seniors in the organization. Its people, who were trained especially for these tasks, serve as personal accompaniment of the Fatah senior members and are in charge of their security.

The degree of effectiveness of the personal attacks in terms of the disruption of the organization's activity should be examined, therefore, according to the level of fear of the heads of the terrorist organizations that they will be killed through the change of patterns of behavior (going underground, "behavior as wanted men"). It should be noted that most of the heads of organizations expressed in the past their fear of Israeli action against them personally and their evaluation that this would come.

Personal attacks inspire, as aforementioned, argument regarding their effectiveness. According to Crenshaw, the security factors are tempted to eliminate the head of the terrorist organization, from the assumption that the organization will collapse without leadership. However, the result may be the opposite: a rise in the intensity of the violence. For instance, in the 1970s the "Red Brigades" in Italy began to murder government people after the arrest of their leaders (Crenshaw, 1996, p. 125). The movement escalated its activities to illustrate that it had not been defeated by these arrests. Crenshaw adds that when an organization breaks up into secondary groups following the neutralization of its leadership and remains without central control and communication, this may cause the escalation of the violence, difficulty in the identification of the operatives, the radicalization of the motivation for terrorism, and so on (Crenshaw, 1996, p. 127).

It will be emphasized that today unlike the start of the conflict with the terrorist organizations the harm to the senior member of an organization indeed disrupts the organization's abilities to act in the immediate time frame. However, unlike in the past in the field of the reserves of the command, in the intermediate ranks and in some of the senior ranks there are command reserves that can assume the reins of leadership in a relatively good manner. It is clear that the harm to the senior in the organization creates a shock and inner struggles that make the control of the organization difficult, but since the terrorist organizations maintain interaction with the radical regimes Syria / Iran that give them assistance and protection, the duration of the time in which the feeling of lack of stability in the organization is relatively low.

One of the prominent examples regarding the fact that despite the harm to a senior member there is a reasonable or stronger possibility that the deputy or one of his successors will assume the reins and will attempt to prove that they are suitable for the new status is the example of Mohammed Deif, the head of the military arm of the Hamas. Mohammed Deif in essence took the place of Yahya Ayyash (the engineer) who was killed through a booby-trapped cellular phone. Yahya Ayyash, who was the head of the military arm, the Izz al-Din al-Qassam brigades of the Hamas movement, was the most dominant factor in the preparation and execution of terrorist attacks, and after he was eliminated he was replaced by a terrorist Mohiyedine Sharif, who was called the second engineer. While he was preparing and sending out terrorist attacks, he was located and taken out by the Israeli security forces. Yahya Ayyash was replaced, as aforementioned, by Mohammed Deif, who was his student and who fled from Samaria to the Gaza Strip. Mohammed Deif constitutes until today the head of the military arm of the Hamas and is responsible for the preparation and execution of severe and complicate terrorist attacks. In addition, he is responsible for the preparation of the fighting forces and the execution of lethal terrorist attacks.

It is possible to say that today with the development of terrorist organizations and their transformation into relatively well-established organizations the influence of the harm to the senior member in the organization, no matter as severe, will not harm throughout time the ability of the organization to execute terrorist activities. Moreover, the connection between the terrorist organizations and radical regimes that support terrorists design and produce mechanisms of defense against this type of harm in the organization primarily through maintenance of confidentiality, compartmentalization, operational rigidity, investment in advanced technology, and primarily massive recruitment of the civilian population through the ideological dimension as a main motif.

**Influence of the Harm to the Technological Ability:** One of the main points when interested in harming the ability of an organization and especially a terrorist organization is harm to its technological abilities. All the time the terrorist organizations struggle to reinforce the operational infrastructure and in it the technological infrastructure, as a stable basis for the realization of policy of terrorist attacks and its



desire to defeat Israel through the constant and intolerable shedding of blood, which will lead to the understanding that it will not be possible to defeat the terrorist organization. A difficult attack to the technological infrastructure or an operative with a technological value will delay and/or shorten the organization's ability to realize its traits in the interval of time adjacent to the time of the harm (this constitutes a difficult harm to the organization). This subchapter will describe the meanings and influence in light of this harm.

The supporters of targeted killings maintain that the extensive use of this mechanism harmed the quality of the leadership of the terrorist organizations and caused the loss of experience and considerable knowledge that accumulated in the hands of the senior terrorists and terror engineers. Consequently, the "quality" of the terrorist attacks considerably declined, and this caused many more "work accidents" and made it easier for the security system to thwart terrorist attacks and to expose terrorist organizations. An example is the work accident that occurred in June 2008 in the afternoon, when the Palestinian media reported that in Beit Lahia (in Gaza) there was a strong explosion that destroyed almost totally a six floor residential building that belonged to a terrorist operative called Ahmed Hamouda and a number of adjacent homes and businesses. As a result of the explosion, ten Palestinians were killed and dozens were injured. The dead included six terrorist operatives who belonged to the Izz ad-Din al-Qassam, three of them commanders in the north of Gaza Strip. In addition, many citizens were killed and injured, women and children and even an infant aged four months, the daughter of Hamouda. These types of accidents are a rather frequent phenomenon since most infrastructures of production and weapons of the Hamas and the other organizations are situated at the heart of regions with dense civilian population, including weapon warehouses, explosive laboratories, bases and workshops for the manufacture of weapons. The Palestinian terrorist organizations tend to assign the responsibility for these "work accidents" to Israel and even fire at Israeli communities in response to these events with which Israel is not even associated (Center of Information for Intelligence and Terrorism, June 2008, p. 2).

It was further noted that there is significant difference between Judea and Samaria and the Gaza Strip in some of the characteristics, and this is in essence the ability to act in the Palestinian field. One of the prominent examples is that the security forces revealed recently an operational terrorist infrastructure and killed a prominent number of terrorist operatives in Judea and Samaria. The infrastructure of the Islamic Jihad in Palestine is especially prominent; it was exposed in the Bethlehem region and its operatives intended to place an explosive on the train tracks between Tel Aviv and Jerusalem. The Palestinian security mechanisms, which are responsible for these regions, act for the enforcement of law and order but do not act effectively to break up the terrorist infrastructures that continue to constitute a real threat to Israel.

**Involvement of the Palestinian Authority Security Forces in the Smuggling of Weapons:** Despite the declared commitment to the elimination of the phenomenon of smuggling, the mechanisms of the Palestinian security that were dispersed along the border of Egypt with the Gaza Strip continue to be involved in the smuggling of weapons, primarily for personal purposes, alongside activity for the prevention of smuggling. Operatives in the mechanisms of the Palestinian security dispersed in the field ignore the activity of the smugglers in favor of financial bribery or an arrangement to transfer a certain part of the weapons to them. In addition, people in the security forces sometimes give logistical help to the smugglers, for instance, by giving their vehicles to smugglers for the smuggling purposes, and even extend explicit invitations for the performance of the smuggling of weapons for the mechanisms.

In the past, when the process of the construction of the technological knowledge was at its beginning, every harm to an operative who had basic knowledge in the preparation of explosive devices would delay or avert for a certain period of time the ability to realize the terrorist activity until the gap was filled by another operative or by the creation of a new infrastructure. Today, in light of the technological progress in the terrorist organizations it is possible to clearly say that methodical harm to technological infrastructures or alternatively harm to operatives who constitute focuses of technological knowledge in the terrorist organizations indeed cause objectively the delay of the “arms race” or the construction of its technological capabilities but not at such a great intensity

as occurred at the start of the conflict. This is in light of the fact that the number of operatives who undergo training in the fields of technology increased relative to the past, and for the most part these are operatives who had very professional training in the countries that support terrorism. As a result, they return with relevant technological knowledge of the first order, and this joins the construction of a technological infrastructure intended to provide these operatives with a comfortable work platform for the production of weapons so that in essence the future ability is built. Since the aim is to harm the developing abilities, at all times it is necessary to perform preventative actions so as to preserve the technological gap.

To conclude, harm to the technological infrastructure creates a delay in the ability to realize the foundational program of the manufacturing of weapons, but harm to an operative who had technological knowledge creates a dual effect since the operatives go underground and do not manufacture advanced weaponry. In addition, the knowledge stored in the operative disappears with his death. It is emphasized that there is also harm to the “organizational memory”, in light of the dead operative’s experience in the production of weaponry.

**Influence on the Harm to the Ability to Recruit New Recruits:** Without a doubt, the harm to the main operatives and in addition the performance of sweeping arrests puts the organization in a situation of uncertainty and erodes on the one hand the stability of the operational activity and on the other hand the activity of filling the ranks with new recruits. However, nevertheless there is a new trend in which the establishment of radical movements enables the greater depth of the potential of radicalization and thus the construction of additional recruitment sites that are not directly connected to the damaged mechanism, although the terrorist mission will be undertaken through it. This chapter will address these topics extensively, when the emphasis will be based on the question regarding the influence on the ability to recruit new terrorist operatives after the performance of the targeted killing against a senior operative in an organization.

The terrorism of suicide bombers has become over the years and throughout the conflict the Palestinians’ leading means of combat, when at the beginning it had an

ideological character with the argument of legitimate resistance against the occupation. However, during the period of the conflict a trend appeared in which the ideological motif weakened while the financial motif strengthened. The terrorist headquarters initiate and control terrorist activity through the transfer of large sums of money to operatives in the field, who “make a living” through the direction of terrorist activity and do not necessarily act from purely ideological motives. Frequently the terrorists who are recruited to perform the suicide attacks are Palestinians who have financial or social problems and who agree to perform the terrorist attack in return for the promise that the terrorist organization that sent him will financially take care of their family after their death.

With the detention and/or injury of the potential suicide bombers and in addition the detention and/or injury of the leaders of the terrorist cells, or in other words, the rank of commanders, there is a direct reduction of the potential “reserve” of terrorist operatives who are willing to undertake offensive activity against Israel a number of steps ahead and to go perform a suicide bombing attack. This activity of the “reduction of the reserves” makes it difficult for the terrorist organizations to implement terrorist attacks, and therefore “regretfully” the terrorist organizations searched for populations that they could exploit. Hence, the terrorist organizations increased their use of populations defined as “weak” – minors, women, sick people, people who suffer from a negative image, and so on – for the carrying out of suicide attacks, by taking advantage of their personal situation and their innocent appearance, in the attempt to make it difficult for the security forces at the different checking systems. During the present conflict, the Hamas caused more losses to Israel than did any other organization. The organization is responsible for 18% of all terrorist attacks and 46% of all the Israeli dead (International Institute for Counter-Terrorism, n.d.). Most of the victims were killed in the suicide terrorist attacks carried out by the organization.

The extensive civilian infrastructure of the Hamas in Judea, Samaria, and the Gaza Strip, with its range of institutions, is the organization’s source of power, and differentiates it from other terrorist organizations. Through its civilian infrastructure, the Hamas has succeeded in strengthening its support in the population, while building a

political power focus that has led it to victory in the elections for the local governments and for the legislative council. The continuation of the cultivation of this power focus, in the view of the Hamas, may lead it to the establishment of a Palestinian authority with an extreme Islamic character on the basis of the ideology of the Hamas, which is expressed in the Hamas Charter from the year 1988. The civilian infrastructure nurtures the activity of the suicide bombers' families (Security Forces, Report July 2006).

Today additional trends are developing in the Palestinian arena, such as the establishment of additional radical Islamic parties that constitute a convenient reservoir of new recruits for terrorist activities. One of the examples is the Islamic Liberation Party.

On August 10 and 11, 2007 the Islamic Liberation Party, Hizab El Taharir El IsLami, held a series of assemblies with many participants in El-Bira, Hebron, Tulkarm, and the Gaza Strip. These assemblies were a part of the annual rallies held by the Liberation Party in the first half of August throughout the Arab / Muslim world. The largest and most impressive of the rallies held in the territories of the Palestinian authority was in El-Bira, to which organized transports brought more than 10,000 participants from all around Judea and Samaria and from the Arab sector in Israel. In the territory of the Palestinian Authority, the Liberation Party has a number of thousands of operatives and a broader circle of supporters, primarily in the Hebron and Jerusalem-Ramallah regions. The Liberation Party also has operatives and supporters among the Arabs of Israel. The Party's success in bringing to the rally in El-Bira more than 10,000 participants, with the additional many other participants in the rallies held in other cities, constitutes without a doubt an impressive display of power and evidence of its rising political power in Judea and Samaria. It should be noted that in recent years there is an increase of the public activity of the Liberation Party in Judea and Samaria as well as an increase in its popularity among the public. The Liberation party calls for "the liberation of Palestine, namely the destruction of Israel, through jihad", a holy war, and resolutely opposes any political arrangement with Israel (Security Forces, Document, August 2006). The activity of the party in the areas of Judea and Samaria and the Gaza Strip, as well as in the countries of the Middle East and in the Muslim communities around the world has

made its operatives into a convenient potential reserve for recruitment and deployment in terrorist missions, both for the local Palestinian terrorist organizations such as the Hamas and others and for the factors of global jihad that are close to the Liberation Party in their extreme Islamic ideology.

To conclude, regarding the situation in the field today, it is not apparent that the terrorist organizations have problems with the ability to recruit new recruits to the organization despite the abilities of targeted killing against the members of the organization. The motivation to belong to organizations exists and is strengthened when the organization is successful and not only in the field of terrorist attacks. A good example is the recruitment of thousands of terrorist operatives into the Hamas movement in the Gaza Strip as a part of the establishment of designated forces. Another example is when the operatives of the Popular Resistance Committees allowed CNN staff members to visit a military training facility run by the organization (CNN, August 3, 2008). The operatives presented to the journalists the new recruits to the organization who are participating in their stage of training, which includes shooting, kidnapping hostages, and so on. The journalists were allowed to visit the organization's workshops for the manufacturing of rockets, along with journalists from the local Palestinian media (Security Forces, Document, August 2008).

**Influence on the Ability to Execute Terrorist Attacks:** This subchapter will primarily address the more significant characteristics in the instinct of “vitality” of the terrorist organization, and it is the ability to realize violent activity / complicated terrorist activities and to create chaos in the enemy. The performance of a targeted killing against a terrorist organization and harm to the senior functions was intended to disrupt the normal course of life of the organization and in it the carrying out of terrorist attacks. To what extent is the influence significant? To the point of slowing of the intensiveness in all that pertains to the realization of violent acts? This issue we discuss in-depth in this subchapter.

The terrorist organizations obtain their sources of legitimacy and their motivation for the continuation of the performance of violent activity so as to examine whether harm

to the command rank in the terrorist organizations influences the ability to carry out terrorist attacks. It should be noted that in the immediate time frame the terrorist organization is required first to understand that there are elements that directly influence this situation, such as management, command, and initiation of terrorist attacks.

First, it is required to examine what the organization's degree of operational ability is after the harm. In addition, it is necessary to examine the degree of motivation to carry out terrorist attacks in light of the harm. It is possible that the organization will greatly aspire to carry out terrorist attacks, but because of the shortage in resources or operatives it cannot realize its desires.

It is emphasized that activity over time with underground conditions of the terrorist operatives makes it difficult to carry out of terrorist attacks, taking into consideration the harm following the targeted killing that the organization suffered. In addition, internal rivalry may develop regarding the way in which the organization needs to act following this harm. More than once internal actions are held in the organizations by operatives who aspire to improve their status, through the direction of fire against a competing operative or an operative who is not sufficiently dominant or an operative who supports a way that is moderate relative to the belligerent line. These actions create internal tension that more than once causes a certain delay in the carrying out of terrorist attacks until the organization organizes itself, synchronizes its systems, and returns to its activity.

Israel, which has adopted steps of punishment against terrorist organizations and has inflicted harm on the command ranks, caused rather rapidly a situation in which there was a significant slowing in the ability to carry out terrorist attacks. A situation was created in which the organization is "busy" in the evaluation of the damages that the arrests or the harm to the command rank of the organization caused; this created a lack of security towards some of the operatives. The feeling was that it is possible that the Israeli security organizations have penetrated into the terrorist organization and waves of arrests or additional counter-terrorism attacks are possible in the near future.

Generally, after the carrying out of a targeted killing, a decline is apparent in the number of terrorist attacks of the Palestinian organizations and in the number of victims. The especially prominent characteristic is the continuous decline in the number of suicide attacks, although the motivation to carry out these terrorist attacks is found on a rise. The decline in the number of suicide attacks is an outcome of the constellation of factors, when the prominent of them is the successful activity of the Israeli security forces as already mentioned and the existence of a security fence along with a restrained policy of terrorist attacks of the Hamas, which has avoided focusing the effort on the terrorism of suicide bombers also for political considerations.

The decline in the volume of terrorist attacks, primarily in Judea and Samaria, is largely an outcome of intensive counter-terrorism activities of the security forces. One of the expressions of this activity is the considerable increase in the number of suspects in terrorist activity who were arrested in the year 2006. During 2006, 6,968 suspects were arrested, as opposed to 4,532 in the year 2005, or in other words, there was an increase of about 35% in the number of prominent arrests of the Hamas operatives (39%) and among them the senior members who have positions in the government and in the legislative council. The rest are primarily operatives from Fatah and Islamic Jihad. Among the detainees, 279 potential suicide bombers are prominent (Security Forces, Document, March 2007).

In addition to these statements, it is emphasized that the terrorism efforts after the disengagement from the Gaza Strip to duplicate the process of empowerment to Judea and Samaria so as to shorten as much as possible the time of the delay of the terrorism activity after the Israeli targeted killing, and in general the creation of new abilities that are not limited to the terrorism of suicide bombers alone, such as the firing of artillery and rockets, at this point have so far failed, primarily because of the effectiveness of the Israeli counter-terrorism actions. However, despite the blows that the terrorist organizations in Judea and Samaria suffered, they again attempted to carry out terrorist attacks, including suicide attacks in the territory of Israel. To prove that their power is still stable, the organizations of the Islamic Jihad and Fatah in Nablus and Jenin, sometimes with the direction from the outside, continued to be prominent as focuses of



terrorism in Judea and Samaria, although their operational level declined compared with previous years in light of the intensive activity in the field of counter-terrorism carried out by the State of Israel.

### **2.3.2 Influence of the Political Dimension of the “Targeted Killing”**

**Influence on the Political Groups in the Organization:** In this chapter, I chose to present the changes that the Fatah Organization experienced in the contexts of the political harm that directly influenced the performance of the organization and its abilities in the political field and in the field of terrorist activity. It is emphasized that the harm of the political leaders in the political field is more infinitely destructive for them than the physical harm that creates sympathy for their action in the framework of the Palestinian struggle, while going down from the stage without a defined role would push them to the sidelines and from there it is difficult to return. This is the case of Jibril Rajoub, who was nearly omnipotent in the Palestinian leadership in the territories, as well as that of Mohammed Dahlan in the Gaza Strip, when today they are no longer included among the factors that most influence the Palestinian activity in a range of political and other areas.

With the beginning of the present conflict, the Fatah operatives, many of whom were employed in the security mechanisms of the Palestinian Authority, began to be involved in terrorist activity against Israeli targets. In the first stage of the conflict, this activity was expressed in shooting attacks and the setting of explosive devices in the territories of the West Bank and the Gaza strip against the forces of the IDF and against Israeli civilians. Thus, for instance, at the end of the 2000s and the start of the year 2001 the Force 17 personnel carried out a series of shooting attacks on the roads of the West Bank against Israeli vehicles (International Counter-Terrorism Institute, ICT, n.d.). The military activity of the Fatah was carried out in this period through two supreme committees, one in the Gaza Strip and one in the West Bank. At the head of the supreme committee of the region of the West Bank was Marwan Barghouti (Copperwasser, in the Barghouti Court Ruling). In the year 2000, with the outbreak of the Al-Aksa Intifada, there was a radical change in his positions. He became an actual commander of the Al-Aqsa Martyrs brigades, the military arm of the Fatah. Gradually he became one of the radical Palestinian leaders and a significant supporter of the terrorist activities as a device

for the achievement of the strategic objectives of the Palestinians. He led in actuality the organizations of the Tanzim, funded them, and provided them with the weapons. Documents found during the Operation "Defensive Shield" indicated a profound relationship between him and the terrorist attacks in Israel, including guidelines for the deployment of suicide bombers into the territories of Israel. During the operation, he was arrested by the IDF in Ramallah and placed on trial. Two years after his arrest, he was convicted by District Court of Tel Aviv for his involvement in three cases of murder. He was sentenced to five cumulative life imprisonment, twenty years of imprisonment for murder, and twenty years for membership in a terrorist organization.

It should be emphasized that not all the factors in the Fatah movement supported the use of terrorism as a means for the achievement of the Palestinian political objectives. In the Fatah movement, there were voices opposing the use of terrorism in general or the extension of the terrorist attacks into the territory of the Green Line. In contrast, other factors in the Fatah and primarily members of the Tanzim feared to leave the arena to the Islamic organizations and maintained that the Fatah movement is the movement that must lead the armed conflict against Israel (Barghouti Court Ruling, p. 74). Thus, at the start of the conflict, the activity of the Tanzim was characterized by terrorist shootings on the roads of the West Bank and the Gaza Strip, but in a short period of time they began to undertake mass suicide bombings in the buses and in other public places in the territory of the Green Line. The Tanzim was the first factor that began to carry out terrorist attacks using female suicide bombers (Security Forces, Report, July 2007, p. 1).

