Ireland Facing Terrorism

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Abstract: Throughout its existence as a state, Ireland has had to cope with intense terrorism in three arenas: within its territory, across the borders, and abroad. This problem has been a major political and psychological factor in Ireland's reality and the need to cope with it has forced the public and governments to deal with hard dilemmas.

This article examines Ireland's conduct in the struggle against terrorism with regard to the choice between maintaining human rights on the one hand and insuring public safety on the other hand. Following a review of the nature of the basic problem that a democracy faces when it has to deal with political terrorism, the paper describes the physical and psychological characteristics of the threat that Ireland has had to confront. The paper then turns to examine Ireland's response, focusing on two controversial issues: collective punishment, as exercised in the demolition of houses and restrictions imposed on the adversary population's freedom of movement, and extra-judicial killing of terrorists. These measures are weighed in terms of their acceptability in a democratic country and their effectiveness as anti-terrorism policies.

TERRORISM – CRIME OR WAR?

Coping with terrorism in a democracy entails difficult problems. These problems stem from the fact that, in several respects, terrorism falls somewhere between crime and war. The democratic law enforcement system is well adapted to deal fairly effectively with common crime while retaining and safeguarding the principles of civil liberties; it is also well adjusted to cope with a general war against a foreign state. It is, however, ill equipped to deal with a situation of large scale politically motivated violence by sub-state groups. On the one hand, the legal system is not designed to cope effectively with large organizations that are well armed, financed, trained, and determined, whose members are willing to sacrifice themselves for their cause, that enjoy broad popular support within segments of the country’s population and, sometimes, financial, logistical and political support from other states. On the other hand, neither internal insurgency nor international terrorism is customarily regarded as a state of war. Politically and legally, the means and methods that a state can use in a war situation cannot be readily employed for coping with the limited violence generated by domestic or foreign terrorist groups or by clandestine actions of foreign states. The insufficiency of the normal
legal measures in coping with terrorism has resulted in the institution of special measures in all democratic countries that have faced a surge of terrorism. As Zagari noted in a report to the European Parliament, ‘All the countries which in one way or another have suffered from terrorism, from the Federal Republic of Germany to Italy, from France to Spain, from Ireland to the United Kingdom and Canada, have introduced special provisions in criminal law, criminal proceeding and the judicial system, as well as police measures, in order to adapt the legislation in force to the specific features of terrorism’s objectives and methods of combat’.1

Conceptually, political terrorism also differs from common crime in that it is a declared war on the state, the regime, or on a certain social group, and the terrorists view themselves as combatants rather than as criminals, a view that the state rejects. This situation creates a theoretical and practical paradox. If we are to adopt the terrorists’ claim for combatants’ status, then security forces should be allowed to shoot them on sight; if caught, they should be detained for the duration of the armed conflict rather than be put on trial. The lack of clarity and established norms concerning the status of terrorist groups leaves a legal and political vacuum. In practice, in coping with domestic terrorism, democratic states have adopted pragmatic compromise solutions that, resting on emergency regulations, have, in fact, treated terrorism as a hybrid of crime and war.

In determining the spot where a state places itself along the spectrum between viewing terrorism as crime or as a war, an important consideration relates to the question whether the terrorist operations originate within or outside the jurisdiction of the state (‘domestic’ v. international terrorism). In cases where the terrorists are based outside the targeted state’s borders and cannot be stopped either because they control the territory where they are located or because they enjoy the protection of a host country, the situation resembles a state of war in all practical respects. This was the case, for example, of Israel’s struggle against Palestinian groups in Jordan (in the 1950s and 1960s) and in Lebanon (1970s and 1980s), against Hezbollah in Lebanon (since the 1980s), and of the recent United States confrontation with al-Qaeda in Afghanistan.