During the months of October-November 2000, the Tanzim operatives established the Al-Aqsa Martyrs Brigades, which were intended to serve as the military arm of the Fatah to carry out terrorist attacks against Israel (Barghouti Court Ruling). Security factors in Israel maintain that the Al-Aqsa Martyrs Brigades are in essence a cover for terrorist organizations of Fatah operatives that take public responsibility for the acts of terrorism (Barghouti Court Ruling). The brigades act as networks of underground cells and their main strongholds are in the cities of the West Bank and in the refugee camps around them. Frequently the people of the security forces of the Palestinian Authority were found among the commanders of the brigades and the terrorists they sent (Center for

Intelligence and Terrorism Website, n.d.). In March 2002, after the suicide attack performed by the Al-Aqsa Martyrs Brigades in Jerusalem, the State Department of the United States added them to the list of foreign terrorist organizations. This was the first time that the Bush administration adopted this type of step against an organization directly associated with the head of the Palestinian Authority, Yasser Arafat.

The Tanzim in the West Bank served as a means for the transference of funds from the Palestinian Authority to the operatives in the field and the infrastructure of the brigades and their sources of financing were based on it (Barghouti Court Ruling, pp. 6-9). However, the members of the brigades have a considerable degree of independence in the planning and carrying out of terrorist attacks. During the present conflict, they increased and strengthened the cooperation with the Islamic terrorist organizations, both in the initiation and in the execution of terrorist attacks. Concurrently, their steadily increasing reliance on the financial and logistical assistance from the Hezbollah organization and Iran contributed to their distancing, to some degree or another, from the mother movement, Fatah, to the “running wild” of the activists, and the increase of the anarchy that exists in the field.

To complete the picture, it will be noted that the present conflict led to the disintegration of the organizational structure of the Fatah movement, to the weakening of its status among the Palestinians, and to the increase of the intergenerational conflicts in it. An expression of this situation is the splintering of the independent terrorist organizations from the Fatah, such as the Popular Resistance Committees in the Gaza Strip under Jamal Abu Samahdana and the Abu Rish Fatah Group, which operates in the Rafiah region. The events of July 2004 in the Gaza Strip, during which Fatah operatives from different frameworks clashed with one another, are further evidence of this trend.

The Al-Aqsa brigades became during the present conflict the leaders in the carrying out of terrorist attacks from the West Bank. The arms of the Fatah in general and the brigades in particular were responsible for about one-half (47%) of all the terrorist attacks against Israel carried out by terrorist organizations and about one-third (33%) of

all the Israeli dead (International Institute for Counter-Terrorism, n.d.). Most of the victims were killed in the suicide bombings of the Al-Aqsa brigades, including:

- Terrorist attack in Jerusalem on March 2, 2002 (11 dead and 40 wounded).
- Terrorist attack in Naveh Sha'anani in Tel Aviv on January 5, 2003 (23 dead and 100 wounded).
- Terrorist attack at the Ashdod Port in collaboration with the Hamas on March 14, 2004 (10 dead and 16 wounded).

### **Influence on the Political Abilities in the Society in which the Organization Is**

**Found:** During the Al-Aqsa Intifada, there was the radicalization among the Palestinians and the intensification of terrorist attacks against Israel. In the period of Yasser Arafat, the Fatah and the Palestinian Authority were partners in the terrorism against Israel, but the struggle was led primarily by the Hamas, which carried out most of the terrorist attacks along with the Islamic Jihad. As a result of the involvement of the Palestinian Authority in terrorism, its institutions and operatives were harmed by the actions of the IDF (especially in Operation Defensive Shield) and the international status of the Authority was eroded. Conversely, the poverty among the Palestinians intensified extremely following the Intifada and emphasized the corruption and disgust at the official mechanisms of the Palestinian Authority, which were controlled by the Fatah. Hamas, conversely, received international assistance from the Arab states, primarily Iraq, Iran, and Saudi Arabia. The Hamas used these funds to strengthen itself militarily, to smuggle in weapons, to undertake terrorist attacks against Israel – and for purposes of charity and education intended to attain the sympathy of the Palestinian street. The terrorist organizations grow and act from the population whose aims it presumes to represent. The origin population constitutes a reservoir of support and main recruitment of the organization. In contrast to Judea and Samaria, in which the Hamas forces are harmed methodically by the IDF (primarily in Operation Defensive Shield and Operation Determined Path), in the Gaza Strip the IDF did not carry out a great operation for the eradication of the terrorism. The power of the Hamas in the Gaza Strip was great (the estimates are that it had at its disposal tens of thousands of armed operatives), while the

strength of the Palestinian Authority was weakened following internal struggles, corruption, and the IDF attacks. After Arafat's death, Mahmoud Abbas (Abu Mazen) came into power. He was considered relatively moderate, but he lacked the halo of the struggle against Israel that Arafat possessed, the respect from the Palestinian population and the terrorist organizations, and the absolute control of the Fatah operatives and its affiliated organizations. In this period, the Fatah controlled a vast majority in the Palestinian legislative council.

The corruption in the Palestinian Authority and the failure of the Fatah to attain political achievements, in contrast to the Disengagement Plan and the withdrawal of the IDF from the territory of the Gaza Strip, including the Philadelphia corridor, an achievement that the Hamas attributed to itself, led the Hamas to grow stronger among the Palestinians. In the elections to the Palestinian legislative council in the year 2006 the Hamas was allowed to participate, in contradiction to the Oslo Accords, which determined that terrorist organizations could not participate in the parliamentary elections. After the Hamas victory in the elections for the Palestinian parliament (January 25, 2006), an achievement that was a surprise for many factors, the inner conflicts in the Palestinian Authority steadily worsened. On March 29, 2006, the Hamas government was sworn in, under the leadership of Ismail Haniyeh from the Hamas. In the first months of the year, the struggles remained low-key, and after the kidnapping of Gilad Schalit and Operation Summer Rains, they stopped almost completely. However, after the end of Operation Summer Rains the clashes between Hamas and Fatah again worsened, on the background of the struggles over authorities between the Presidency (identified with the Fatah) and the government (identified with the Hamas), failure in the attempts at the establishment of a unity government, and the rivalries of the local clans in the Gaza Strip. The Fatah had at its disposal the older security mechanisms, including the Presidential Guard of Abu Mazen, the Palestinian Preventive Security, the general intelligence service, and the Tanzim operatives, while the Hamas had at its disposal the Izz al-Din al-Qassam Brigades, Almoravids (the popular army), and a new mechanism called the "executive force", which was established by the Hamas government so as to establish its sovereignty (Security Forces, Report, March 2008).

In addition to the Hamas, the Islamic Jihad, the Popular Resistance Committees, agents of the Hezbollah and Iran, and Al-Qaeda cells operated in the Gaza Strip, Most of these terrorist organizations were hostile to the Palestinian Authority and increased the anarchy through kidnappings, smugglings of weapons, and the shooting of Qassam rockets towards Israel. In addition, the anarchy was significantly increased because of the activity of armed clan groups, which took advantage of the situation to harm their enemies.

It is emphasized that the level of sympathy of the population for the Hamas constitutes a magnet for political activity and especially for terrorist activity. The liking that was apparent in the very election to the government institutions directly influences the scope of violent activity of the organization and its characteristics. In addition, the purpose of the activity is not only to harm the side against but also to convey a message to the origin population that mainly is “we act in your name and for you” and therefore they mustered to help the activity so as to achieve together the goals of the activity (Gordon, 1998).

Another step that influences the political abilities of the organization regarding other organizations is the influence of the inter-organizational situation, since in many cases in one arena of activity a number of terrorist organizations grow that act to achieve an identical or similar political objective. These organizations often splinter from one another, and in other cases unite or cooperate in different areas. The system of relationships and interactions between these organizations (the ideological and personal rivalries and the competition between them or alternatively the collaborations) have immediate and direct impact on the scope of the violent activity of the terrorist organizations and its characteristics (Shalev, 1990). This strengthens or lessens, depending on the situation, the political ability since it is for the most part determined by the dominance of the organization on the one hand and its successful fighting capabilities on the other hand.

**Influence on and Harm to the Status of the Organization Relative to Other Organizations:** In this subchapter, we address the issue of the status of the organization

after it was harmed by the mechanism of targeted killing. In addition, the inter-organizational cooperation that constitutes a significant part in the ability to understand the dimension of the harm to the status of the organization relative to other organizations will be described.

The most prominent and familiar example that can provide a perspective to the meaning of the harm in the organization after the harm to its senior members or leaders is the manner of the treatment in the Islamic Jihad Organization and its leader Fathi Shqaqi. The last, who was the head of the Palestinian Islamic Jihad terrorist organization in the 1990, was responsible for the dual terrorist attack in Beit Lid, in which 21 soldiers and a civilian were killed. In addition, the organization was responsible for the explosion on Dizengoff Road in Tel Aviv, in which thirteen Israeli citizens were killed. He was eliminated by a cell of motorcyclists in Malta in the year 1995. After he had hidden until the middle of the 1990s, Shqaqi came to Malta to visit a dentist he customarily saw. On October 15, 1995, after he had checked into the Diplomat Hotel in the city, he went to see the city. The consistency he visited the dentist is what led, in the end, to a cell of assassins on motorbikes who shot Shqaqi at point blank range. Shqaqi was killed on the spot. Many factors maintain that the cell consisted of Mossad people. Israel has never taken responsibility for the action.

Shqaqi talked and acted according to his outlook, supporting the uncompromising armed struggle for the liberation of “all of Palestine” and the establishment of an Islamic country. Shqaqi’s place at the head of the organization was taken by Ramadan Shalah, who established the organization along with Shqaqi in the 1980s. The neutralization of Shqaqi led to the paralysis of the Palestinian Islamic Jihad for a certain period, although it did not lead to the eternal destruction of the organization. Conversely, many hold that the elimination of Shqaqi prevented the strengthening of the Islamic Jihad and that the organization has never returned to its previous strength. In this case, the argument around the policy of the eliminations assumes a positive facet since the neutralization apparently averted many terrorist attacks from being carried out and weakened the organization significantly for a long period (Institute for Counter-Terrorism Policy, 2007).

From the year 2001, there has been a steadily increasing trend of cooperation between organizations that reached its peak in the year 2004. The inter-organization cooperation is a limited phenomenon in its scope, in comparison to all the independent operational activity of every organization. However, nevertheless, since the start of clash in September 2000 it has become a prominent pattern of action of the different terrorist organizations, with emphasis on those in Samaria and the Gaza Strip. This collaboration was expressed in the advancement of the carrying out of joint terrorist attacks against Israeli targets, alongside the mutual assistance in the manufacturing and smuggling of weapons and assistance in logistics.

The cumulative influence of the ongoing activity of the targeted killing against terrorist infrastructures, as well as the steady construction of a buffer space in Samaria, made it difficult for the terrorist organizations to carry out “quality” terrorist attacks and led to the integration of forces. We will note a number of characteristics unique to the Samaria region as an example that led to the increased depth of the cooperation in the region.

- The rapid entry into the circle of military activity of new and inexperienced operatives, who are committed less to the organizational frameworks and are not deterred by the blurring of the unique identity of every organization for the purpose of the advancement of the execution of terrorist attacks.
- The lack of an experienced nucleus of leadership that can strengthen the organizational identity of the operatives in the field. This fact led to the phenomenon of the move of operatives from one organization to another, primarily the Islamic Jihad and the Tanzim, also on the background of the shortage of funds or weapons.
- In addition to the above statements, there is a personal acquaintanceship between the operatives on the background of the neighborhood that made the shared organization easier.

As stated, the inter-organizational cooperation developed in Samaria on the basis of the personal/local acquaintanceship between the operatives of the different organizations and in the Gaza Strip as a product of the relationships on the senior



operational rank. The leadership of the organizations on their part adjusted their position to the reality dictated by the operatives in the field, from the understanding that the shared activity constitutes a multiplier of operational power and conveys a message of unity against Israel and the Palestinian Authority.

The following question is asked. What motivates the strengthening of inter-organizational cooperation? There are a number of reasons but we will note the two main motives:

1. The continuous operational difficulties and at the head the Israeli activity of targeted killing that harms the status of the organization and slows its ability to rehabilitate force the terrorist organizations “to unite” and to exploit the relative advantage of every organization so as to ensure successful terrorist attacks. In addition, the shared activity makes it difficult for Israel to focus the targeted killing and the localized steps of the response.
2. There is a need for the coordination of the positions and the formation as a uniform front against Israel and the Palestinian Authority, as in a number of examples: throughout the conflict the Tanzim (and the organization of the Popular Resistance Committees in the Gaza Strip) were prominent as the organization most involved in the inter-organizational activity. As of June 2004, about 92% of all the joint terrorist attacks were performed with the involvement of this organization. The Islamic Jihad began its joint activity in Samaria from the year 2001 and the infrastructure in Gaza joined this circle during the year 2003. The Hamas organization, in contrast, began to take part in the inter-organizational frameworks only after Operation Defensive Shield, in the second half of the year 2002, with emphasis on the Gaza Strip. The infrastructure of the Popular Front in Samaria was prominent in its involvement in the inter-organizational cooperation.

To conclude, it is apparent that the activity of targeted killing influenced and caused the terrorist organizations to change the format of activity, since the harm to the organization causes the disruption of the continuous routine action, following which there is need for great work of correction that takes time from the senior members of the organization for the continuation of the violent activity. Since the organization does not

“produce” terrorist attacks and the other organizations continue with the routine of operational activity against Israel, the organization becomes marginal until it recovers and returns to the cycle of violent activity.

## **2.4 Targeted Killings, Questions of Morality, Justice, and the Normative Dilemma**

The personalized offensive activity (targeted killing) constitutes the spearhead of the offensive activity in the counter-terrorism policy. In the framework of this activity, the state fighting terrorism will target an operative or group of operatives in the organization that engage in the initiation, direction, preparation, recruitment, training, and assistance of the terrorist attacks, so as to kill the terrorist or at least to neutralize him. The personal offensive activity causes two intertwined dilemmas: the moral-normative dilemma and the question of the effectiveness of this activity, or in other words the question of justness and the question of the wisdom in the carrying out of the personal offensive activity. In light of these statements, in this chapter we therefore examine the normative-moral issue.

Regarding the morality of the personal attacks, some hold that the person's life is a supreme value and in no case is there justification to end a life. This axiom holds also for a person who has committed severe crimes, including murder on a criminal or a political background (Aharonson & Horwitz, 1971). According to this outlook, no matter how heinous the terrorists' actions are, it is forbidden to sentence them to death, even more so in a process that is undertaken outside of the regular judicial framework and that is of doubtful legality. Moreover, the opponents of personal offensive activity will argue that if the state has incriminating information about a terrorist operative, as in the case of any criminal, then it is necessary to arrest this operative, to place him on trial, to present to the court the incriminating evidence, and in the case of a conviction in certain cases it is even possible to execute him. However, it is impossible to kill a criminal without legal proceedings at the whim of a certain decision-maker.

In contrast, the supporters of “targeted killing” argue that the elimination of a terrorist who is personally responsible for severe terrorist attacks with many casualties,

who intends to further shed civilian blood, is not only justified and moral but also essential to the saving of human life (Perry, 1999). The supporters of this approach will also need the value of human life and will argue that in the name of the sanctity of life it is necessary to do everything to avert the harm that a few will inflict on many, that the terrorist will cause to civilians when they endanger the peace of the world – and therefore personal attacks are permissible, moral, and justified.

The moral dilemma in the elimination of people in essence is unnecessary when the personal attacks are a war-oriented step and not a criminal-punishment-oriented step. Indeed, the “war of terrorism” is like an undeclared war where the rules of war accepted in the world are not in effect, and moreover this is a war devoid of boundaries in which the front and the civilian front intermingle. However, although the terrorist undertakes terrorist attacks against the civilians of the state in a random manner in every place and at any time, it is not possible to learn from this an equivalency regarding the area of what is permitted and what is forbidden to a state that is dealing with terrorism. In this respect, it is possible to demand that the sovereign state act in the framework of the accepted rules of war, or in other words, be selective in its offensive activity and avoid the intentional harm to civilians, even when it is coping with an organization or with a group of people and not with a rival state.

This reservation raises the question of whether the targets of the “personal offensive activity” are civilians or whether they are military operatives (or fighters) who constitute a part of the military-operational framework and the violent and warlike effort of the terrorist organization. The answer to this will change, of course, according to the identity of each one of the objectives of the personal attacks. There is almost no question that a physical injury to a terrorist on the eve of his departure to the terrorist action is legitimate and constitutes an act of self-defense intended to save lives. Similarly, every operational activity aimed at operatives who are involved in the chain of command, design, and carrying out of the terrorist attacks needs to be considered a legitimate action in a situation of the war against terrorism.

It should be noted that after the attempt to kill Khaled Mashal in the year 1997 it was said that the sole explanation that may justify the “targeted killing” is the need to thwart a concrete terrorist attack. This need is subject to a number of tests, including “close danger”, “proven certainty”, and identification of the target as “an active terrorist operative” (namely, not religious or ideological leadership) (Israeli Institute for Democracy, 1997). It appears that these conditions exist not only regarding the terrorist carrying out the action himself but also regarding every person who is involved in the chain of the execution of the planned terrorist attack when the harm to him will very likely prevent the occurrence of the terrorist attack. However, the question of the morality of the targeted killing does not end with the legitimacy of the harm to the target of the killing. This issue also has questions related to the questions related to the procedure of making decisions and the carrying out and the supervision of this activity. Who decides about the neutralization act? Who approves of it? Who supervises it? Who carries it out? Is there a legal or quasi-legal proceeding towards the making of the decision?

The answer to these questions with reference to Israel’s policy of counter-terrorism, for example, is not easy at all, primarily because of the policy of “ambiguity” that Israel adopts on this topic and because of the fact that the processes of decision-making and other details in this type of operation are generally sensitive and classified. From this respect, one can only rely on publications in the international press and on bits of information and statements in the Israeli press (Haaretz, Editorial, 2003). According to the procedure of decision making about personal attack as arising from the foreign publications, it appears that the final decision to undertake an action is made by one person – the Prime Minister, after he has received the necessary information and has consulted the relevant security factors and sometimes with the staff of ministers authorized for this. The procedure of decision making on this topic may change in different periods (according to the policy and work procedures of the prime minister) and in different cases (according to the identity of the attacked party, whether the information about him is current, and according to the characteristics of the attack and the planned place of execution).

One of the questions that should be examined for the purpose of the value-based and moral decision on the procedure of decision making in cases of personal offensive activity is whether it is possible to undertake such actions in another judicial proceeding, more ordered, which is subject to judicial criticism. A personal attack entails generally an operation deep in enemy territory or alternatively in the territory of a friendly or neutral foreign country, and therefore it is a most sensitive action that requires considerable secrecy. In operations of this type, it is necessary that the number of parties sharing the secret will be as low as possible, and certainly, a public process cannot be held. The lawfulness of the action and the fear of possible harm to the sovereignty of other countries in essence prevent an official decision in the institutionalized frameworks of the executive and/or judicial branch. Moreover, as aforementioned, the basis for the answer to the need for a proper judicial proceeding for the approval of the killing is related to the manner of the definition of the action. When the personal attack is not an act of punishment by nature but an action intended for the achievement of purely military goals – the prevention of terrorist attacks, the achievement of deterrence regarding the carrying out of terrorist attacks, the disruption of the enemy's life, and so on, and when this action is performed in a situation of the fight against terrorism (whether declared or not declared) between the state and the organization, then this is a military action and the need for the legal proceeding is rendered unnecessary.

## **Chapter 3: The challenges of the conflict between 2000 and 2009 and throughout the Al-Aqsa Intifada**

### **3.1 Introduction**

This chapter will address the analysis of the researched period of the conflict against Israel from the year 2000, when the Second Intifada began, until the year 2009, when there is reference to the difficult terrorist events and the response given by the State of Israel. Since September 2000, the State of Israel was found in a violent and continuous clash with the Palestinians, in the framework of which terrorist attacks were committed against Israeli citizens and residents by the Palestinian side, with its different mechanisms and organizations.

Until the year 2005, more than 24,000 terrorist attacks were recorded against Israeli citizens and residents and more than one thousand Israeli citizens and residents lost their lives in these terrorist attacks. Of these terrorist attacks, 142 terrorist attacks were suicide attacks, carried out by 159 suicide terrorists, men and women, against Israeli targets.

It will be emphasized that despite the fact that in the first four years the terrorist attacks constituted 0.6% of all the terrorist attacks performed against Israel from the start of the clash, the number of people killed in these terrorist attacks reached about one-half of all people killed and thus makes the suicide attacks even more fatal. From the start of the clash until April 2005, there were 510 dead and 3,290 wounded in 142 suicide attacks.