Yet ambiguity exists even with regard to coping with the relatively simple case of international terrorism. Consider, for example, the status of al-Qaeda and Taliban prisoners captured by the United States in Afghanistan. These prisoners are held by the US in Guantanamo Base, an American enclave in Cuba. They do not have the rights of common criminal suspects or convicts. They are detained without trial or court order and have no access to a lawyer. On the other hand, they do not have the benefits of prisoners of war, such as the right of visit by the Red Cross, receiving mail from their families, and being released and repatriated at the end of hostilities. By and large, international law and custom leave international terrorism in an abyss.
The victim state’s ability to cope with international terrorism is hampered because international relations, including behaviour in conflict, are based on a system in which the unit is a state, not a sub-state group or individuals. Although the protocols to the 4th Geneva Convention recognize, on some conditions, the combatant status of guerrilla groups, terrorists have no combatant status whatsoever. It is impossible, for example, to declare war on a terrorist group. It is possible, of course, to demand a state on whose territory the terrorist group is based to extradite or punish the terrorists. But if this state refuses to take either of these actions, denies that the group is based on its soil, or claims that it cannot find the culprits although it is doing its best, the offended state cannot readily take independent action inside the other country’s territory or wage war on that state. Article 51 of the United Nations’ Charter provides in a very general way the right for self-defence but does not go into any detail, leaving a plethora of situations that fall short of a full-scale war open for interpretation. As the UN Charter was written before international terrorism became a major problem for world order, it is understandable that it does not specifically address situations typical of this mode of struggle, such as the permissibility of action against violent sub-state groups based abroad, cases of indirect aggression by a state, such as aiding and abetting terrorist groups, nor does it refer to cases of clandestine acts of aggression by states. In these and similar cases, questions of form and scope of responses by the victim state are left open.

Relating to the conflict as a war situation is much more problematic in the case of ‘domestic’ terrorism, where the terrorists are based inside the targeted state’s territory and jurisdiction. The way that domestic terrorism has been treated by democratic countries has been mainly affected by the magnitude of the terrorist threat. When the terrorist threat is small, it can be effectively handled by the civilian law-enforcement system within the bounds of ordinary criminal law. France, for example, did not need to resort to special measures in order to put behind bars the whole membership of Action Directe, some two dozen in number. The same is true with regard to Germany coping with the Rote Armee Fraktion (better known as the Baader-Meinhof Group), a group of similar size (both countries have actually suffered also from ‘imported’ terrorism, primarily of Middle Eastern origin, as well as from actions of other domestic terrorist groups). However, the civilian law enforcement system has proved short-handed in cases where the terrorist group’s membership was in the hundreds or thousands. In these cases the military has been called in and emergency measures were instituted. Cases in point are France tackling the FLN in Algeria (1954–62) and the United Kingdom’s experience in Northern Ireland (since 1969). Government response to domestic terrorism has been affected not only by the actual size of the terrorist groups and the scope of the violence that they generate, but also by
the perceived potential danger to the state. A case in point is Canada’s reaction to the *Front du Liberation de Quebec* (FLQ) in 1970. Although the group was very small and had carried out only a few terrorist attacks, it represented the separatist demand of establishing an independent Quebec, an idea that enjoyed the support of a broad segment of the population. In order to suppress the group, the government invoked the War Measures Act, which had been previously used only in the two World Wars.²

**ISRAEL’S EXPERIENCE: CHARACTERISTICS OF THE THREAT**

Throughout Israel’s existence as a state, terrorism has been a central political and psychological issue. Two factors have contributed to the fact that the Israeli public and governments have viewed this threat as existential. First, during most of the period under consideration, the stated purpose of the Palestinian groups was the annihilation of Israel. The Palestinian National Charter (both the 1964 and 1968 versions) denied Israel’s right to exist and demanded that all Jews who came to the country after the ‘beginning of the Zionist invasion’ (presumably 1917 by the Palestinian interpretation) return to their countries of origin.³

Although the PLO has formally renounced this objective since 1988, many Israelis still do not believe that the formal acceptance of Israel’s existence reflects the genuine sentiment and intentions of the PLO’s leadership. Moreover, radical Palestinian groups, notably Hamas and the Palestinian Islamic Jihad (PIJ), continue to advocate the total destruction of Israel.⁴ Second, the Israeli public has perceived the Palestinian struggle as the spearhead of the animosity of the surrounding Arab world. This perception of the Palestinian threat as part and parcel of a much greater danger enhanced its perception as an existential peril.