Suicide terrorism became over the years the leading means of fighting with the Palestinians, when at the start it had an ideological character with the argument of legitimate objection to the occupation. However, during the period of the clash a trend arose according to which the ideological motive was weakened while the economic motive was strengthened. The terrorist headquarters initiated and controlled terrorist activity by transferring large amounts of money to operatives in the field, who earned their livelihood from the direction of terrorist activity, and did not necessarily act from

purely ideological motives. Frequently the terrorists who were recruited to undertake terrorist attacks were Palestinians who had economic or social problems and who agreed to carry out the terrorist attack in return for the promise that the terrorist organization that sent them would provide the financial support for their families after their death.

The chapter will also address the analysis of the characteristics of the use of terrorism, such as suicide terrorism, rocket fire, explosive devices, shooting from cars, and car bombs. In addition, emphasis will be placed on diverse research of operative actions performed by the State of Israel so as to cope with the terrorist events, such as the establishment of a barrier between Judea and Samaria and the State of Israel, disruptive actions against terrorist organizations, the performance of targeted killing both in Judea and Samaria and in the Gaza Strip.

The chapter will present data that were collected during the researched period, through official documents of the security factors in Israel and through interviews that were held in the media with senior officials in the security systems who were at the front of the struggle against terrorist organizations, and address their significance.

## **3.2 Reasons for the Outbreak of Violent Struggle**

### **3.2.1 Reasons**

On September 29, 2000, after the failure of the Camp David talks between the Prime Minister of Israel Ehud Barak and the head of the PLO Yasser Arafat, the Second Intifada broke out, and the relations between the Palestinians and the State of Israel returned to the path of violence. On July 11, 2000, the Second Camp David Summit began, with the goal of signing a permanent agreement for the end of the Israeli-Palestinian conflict. During the negotiations, the two sides expressed the willingness to make far-reaching concessions, not the least because of the pressure exerted by the president of the United States, Bill Clinton, on the two leaders, Ehud Barak and Yasser Arafat. Despite the reduction of the gaps in the positions, the talks ended without the achievement of an agreement. Following the failure of the talks, a disconnection was created between the government of Israel and the Palestinian Authority, and thus the stage was set for a military confrontation between the sides. The wave of violence that

began at this date is customarily called the Al-Aqsa Intifada, since the pretext given at the time to the renewal of the violence was the visit of Ariel Sharon (at the time the head of the opposition, later the Prime Minister who carried out Operation Defensive Shield) to the Temple Mount. After his visit, violent riots broke out among the Palestinians in Judea and Samaria and Gaza and among the Arab citizens of Israel (the October riots). This wave in essence constituted the start of the Al-Aqsa Intifada.

The events of the hour, alongside the feeling of discrimination from their perspective, caused the Arab public in the State of Israel to riot in the events of October 1, 2000. The focuses of the riots were the villages of the Galilee and Wadi Ara. The riots caused the blockage of main roads and the disconnection of the north of the country from the center for a number of hours.

### **3.2.2 Characteristics**

During the Intifada, the Palestinians initiated thousands of different types of violent incidents – live fire, placing explosive charges, mortar fire, and so on – but the most prominent manner of action was the carrying out of terrorist attacks by suicide terrorists in the centers of cities (138 terrorist attacks until the end of September 2004). These terrorist attacks extremely disrupted the lifestyle in Israel and resulted in a large number of victims, primarily among citizens. At the start of the Al-Aqsa Intifada, the IDF refrained from extensive operations so as to prevent escalation.

One of the most difficult events that shook the Israeli public and led to the intensification of the IDF operations to a considerable degree was the event of the “lynching”. Two reserve soldiers made a mistake and passed a Palestinian checkpoint and entered the city of Ramallah by accident. The soldiers were caught by the Palestinian security forces and brought to the Police building in the city, where they were brutally murdered by a raging Palestinian mob. The photographs from the lynching in Ramallah changed the attitude and response of the State of Israel.

In addition, a serious and difficult event occurred on Friday night, June 1, 2001, when 21 young men and women were killed and another 120 were injured when a suicide



bomber exploded near a night club at the Dolphinarium in Tel Aviv. The attack at the Dolphinarium was one of the worst points in a wave of the severe terrorist attacks that flooded Israel, but it was not the last of them. About two months later, on August 9, another suicide bomber exploded at the entrance of the Sbarro Restaurant in Jerusalem. In the terrorist attack fifteen men, women, and children were killed and another 140 people were injured.

That year a minister of Israel was assassinated, the Minister of Tourism Rehavam “Gandhi” Ze’evi, in a hotel in Jerusalem by Palestinian terrorists. Ze’evi was one of the heads of the Israeli right and founders of the Moledet movement, which had at the foundation of its platform the idea of the wholeness of Israel and the voluntary transfer of the Arabs. Over the years after the assassination, the State of Israel doggedly pursued the murderers, and most of them were killed or imprisoned.

On December 1 and 2, 26 Israelis were murdered in terrorist attacks on Ben Yehuda St. in Jerusalem and on a bus in Haifa. Following these terrorist attacks, which joined the long line of terrorist attacks and suicide attacks conducted during the year 2001, the State of Israel declared the Palestinian Authority to be a terrorist supporting entity. Immediately after the decision, the cities in the West Bank were surrounded and the IDF destroyed the airport in Gaza and destroyed the helicopters of the head of the Palestinian Authority, Yasser Arafat. In parallel to the terrorist attacks, the terrorist organizations worked to develop the Qassam rocket, a homemade rocket that was developed in Gaza in the late 1990s, was first deployed in April 2001, and was intended to be an equality-breaking and decisive weapon.

After a series of difficult terrorist attacks, the State of Israel escalated its response, time after time with the continuation of the conflict, and even implemented a policy of targeted killings. In the framework of this policy, the IDF and the rest of the security factors attempted to arrest and even kill terrorists who were involved in the planning of the terrorist attacks in the past or who were about to implement an attack. The personal injury to Palestinian terrorists was also practiced before the outbreak of the al-Aqsa Intifada; however, in most cases Israel refrained from confirming its responsibility for the

operation. In the end, the IDF took over again most of the territory of Judea and Samaria. In parallel to the conquest of the territory itself, the security forces acted to thwart Palestinian violence through the killing and detention of operatives in the terrorist organizations and using additional means such as the imposing of prolonged closures and curfews on the Palestinian population in the West Bank, the construction of a system of checkpoints, and the disruption of traffic in the West Bank itself and between the West Bank and Israel.

A formative event that caused an essential change in the decisions of the State of Israel happened on March 27, 2002, during the Passover eve celebration and meal (Seder), when a suicide bomber from the Hamas organization detonated a large device in the dining hall of the Park Hotel in Netanya, where there were more than 250 guests. Thirty people were killed in the explosion and another 150 were injured. Two days after the terrorist attack in the Park Hotel, the government of the Israel decided to undertake a military operation with the aim of regaining the control over the territories of the West Bank. This operation was called Defensive Shield.

### **3.3 Main Characteristics of Palestinian Terrorism in the Researched Period**

From the end of September 2000, the Palestinian terrorist organizations have waged an intensified and continuous terrorist campaign of unprecedented scope and power against Israel. During the clash, the terrorist organizations made extensive use of suicide terrorism (“the human bomb”), which they perceived as the most effective “strategic weapon” for the murder of Israeli citizens. Using this weapon it was possible in their view to hit Israel in its population centers, its “soft spot”, to cause it many losses, to harm its economy and society and to overcome some of the security means that Israel uses (Center of Information for Intelligence and Terrorism, 2006, p. 2). In this campaign, there were ups and downs in the scope of the terrorism as well as changes in the methods of action, which the terrorist organizations adopted from time to time.

On September 29, 2000, the present violent struggle between Israel and the Palestinians began. At first, the struggle had the characteristics of a popular uprising:

mass processions, throwing stones, and disturbances and disruptions. Quickly the characteristics of the popular uprising subsided, and the terrorist organizations were the ones to set the tone. The Palestinian Authority began to ignore its responsibility and its control of the events steadily lessened, to the point that its role was reversed, and it promoted terrorist attacks against Israel.

The investigation by the security services in Israel of senior Fatah members, such as Marwan Barghouti, Nazer Avis, Nazer Abu Hamid, and Ahmed Barghouti, indicated that the head of the Palestinian Authority Yasser Arafat approved of the financial support for the Tanzim operatives (the military division of the Fatah terrorist organization), knowing that these funds would be used for terrorist attacks against Israeli citizens. In addition, the weapon stores of the Palestinian Authority were used to give explosive devices to operatives.

In addition to the Fatah movement, the Hamas movement and the other terrorist organizations used the period of the disengagement of Israel from the Gaza Strip and the removal of the Israeli communities and citizens to improve their operational capacities in the framework of the preparation for “the day after”. This was expressed in the smuggling of a large quantity of weapons, munitions, and explosives to the Gaza Strip (including a number of anti-aircraft missiles) through the use of opportunities open to them because of the disengagement. The terrorist organizations continued their attempts to replicate the ability to manufacture rockets to the West Bank, primarily the Samaria region. A number of terrorist cells that were revealed reached advanced stages of rocket manufacturing, but most of these attempts did not reach completion or were thwarted in time. There were attempts to smuggle terrorists, technological knowledge, and weaponry from the Gaza Strip to Judea and Samaria, in a path that moves through the Sinai and Negev deserts, there was the flow of funds through terrorist-supporting stages, and there was the leadership of the terrorist organizations from abroad and terrorist operatives in the Gaza Strip and in the West Bank in different channels. (Center of Information for Intelligence and Terrorism, 2006, p. 5).

The first two years of the conflict resulted in many victims. In the year 2001, 207 Israelis were killed, in the year 2002 the number rose to 452! In this year, the number of wounded was the highest Israel had seen since the start of the conflict – 2309 injured. On the eve of Passover in the month of April 2002, the terrorist attack at the Park Hotel was carried out and 30 Israeli citizens were killed and another 150 were injured. Following the terrorist attack, the State of Israel embarked on Operation Defensive Shield, which focused on the terrorist infrastructures in Samaria. Because of this operation and the counter-terrorism activity that followed it, the terrorist infrastructures were harmed, primarily in Samaria. In parallel, there was a sharp decline in the number of suicide attacks carried out by the terrorist organizations: in the year 2002 60 suicide bombings were carried out while in the year 2003 this number declined more than 50% to 26 suicide bombings. In addition, the sharp decline in the number of people killed was apparent: from 452 dead in the year 2002 to 214 dead in the year 2003. In the year 2004, this number declined further and as of September 2004 the number of people killed was 97.

Another decisive factor in the decline in the number of terrorist attacks and dead is the completion of the first segment of the barrier, which goes from Salam to Elkana, in the month of August 2003. In the 34 months that passed from the start of the conflict to the establishment of the buffer zone, the operational infrastructures in Samaria performed 73 mass murder terrorist attacks (suicide bombings or car bombs) in Israel, in which 293 Israelis were killed. In the year since August 2003, the operational infrastructures in Samaria succeed in carrying out only 6 mass attacks in which 30 Israeli citizens were killed. This datum constitutes a decline of about 84% in the number of people killed in contrast to the number of people killed in the period from September 2001 to July 2002 (Security Forces, 2004).

The worst year in terms of the number of people killed in the suicide terrorist attacks was 2002, with 189 killed (in 59 terrorist attacks). In the year 2003, although the number of attacks declined by one-half (26 attacks), the number of people killed remained relatively high – 143. Only in the year 2004 was there a decline in the number of terrorist attacks (12 in the year 2004 as opposed to 23 in the year 2003) and the

number of people killed in suicide attacks declined to 55. From the year 2003, there was a gradual decline in the number of people killed as a result of the terrorist attacks, when in the year 2007 and 2008 there were only a few fatalities.

This decline reflects, as aforementioned, the counter-terrorism efforts, including the targeted killing on the part of Israel, as well as the difficulties that the Israeli security forces caused to the operatives planning and carrying the terrorist attacks in a variety of areas, such as the improvement of the intelligence coverage, the stopping of the entry of funds for the financing of the terrorist attacks, preventative arrests, the construction of the separation fence, etc. (Security Forces Report, 2009, p. 7) (See appendices number 1 and 2).

### **3.3.1 Characteristics of the Terrorist Activity of the Hamas Terrorist Organization**

The Hamas terrorist organization was and remains the terrorist organization leading the combative line, and it carried out the main terrorist attacks. During the year 2005, as a result of the ‘cooling down’ agreement, it adopted a more restrained policy than in the previous years of the conflict. The relative restraint the Hamas movement enforced on itself also derived from its need to take into consideration the mood of the Palestinian public, on the background of its participation in the municipal elections (in which it attained good achievements) and its intention to participate in elections to the legislative council (January 25, 2006). However, the Hamas continued to carry out terrorist attacks and helped the “rogue” terrorist organizations behind the scenes as a part of its policy not to directly link itself with the terrorism and yet concurrently to help maintain a certain level of terrorism against Israel (Center of Information for Intelligence and Terrorism, 2006, p. 31).

If we take, for example, the year 2005 it will be possible to see that the Hamas movement, which in the first years was leading in the execution of suicide attacks, carried out in the year 2005 “only” two suicide attacks, when the first was before the “cooling down” agreement, at the “Orhan” IDF position in the Gaza Strip (January 2005), and the second was carried out by the Hamas infrastructure in Dahariya in the south of Hebron Mountain. However, the Hamas refrained from publicly claiming responsibility for the

latter attack so as to uphold its supposed public commitment to the “cooling down”. Another prominent attack the Hamas carried out in the “cooling down” period was the kidnapping and murder of Sason Nuriel, a resident of Pisgat Zeev, which was carried by Hamas operatives in Ramallah (September 21). In this case the Hamas took public responsibility for the terrorist attack, as a part of its perception of the abduction attacks as “legitimate” even during the “cooling down” period (for the purpose of the advancement of the release of terrorists imprisoned in Israel).

The Hamas terrorist organization played a main part in the firing of rockets and mortars towards the communities of the Western Negev, including in the period after the disengagement. The partial restraint that the Hamas assumed in this outline of terrorist attacks in the year 2005 began after the sharp public criticism that was directed against the Hamas and after a technical mishap that led to an explosion of a truck with Qassam rockets during a “victory rally” of the Hamas in Jabaliya (September 23). As a result of the explosion, 19 Palestinians were killed and about 80 were wounded. The Palestinian Authority blamed the Hamas publicly for its responsibility for the explosion. The Hamas terrorist organization released a false statement assigning the responsibility to Israel and even fired “in response” dozens of rockets towards the city of Sderot and towards other communities in the Western Negev. This incident caused, as aforementioned, sharp public criticism and motivated the Hamas to change its policy of firing from the Gaza Strip.

It is further emphasized that beyond the terrorist actions the Hamas terrorist organization is involved behind the scenes in the assistance of other terrorist organizations so that they can carry out “quality” terrorist attacks, with the effort to conceal their help. Thus, for instance, the Hamas terrorist organization helped the Fatah / Al-Aqsa Martyrs’ Brigade prepare explosive stockings, intended to be deployed by the woman suicide bomber Waffa Bass, who was arrested at the Erez checkpoint (in June 2005) and had intended to carry out a suicide bombing at a hospital in Israel.

The Hamas terrorist organization also helped the Popular Resistance Committees, a terrorist organization in the Gaza Strip that operated in disguise as a kind of operational

arm of the Hamas. The Hamas's assistance was also used to "settle accounts" in the internal Palestinian dimension. A prominent example was the attack on Musa Arafat (September 7, 2005) by operatives of the Population Resistance Committees and possibility at its directive.

### **3.3.2 Characteristics of the Terrorist Activity of the "Islamic Jihad in Palestine" Organization**

After a decline in the year 2004, the year 2005 began with a manifest increase in the scope of the terrorist attacks of the Islamic Jihad in Palestine under the direction of its command in Damascus and with the political, operational, and financial assistance of Iran and Syria. This organization carried out in the year 2005 many suicide bombings with many casualties, with the aim of escalating the Israeli-Palestinian conflict and positioning itself as the terrorist organization leading the struggle against Israel.

Indeed, while until the year 2005 the Hamas movement had been at the head of the terrorist organizations carrying out suicide attacks, during this year the Islamic Jihad in Palestine became the leading terrorist organization in the carrying out of suicide operations. During the year 2005, the organization carried out five lethal suicide attacks, four of which were in population centers in Israel, as opposed to two suicide operations carried out that year by the Hamas. In these five actions carried out in Tel Aviv, Netanya (two), Hadera, and beside an IDF checkpoint in the Tulkarm region (suicide bombers who were on the way to the city of Rosh Ha'ayin), 23 Israelis were killed (about 37% of all those killed in the year 2005) and about 160 were injured (about 33% of all those injured in the year 2005).

These terrorist attacks were directed by the operational infrastructures of the "Islamic Jihad in Palestine" in the Samaria region, from the city of Tulkarm and the city of Jenin, which had managed to survive and rehabilitate after the intensive counter-terrorist activity of the Israeli security forces. In a detail that should be noted, the infrastructure of the organization in Tulkarm, which was the most dangerous in Judea and Samaria, which functions as the main operational command for most of the infrastructures of the "Islamic Jihad in Palestine" in Judea and Samaria.

The Palestinian Authority, although the lethal suicide attacks directed by Damascus were intended to harm the policy and interests of the entire Palestinian public, did not adopt effective actions to put an end to the policy of terrorism of the “Islamic Jihad in Palestine” and Iran and Syria behind it. When the Palestinian Authority carried out from the night of December 5-6 a series of arrests (more than 50) after the second suicide attack in Netanya, it was too little and too late. The arrests were directed against the minor operatives who were not connected to the suicide attacks in Netanya, and over time, some of them were even released from their detention (the revolving door mechanism) by the relevant factors in the Palestinian Authority.

It should be noted that, beginning with the entry of the Palestinian Authority into the territories of Judea and Samaria, information was conveyed about the intentions of the terrorist operatives to carry out terrorist attacks, and this so that the security mechanisms of the Palestinian Authority could thwart the terrorist attacks in their territories. Even in this case information was transferred by the Israeli side to the security mechanisms of the Palestinian Authority on the activity of most of the operatives of the “Islamic Jihad in Palestine” in Tulkarm (the city is found under the complete control of the Palestinian Authority, both in security and in civilian terms). However, the security forces of the Palestinian Authority did not do anything to curtail the activity of the terrorists beforehand. In a number of cases, terrorist operatives were released after a short detention period. Thus, for example, the Palestinian Authority released on June 10 the operatives of the “Islamic Jihad in Palestine” in the Tulkarm region whom they had arrested following the suicide attacks in Tel Aviv (February 2005) following the pressure the organization exerted on the Palestinian Authority. After their release, the IDF arrested on June 14 one of them, a young man named Zadik Odeh, in the Nablus region. In his investigation by the Israeli security factors, he admitted that he asked the heads of his organization to give him weapons so that he could carry out a terrorist attack against the IDF soldiers situated at the checkpoint adjacent to the Tulkarm region.

Since it did not appear that there is willingness on the part of the Palestinian Authority to help thwart the terrorist attacks of the “Islamic Jihad in Palestine”, the Israeli security forces (the IDF, different intelligence factors, the Police) were forced to deal by



themselves in the struggle to counter the terrorist attacks of the “Islamic Jihad in Palestine” against innocent Israeli civilians. For instance, during the year 2005 the Israeli security forces succeed in exposing a large number of networks in Samaria, Judea, and the Gaza Strip. Some were in advanced stages of the planning of terrorist attacks, including suicide actions in Israel. Plans were thwarted to carry out suicide terrorist attacks in Jerusalem (double suicide attack in June 2005), in Tel Aviv (a triple suicide bombing), and in the Gush Etzion bus station.

### **3.3.3 Characteristics of the Terrorist Activity of the Fatah Organization/ “Al-Aqsa Martyrs’ Brigade”**

The Fatah / Al-Aqsa Martyrs’ Brigade (with its different divisions) did not carry out during the year 2005 suicide bombings or showy attacks. However, during the year, 46 terrorists, who were members of the organization and who were defined by the General Security Service as potential suicide terrorists, were arrested. In addition, at least one suicide bombing of the organization was prevented as it occurred, when a young lady named Waffa Samir Ibrahim Bass, who belonged to the Fatah / Al-Aqsa Martyrs’ Brigade, was sent by the organization to carry out a suicide terrorist attack at a hospital in Israel and was caught at the Erez Crossing (June 20, 2005).

It should be noted that the manner of action of the different divisions of the organization focused mainly on the firing of rockets and mortars from the Gaza Strip, even if it did not have a leading role in this field, since most of the shooting activities until September 2005 were carried out by the Hamas terrorist organization, when after it came the “Islamic Jihad in Palestine” terrorist organization. However, after September 2005, when the Hamas restrained its firing policy, the relative part of the different Fatah organizations in the carrying out of shooting terrorist attacks rose sharply, and they were helped in this by the weapons they received from the “Islamic Jihad in Palestine” and the Hamas. Another direction of activity in which the Fatah/Al Aqsa Martyrs’ Brigade were prominent was shooting from firearms along traffic routes, primarily in Judea and Samaria. It should be noted that the area of activity of shooting for firearms caused during 2005 many Israeli casualties (17 dead from a total of 54 dead in all terrorist attacks) (Center of Information for Intelligence and Terrorism, 2006, p. 34).

### **3.4 Analysis of the Characteristics of Terrorist Attacks**

#### **3.4.1 Suicide Terrorist Attacks**

A suicide attack is the direction of terrorist activity that caused the highest number of dead, and therefore it is considered a mass terrorist attack. During the researched period, this direction was preferred by the Palestinian terrorist factors, although the counter-terrorism actions of the security forces in Israel led to the decreasing success of this mode of action.

During the researched period, 146 suicide attacks were carried out, in which 516 people were killed. The people killed in suicide attacks constituted nearly one-half (43.8%) of all the people killed during the researched period, in which 1,178 people were killed.

It should be noted that 63% of all the suicide attacks (92) occurred until the year 2002 (inclusive). The year 2002 was a turning point during which 53 suicide attacks were carried out, in which 189 people were killed. After the year 2002 there was a gradual decline in the number of this type of terrorist attack, as a result of the Israeli counter-terrorism activity.

In the year 2003, 26 terrorist attacks were carried out (a decrease of 49% from the preceding year), in which 143 people were killed, and in the year 2004 12 terrorist attacks were carried out, in which 55 people were killed. From the year 2005, the annual number of suicide terrorist attacks stabilized on fewer than 10 such attacks a year (8 terrorist attacks in 2005, 6 terrorist attacks in 2006).

In the years 2007 and 2008, one suicide terrorist attack was carried out in each one of the years: in January 2007 three people were killed in February 2008 one civilian was killed. In the year 2009 not a single attack was carried out (Security Forces, 2009, pp. 5-7) (See appendix number 3).

### **3.4.2 Mass Shooting Terrorist Attacks**

In this subcategory of terrorist attacks, it is possible to include mass shooting terrorist attacks. In this type of attack, the terrorist stands in or face a mass of people and opens fire so as to hurt as many people as possible.

This mode of action is close to a suicide terrorist attack since the terrorist sees himself as a suicide attacker, in light of the slim chance that he will survive the event. The difference between the two types of attack is that the terrorist in this case does not carry an explosive device but rather uses weapons.

During the researched period, 111 events of mass shooting attacks were carried out, and 80 people were killed. Like in other cases, the year with the most casualties was 2002, when 44 people were killed. That year there was a 480% increase in the number of attacks of this type compared to the previous year, 58 terrorist attacks in 2002 versus 12 attacks in 2001. After the year 2002, there was a gradual decline in the number of terrorist attacks of this type, as a result of the Israeli counter-terrorism activity.

In the year 2003 22 terrorist attacks were carried out (a decline of 62% from the previous year), and 11 people were killed. In the year 2004, 10 terrorist attacks were carried out (a decline of 54%) and 7 people were killed.

From the year 2005, the annual number of shooting attacks had stabilized on fewer than 6 attacks a year (a decline of 60% compared to the previous year). (There was one attack in 2006 and one attack in 2007 that did not result in deaths.) In the year 2008, on March 6, there was one shooting attack in Jerusalem and 8 people were killed, while in the year 2009 there were no shooting attacks (Security Forces, 2009, pp. 9-10) (See appendices number 4 and 5).

### **3.4.3 Shooting Terrorist Attacks**

Another and preferred mode of the terrorist organizations is shooting from firearms at civilians. As a result of this type of terrorist attack, 313 people were killed in the researched period, 26.5% of all the people killed during the researched period.

The worst year in terms of shooting attacks was the year 2001, in which 3,270 shooting attacks were carried out and 82 people were killed. However, in terms of the number of people killed, the year 2002 was the worst year, when 106 people were killed in 2,878 terrorist attacks. The number of attacks was less than in the year 2001.

After the year 2002, there was a decline in the number of terrorist attacks in this terrorist mode and the number of people killed in light of the counter-terrorism activity carried out by the Israeli security forces (Security Forces, 2009, p. 13) (See appendices number 6 and 7).

#### **3.4.4 Terrorist Attacks through Car Bombs**

During the years of the researched period, 39 car bombing terrorist attacks were carried out, in which 38 people were killed, most in the territory of the State of Israel (94.7%). The worst year was 2002, during which there were 10 car bomb terrorist attacks, in which 32 people were killed. In this year two terrorist attacks were carried out by the Islamic Jihad terrorist organization in Israel, in which a car bomb was directed at a bus filled with citizens and the power of the blast caused a large number of victims among the bus passengers. On June 5, 2002 there was a car bombing at the Meggido Junction, where a car bomb was detonated by a passenger bus and caused 17 deaths and 42 injured. On October 21, 2002 a car bomb was detonated by a bus at KarKur Junction and caused 14 people dead and 28 injured.

In the year 2003 the number of terrorist attacks declined by 75% (four terrorist attacks), and in the years 2004 and 2005 a level of four-five terrorist attacks a year was maintained. In the year 2006 one car bombing terrorist attack was carried out, and in 2007 there was not a single car bombing. In 2008, there were three car bombings, without people killed, and in 2009, there was one car bombing, also without people killed.

The significant decline in the mode of car bombing was an outcome of the counter-terrorism against the infrastructures of the terrorist organizations and against the organizers and senders of the car bombs and the suicide terrorist who detonates it (Security Forces, 2009, pp. 16-17) (See appendices number 8 and 9).

### **3.4.5 Terrorist Attacks through Explosive Devices**

During the researched period, more than 3,000 terrorist attacks were carried out through explosive devices, and 98 people were killed. In this mode of terrorism, like the other modes carried out by the Palestinian terrorist organizations, the worst year was the year 2002, when 704 terrorist carried out through explosive devices, and 48 people were killed. In the first years of the researched period, hundreds of attacks were carried out through explosive devices, 551 in the year 2001, 441 in the year 2003, and 636 in the year 2004. From the year 2005 there was a significant decline in the number of terrorist attacks of this type, a decline of 35% from 2004 to 2005 (222 terrorist attacks in 2005 versus 636 terrorist attacks in the year 2004). In the year 2006, there was an increase of 16% versus the previous year, and the number of terrorist attacks was 264, but from the year 2007 there was again a decrease in the number of terrorist attacks of this type, to 85 in the year 2008 and 31 in the year 2009 (Security Forces, 2009, pp. 19-20) (See appendices number 10 and 11).

## **3.5 Technological Efforts of the Terrorist Organizations to Establish Operational Abilities for Carrying Out Terrorist Attacks**

To illustrate the constant activity of the terrorist organizations to upgrade their technological abilities, with emphasis on the production of an immediate technological answer, the year 2005 was chosen as an example, so as to examine how much the terrorist organizations attempted and attempt to advance technologically through the manufacturing of advanced weaponry.

### **3.5.1 Influence on the Terrorist Organization Activity in Judea and Samaria for the Establishment of a Technological Infrastructure for the Production of Rockets**

During the year 2005, the increased effort of the terrorist organizations to establish in the region of Judea and Samaria an infrastructure for the production of means of warfare, primarily rockets, like the example of the Gaza Strip, was apparent. This effort derives from the attempt of the terrorist organizations to provide an answer to the difficulty in the launching of suicide bombers in light of the existence of the buffer zone in Samaria, namely, the construction of the separation fence. As a part of the strategic

action program of the terrorist organizations, with emphasis on the Hamas, and on the background of the process of the disengagement, the main arena of warfare was copied to the Judea and Samaria regions, through the transfer of the knowledge that the organization's operatives had accumulated in the Gaza Strip to the infrastructures in Judea and Samaria, thus increasing the potential threat to the Israeli targets in Judea and Samaria and within the Green Line (Security Forces Report, 2005). During the year 2005, eight infrastructures of terrorist organizations in Judea and Samaria that engaged in the development and production of weapons and rockets for high trajectory shooting, four infrastructures of the Hamas terrorist organization and four additional ones of the Fatah and the Islamic Jihad, were eliminated.

The following are a number of examples of counter-terrorism against networks in Judea and Samaria that worked to establish infrastructure for the production of rockets and high trajectory weapons with which to threaten cities in the center of Israel:

July 2005. The shooting of two senior terrorist operatives, the heads of the military infrastructure of the Islamic Jihad and Tanzim in Yamoon village in Judea and Samaria, who were involved in the building of this ability in the field of high trajectory rocket warfare weapons. The infrastructure, at the head of which was one senior terrorist operative along with another operative, was linked to directing factors abroad and to the infrastructures of the Tanzim and Islamic Jihad in the region of the city of Jenin in the north of Samaria. Before their deaths, the two worked to realize the abilities of high trajectory firing against Israeli communities and were responsible for the concentration of knowledge and construction of ability of high trajectory rocket firing weapons, alongside a series of additional terrorist attacks in different forms (Security Forces, 2005, p. 2).

June 2005. An Islamic Jihad cell working to carry out high trajectory rocket firing was thwarted in the region of the city of Jenin. In this month, a senior operative, the commander of the Islamic Jihad that operated in Jenin and its surroundings to manufacture Qassam rockets and concentrated efforts to acquire equipment and materials to be used for this purpose, was detained. A number of the members of the cell arrested by the security forces in the months of February and March 2005 told in their

investigation that the cell members had created a number of missiles and rockets. During March 2005, the cell carried out a number of attempts to fire self-produced missiles and rockets at the communities of Ganim and Kadim in the Jenin region. In actuality, the missiles fell in empty fields and did not cause harm.

March 2005. Arrest of the members of cells of the Tanzim and Islamic Jihad from the city of Jenin who worked to manufacture Qassam missiles. In this month, there was the arrest of eight members of the military cell in the Jenin region who worked to collect raw materials for the production of missiles and worked to carry out experiments in firing so as to develop and upgrade its capacities.

January-March 2005. Counter-terrorism against the Hamas military infrastructure in Jenin that worked to manufacture Qassam rockets. In January 2005, fourteen members of the Hamas infrastructure from the villages of Silat Al Hartiya and Yamoon were arrested. They were intending to establish a laboratory for the manufacturing of high trajectory weapons and Qassam rockets. In addition, the extensive military activity of the infrastructure was directed and funded by Hamas factors abroad and included the establishment of a laboratory for manufacturing Qassam rockets and explosive devices.

It becomes clear that the terrorist infrastructure engaged in the collection of raw materials for the production of the missiles. The materials collected by the infrastructure operatives included mercury, nitrate, glycerin, and various acids. In addition, in this period they purchased instruments and means that are used to create explosives. Furthermore, weapons were located in the home of a senior Hamas operative, a resident of Silat Al Hartiya. In his home considerable instructional material in the field of the manufacturing of weapons and Qassam rockets was found, as well many stores around his home of M16 and Kalashnikov weapons and a large amount of bullets (Security Forces, December 2005).

In the continuation another operative was arrested, a metal worker by profession, a resident of Yamoon. In the metalwork shop he owned were stored raw materials and instruments for the manufacturing of explosives and missiles. It became clear that the operative was a manufacturer of weapons for the infrastructure and was responsible for

the preparation of explosives, Qassam rockets, and powerful explosive devices. It further became clear that he had succeeded in producing until this point at least three Qassam rockets, when two of them he used to carry out firing experiments. In addition, the cache was found in the metalworking shop with a Qassam rocket ready to be fired, as well as many weapons.

### **3.6 Activity of the Security Forces in the Researched Period – The Response**

The State of Israel and its different security forces in the framework of their preparation for multidimensional conflicts with the range of threats it is facing in the 21<sup>st</sup> century have assessed that it is necessary to change the approach to the nature of the conflicts and the way of coping with them. Today Israel understands that there is no real need for victory and does not strive for it or for the end of the conflict; Israel understands that it is not possible to defeat radical ideologies on the battlefield. Unlike the Western powers, Israeli avoids the attempt to appeal to the hearts and minds of the terrorist organizations and the armed Arab fighters. The ethno-national, cultural, and religious gaps between the Jews and the Arabs are too great to allow the use of a strategy that attempts to lead to the end of the conflict through the persuasion of the rival that peaceful co-existence is preferable to any other option. Despite Israel's strong desire to be accepted in the region, it understands that it will not be possible to bridge over the Arabs' hostility and suspiciousness towards the Jews. This position has been confirmed with the failure of the Oslo process, a failure that became clear beyond a doubt with the hostilities of the year 2000 (Inbar & Shamir, 2013, p. 10).

The specific timing and the manner of the start of the riots at the end of September 2000 surprised the IDF, although the head of the research division in the Intelligence Department in the IDF at the time recommended not holding the visit of Ariel Sharon, later the Prime Minister of Israel, to the Temple Mount on September 28, 2000 because of the tension in the field. However, the IDF had planned to a certain degree that the year 2000 would be the "year of decision". There was the understanding that, from the moment that the five years that were defined for reaching the permanent agreement in May 1999 ended, the outbreak of violence was only a matter of time.



As aforementioned, the IDF prepared itself for the great clash in the year 2000. The IDF, under the leadership of the Chief of Staff Lieutenant General Shaul Mofaz, prepared operational plans for every scenario, was equipped with many vehicles shielded against shooting, and held special training sessions for the forces, including soldiers in the reserves. The assumption was that there would be armed clashes, namely the other side would deploy weapons.

When the riots broke out, it became clear that they created a more complicated challenge than anticipated. The IDF was only partially ready. The difficulty derived from a combination of a number of reasons. First, it surprisingly became clear that these riots were perceived as justified by the public in many countries and the international press covered them in this way. They were perceived as a justified struggle against the “occupation”. Second, every response on Israel’s part was perceived as the exaggerated use of military force against civilians. IDF did not equip itself ahead of time with nonlethal means in the quantity and quality required, and therefore it was forced sometimes to use live fire with no other option. Third, there was a dilemma on the political level (Eiland, 2010, p. 24).

The counter-terrorism activity of the Israeli security forces, which included many arrests and the targeted killing of terrorist operatives, including senior ones, alongside the maintenance of the security fence, although it had not been completed, and local activity of the Palestinian security forces, contributed to a decrease in the volume of terrorism, in its quality, and in its lethality. In addition, the decline was also influenced by the developments that occurred in the internal Palestinian arena and in the Israeli policy. In the internal Palestinian arena, the calming down agreement was achieved on the background of the end of the Arafat era and the rise of his successor Abu Mazen, following which the Hamas, the leading terrorist organization until the year 2005, adopted a restrained policy of terrorist attacks. The Israeli policy focused that year on the disengagement from the Gaza Strip and the north of Samaria, and it too had a restraining influence on the intensity of the conflict. (Further detail is presented in the continuation.) (Center of Information for Intelligence and Terrorism, 2006, p. 5).

During the year 2005, the Israeli security forces conducted intensive counter-terrorism actions against the terrorist organizations in Judea, Samaria, and the Gaza Strip. These actions included extensive arrests with emphasis on the infrastructures of the Islamic Jihad in Palestine in Samaria (targeted killings), with emphasis on terrorist operatives that directed the rocket fire from Gaza (aerial attacks of terrorist targets in the Gaza Strip, artillery fire towards the launch sites and approach routes of the Qassam rockets), and towards the end of the year 'buffer zones' in the north of the Gaza Strip – the security fence. Although the fence had not yet been completed and despite the “weak points” discovered in the crossing points from the West Bank to Israel the construction of the separation fence continued to contribute to the reduction of the number of terrorist attacks in Israel.

### **3.7 Targeted Killing and Preventing Attacks ‘about to Happen’ during the Researched Period**

To examine the processes and characteristics for the researched period, the occurrence of terrorist attacks, and the dealing with the terrorist organizations and attacks, the year 2004 was chosen for illustration purposes. As aforementioned, the year 2004 was the fourth year of the conflict with the Palestinians. This year was characterized by a number of trends, when the prominent one is a decline of 45% in the number of dead: 117 dead in 2004 versus 214 dead in 2003. The number of injured people had a similar decline, 41%: in the year 2004, 589 Israelis were injured when in the year 2003 1004 Israelis were injured.

This decline in the number of injured people derives from the prevention or disruption of the actions of the terrorist organizations and terrorists, primarily suicide bombings. Thus, in the year 2004 there were 15 suicide bombings, constituting 0.4% of all the terrorist attacks and causing 55 deaths, which constituted 48% of all the dead, while in the year 2003 there were 26 terrorist attacks, which caused 144 deaths. In contrast, there was an increase in the number of rocket and artillery terrorist attacks, which are less lethal. It should be noted that the decline in the number of terrorist attacks does not indicate any difference in the motivation of the terrorist organizations to harm Israeli targets. In terms of the threshold of alerts during the year 2004, it can be seen that

there was no meaningful change in the number of monthly alerts (See appendix number 12).

In the year 2004, the Israeli security forces stopped 365 suicide terrorists who intended to leave from Judea and Samaria and commit suicide terrorist attacks. In addition, during the year 2004 the security forces thwarted 159 terrorist attacks that were about to be carried out (“last minute” prevention), or in other words, the security forces prevented terrorist attacks that had already been put into motion (Security Forces, 2004, pp. 3-4).

Another example that illustrates the intensiveness of the struggle against the terrorist factors is that in the year 2005, 4,351 Palestinians were detained for investigation, and 1,737 were identified as terrorists. During the counter-terrorism actions, more than once fire was exchanged between the Israeli security forces and the terrorist operatives who found refuge in the population and acted from within it. Consequently, 72 Palestinians bearing weapons were killed during the counter-terrorism operations, as well as 25 Palestinian civilians and one Palestinian policeman who were caught in the crossfire. These arrests exposed many terrorist networks and terrorist attacks were prevented, including 15 suicide attacks that were prevented before they had been carried out. Among the people arrested there were 160 terrorist defined by the General Security Service as potential suicide bombers, most of whom were from the “Islamic Jihad in Palestine” terrorist organization (Center of Information for Intelligence and Terrorism, 2006, p. 5).

From the year 2004 to the year 2009 there was a gradual decline in all that pertains to the “on the threshold prevention”. This term addresses the terrorist infrastructure that was detained / prevented on the way to the carrying out of a terrorist attack, or in other words, the terrorist had left on the way to commit the terrorist attack (Security Forces, 2009, p. 6) (See appendix number 13).

### **3.7.1 The Use of the Term “Mowing the Lawn” to Illustrate the Manner of Fighting the Terrorist Organizations**

In the past, the national security doctrine of Israel was influenced by its geo-strategic and demographic situation, which was based on the assumption that Israel is a small country surrounded by a large number of enemies who refuse every attempt at peace. The combination of a basic gap in resources and the hostility of the Arabs led Israel to the conclusion that it cannot dictate to its neighbors a peace treaty – not even through the use of decisive force.

David Ben-Gurion, the first Prime Minister of the State of Israel, understood that the military supremacy of Israel will not be sufficient to bridge the enrooted hostility of the Arabs and accepted the fact that the use of military force by Israel has essential limitations. However, a significant military force has the ability to deter the enemy and thus lessen the enemy’s motivation to wage a campaign and thus increases the periods of time between one round of warfare and the next (Inbar & Shamir, 2013, p. 9).

The reality at the end of the 20<sup>th</sup> century and the relevance to the 21<sup>st</sup> century are based on the essential change in the characteristics of the threats against countries, including Israel. The recognized threat of countries and regular armies has changed to essential threats caused by terrorist organizations that have semi-state characteristics and are not subject to the rules of war, international law, and values of morality.

The new enemies, which can be called non-state enemies, are stubborn and uncompromising, when the pressures on them are few. Hence, it is clear that it is necessary to develop a new, different, and effective strategy for dealing with the new security challenges.

Israel understands that in the short term it cannot change the aspiration of the non-state actors – organizations such as the Hamas, the Islamic Jihad, and the Hezbollah – to fight the Jewish state. In addition, Israel understands that there is no easy way to deter the organizations of this type. However, the use that Israel makes of strength may harm the military capabilities of the non-state actors and thus lessen the harm inflicted on Israel. Israel “mows the lawn” of its enemies’ ability, without any presumption of thus resolving

the conflict. In addition, Israel attempts to achieve a degree of deterrence, so as to lengthen the duration of the breaks between the rounds of violence. These periods of quiet are important to Israel for purposes of development and rehabilitation and for social and economic advancement (Inbar & Shamir, 2013, p. 12).

The ethno-national, cultural, and religious gaps between Jews and Arabs are too great to allow for the use of a strategy that attempts to bring about the end of the conflict through the persuasion of the rival that peaceful co-existence is preferable to any other option. Despite Israel's strong desire to be accepted in the region, it understands that it will not be possible to bridge over the Arabs' hostility and suspiciousness towards the Jews. This position has been confirmed with the failure of the Oslo process, a failure that became clear beyond a doubt with the hostilities of the year 2000.

The non-state militias aspire to inflict pain on Israel and to test its endurance. On the tactical level, all that these militias are interested in is causing harm to Israel and denying it a decisive military victory. In the operative military dimension, Israel does not respond automatically to attacks on it. The timing and scope of Israel's response depend on the characteristics of the provocation, the degree of the harm and the number of victims, and additional political considerations that take into account the atmosphere in the international community and the circumstances at home. Another factor of influence is the fear of casualties. These considerations lead to the preference of short responses, generally through aerial attacks, in which Israel has decisive advantage and full control of the factor of escalation.

Over the years, the Israeli air force, with the close cooperation of the intelligence factors, has improved the methods with which it hunts the missile launchers and carries out targeted killings. Israel has succeeded in reducing the environmental damage that accompanies these localized attacks in a way that has largely mitigated the criticism leveled against it by the international community. Targeted killing is an important component of the military dimension, since in the terrorist organization finding replacements for people who had a high level of expertise is a difficult task that requires considerable time.