The Palestinian groups that have conducted the terrorist campaign against Israel have been among the biggest terrorist groups in the world, much larger than nationalist groups in Europe, such as the IRA and ETA, and similar in size to the FARC in Colombia, the Mujahedeen in Afghanistan and the UNITA in Angola. The smaller groups, such as the Arab Liberation Front (ALF), the Poplar Front for the Liberation of Palestine-General Command (PFLP-GC), and the Fatah Revolutionary council, better known as the Abu Nidal Group, had hundreds of members. The larger ones, e.g., Fatah, the Popular Front for the Liberation of Palestine (PFLP), the Democratic Front for the Liberation of Palestine (DFLP) and, more recently, Hamas, had thousands of arms-carrying members. The Palestinian groups have also had assets that other large terrorist groups have not had: political and diplomatic support from Arab countries, monetary support, supply of arms and training, as well as bases and safe haven in Arab states.
The frequency of Palestinian terrorist attacks as well as their characteristics and arena have varied greatly over the years. The Palestinian hostility towards the Jewish population in the country started as early as the British occupation of Palestine in 1917, and continued after the establishment of the State of Israel in 1948. In the first half of the 1950s this animosity took the form of terrorist incursions into Israel from the West Bank and the Gaza Strip. These incursions by and large ceased after the 1956 Sinai Campaign. Terrorist incursions from across the border resumed in 1965, following the establishment of several militant Palestinian organizations, notably Fatah. From the beginning of 1965 until the Six Day War of June 1967, these groups carried out 110 incursions into Israel from neighbouring Arab countries, causing 14 fatalities.\(^5\) The occupation of the West Bank and the Gaza Strip in the Six Day War and the development of the Palestinian militant groups brought about a great rise in the intensity of Palestinian terrorist and guerrilla activity against Israel, which has continued until now. This paper will focus on the latter period.

From June 1967 until their expulsion from Jordan in September 1970, the Palestinian groups' main effort took the form of a guerrilla campaign against Israel, waged from neighbouring Arab countries, particularly from Jordan. The attacks included shelling across the border, mining roads and ambushes. During that period there were 3,425 incidents along the Jordanian border, 346 incidents along the Syrian border and 181 incidents along the Lebanese border.\(^6\) These figures exceeded by far the number of incidents inside Israel and the territories. Since 1971, however, the main form of Palestinian armed struggle was terrorism, mostly within Israel and the occupied territories. During the three decades until the outbreak of the second intifada (September 2000), the annual number of Palestinian terrorist incidents ranged from 200 to nearly 600. They consisted of armed assaults, explosive bombing, suicide bombing attacks, hostage taking and shelling across the border. The great majority of the attacks (about 80%) have targeted civilians. Before the Oslo agreement of September 1993, the mean annual number of fatalities was 29 (range: 4–158) and the mean number of wounded was 251 (range: 9–1115).\(^7\) The number of casualties more than doubled in the period of 1993–2000, from the Oslo Agreement to the start of the second intifada, mainly due to the rise in the terrorist activity of Hamas and the PIJ. The outbreak of the second intifada brought about a quantum leap in the number of incidents and casualties. In the period of September 2000 to the end of 2002, the mean annual number of incidents has been more than 6,500. The mean annual number of Israeli fatalities has been about 300, and the number of wounded more than 2,000. Seventy per cent of the casualties have been civilians. A large proportion of the casualties during the intifada was caused by suicide
bombing attacks – 42% of the total number of fatalities and 55% of the total number of civilian fatalities.

In a comparative perspective, judging by the absolute number of casualties of terrorist attacks, the terrorist threat to Israel prior to the second intifada can be characterized as intermediate – larger than the number of terrorism victims experienced at the height of terrorist campaigns in most West European countries after World War II (e.g., France, Germany and Italy), and smaller than the number in countries such as Northern Ireland. Calculating from the data compiled by an authoritative source, the average annual numbers of terrorism incidents and fatalities in West European countries during the periods when they were afflicted by terrorism, were as follows: Italy (1968–85) – 810 incidents and 23 fatalities; France (1975–84) – 573 incidents and 13 fatalities; FRG (1970–79) – 149 incidents and 10 deaths. In Northern Ireland the average annual tally of fatalities in the period 1969–2002 was 108, considerably higher than the average annual number in Israel before the second intifada. During the second intifada, however, the annual number of Israeli casualties of terrorism has been nearly three times higher than the Northern Ireland average.