Key people, such as the manufacturers of bombs, trainers, forgers of documents, recruiters, and leaders, are not many in number. For the most part, they need many months, if not years, to polish their skills. It can be said that as the non-state organization becomes more technological and sophisticated, the time it takes to rehabilitate abilities that were lost is longer. The action of “mowing the lawn” is intended primarily to harm the enemy’s military capabilities and freedom of action. It forces the rival to invest time and material resources in self-defense and in the restoration of its capabilities. In addition, this action includes an element of deterrence, since it illustrates to the enemy the cost entailed by the continuation of the conflict.

As a part of the dealing with the terrorist factors and terrorist acts against innocents, the State of Israel uses the instrument called targeted killing. It is possible to learn about this instrument from the data collected from a number of factors, such as newspaper reports, the Betselem organization for human rights, and official factors of the State of Israel. The targeted killing can be carried out in a number of ways using a number of means, when the common means are the use of aircraft for the precise shooting of the target, the use of sharpshooters, the laying of explosive devices, and the use of Special Forces. The common use is through shooting from aircraft, which enables precise harm to the target, with minimal harm to the environment, and which can be carried out in a relatively short period.

The manner of execution of the activity is expressed in that, from the moment the relevant information was obtained on the need to target a terrorist and his location, the decision on the execution is made on the political level after all the approvals, including legal ones, are obtained. The main recommenders are the different intelligence and security factors (Yaffa, 2006, p. 3).

During the researched period, for example in the years 2000-2007, 127 targeted killing actions were carried out, in which 212 wanted terrorists were killed (Betselem Website, 2007).

The first targeted killing was carried out against a terrorist, Hussein Abiat, who had been active in carrying out terrorist attacks and shooting at innocent people from the

city of Bethlehem on November 9, 2000. He was killed by a precision shot at the vehicle in which he was traveling on the way to carry out terrorist activity.

The last targeted killing that delineates the researched period was carried out on February 28, 2007 against the commander of the Islamic Jihad terrorist organization in the area of the city of Jenin, Ashraf Saadi, and against two terrorists who were with him at the time he was preparing to carry out a terrorist action (Weiss & Waked, 2007).

### **3.8 Summary**

Since September 2000, the State of Israel has been found in a violent and continuous conflict with the Palestinians, in the framework of which the Palestinian side, with its different mechanisms and organizations, has perpetrated terrorist attacks against the citizens and residents of Israel. In this period, more than 24,000 terrorist attacks against Israeli citizens and residents were recorded. This escalation of the conflict between the Palestinians and the State of Israel has resulted in a large number of victims from both sides. According to the data of the IDF Spokesperson, until September 27, 2005, five years after the start of the Al-Aksa Intifada, 1,064 Israeli citizens were killed as a result of the Palestinian actions (of whom 319 were members of the security forces) and another 7,462 citizens were injured (of whom 2,430 were members of the security forces). According to the data of the Palestinian Red Crescent Organization, until September 27, 2005 another 291,181 Palestinians were injured.

From these terrorist attacks, 142 attacks were suicide attacks, carried out by 159 suicide terrorists against Israeli targets. Despite the fact that the suicide terrorist attacks constitute 0.6% of all terrorist attacks perpetrated against Israel since the start of the conflict, the number of people killed in these attacks reaches about half the number of those killed and thus make suicide attacks most deadly. From the start of the conflict until April 2005, there were 510 people killed and 3,290 people wounded from 142 suicide attacks. Suicide terrorism became over the years the leading weapon of the Palestinians, when in the beginning it had an ideological character, with the argument of legitimate opposition to the occupation. However, during the period of the conflict an interesting, although insufficiently clear trend appeared, in which the ideological motive weakened in

comparison to the economic motive. Terrorist headquarters initiate and control terrorist activity by transferring large sums of money to operatives in the field, who make their living from the direction of terrorist activity and do not necessarily act from purely ideological motives. Frequently the terrorists who are recruited to carry out the suicide attacks are Palestinians who have financial or social problems and thus agree to commit the terrorist attack in return for the promise that the terrorist organization that sent him will provide the financial support for their family after their death.

The main conclusions that can be drawn from the coping of the State of Israel and the IDF and their actions during the Second Intifada, the period researched, are as follows. First, the need for flexibility – the Israeli security forces were well prepared for the outbreak of the intifada in September 2000, but conversely they were not sufficiently prepared to deal with the media and political aspects. Also in the purely military field, the security forces and the IDF were required to make rapid adjustments from a situation in which the main challenge was civilian demonstrations to a situation in which the main threat was terrorism.

Last, the importance of intelligence – from the moment that the threat of terrorist became the main threat, it was understood that a necessary condition for effective coping is excellent intelligence. Indeed, the intelligence was excellent and was based on an established infrastructure of human intelligence and the real improvement of technological capacities, mainly that of unmanned aerial vehicles, UAVs. No less important was the recognition that cooperation on the low levels among all the intelligence factors was essential, and when the barriers fell, the effectiveness increased. The commanders and combatants in the field were exposed to a range of up-to-date intelligence materials that helped them to get ahead of the terrorists and thwart terrorist acts, thus significantly reducing the quantity and quality of terrorist operations. The Israeli security forces succeeded in reducing significantly the terrorist attacks because of the understanding that it is necessary to act differently against the terrorist factors and their senders, while harming the terrorists themselves and those who plan and send the terrorists to carry out terrorist attacks.



## **Chapter 4: Discussion and Conclusions**

This chapter summarizes the research findings and examines the hypotheses that guided the research. This research work attempted to contribute its part to the discussion of the topic, the mechanism of “targeted killings”, and the degree of effectiveness of this mechanism in the struggle against the terrorist organizations. The main assumption of the research study is that the use of the mechanism of “targeted killings” helps fight the terrorist organizations and even constitutes a factor that influences the damage to the infrastructures and reduces the number of terrorist attacks.

In addition, the chapter addresses the discussion and conclusions that arise from the analysis of the findings of the researched period and their influence on the decisions of the leaders of the State of Israel whether the mechanism of targeted killing is effective and contributes to the reduction of the violent activity on the part of the terrorist organizations. This chapter will express the problems with the deployment of offensive means against terrorism and conversely the influence of the offensive activity for the reduction of terrorist actions against innocents.

This chapter will discuss and express the complexity in the ability of the accurate assessment of the effectiveness of the offensive activity since it is an especially difficult task – not just since it is impossible to know how many terrorist attacks were thwarted because of the activity undertaken and what would have happened had the action not been carried out

In addition, the chapter will present a general discussion of three issues that are associated with the results of the process of the use of the mechanism of targeted killing. First, it will discuss the question of whether it is possible to deter the Islamic terrorist organizations through the mechanism of targeted killing. Second, it will focus on the question of whether the use of the mechanism of targeted killing reduces the violent activity of the Islamic terrorist organizations. Third, the chapter discusses whether the use of the strategy of targeted killings is an effective method in the long term for the reduction of terrorist activities. Last, the chapter will discuss the contribution of the research to the existing literature and will propose new directions of research.

## **4.1 Findings of the General Research**

### **4.1.1 Deterrence of the Terrorist Factors**

During the research, it became clear that one of the challenges that democratic states, including Israel, face when they go to defend themselves is the way and manner in which they will adopt actions against terrorist factors so as to deter them. Israel is subject to the limitations of punishment that constitute a foundation stone of its democratic regime. The research study indicates that the terrorist factors generally want to avoid a direct confrontation with a significant military force in one large battle, since they understand that they have low chances of wreaking essential and meaningful damage to the operative military power. In other words, the terrorist organizations will find it difficult, if ever, to achieve a military operative decision against a regular army. Therefore, the terrorist organizations will choose generally to harm the military forces or civilian targets of the state with which they are found in conflict, out of the intention to undermine the strategic focuses of importance of the state it confronts. The research indicates that the terrorist organizations may even use their citizens as human shields, so that the harm to the citizens by the military forces will create asymmetry and crisis between the military forces and the political civic system.

According to the research, the recognition of the multidimensional asymmetry between Israel and its enemies is the factor of greatest influence in the doctrine of security that was shaped after the establishment of the State of Israel. The limited raw power that is at the disposal of the State of Israel versus its enemies – in people, in territory, in resources, and in natural resources – has created since the establishment of Israel fundamental and constant asymmetry between it and its enemies.

In the framework of the research study, it became clear that to deal with the structural difference between a democratic state, especially in the 21<sup>st</sup> century, and the terrorist organizations and factors it is necessary to search for a component that will deter, influence, and to a certain extent will halt the terrorist activity. Very little has been written about the response of the terrorist organizations and terrorist operatives to the different forms of deterrence implemented against them or in the in-depth analysis of

processes that are related to the policy of deterrence against terrorism and guerilla warfare and that may improve the effectiveness of the deterrence.

The research indicates that the deterrence against non-state actors and primarily the Jihadists lacks a doctrinal and academic infrastructure. The military in Israel, like other Western militaries, is forced to adjust the concept of deterrence, which was shaped to the field of nuclear deterrence and was converted to the field of conventional deterrence, which is aimed against states and coalitions of states and armies, to deterrence against non-state actors, or in other words, the terrorist organizations. At the start of the path of the State of Israel, its “founding fathers” developed a perception of security in which deterrence was a main part.

The research study further indicates that the State of Israel can, if it wants, defeat a terrorist organization in a given space, so that it will lose control in the field, will suffer serious damage to its infrastructures, and will be forced to consent to a cease-fire or to reduce considerably its terrorist activity. While it is not possible to eliminate terrorism and to destroy a terrorist organization that has the strong support of the population, it is possible to considerably limit its terrorist activity so that its activity will not meaningfully influence the life routine and security of the citizens of the State of Israel.

According to what the research study shows, deterrence is a main component, and perhaps the most decisive one, when the conflict with the terrorist organization is examined. Although sometimes it seems that the terrorist organizations act without an orderly strategy, in the 21<sup>st</sup> century this is not the case. Most terrorist organizations are under the protection of radical regimes, countries that constitute for them a source of economic, ideological, and political support. Despite the aforementioned statements, terrorist organizations can be deterred significantly, even if the deterrence is sometimes temporary and does not last over time.

#### **4.1.2 The Need to Change the Patterns of Action against the Terrorist Factors**

The research indicates that from the start of the 21<sup>st</sup> century it steadily becomes clearer that the perceptions of the deployment of warfare existing today, based on the

perception of the conflict between countries, and the dominant concepts, such as the deployment of a military force and the defeat of the enemy, are not relevant to the present reality, in which states supporting terrorism and terrorist organizations become a very meaningful factor that threatens the security of the democratic countries and in addition their social basis, and even, some will assert, the global order.

As the research study indicates, the main war the countries deal with in the reality of today is the combined struggle held simultaneously on three fronts: the military front, the civilian front, and the international front. An achievement on one of the fronts may lead to a retreat on another front. Thus, for example, the massive deployment of power may lead to an achievement on the military front but lead to damage to the international legitimacy or to the erosion of the civilian resilience. Such considerations need to be taken into account when decisions are made in the military arena and may even influence them.

The research indicates that with the outbreak of the violent struggle of the Palestinian terrorist organizations in the year 2000, Israel found itself operating in a situation of balances of deterrence. This became especially pronounced when the deterrence began to be based not only on the ability of the strategic community but primarily on the strategic determination of society to bear the outcomes of a prolonged struggle waged against the civilian front.

The asymmetric challenges and the examination of the response to them, including the use of targeted killings, is a process called today “the campaign between the wars”, the purpose of which is to weaken negative factors and to achieve deterrence so as to distance the next war. A calculated and measured campaign is clandestine in a considerable number of its components but is also open to the appropriate extent. This campaign is demanding in terms of the abilities of the military commanders, and in its correct management, there is the hope to distance the large war.

As the research indicates, to adjust the response and as a part of the new perception called “the campaign between the wars” to the threats that change in the framework of the asymmetrical conflicts, it is necessary to direct the attention and the

planning to the transition from a traditional war held primarily in the military arena to a continuous struggle conducted at the same time in a number of fronts, thus obligating the transition from a strategy that places at its center the use of hard power, namely masses of power, to a new strategy with unique characteristics, surgical in nature. Today the understanding is that the perception of security that relies solely on military force is no longer relevant in the online world and in the reality in which diplomacy and public opinion are inseparable parts of the campaign.

#### **4.1.3 The Use of “Targeted Killing” by the State of Israel**

The research study indicated that since the establishment of the State of Israel, the State of Israel has made use of the mechanism of “targeted killing” a large number of times. The State of Israel, like other countries, has a government that chooses the target and decides to carry out the targeted killing. Like in other countries, in Israel too there are organizations like the military and other security forces that are in charge of carrying out the decisions of the government and carrying out the targeted killing.

In the State of Israel, there are three main organizations in charge of providing the solution to the decisions of the government in the topic of targeted killing. These organizations are the IDF, the general security service, and the Mossad for special roles. Throughout the history of State of Israel, events have occurred in which use was made of the mechanism of targeted killing, when one of the famous events was in the year 1956.

##### **4.1.3.1 Killing of Senior Egyptian Officers**

When the Israeli intelligence community obtained information that eighteen Egyptian officers were intending to fly from Damascus, Syria to Cairo, Egypt on the night of October 28, 1956, the operation was carried out. The Egyptian plane was shot down, with sixteen senior Egyptian officers on board.

##### **4.1.3.2 Killing of General Mustafa Hafez and Salach Mustafa**

Another famous case occurred in that year in which General Mustafa Hafez and Salach Mustafa were killed. These two people were responsible for terrorist and murderous actions from the Gaza Strip against Jewish communities. The State of Israel

decided that only the direct blow against them would end the terrorism from Gaza and signal to the other countries what the Israeli reprisal would be towards those who harmed its citizens. On July 11, 1956, General Mustafa was killed using a booby-trapped book and two days later the Egyptian military attaché in Jordan was killed using an explosive envelope sent to him by the Israeli intelligence (Ben-Yehuda, 1993, pp. 299-304).

#### 4.1.3.3 Incident of the German Scientists in Egypt

Another case that was published was the incident of the German scientists. After the Sinai War and the Egyptian loss, the Egyptian president at the time, Nasser, ordered the development of long-range ground-based rocket missiles that could reach deep into the territory of the State of Israel. The State of Israel, which collected intelligence on the Egyptian intentions, could not accept the security reality in which Egypt would possess long-range missiles that would threaten its population centers. The State of Israel decided to adopt a policy of targeted killing against those responsible for the development of the missile system, after its diplomatic endeavors failed. The task to thwart the Egyptian missile program was assigned to the IDF and other security forces, including the Mossad. Explosive envelopes were mailed that did not cause the deaths of the scientists but did undermine their sense of security and thus caused them to leave the program (Ben-Yehuda, 1993, pp. 299-304).

#### 4.1.3.4 Damage to the “Black September” Terrorist Organization

Another wave of targeted killings was carried out after the massacre of the Israeli athletes in the Munich Olympics in the year 1972. Following the massacre of its athletes, the State of Israel decided to kill those responsible for the terrorist attack. The security factors formed a list of eleven terrorists from the “Black September” Organization who were responsible for carrying out the terrorist attack against the athletes. Eight of the eleven terrorists were killed by the Israeli security factors, two others were killed by an unknown factor, and one died of natural causes (Klein, 2006, pp. 200-211).

#### 4.1.3.5 Killing of the Operatives of the PLO

Another targeted killing intended to harm the leaders of terrorist organization was Operation Spring of Youth on April 9-10, 1973. Israeli commando forces attacked a number of targets of the PLO terrorist organization in the cities of Sidon and Beirut in Lebanon.

In this raid, three senior operatives of the PLO were killed, including the PLO deputy Muhammad Youssef al-Najjar, when they were surprised in their apartments. This stunned the organization. In addition, twenty terrorists and operatives affiliated with the PLO were killed (Zonder, 2000, pp. 59-63).

Another significant action was held in the year 1988, Operation Presentation of Purpose. This operation was carried out in Tunis by the IDF on April 16, 1988. Israeli commando forces reached Tunis and killed Khalil Ibrahim al-Wazir, also known as Abu Jihad, one of the founders of the Fatah terrorist organization and the head of the military arm of the PLO, who was responsible for many terrorist actions against the State of Israel and who served as the deputy of Yasser Arafat.

#### 4.1.3.6 Killing Terrorist Operatives in the West Bank

In the 1990s as well, during the First Intifada, Israel used the mechanism of targeted killing. On November 30, 1990 Najib Mustapha Hwail was killed by an Israeli commando force. Hwail was wanted for a number of terrorist attacks he committed against innocents and for his affiliation with the Black Panthers terrorist organization. In addition, he was involved in the killing of Palestinian citizens who were suspected of collaboration with Israel. On September 25, 1991 the members of a terrorist cell, Hassan Mohammad Hassan Kamil, Ahmad Khaled Sadeq Kamil, and Saber Mohammad Ahmad Abu Farha, who were wanted for their belonging to the Black Panthers terrorist organization, were killed in a similar manner (Al-Haq, 2001, pp. 7-8).

#### 4.1.3.7 Killing of a Main Operative of the Hezbollah Terrorist Organization

On February 12, 2008 at around 22:00, a car bomb exploded in the Susa residential neighborhood of Damascus in Syria. As a result of the blast, the Hezbollah senior operative and his guard were killed.

On February 13 in the morning hours, the Hezbollah Organization published an official announcement that declared the death of Imad Mughniyah and blamed Israel as having the responsibility for his death and commit to continuing in his way of Jihad. He was the military deputy of the Hezbollah leader Hassan Nasrallah and was considered the number two in the organization. He was perceived as the key figure in the building of the military infrastructure of the Hezbollah in Lebanon and in its operations, and simultaneously he was responsible for the terrorist activity of the organization in Lebanon and abroad. In the framework of the terrorist activity, he commanded the hijacking of airplanes, the kidnapping of Western diplomats, the explosion in the US embassy in Beirut, the explosion of the Israeli embassy and Jewish Community Center in Argentina, and so on. (Center of Information for Intelligence and Terrorism, 2008, p. 2).

#### 4.1.3.8 Damage to the Terrorist Infrastructure for the Creation of Missiles in Sudan

The attack against the Yarmouk weapons factory in Sudan was an aerial attack of an unknown factor held on October 23, 2012 in Khartoum, the capital of Sudan. The attack was aimed at the local plant that created weapons for the Hamas organization and two people were killed. In the attack, about 40 containers that were in the factory were destroyed, and it is possible that they were the objective of the attack (Case, 2012). Sudanese sources asserted after the attack that it was carried out by Israel (Leon & Siroti, 2012). The weapons factor was established in the year 2008 by Iran and was funded by it to help the Hamas organization with shipments of missiles and weapons. A number of days after the explosion, the Iranian Minister said that in the attack the interests of his country were harmed. According to assessments, the attack destroyed a large accumulation of Fajar 5 rockets, which were intended to reach the Hamas and the Islamic



Jihad in the Gaza Strip and possibly also Shihab 3 ground-to-ground missiles intended to be placed in Sudan and to threaten the State of Israel (Limor, 2012).

#### 4.1.3.9 Killing of the Hamas Operative Mahmoud al-Mabhouh

According to the official factor of the Hamas Organization in Damascus, it was reported that Israel assassinated in Dubai in the Emirates a senior operative of the military arm of the Hamas, Mahmoud al-Mabhouh, when he was behind the abduction and murder of the IDF soldier Avi Sasportas and Ilan Saadon. The Hams military arm in a special announcement stated that Al-Mabhouh, one of the founders of the military arm of the organization, died during a visit to the United Emirates. The announcement further said that Al-Mabhouh, aged fifty, died of a medical problem and the circumstances of his death are “being investigated”. According to one of the reports, Al-Mabhouh died as a result of muscular dystrophy (Yahav, 2010). Al-Mabhouh was behind the planning of many terrorist attacks against Israel. There were many rumors on the circumstances of his death. Hamas and the commander of the Dubai Police attributed the killing to Mossad agents but also raised other possibilities (Yisasachrof, 2010; Huri, 2010).

#### 4.1.3.10 Killing of Iranian Nuclear Scientists

Until the end of the last decade, the intelligence war on the issue of Iranian nuclear program was on a low burner, at least in terms of its media resonance. However, on January 21, 2010 something changed. For the first time after years of vague reports and denials, the official news agency in Teheran confirmed that a number of days beforehand Professor Masoud Mohammadi, a nuclear scientist who had a main and active part in the project, was killed. The details published on this killing outline a pattern for a series of similar events that had occurred between this morning in 2010, when the head of the cyberwarfare headquarters of Iran, Mojtaba Ahmad, was killed. Professor Mohammadi died after he was injured by an explosive device when he went to enter his car near his home in North Teheran. The assessment of the factors that studied the event was that the device was attached to a motorcycle that parked nearby and was detonated by remote control. Another examination of the events indicates that there are number of other similar characteristics between the killings, including the action at an early hour of

the morning, when the scientists are going to work, the use, with the exception of one case, of the means of the explosion of a car using an explosive device and the use in all cases of motorcycles as assassins. Another prominent characteristics if the conflicting versions published, after the fact, on the identity of the victims and the roles they filled – or did not fill – in the Iranian nuclear program (Shilo, 2012).

To summarize this part, as can be seen, the State of Israel made extensive use of the instrument of targeted killing, and therefore the following question is asked. Is this method effective and does it achieve its goal? It would seem that in the cases reviewed here in which the State of Israel used targeted killing it achieved its goal. For instance, following the wave of killings that followed the massacre of the athletes in the Munich Olympics the Black September Organization was destroyed and did not return to action. In addition, the terrorist attacks from Gaza at the start of the 1950s completely ceased after the killing of General Hafez by a booby-trapped book. In the incident of the German scientists, the State of Israel achieved what it wanted to achieve, since the German scientists left Egypt and thus the Egyptian attempt to build long range ground missiles to threaten the State of Israel, all this through the sending of explosive envelopes and the resultant wounded people (Ben-Yehuda, 1993, p. 318).

#### **4.1.4 The Targeted Killing of Terrorist Leaders by the State of Israel**

According to the research, during the years of the existence of the State of Israel many efforts were undertaken so as to fight the terrorist organizations and their leaders. As a part of these efforts, the State of Israel put forth many efforts to harm the leaders of the terrorist organizations. Some of the cases were failed attempts, and the target that the State of Israel attempted to injure was not harmed. An example of such an event is the event that occurred on October 1, 1985, when the planes of the Israeli air force bombed the PLO headquarters in Tunis. The Chief of Staff at that time confirmed that the objective of the raid was to kill Yasser Arafat; however, he escaped the Israeli attack without harm.

In contrast, there were cases in which Israel succeeded in harming the heads of the terrorist organizations. These organizations include the Hezbollah, the Islamic Jihad, the Popular Front, and the Hamas.

#### 4.1.4.1 Senior Operative in the Hezbollah Terrorist Organization

As known, the Hezbollah organization is a religious Shiite organization that operates in Lebanon. The main activity of the organization engages in guerilla activity and terrorism against the State of Israel.

The Hezbollah organization was established in the year 1982 by Sheikh Sayad Mohammed, but the official proclamation of the establishment of the organization was in the year 1985. In the year 1991, Abbas al Moussawi was chosen by the Hezbollah to serve as its Secretary General.

Moussawi was considered a relatively moderate leader, compared to other members in the Hezbollah organization. However, on February 16, 1992, combat helicopters attacked a convoy in which he traveled, and he was killed, along with a number of other Hezbollah terrorist operatives, and his wife and son who were with him in the car. The State of Israel announced that the attack was a planned assassination attempt, in light of Moussawi's involvement in the planning of terrorist attacks. Moussawi was replaced as Secretary General of the organization by Sheikh Hassan Nasrallah.

After the attack on Moussawi, the Hezbollah organization responded with terrorist attacks against Israeli and Jewish targets. On March 17, 1992, the Hezbollah carried out a terrorist attack against the Israeli embassy in Buenos Aires in Argentina. In addition, it carried out a terrorist attack against the Jewish Community Center in Buenos Aires on July 18, 1994. On July 26, 1994, it attempted to attack the Israeli embassy in Britain.

#### 4.1.4.2 Senior Operative in the Palestinian Islamic Jihad

The Palestinian Islamic Jihad Organization is an organization with a radical Islamic ideology that combines religious fanaticism and national extremism. The head of

the organization and one of its leaders was the terrorist Fathi Shaqaqi. After Shaqaqi had been involved in the Palestinian Islamic Jihad, he was incarcerated by the Israeli security forces. In 1986 he was expelled during the First Intifada. After he was expelled to Lebanon, he began to collect the organization's operatives and became their exclusive leader.

In the 1990s, the organization headed by Shaqaqi was responsible for the dual terrorist attack by Beit Lid, in which 21 soldiers and a civilian were murdered. In addition, the organization was responsible for the explosion on Dizengoff Street in Tel Aviv, in which thirteen Israeli civilians were killed. After he hid until the end of the 1990s, Shaqaqi went to Malta to see a dentist, whom he saw regularly. On October 15, 1995, after he signed into the Diplomat Hotel in the city, he went out to sightsee. The consistency of his visits to the dentist led, in the end, to a cell of attackers on motorcycles who shot him at zero range. The killing of Shaqaqi was carried out in the middle of the day, despite the risk that the cell would be killed, while the motorcyclists were riding, when the last biker fired three gunshots, two into the front of his head and one into his neck. Shaqaqi was killed on the spot. Many factors assert that the cell was composed of Mossad agents. Israel never announced its responsibility for the killing (Melamen & Raviv, 2012, p. 424).

Shaqaqi talked and acted according to his outlook of uncompromising armed struggle to liberate "all of Palestine" and establish an Islamic state. His place at the head of the organization was filled by Ramadan Shalah, who had established the organization along with Shaqaqi in the 1980s. The killing of Shaqaqi led to the paralysis of the Palestinian Islamic Jihad for a certain period, although it did not result in the elimination of the organization forever. Conversely, many hold that the killing of Shaqaqi prevented the Islamic Jihad from growing more powerful and that the organization never regained its previous strength. In this case, the argument on the policy of targeted killing assumes a positive aspect since the killing apparently prevented the implementation of many terrorist attacks and significantly weakened the organization in the long term.

#### 4.1.4.3 Senior Operatives in the Hamas Terrorist Organization

Following the terrorist attack on Bus Route 2 in Jerusalem on August 19, 2003, the Hudna (ceasefire) with the Hamas collapsed totally, and Israel decided that it was necessary to target its leaders. On September 6, 2003, the first Israeli attempt to kill Yassin failed. F-16 airplanes of the Israeli air force dropped a quarter-ton bomb on a building where Yassin and Ismail Haniyeh were meeting with the heads of the military arm of the organization. However, they all survived the bombing since they were on the bottom floor of the building (Aviad, 2009, p. 120).

The second attempt, on March 22, 2004, was successful. Three Hellfire missiles from combat helicopters of the Israeli air force were fired at Yassin when he left a mosque. He was killed at the scene, along with two of his guards and six other people, and two of his sons were injured (Hacham, 2006, p. 5).

#### 4.1.5 The Number of Targeted Killings

During the research, it became clear that during the Al-Aqsa Intifada and the researched period about 127 targeted killing operations were carried out, in which 212 wanted people were killed, as well as about 130 uninvolved people (Betselem Website, 2008).

The first targeted killing carried out during the researched period and from which the research begins is the targeted killing of the terrorist operative Hussein Mohammad Salem I'bayyat. The killing of I'bayyat was on November 9, 2000 in Bethlehem through the firing of missiles from a combat helicopter (Betselem Website, 2008).

It should be noted that one of the significant targeted killings in this period occurred on February 28, 2007, when a commando force killed the commander of the Islamic Jihad organization in the city of Jenin, a terrorist named Ashraf Saadi and another two terrorists who were with him and helped him hide.

The targeted killing that ends of the period of the research was on January 15, 2009. Israel killed Said Siam, one of the senior terrorists of the Hamas Organization who

was also the Minister of the Interior in the Hamas government. His brother, Iyad Siam, one of the field commanders of the Hamas, was with him (Bochbot & Cohen, 2009).

## **4.2 The Research Hypotheses on Targeted Killing**

In the present research study, it is possible to see that the State of Israel made extensive use of the mechanism of targeted killing in general and in the researched period in particular, all this so as to deal with the murderous terrorism against innocents. To examine the effectiveness of the targeted killing, the influence of the targeted killing on Palestinian terrorism during the researched period was examined.

The research literature on the topic of the targeted killings is divided in principle into three schools: those that support the use of this mechanism as a policy and maintain that the use of targeted killing is supposed to reduce the Palestinian terrorism against Israel, those that argue against the use of targeted killing since it will lead to the opposite outcome and will increase the Palestinian terrorism against Israel, and those that argue that the targeted killing does not influence the Palestinian terrorism.

### **4.2.1 Research Hypothesis 1: The use of a targeted killing mechanism against terrorist operatives reduces the number of terrorist attacks against the State of Israel, and there is a direct effect.**

During the research, in the study of the events and even in the research literature there are many articles that maintain the necessity of the policy of targeted killing in the war against Palestinian terrorism. In these articles, it is possible to find four explanations that support the policy of targeted killing.

#### **4.2.1.1 Prevention**

The first and clearest explanation is that in the case of a ticking bomb the targeted killing saves life immediately and this is a clear act of self-defense. In essence, through the shooting of the terrorist who was found on the way to perform a terrorist attack the terrorist attack he intended to commit is prevented.

One of the heads of the security cabinet in the year 2001 said that Israel sees the targeted killings to be an action of self-defense through the shooting of the terrorist before he carries out a terrorist attack against Israel. The Minister of Justice at that time, Mr. Meir Shitrit, and the Minister of Transportation at that time, Mr. Ephraim Sneh, said that this activity will continue as long as the terrorism will continue and this is to prevent the planned terrorist attacks by stopping the terrorists themselves (Greenberg, 2001, p. 5).

This school supports the concept called preventative killing. International law differentiates between killing and preventative killing in a time of peace and preventative killing in a time of war. The Fourth Geneva Convention determines that in no case should a person be denied his right to a fair trial even if it is an emergency. It is clear that preventative killing denies the right to a fair trial, since it denies the suspects the right to refute the suspicions against them and in essence, there is no implementation of a death sentence without a trial. However, it is necessary to remember that the dilemma at the basis of the decision to carry out preventative killing addresses the question of whether there is a practical possibility to inform the accused parties and to allow them to present themselves for judgment. The dilemma also brings up the question on the right of the State to adopt self-defense that its entire purpose is to fight off the illegal aggression and not to punish the commission of an offense (Kreminzer, 2006, pp. 16-22).

The advantage of preventative killing is the ability to supposedly focus on the direct harm to the enemies while reducing the concomitant and unnecessary harm to the civilian environment. The environmental damage can be caused during the carrying out of preventative killing since it is very difficult to create a totally sterile area and to isolate the target of the attack. However, there are situations in which the alternative such as friction with the population is too great to conduct arrests and entrance into the territory increases the friction and creates complex operational situations, which can cause a large number of injured people and even many more people killed. In certain cases, the noninvolved population may even be hurt.

The justification of the use of preventative killing derives from the distinction between the actions of preventative killing and the action of reprisal, or in other words a

punishment action, which is not permissible in international law. Hence, the terrorist organization that does not create danger to the state, for instance in the case an organization that has ceased to act or does not intend to act, there is no justification to adopt a forceful activity against it, since this is not self-defense (Kreminzer, 2006, pp. 22-30).

#### 4.2.1.2 Damage

Eisenstadt (2001) in his article maintains that the policy of targeted killing is an appropriate response to terrorism and in comparison to other ways such as arrests and passive defense, this policy includes fewer risks to the citizens. He counters those who assert that the policy of targeted killing increases the motivation and increases the number of terrorist operatives and maintains that when a senior member or an “engineer” is killed the number of suicide bombers who will develop following the targeted killing has no meaning, since they cannot carry out the terrorist attacks without the professional knowledge that was lost.

The targeted killing is carried out on people who are considered essential resources for the organization so that the harm to the organization will be as not repairable as possible. Through the harm to these people, the terrorist infrastructures are damaged, and this inhibits the development of such infrastructures and prevents the creation of a uniform and centralized command (Steven, 2002, pp. 10-19).

The theory that is behind this hypothesis is presented by Schelling (1966) in his book, where it is asserted that the use of force leads to fundamental damage to the enemy’s strength so that he cannot respond. The State of Israel in essence makes use of brute force, so as to harm the ability of the terrorist organizations. Fundamentally, through the targeted killings the State of Israel harms the terrorist operatives who are essential to the terrorist organization and the terrorist infrastructure, since without them the organization cannot carry out terrorist attacks both because of the leadership that was lost and because of the knowledge that was lost. Unlike the use of brute force, where the use is aimed at the extensive destruction of infrastructures, in the case of targeted killing the State of Israel tries to harm only the target.



#### 4.2.1.3 Deterrence

The ability to deter a terrorist operative is very limited, since it is difficult to deter a person who in his opinion is fighting, with high motivation, an occupation and is willing to risk his life for this cause. However, the targeted killing constitutes a deterrent factor, since people new to the terrorist organizations who love life avoid joining them.

In addition, the targeted killing deters those people who engage in terrorism since they always need to be afraid that they will be harmed by the IDF. The terrorists feel pursued and need always to be careful and guard against the Israeli security forces and intelligence organization catching up to them and being exposed to harm (Steven, 2002, pp. 10-19).

In essence, through the targeted killings the State of Israel signals to the terrorist organizations that it has the ability to identify each and every one and to harm him. Thus, it creates the effect of deterrence and imposes its will on the terrorist organizations to stop their terrorism for otherwise it will continue to harm the terrorists.

#### 4.2.1.4 Punishment

Halkin (2001) maintains the justification of a policy of targeted killing so as to punish the terrorist operatives. He holds in his article that it is justified to kill terrorists so as to punish them since there is no other way to do so. In his article, he presents a number of possible ways of solution and negates them. He asserts that the Palestinian Authority was given a list of terrorists so that they could arrest them. However, these terrorists continued to wander free. Another solution he proposes and negates immediately is to send soldiers into the roads in Israel in order to stop the suicide terrorist a moment before he commits suicide, but he argues that this is impossible. Last, Halkin examines the proposal to arrest the terrorists in the territories of Judea and Samaria but he holds that each such operation would lead to a greater number of innocents killed than the solution of targeted killing. In essence, the punishment does not bring benefit to the struggle against terrorism since it does not prevent terrorist attacks. This is in essence a moral and not a utilitarian argument.

The research findings support the research hypothesis, and it is possible to say with certainty that the use of the mechanism of targeted killing influenced the number of terrorist events and contributed to the decline of a number of terrorist attacks. It is possible to see in the appendices the trend of decline in the number of terrorist attacks; as the targeted killings increased and the damage to the terrorist organizations was significant and long term, there was a decline of tens of percentage points in the terrorist attacks.

First, the research indicates that as opposed to the proponents of the policy of targeted killings it is possible to see also those who maintain that the policy of targeted killings only increases the Palestinian terrorist activity against Israel. It is possible to see throughout the entire period of the second Intifada that there were targeted killings that resulted in serious responses, such as for example the killing of Ra'id Karmi, which led to a wave of terrorist attacks, in one month that was called "Black March" and in two and a half months after the killing of Ra'id Karmi about two hundred Israelis were killed as a result of the terrorist attacks (Drucker & Shelach, 2005, p. 172).

In contrast to the theory of Schelling that the use of force leads to the compelling of the desires of the side using force on the victim, there is the opposite assertion that the use of force may lead to escalation. The theory behind this argument is that the victim interprets the use of force differently than the user of the force had intended. While on the Israeli side, the action of targeted killing is seen as an action of self-defense, harm, and deterrence, the other side sees these actions as offensive actions that necessitate response, thus leading in the end to escalation in the struggle and the increase of the terrorist actions.

The argument is that the use of this policy of the weakening of the terrorist organizations, or in other words, the harm to the organization through the use of targeted killing, is not rational since it causes uncontrollable escalation in violence (Kuperman, 2005, pp. 29-41).

In addition, the quantitative research study of Kaplan, Mintz, Mishal and Samban (2005) reached the conclusion that the policy of targeted killing led to an increase in the

number of suicide bombers despite the removal of the immediate threat of the terrorist who was killed. The theoretical explanation in this research study of this phenomenon is that when a terrorist operative is killed, there immediately appear in his place additional operatives, for two reasons: an increase in the motivation and in the feeling of vengeance and failure to harm the rest of the terrorists aside from the killing of this terrorist. Thus, the reserve of terrorist operatives rises with every killing.

Jenkins (1987) also holds that the targeted killing may lead to an undesired outcome. He maintains in his article that the killing of a terrorist operative will lead to the increase of the motivation and the increase of the terrorist attacks. He further argues that when a leader of a terrorist organization is attacked, there is no way to know who will take his place, and sometimes the heir is even more radical than the terrorist who was killed. The example he presents to illustrate his argument is the killing of Mohamed Boudia, the head of the operations of the Black September Organization by Israel, when he was replaced by Carlos, who was more extreme than Boudia.

The research study indicates that there is a theme that indicates that the carrying out of arrests is more effective than targeted killing, although arrests also can increase the sense of vengeance and the motivation to fight against Israel since in contrast to the targeted killing an arrest can yield intelligence and the exposure of the entire terrorist network and therefore arrests increase the risk to the soldiers but they reduce the risk to the population. The findings in the research study support in part the research hypothesis, if only temporarily, in light of the data that the number of terrorist attacks decline but the motivation to perform violent activity remains and even increases as a result of the frustration caused by the targeted killing, until time passes and the terrorist organization does not succeed in implementing terrorist attacks, thus reducing the number of terrorist incidents.

In the article of Hafez and Hatfield (2006), there is the argument that the targeted killings along do not influence Palestinian terrorism, do not weaken it, and do not increase it. They maintain in the article that what did reduce the level of Palestinian terrorism is the combination of targeted killings and defensive measures adopted by the

state of Israel, such as the construction of the separation wall between Judea and Samaria and the territory of Israel, the establishment of barriers, the imposition of a curfew on cities from which terrorists depart, all so as to “dry up” the resources of terrorism. They further hold that politically it would be correct to use targeted killings, so as to satisfy the population and to show them that the government does indeed act against terrorism, but it would be a mistake to present the targeted killings as an improved solution for the problem of terrorism.

Hafez and Hatfield rely on the theoretical basis of Enders and Sandler (1993), who maintain that the government in their actions needs to cause the resources available to terrorism to dry up and to cause an increase in the production of all the terrorism tactics so that the terrorist organizations cannot create terrorism through the change of the tactics they use. Hafez and Hatfield hold that the targeted killings cause the killing of the important terrorist commanders but they do not have impact on the group of terrorists or the terrorist organization, since the terrorist organization adjusts to the new situation and changes its tactics, so as to execute as many terrorist attacks as possible.

The research findings disconfirm the research hypothesis on the influence on the number of terrorist attacks, in light of the use of targeted killings. It is apparent that the use of targeted killings reduces the number of terrorist attacks.

It is further noted that a combined approach was found, according to which if in the past the terrorist organizations used the tactics of suicide terrorists then following the loss of resources (terrorists who were killed in targeted killings) and they adapt to the new situation and change their tactics to explosive devices, artillery fire, shootings, and so on, so that these actions lead in their view to the same outcome. The conclusion is that the means of targeted killing needs to be used in parallel to and in combination with additional actions, so that it will continue to be effective and will reduce the level of the terrorism.

#### **4.2.2 Research Hypothesis 2: The use of a targeted killing mechanism against high-ranking and important activists in terrorist organizations disrupts and reduces the number of terrorist incidents, due to a lack of leadership and operational infrastructure for the organization**

The research study indicates that the hierarchical status of the terrorist operatives that constituted an objective for targeted killing did not constitute a significant datum regarding the reduction of the violent activity. According to the research, more terrorists were killed who can be called low level, because the operatives who constituted a target for the mechanism of targeted killing were for the most part “ticking bombs”, namely terrorists who went out to commit mass murder and were killed on their way to carrying out the terrorist attack.

The findings that arose in the research study, in which emphasis was placed on the status of the operatives, support the research hypothesis, although only partially, since there is a significant decline in the number of terrorist attacks and it is not possible to create a causal relationship to the issue of the terrorist’s level and/or seniority or lack of seniority.

Furthermore, terrorists who initiated and carried out mass murder attacks were killed. It is apparent that during the researched period most of the terrorists who constituted targets for the targeted killing belonged to the status of terrorists at the level of the field. Very few of the terrorists who constituted a target for targeted killing belonged to the senior level of the terrorist organization. In total, as a result of the targeted killing six senior terrorists in the terrorist organizations were killed, when five of them belonged to the leadership of the Hamas Organization and the sixth belonged to the leadership of the Popular Front Organization.

During the research study, it became clear that there were actions of targeted killing against senior members of the terrorist organizations. However, they were few relative to the rest of the targeted killings, a total of seventeen targeted killing operations in general, of which about six were directed against the senior operatives.

The most significant and daring attempt in terms of the State of Israel was the failed attempt to kill the heads of the Hamas on September 7, 2003. On this date a fighter plane of the Israeli air force dropped a 250 kilogram bomb on the house where according to information all the heads of the Hamas were meeting, including Mohammed Deif, who was the head of the military arm of the Hamas, Adnan Al-Ghoul, who served as the main engineer in the project of the Qassam rockets, Sheikh Ahmad Yassin, the spiritual leader and final arbiter in the Hamas, Ismail Haniyeh, the head of the Yassin's office, Abdel Aziz al-Rantisi, Yassin's deputy, and Mahmoud Al Zahar, one of the heads of the Hamas movement and Yassin's deputy. The bomb, which was launched towards the home where the heads of the terrorist organization were staying, hit the upper floor of the home and did not injure the Hamas leaders, who were on the lower floor (Yizchak, 2003).

Despite this failed targeted killing attempt, the State of Israel also carried out successful targeted killing of the heads of the terrorist organizations.