PUBLIC FEAR AND SUPPORT FOR HARSH COUNTERMEASURES

Still, in themselves, the numbers of casualties do not provide a meaningful representation of the problem of terrorism in democratic societies, nor do they explain public inclination to resort to severe anti-terrorism measures at the expense of some civil liberties. The intervening variable is public fear and distrust in the government’s ability to cope effectively with the threat. Weighed in physical terms, the number of terrorism victims in Western countries has been much smaller than the number of road accidents. Objectively, therefore, the likelihood of being hurt in a terrorist attack is rather small. Yet, people perceive the danger as being very high. In Israel, public opinion polls spread over more than two decades have consistently found that a great majority of Israelis expressed personal fear of terrorism. In a study conducted in 1979, 73% of the respondents said that they were ‘afraid’ or ‘very afraid’ that they, or their close family members, would be hurt in a terrorist attack. Somewhat higher levels of fear in response to the same question were found by Arian in polls conducted in 1995 (85% ‘afraid’ or ‘very afraid’) and 1996 (78%). In addition to the general expression of fear, spectacular terrorist attacks also create specific psychological disorders. In the United States, an extensive study found that 17% of the population outside New York City reported symptoms of post-traumatic stress two months after the attacks of 11 September 2001, and nearly 6% still displayed these symptoms six months after the attacks.
Presumably, fear of terrorist attacks has been a factor that influenced the willingness of Israelis to resort to harsh counter-measures. Merari and Friedland found a widespread public support of a variety of severe measures in response to terrorism.\textsuperscript{14} Thus, 80\% of the respondents were in favour of demolition of homes whose owners knowingly housed terrorists; 88\% supported the use of curfews; 90\% supported expulsion abroad of persons linked to terrorist groups; 95\% were in favour of military reprisal strikes against terrorist bases, 75\% were in favour of military reprisal strikes against terrorist bases, even if civilians might be hurt in the strikes; and 93\% supported assassinations of leaders of terrorist groups. Similar results have been obtained in later years. In a poll conducted in 1986, Arian, Talmud and Hermann found that 96\% of a representative sample of the Jewish population in Israel supported the use of military force in various forms, in response to shelling of Israeli Northern settlements from Lebanon.\textsuperscript{15} In a public opinion poll conducted in 1993, 79\% of a representative sample of Israeli Jews were in favour of demolishing houses of persons who provided asylum to known terrorists, 77\% supported sending to exile persons who maintained contacts with terrorist groups, and 68\% were in favour of bombing terrorist bases outside Israel’s borders, even if non-combatants might be hurt in the bombing.\textsuperscript{16} Unsurprisingly, this attitude has persisted during the second intifada, which has levied a high toll of casualties among the Israeli population. In a recent poll conducted by Yaar and Hermann of the Tami Steinmetz Centre for Peace Research, about 80\% of a sample of the Jewish population of Israel supported entry of the IDF into cities in the Palestinian Authority area and staying there as much as needed (practically meaning re-occupation of these cities).\textsuperscript{17} Another poll by the same centre found that only 29\% of the respondents held the opinion that in planning military operations in the territories, the IDF should take into consideration the possibility of hurting Palestinian civilians as a supreme factor; 44.5\% of the respondents maintained that the possibility of hurting civilians should influence the planning, albeit not as a supreme factor; 24\% thought that this possibility should not affect the planning at all.\textsuperscript{18} Apparently, most Israelis view the situation as war rather than as a law and order problem. In contrast to a law enforcement situation, in war one assumes that non-combatants may be inadvertently hurt. The readiness to use massive force is, undoubtedly, fed by a feeling of an existential threat to personal and national security. This feeling has presumably been strengthened in the course of the second (current) intifada, in which the average annual number of Israeli fatalities has been nearly 300 – almost three times the average annual number of terrorism deaths in Northern Ireland.
CONTROVERSIAL COUNTERMEASURES

This paper is not intended to provide a comprehensive overview of Israel’s experience of coping with terrorism. Instead, the paper focuses on selected areas of controversy as cases in point, specifically – collective punishment, closures, curfews and extra-judicial killing of terrorists (usually referred to in Israel as ‘targeted killing’). Presumably, similar controversies are likely to arise in any democracy that faces the need to cope with severe terrorism.

Demolition of Houses

Demolition of houses as punishment for involvement in terrorism of one or more of the dwellers has been practised by Israel since the occupation of the West Bank and the Gaza Strip in 1967. Until the outbreak of the first intifada (8 December 1967), about 1,400 houses were destroyed or sealed. According to B’Tselem (Israeli human rights organization) 2001 tally, since December 1987 at least 449 houses have been demolished completely, 62 have been partially destroyed, 296 houses have been fully sealed and 118 have been partially sealed. The legal basis for this punishment is Regulation 119 of the Defence (Emergency) Regulations of 1945. The decision to destroy or seal homes has been administrative, rather than judicial, although the affected persons could appeal to the High Court of Justice. In almost all cases, however, the High Court of Justice has dismissed the petition.

Clearly, the rationale for demolition of homes is deterrence rather than retribution. The owners of the destroyed homes are almost always not the persons who committed the terrorist act for which the house is demolished, and the offender is usually not the sole resident of the house. The punishment does not, therefore, rest on the retributive principle but on the notion of general deterrence. Collective punishment is generally forbidden in international conventions (Article 50 of The Hague Convention of 1907 and Article 33 of the Fourth Geneva Convention of 1949), as well as in domestic criminal law. Violating the principle that only individuals who are personally responsible for a crime should be punished must have a very sound and exceptional justification. The prevention of suicide bombing may be a sufficient cause for this breach of judicial and conduct of war principles. Persons who are willing to kill themselves in order to kill others are, obviously, very hard to deter by the threat of punishment to themselves, but they may still care about the well-being of their families. In the absence of other means of deterrence the breach of ordinary principles of justice may be justified. The application of this extreme measure by Israeli authorities, however, has been quite indiscriminate with regard to the nature of the offence. The offences that resulted in the demolition or sealing of homes ranged from murder to membership in a terrorist group.
In addition to the judicial and moral examination, extreme measures should also be examined with regard to their instrumental value. As the only purpose of house demolition is general deterrence, the critical question is whether this measure has, indeed, been an effective deterrent. The High Court of Justice was aware of this question but shunned examining it factually. The IDF has never made public any evidence that house demolition does deter terrorists and, presumably, has never carried out a study designed to answer this question. In fact, the little evidence in existence suggests that collective punishment of this kind does not influence the affected population in the desired direction. A study conducted by Efrat Zilber showed that the number of terrorist incidents generated by Palestinian communities (villages or neighbourhoods in cities) in which houses were demolished did not decline after the demolition. In general, collective anti-terrorism measures are likely to have two opposing effects on the population from which the insurgents emerge: on the one hand, they breed fear and, on the other hand, hatred to the government. The actual behaviour of the affected public, as a result of the infliction of collective punishment, depends on whether fear is stronger than anger, or vice versa. Carlos Marighella, author of the ‘Minimanual of the Urban Guerrilla’, probably the most influential terrorist guidebook, apparently maintained that anger prevails over fear and submission in a population submitted to collective punishment. He advised ‘urban guerrillas’ (a euphemistic term for terrorists) to carry out attacks that would provoke the authorities to clamp down on the population that harbours the terrorists. This, in turn, would result in increased hatred of the government and a rise in the popularity of the insurgents. Possibly, this has also been the result of the relatively indiscriminate use of house demolition by Israel in the territories.

Closures and Curfews

Closures and curfews are measures that limit the freedom of movement of a population living in a certain geographical area. Closure is the blocking of passage of Palestinians from the occupied territories into Israel; a more stringent variant, ‘internal closure’, is the prevention of Palestinians from leaving their villages or towns; curfew is the confinement of residents to their homes. These measures have differed in the frequency and duration of their imposition. Curfews have been imposed in acute situations, typically to facilitate the search for terrorists and to prevent their escape, and their duration has been several days at the most. The practice of imposition of closure on the territories as a routine response to bouts of terrorism began in March 1993, in the wake of an increase in terrorist attacks. Closure was enforced under the pressure of public criticism of the government’s inability to control the situation. The purpose of this measure was officially presented as preventing Palestinian terrorists from entering Israel.
An additional, undeclared but possibly no less important aim, however, was to punish the Palestinian population, which depended on employment in Israel, so as to generate popular pressure on the militant groups. The closure, removed after several weeks, was reinstated later, when Palestinian terrorism escalated again. It soon became a permanent feature of Israel’s response to major terrorist attacks, particularly suicide bombing. Initially, closure indeed seemed to spawn criticism of militant groups’ actions against Israel in at least part of the Palestinian population. This was the case especially when the peace process was making progress. Later on, however, this effect dwindled, and the majority of the Palestinians have apparently viewed closure as another indication of Israel’s maliciousness.