#### 4.2.2.1 Abu Ali Mustafa

On August 27, 2001, the General Secretary of the Popular Front for the Liberation of Palestine, Abu Ali Mustafa, was killed. Abu Ali Mustafa was in the 1960s and 1970s one of the leaders of the military arm of the Popular Front for the Liberation of Palestine in Jordan and Lebanon. He was involved in terrorist attacks abroad, including the hijacking of a Lufthansa plane in the year 1972. In the month of May in the year 2000 Abu Ali Mustafa was appointed the Secretary General of the Popular Front for the Liberation of Palestine and in his role he supported and encouraged the militant activity against Israel. Abu Ali Mustafa was killed in a targeted killing operation on August 27, 2001 (Hess, 2001).

#### 4.2.2.2 Salah Shehade

The main and first senior figure who was a target for a targeted killing is Salah Shehade, who was a senior member of the Hamas leadership and served as the head of the military arm of the terrorist organization and was in charge of the carrying out of many terrorist attacks against innocents. He was located in the Gaza Strip. Shehade was killed in a bombing of his home, which was in the middle of a residential neighborhood.

The air force used a bomb that weighed nearly a ton and was dropped by a fighter plane. Shehade was killed, along with fifteen other people, some of whom were not involved but lived nearby.

#### 4.2.2.3 Ismail Abu Shanab

Abu Shanab was a member of the Hamas leadership and served as a deputy of Sheikh Ahmad Yassin, when he was abroad. Abu Shanab was a senior partner in making decisions to carry out terrorist attacks against innocents and was active in the planning and initiation of terrorist attacks. Abu Shanab was killed by missiles fired from Apache helicopters at the car he was traveling in. Two guards, also terrorist operatives, were killed with him (Frish & Wakad, 2003).

#### 4.2.2.4 Sheikh Ahmed Yassin

Yassin was the most senior figure in the researched period. Yassin was the leader and founder of the Hamas movement. After he was released from Israeli prison, Yassin continued to preach violence and terrorism against the citizens of Israel and led the radicals among the Palestinians, while he enjoyed a certain immunity that derived from his lofty status among his supporters and followers in the murderous terrorist organization.

On June 13, 2003, Israeli factors announced that the leader of the Hamas movement was not immune to injury, because of his preaching and his directions to carry out terrorist attacks against Israelis, when under his inspiration terrorist attacks were carried out in which hundreds of Israelis were killed. On March 22, 2004 the leader of the Hamas terrorist organization, Sheikh Ahmed Yassin, was killed by missiles fired at the car in which he traveled with his guards.

#### 4.2.2.5 Abdel Aziz al-Rantisi

Abdel Aziz al-Rantisi was a senior member of the Hamas Organization who was killed by the Israeli security forces. He was a commander of the internal command and was appointed following the killing of Sheikh Ahmed Yassin. In the past, he served as the spokesperson of the Hamas terrorist organization and as the head of the political arm

of the terrorist organization. Abdel Aziz al-Rantisi was a part in the planning and execution of terrorist attacks through the military arm of the terrorist organization but kept this activity under the radar. Abdel Aziz al-Rantisi called for jihad against Israel and maintained that it is necessary to fight Israel and to free all the territories of Palestine through terrorist attacks and Jihad.

On April 17, 2004, about one month after the targeted killing of Sheikh Ahmed Yassin, accurate information was obtained about Rantisi's location and he too was killed by missiles fired at the car in which he was traveling in the Gaza Strip. Along with him another two terrorists, who acted as his guards, were killed (NRG Website, 2012).

The findings that arise from the research indeed support the research hypothesis. It is emphasized that regarding the effectiveness of the counter-terrorism actions of the Israeli security forces in Judea and Samaria, in this period the forces held intensive counter-terrorism activity that included the detention of wanted people, the exposure of weapons, and the killing of terrorist operatives who displayed resistance to the IDF forces. This counter-terrorism activity severely damaged the terrorist infrastructures both on the level of the leadership and on the level of the low ranking operatives. The successful counter-terrorism activity, along with the completion of many segments of the security fence, which continues to prove itself, led to a further decline in the number of suicide attacks and obligated the terrorist organizations to "be satisfied" in most cases with relatively simple attacks such as shooting attacks and stabbing attacks (Center for Intelligence and Terrorism, 2007, p. 10; Center for Intelligence and Terrorism, 2006, p. 16).

The research study indicates that the use of the mechanism of targeted killing against both senior and low level terrorists succeeds in significantly reducing the number of terrorist attacks. During the researched period, the first two years of the conflict saw many victims. In the year 2001, 207 Israelis were killed, while in the year 2002 452 were killed!<sup>3</sup> In this year, there was also the highest number of wounded that Israel had suffered since the start of the conflict, 2309 people. On the eve of Passover, in April

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<sup>3</sup> See table number 1 in the appendices.



2002, the terrorist attack at the Park Hotel in Netanya occurred, and 28 Israeli citizens were killed and another 65 were wounded. Following this terrorist attack, carried out at the initiative of the Hamas infrastructure in Samaria, the State of Israel commenced with Operation Defensive Shield, which focused on the terrorist infrastructures in Samaria. Because of this operation and the targeted killings that followed it, the terrorist infrastructures were damaged, primarily in Samaria. In parallel, there was a sharp drop in the number of terrorist attacks carried out by the terrorist organizations. In the year 2002, there were 60 suicide bombings, while in the year 2003 this number dropped by more than 50%, to 26 attacks<sup>4</sup>. In addition, a sharp decline was seen in the number of people killed: from 452 killed in the year 2002 to 208 people killed in the year 2003. In the year 2004 this number declined further, and as of September that year there were 117 people killed.

It is possible to note that there is a significant drop in the number of Israeli wounded<sup>5</sup>. During the year 2005, 56 Israelis were killed, in comparison to 117 in the year 2004, a decline of about 60%. It should be noted that 23 Israelis, half of the number of killed in the year 2005, were killed in seven terrorist attacks, which constitute a minimal percentage of all the terrorist attacks carried out in this year. In the number of wounded there was also a decrease, although more moderate: in the year 2005, 406 Israelis were wounded, in comparison to 589 wounded in the year 2004, a decline of about 30%<sup>6</sup>.

To conclude, the findings regarding the research hypothesis show that the carrying out of targeted killings is effective but there is no great meaning to the status of the terrorist although the number of terrorist attacks declined. To illustrate the trend of effectiveness of the counter-terrorism actions of the Israeli security forces in Judea and Samaria, it is possible to note that the terrorist factors are forced more than once to decrease the level of complexity of the terrorist attack so that they can carry it out. It should be noted that during the researched period the Israeli security forces carried out targeted killing activity and other intensive preventative actions that included the detention of wanted people, the exposure of weapons, and the killing of terrorists who

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<sup>4</sup> See table number 1 in the appendices.

<sup>5</sup> See table number 1 in the appendices.

<sup>6</sup> See table number 2 in the appendices.

resisted the IDF forces. This counter-terrorism activity seriously damaged the terrorist infrastructures both on the level of the leadership and on the level of the low ranking operatives and therefore led to a significant decline in the number of terrorist attacks.

### **4.3 Summative Discussion**

The research findings strengthen the direction of investigation regarding the effectiveness of the mechanism of targeted killing. The mechanism of targeted killing, which is intended to compensate for the asymmetry between Israel and its enemies, constitutes one of the instruments that exist in the toolkit of a democratic country. Israel has suffered – and continues to suffer – from constant and prominent quantitative inferiority relative to its enemies, but in relation to the semi-military terrorist organizations it often enjoys quantitative and qualitative advantage. This advantage is cancelled out by the self-imposed and external one-sided limitations set on Israel in the deployment of its power from considerations of morality – the desire to avoid the harm to its citizens. The transition among the countries that are found with Israel in a conflict from the perception of organized and attacking militaries to semi-military powers focused on terrorist activity indicates the strength and success of Israel in its struggles and the establishment of the deterrence against these countries (Bar Yosef & Simhoni, 2010, p. 10).

Ganor asserts that there is a problem with the implementation of an effective policy of deterrence against a terrorist organization. On the one hand, the military activity, both offensive and defensive, and the activity of punishment were intended to deter terrorist organizations and their operatives and collaborators. On the other hand, it is easier to deter a sovereign state since it has sensitive objectives and many interests that can serve as a target of harm. A terrorist organization, in contrast, is clandestine and built so that harm to one of its components will not eliminate the entire organization. In addition, every attempt to deter a terrorist organization necessitates the assumption of rationality on the part of the deterred party. An organization that does not act out of rational considerations, namely cost-benefit, will not carry out profit-loss calculations and will not be deterred. The main problem in the deterrence of terrorist organizations is the

fact that the values of the different terrorist organizations are different from the values of the deterring factors, the democratic states (Ganor, 2003, p. 71).

According to the main tests discussed during the present research, the history of the coping of Israel in the campaign between the wars through the mechanism of targeted killing is mainly a story of success. If it had not been such, then Israel would not have succeeded in developing and flourishing in a difficult region of failure and violence, against radical enemies and millions of their admirers, some of which at least prefer to dedicate the utmost of their efforts to the elimination of Israel over a better future for their children. Without the deterrence created through the mechanism of targeted killing, among other instruments, and the willingness to impose a price on the enemy that it cannot tolerate for its attempts to fundamentally undermine life of Israel, it would not be possible to force the range of radical factors in the region to refrain from this most of the time and to enable Israelis a life that they see as good, meaningful, and nationally satisfying (Shiftan, 2018, p. 120).

The approach of Israel to the use of force and to the use of targeted killings against its enemies in the 21<sup>st</sup> century is often described through the expression “mowing the lawn”, a new term in Israeli strategic language that reflects the assumption that Israel is found in an unsolvable and continuous conflict with non-state entities that exhibit towards it extreme hostility. In light of the fact that it is very difficult to influence the behavior of extreme non-state factors, all Israel can hope to achieve through the use of force is temporary deterrence. Therefore, Israel has adopted a tolerant military strategy of attrition, intended first and foremost to harm the enemy’s abilities (Inbar & Shamir, 2013, p. 6).

Last, the success of Israel in its fight against terrorism and countries supporting terrorism and in its defeat of factors such as Hezbollah and Hamas depends on the realization of the basic operative and strategic principles that it used in the past to defeat the Arab armies and terrorist factors, through the carrying out of necessary modifications. The threats have changed and have become more complicated. The need to act in distant and diverse arenas of action, with great power and with a significantly lower profile than

that of the security forces in the past, in a way that includes the penetration into hostile territory, prolonged stay in the field, clandestine action and withdrawal, obligates a suitable infrastructure, which includes means and personnel. No less important, it obligates the ability to deny and refrain from leaving an identifying fingerprint. It is very important that the security system acts in the space of denial, without enabling the enemies of the State of Israel to point an accusing figure to the democratic state, including Israel, but it is necessary to remember that this method of action has limitations. Although it “lowers the height of the flame”, it creates a considerable accumulation of “tinder” and it may lead to the erroneous calculation on the part of the enemies that results in the carrying out a broad military operation with potential for friction and harm to both sides but the potential of destruction and extermination primarily for the terrorist factors.

#### **4.3.1 The Main Findings**

1. The research findings indicate that when a country is forced to deal with terrorism on a large scale, it must establish a special legal basis that will allow it to adopt the steps necessary to increase the degree of effectiveness in the fight against terrorism. Moreover, a country must be able to protect its citizens, and if this way of coping with the special and complicated threat called terrorism lies in the carrying out of targeted killings, then it is necessary to permit this activity under the right of self-defense.
2. The research findings indicate that the targeted killing deployed against senior operatives in terrorist organizations did not resolve and was not intended to fully resolve the problem of terrorism and make it disappear and it did not even curtail the desire and activity of the organizations whose senior members were killed. However, this activity prevented and also postponed terrorist attacks that were planned to be carried out and caused the organizations to postpone the terrorist activity and to invest time and resources in the finding of appropriate alternatives to the people who were targeted and killed.
3. The research findings indicate that it can be said with certainty that the intensive counter-terrorism activities, which included the detention of wanted people, the

exposure of weaponry, and the killing of terrorist operatives who exhibited resistance to the IDF forces, directly influences the activity of the terrorist organizations. This counter-terrorism activity seriously damaged the terrorist infrastructures both at the level of the leadership and at the level of the low ranking operatives.

4. The research findings indicate that the use of the mechanism of targeted killing influenced the number of terrorist attacks and contributed to the decrease in the number of terrorist victims. The effectiveness of the focused counter-terrorism actions of the Israeli security forces during the researched period helped reduce significantly the number of terrorist attacks<sup>7</sup>.
5. The research findings indicate that there is no direct and close relationship between the status of the terrorist operative and the operational effectiveness in the deployment of targeted killing against him, since the targeted killing was intended to act against the carrying out of terrorist activities against innocents and thus to neutralize the carrying out of the terrorist attack that has been started or is in the stages of formation. As the evaluation of the situation indicates that it is necessary to carry out a targeted killing against a terrorist operative, the main consideration is generally the prevention of terrorist attacks against innocents and the saving of life.

#### **4.3.2 Research Contribution**

This research study discussed at length the mechanism of targeted killing and the manner of its implementation and its effectiveness as one of the instruments in the abilities of the democratic country to fight effectively against terrorism. The contribution of the research study is its broadening of the discussion, both theoretical and practical, its development of the knowledge and the instruments for the understanding of the components of terrorism, and the examination of the effective ways of coping with this threat by a democratic state.

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<sup>7</sup> See table number 14 in the appendices.

The research study can help in the construction of a model that enables the democratic states to examine this type of process and assess their future security policy regarding similar events in their territory and in the world and in relation to other countries. The research focused on four main points:

1. The research enabled the development of the existing knowledge and the theoretical basis in the field of counter-terrorism in a symmetrical or asymmetrical framework. This can be of help in a wide range of threats, under the general threat called the asymmetric conflict, and can be adapted to a variety of arenas and challenges.
2. The research enabled the development of the existing knowledge and the examination of the complexity of the preservation of national security and the lives of innocents, through the use of extreme instruments such as the mechanism of targeted killing, when there is difference regarding the manner and degree of use of such an instrument.
3. The research study examined whether the use of the mechanism of targeted killing deters the terrorist organizations and reduces the terrorist activity. It is apparent that the empirical findings prove that there is a significant decline in the number of terrorist attacks.
4. The research study attempted to examine whether the use of the mechanism of targeted killing is effective in the long term in the reduction of terrorist attacks, and this was proved effective only partially.

#### **4.3.3 Research Limitations**

- Despite the research findings, the influence of the targeted killings on Palestinian terrorism as investigated in this research study is in the framework of a short period of only nine years.
- The research study addressed Palestinian terrorism as one issue, and there was no differentiation between the terrorist organizations and the degree of intensiveness of the terrorist attacks carried out by each terrorist organization.

- During the research study, the influence of the targeted killings on the number of Israeli victims and the influence of this topic on the motivation of the leadership to carry out targeted killings were not examined.

#### **4.3.4 Recommendations for Future Research**

- In a future continuation research, there is room to differentiate between the different terrorist organizations, both in terms of the terrorist operatives who were killed and their organizational affiliation and in terms of the classification of the terrorist attacks according to the organization that carried out the attack.
- In a future continuation research, there is room to measure the influence of the targeted killings on the victims on the Israeli side. This research can indicate different conclusions since there can be a situation in which the terrorist organizations will carry out more suicide attacks after every targeted killing of a senior operative. However, because of the serious blow to the organization, the “quality” of these attacks will decrease and therefore the number of Israeli victims will also decrease, relative to other terrorist attacks.
- A continuation research can examine the system of considerations and processes of making decisions in the political and security leadership: when making a decision to carry out a targeted killing, whether it is possible to use other alternative means to targeted killing so as to deal with the terrorist organizations.
- In a continuation research study, the carrying out of economic targeted killings should be examined. What is the direct economic influence on the democratic state when fighting terrorism, such as the forfeiture of terrorist funds or the closing of corporations that sponsor terrorism, which constitute a factor complementing the policy of targeted killings deployed against terrorists?

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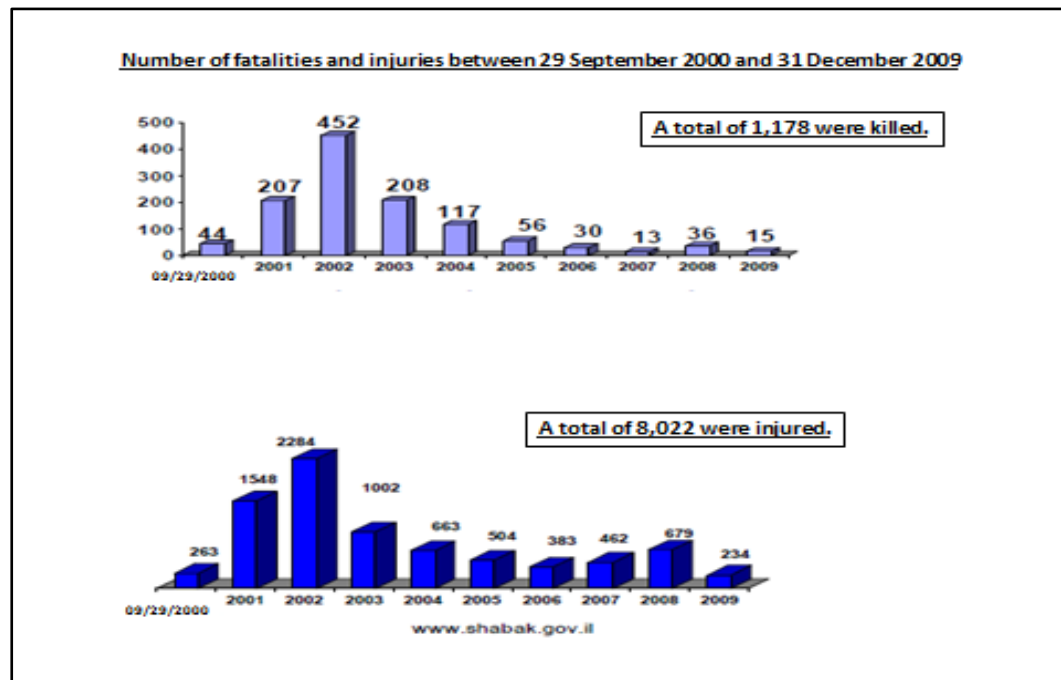
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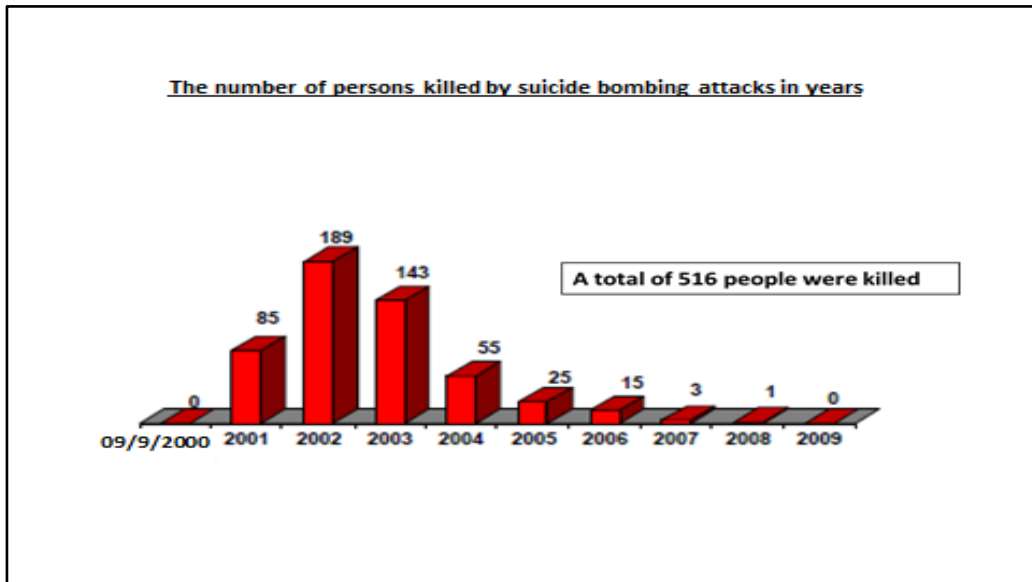
## Appendices<sup>8</sup>