As mentioned above, an important purpose of closure was to appease Israeli public opinion. In the wake of a spectacular terrorist event, the government used closure as an immediate, visible response, designed to make the public feel that the attack did not pass unanswered and that the government has the methods and means for coping with the situation. As terrorist attacks continued and closure became a permanent feature, however, it lost much of its morale-supporting effect. On the other hand, although closures have not been able to completely prevent the entry of terrorists into Israel, it is reasonable to assume that they made it more difficult and, had they not been imposed, terrorist attacks would have been more frequent.

**Extra-judicial Killing of Terrorist Operatives**

In its struggle against terrorism, Israel has resorted to killing terrorist operatives who could not be otherwise prevented from carrying out terrorist attacks. This method gained publicity first in the wake of the murder of the Israeli athletes at the 1972 Munich Olympic games by Black September terrorists, although it had been occasionally used earlier (e.g., the assassination of Ghassan Kanafani in Beirut on 8 July 1972). The Munich Olympics murder marked a peak in Palestinian international terrorist activity against Israeli and Jewish targets and caused great consternation in Israel. Following this event, Israel has apparently launched a campaign of assassinations against Black September operatives in Western Europe, the organization’s main arena of operation. These assassinations were carried out on the soil of friendly countries in a clear breach of their laws. This is, presumably, the reason why Israel has never admitted its responsibility for them. Israel’s silence left the rationale behind the campaign of assassinations obscure, although there is good reason to believe that it had two prime objectives: obstructing the preparation and execution of terrorist attacks in process, and deterring other actual and potential operatives.

In the 1970s Israeli agents have, apparently, killed at least nine Palestinian terrorist groups’ operatives in Europe. The killings in Europe
were largely (albeit not completely) suspended following a debacle, which gained much publicity. On 21 July 1973 an Israeli hit team shot to death a Moroccan waiter in Lilehamer, Norway, mistaking him for Ali Hassan Salameh, one of the main organizers of the Munich Olympics attack. Several Israeli agents were caught by the Norwegian police and put on trial. The incident caused Israel great embarrassment. Beyond demonstrating the fact that mistakes are likely to occur when punishment is inflicted in an extra-legal way, the incident served as a lesson that the political cost of cloak-and-dagger tactics may far outweigh their utility as a tool of combating terrorism.

As to obstruction, in all likelihood the elimination of key terrorists thwarted some planned terrorist attacks. It is also conceivable that the need to be alert and to take precautions, such as frequent changes of place of residence, further interfered with the terrorists’ ability to carry out operations. Evidently, however, Palestinian terrorist attacks in Western Europe continued despite the Israeli campaign. It seems, therefore, that the assassinations deterred neither the individual terrorists nor the organization that sent them. When Fatah diminished its terrorist attacks abroad in 1974, it was because of political considerations rather than deterrence. In 1974 the PLO was granted an observer status in the United Nations and Arafat was invited to speak before the General Assembly. Continuation of international terrorism would have jeopardized the organization’s newly acquired international legitimization and was therefore reduced considerably.

Killing terrorist operatives in enemy territory does not entail the political and legal problems that this method involves when practised in neutral countries. Israel has carried out several operations of this kind in Lebanon, e.g., the killing of Abbas Mussawi, Hezbollah’s secretary general, on 16 February 1992. During the second intifada, however, this policy became a major component of Israel’s anti-terrorism effort. According to B’Tselem, from the beginning of the second intifada to 27 April 2003, Israel carried out 102 targeted killings of Palestinians.28 The targets have been operatives involved in preparing and launching terrorist attacks, who were based in the area controlled by the Palestinian Authority (PA). As the PA encouraged their terrorist activity, killing them has been the only practical way to thwart their activity. Furthermore, although the PA has not had the status of an internationally recognized state, in terms of security and law enforcement it controlled its territory. Thus, for all practical intents and purposes the situation of the second intifada has resembled a war between states, where killing enemy combatants in their country is politically and legally permissible. Under these circumstances, the problem of using targeted killings is not a matter of ethics or morality, but of political wisdom. Indeed, whereas there is every reason to assume that the killing of terrorist operatives prevented or stalled many terrorist attacks, including especially suicide bombings, on
some occasions the targeted killings provided the extreme militant groups with motivation or excuse to continue their attacks at times that the intensity of the intifada waned and there seemed to be a possibility of a cease-fire and the beginning of peace talks. In this sense, the persistent use of targeted killings amounted, sometimes, to preferring tactical needs to strategic considerations.

SUMMARY AND CONCLUSIONS:

The Severity of the Threat

In the face of the need to cope with a severe terrorist campaign, the cornerstone principles of democratic society, safeguarding civil liberties and human rights, collide with another keystone principle of any society, maintaining public safety. Alex Schmid described the predicament as follows:

The main dilemma posed when democracies are confronted by terrorism is the one between acceptability and effectiveness. Anti-terrorist measures have to be acceptable to a democratic society. On the other hand they have to be effective against a particularly unsavoury type of attack. It looks as if we have to make a cruel choice: do we want to sacrifice some democratic substance in order to be effective against terrorism or do we have to tolerate a certain level of terrorism for the sake of maintaining the civil liberties and political rights which we cherish?29

In practice, the main factor that has determined the nature and the harshness of democratic society’s response has been the perceived severity of the terrorist threat. Israel is no exception to this rule.

Acceptability in Context

In assessing the acceptability of specific measures, one cannot avoid the basic issue discussed supra, namely, do we consider fighting terrorism a war or a law enforcement situation? Moral standards applied in a war situation are different from those applied in a criminal justice context. The issue of targeted killing of terrorist operatives is a glaring example of this point. Most people would agree that killing a terrorist operative where he/she could be apprehended and tried is clearly immoral. But what about a situation in which the terrorist operative cannot be arrested or otherwise stopped from carrying out attacks? The context, in this case, is analogous to a war situation where, for obvious reasons, enemy combatants are being shot at rather than arrested. In fact, it would be immoral to refrain from killing a terrorist who is in the process of preparing an attack that is likely to result in a loss of life, if that terrorist cannot be stopped by other means.
The Question of Effectiveness

Obviously, anti-terrorism measures have to be effective. In fact, if they are not effective they are also immoral, because they cause pain to no avail. The criteria for effectiveness are less obvious, however. An essential question in this regard concerns the intended effect of the anti-terrorism measures. As mentioned above, in Israel’s case the decision to apply anti-terrorism measures has, at least to some extent, intended to appease the distressed Israeli public. Superficially, this may seem an illegitimate goal; yet public morale is the most important criterion in the war against terrorism. It is generally recognized that terrorism is a form of psychological warfare. A basic element of this notion is that terrorism, unlike other forms of warfare, does not try to win by destroying the adversary’s physical ability to fight, but vies to undermine the enemies’ will to resist. In this sense, the real battlefield against terrorism is public morale and public opinion, and assessment of failure or success in the struggle is more meaningfully done by gauging the public’s trust in the government than by counting casualties. Moreover, in a democracy, government policy cannot depart too much from public opinion, certainly not over a long period of time. In Israel, government anti-terrorism policy has been practically bound by public opinion.

Beyond the goal of maintaining public morale, in applying anti-terrorism measures tactical, short-range goals are sometimes in conflict with strategic, long-range objectives. In this regard, Israel has always favoured short-term results over long-term gains. In Israeli governments’ approach, the major criterion for effectiveness has always been preventing an imminent terrorist attack at all costs, even when the measures taken towards this end have been counter-productive with regard to their long-range influence. Thus, targeted killings of terrorist operatives continued even at times that they undermined the chance of beginning a pacification process. Similarly, the use of measures that had the effect of collective punishment, such as the imposition of closure and the demolition of houses has, probably, in the long run generated hatred more than fear, thus augmenting terrorism instead of reducing it.

NOTES


7. Source of data is the Database on Terrorism of the Political Violence Research Unit, Tel Aviv University.


17. E. Yaar and T. Hermann, ‘80% of the Jews in Israel Support the “Resolute Way” Operation, knowing that the Goal is Prolonged Occupation’, *Haaretz* (Israeli daily), 7 July 2002.


27. Based on various international media reports, compiled by the Terrorism Data Base of the Political Violence Research Unit, Tel Aviv University.