### Appendices 1 and 2: Number of fatalities and injuries between 29 September 2000 and 31 December 2009

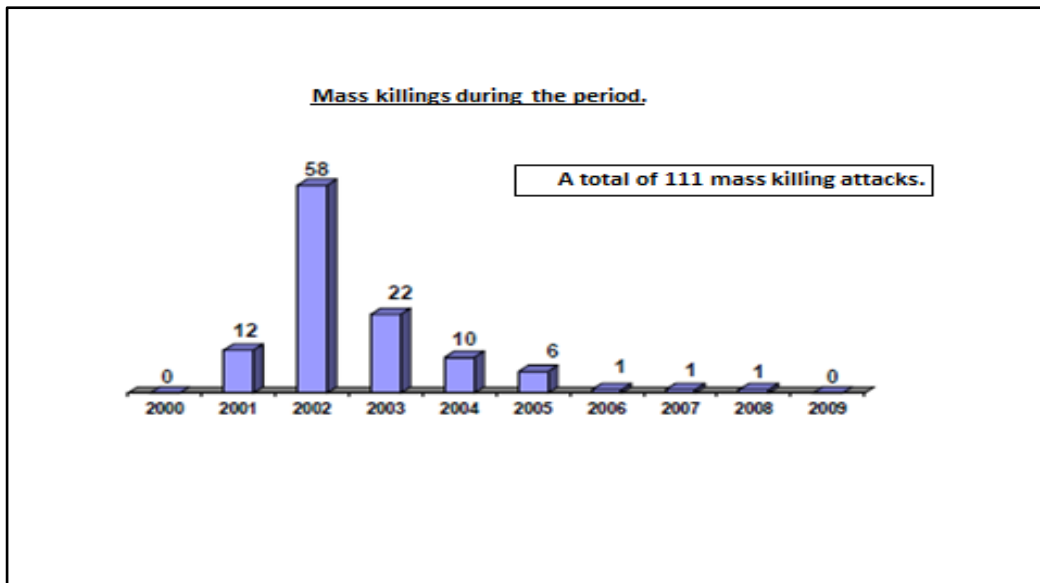


<sup>8</sup> Source: Data taken from the security forces website, [www.shabak.gov.il](http://www.shabak.gov.il)

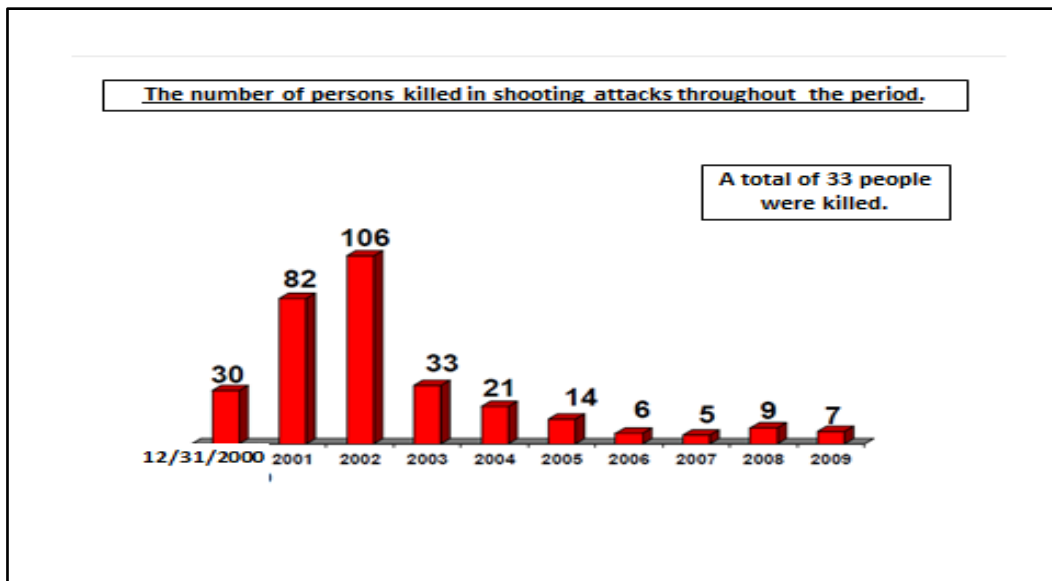
### Appendix 3: Number of persons killed by suicide bombing attacks in years



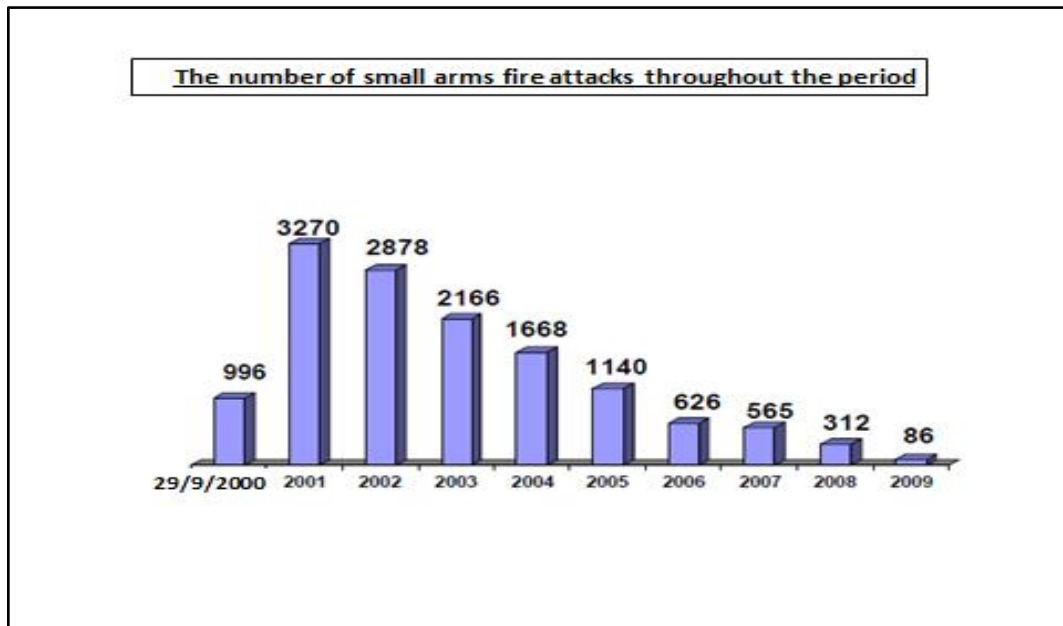
## Appendix 4: Mass killings during the period



## Appendix 5: Number of persons killed in shooting attacks throughout the period

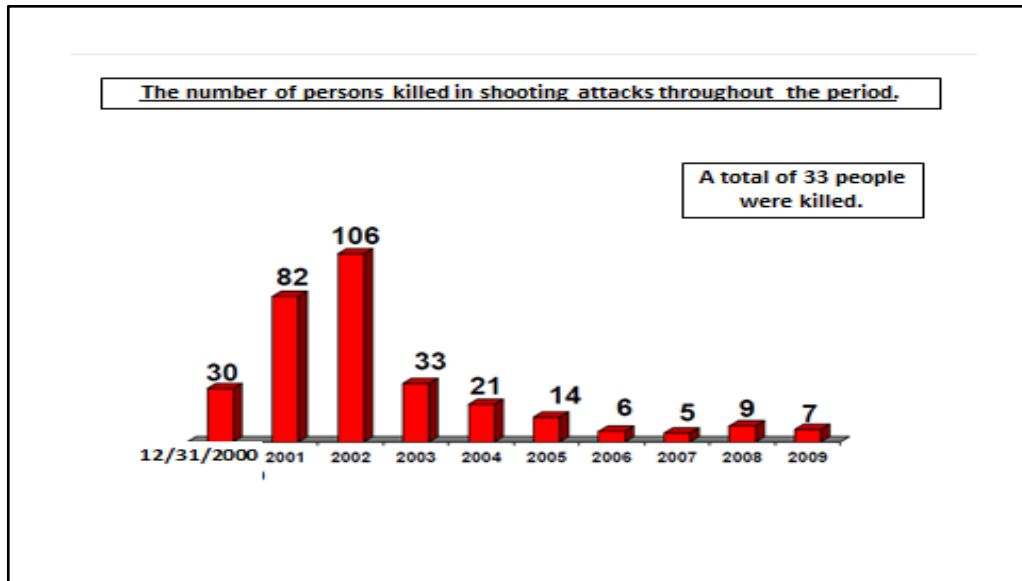


## Appendix 6: Number of small arms fire throughout the period

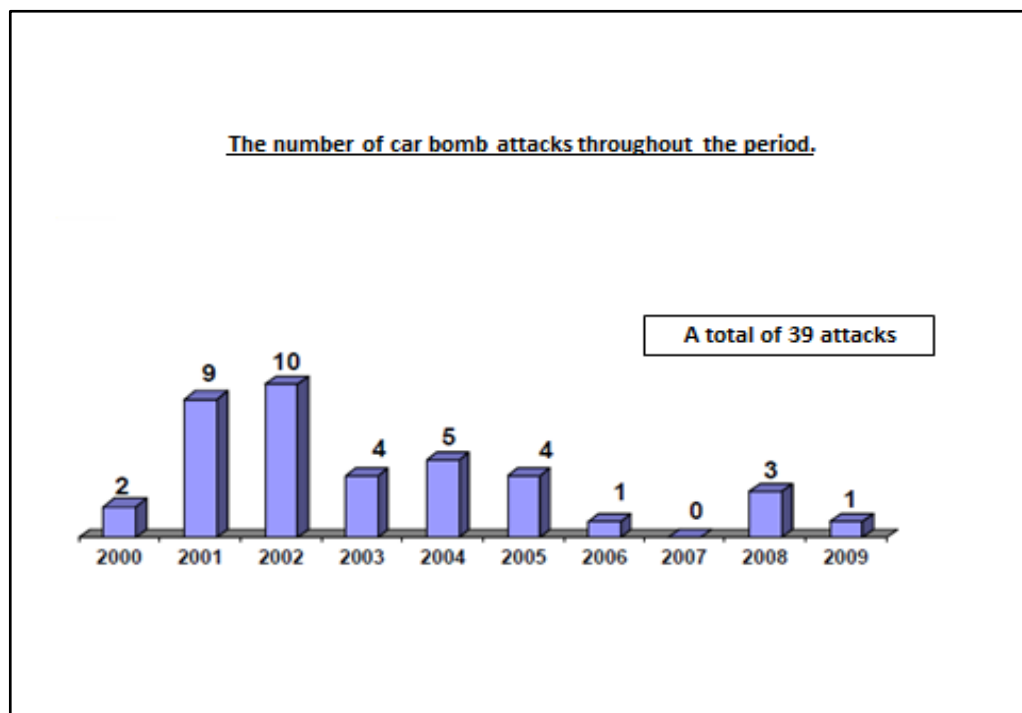




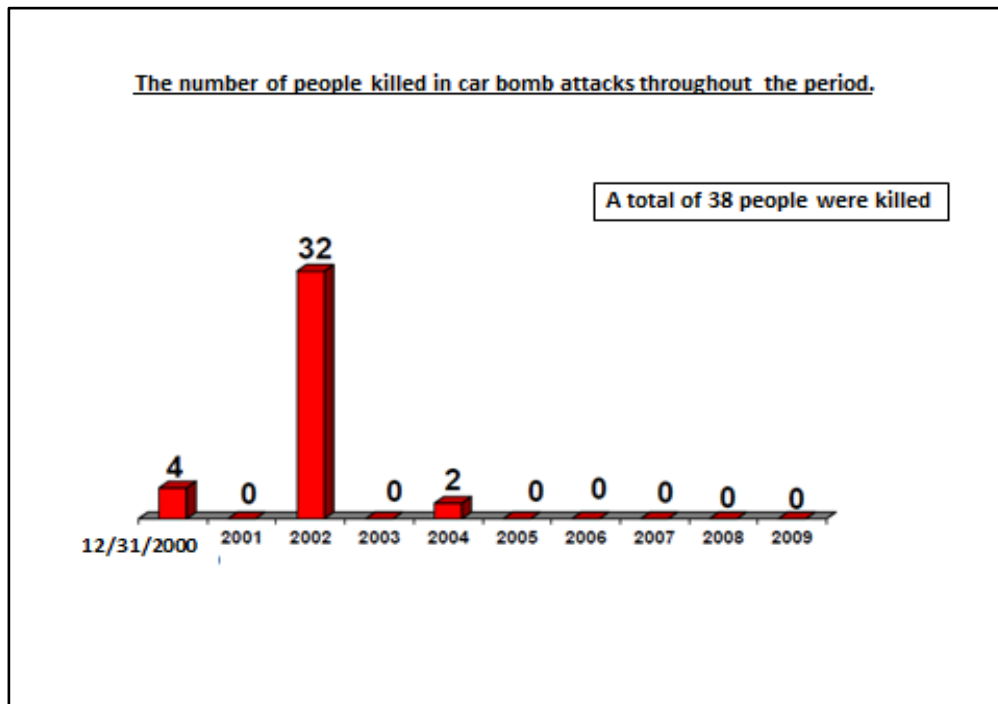
## Appendix 7: Number of persons killed in shooting attacks throughout the period



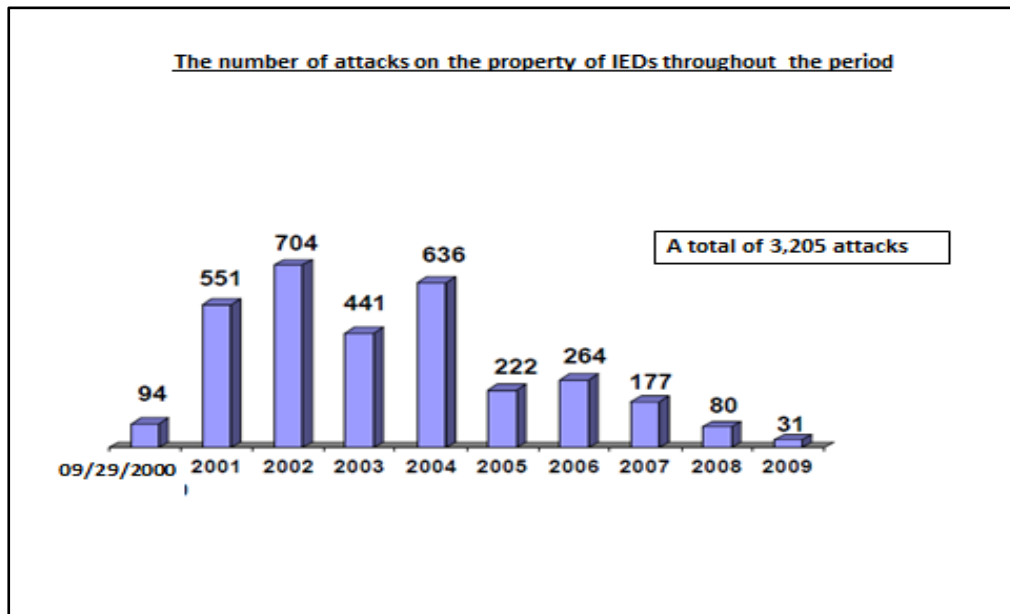
## Appendix 8: Number of car bomb attacks throughout the period



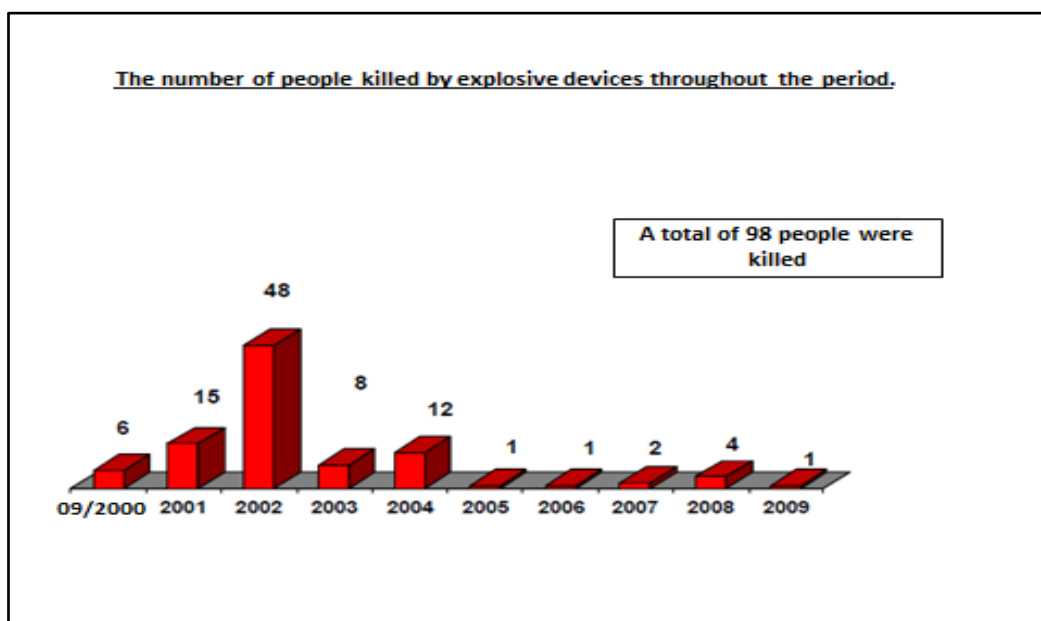
## Appendix 9: Number of people killed in car bomb attacks throughout the period



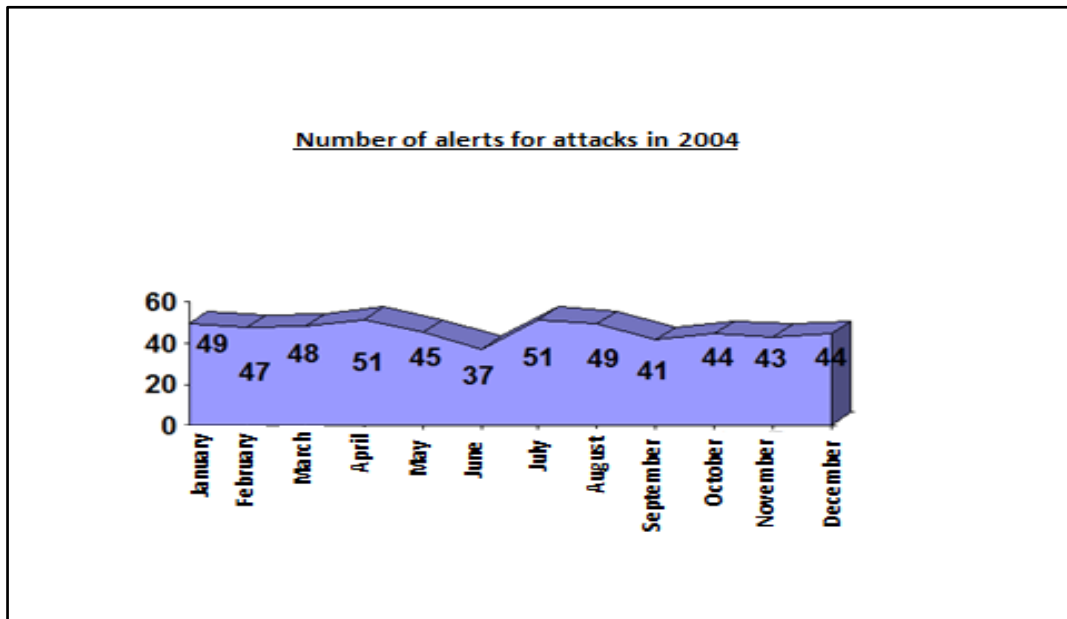
## Appendix 10: Number of attacks on the property of IEDs throughout the period



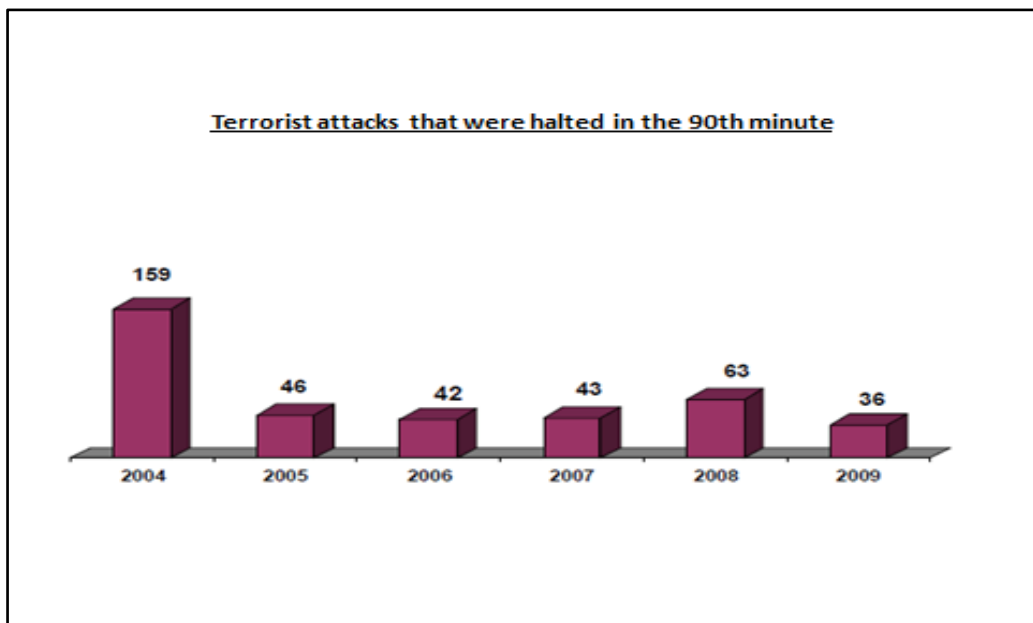
## Appendix 11: Number of people killed by explosive devices throughout the period



## Appendix 12: Number of alerts for attacks in 2004



### Appendix 13: Terrorist attacks that were halted in the 90th minute



## Appendix 14: Distribution of the number of attacks in a regional section

Distribution of the number of attacks in a regional section.

