



Israel's Policy of Targeting Terrorists: Implications for the U.S.

By R.S. Zaharna, American University

Israel has stated publicly that it intends to pursue a policy of targeting and killing Palestinian militants. To generate support for its policy, Israel opened new public affairs offices, created a delicate vocabulary, and presented an emotionally compelling argument. Many American policymakers, officials, and media commentators have echoed Israeli arguments. However, what American officials are advocating in their support for Israel is a state-sanctioned policy of extrajudicial killing. This is unprecedented.

Most governments that conduct assassinations, whether of dissidents, political adversaries, or members of rebel groups, either conduct them covertly or categorically deny them. No government can implement a state policy of executing people without due legal proceedings and not incur international condemnation. Such

killings violate international humanitarian law, international criminal law, and human rights protocols.

Under the Fourth Geneva Convention (ratified by Israel in 1951), extrajudicial killings constitute "grave breaches" and are subject to international jurisdiction. The severity that the U.S. attaches to extrajudicial killings is reflected in the State Department's annual human rights report. The first item listed under its accounting of human rights abuses is extrajudicial killings. Even

Israeli law, for reasons of moral conviction, prohibits the death penalty for Israeli citizens.

Human rights instruments stipulate that when a government suspects an individual of criminal or subversive activity, that government is obligated to capture and try the person. The government must present its evidence against the individual under a transparent judicial process of inquiry. To date, the Israeli government has offered no proof of guilt nor right of defense for the Palestinians it has killed. Moreover, several of the Palestinians killed had frequently passed through Israeli checkpoints where they could easily have been captured. Citing counterterrorism and security measures does not absolve Israel of its judicial obligations.

Extrajudicial killings cannot be justified even during armed conflicts. In January, Israel used this situational pretext to suspend investigations of killings by its secu-

riety forces, creating what Amnesty International called "a culture of impunity." Under international law, exceptional circumstances "including a state of war or threat of war, internal instability, or any other public emergency" may not be invoked to justify executions by a state. International law does not allow for willful killings under any circumstances.

Israeli officials have avoided the legal term extrajudicial killings as well as the political term assassinations, using instead "hitting Palestinian targets," "pinpointing attackers," and "neutralizing" or "liquidating" the organizers of attacks. Initially, the policy was labeled "preemptive operations," then "interception," and more recently, "active self-defense." The term self-defense is strategic, given that U.S. law prohibits the sale of weapons for other than defensive purposes.

Israel has argued its case of active self-defense exclusively within the context of the current 11-month Intifada, omitting its role as an occupying power in the Palestinian territories for the past 34 years. This glaring omission gives the appearance that Palestinian actions are occurring in a political vacuum rather than in response to the prolonged Israeli occupation of Palestinian territory.

Israel says that it goes "to great lengths not to harm innocent bystanders." However, the use of heavy weaponry and artillery—including combat aircraft in a civilian setting—suggests otherwise. Given the urban density of most Palestinian towns, even a direct hit inevitably damages adjacent homes and shops. In the case of the attack on July 26, missiles were fired into a seven-story building located in a residential neighborhood at 2:30 in the afternoon.

The preemptive aspect of Israel's extrajudicial killings causes additional concern. The doctrine of military necessity justifies killing when one is faced with imminent danger during combat. In the cases reported, the lives of Israeli soldiers were not in immediate danger, nor were the Palestinians killed in armed confrontation with Israeli forces. International humanitarian law clearly states that hostile activities have to be "in progress." There is neither a preventive nor a punitive right to kill.

Finally, Israel makes the case that its policy is effective. As former Deputy Defense Minister Ephraim Sneh stated, "It is effective, precise, and just." Iran, Turkey, Iraq, and others whom the U.S. has censored for human rights abuses have made similar cases for their extrajudicial killings of those hostile to their rule. However, they do not claim to be the sole democracy in the Mideast, nor America's closest ally. Israel does.

Key Points

- Washington appears to be condoning a government policy of extrajudicial killings by Israel.
- Extrajudicial killings cannot be justified even during armed conflicts.
- The appearance of U.S. support for Israel's policy of extrajudicial killings jeopardizes U.S. political credibility internationally, damages U.S. relations in the Arab world, and weakens U.S. policy objectives.

Problems with Current U.S. Policy

The problem for American foreign policy posed by Israel's policy of extrajudicial killings is two-fold. One, American officials and policymakers appear to support Israel's action, despite the fact that it trespasses on America's most basic values, including life, liberty, the rule of law, and the conviction that a person is innocent until proven guilty. The actions of an individual, however criminal or heinous, cannot be equated to those of a state government. This is fundamental. Second, American support for a policy of extrajudicial killings has immediate and long-term consequences both in the Arab world and in the international community. Yet, American support is evident both politically and militarily.

Politically, the Bush administration has communicated weak or conflicting messages, rendering its objections to Israel's policy ineffectual. The first extrajudicial killing occurred on November 9, 2000. Despite U.S. objections, the policy has continued for 10 months. In voicing its objections, Washington has avoided the legal and human rights implications of the policy by substituting "target killings" for "extrajudicial killings." Following Israel's attack in Nablus, which reaped international condemnation, the U.S. sent a double message. Again it voiced its "objection to target killings" by Israel, but it called on *the Palestinians* to stop the violence. Washington's message was further diluted when Vice President Cheney expressed indirect support for the policy in a national interview, saying he "saw some justification."

Furthermore, other American policymakers have reinforced the perception of U.S. support for Israel's extrajudicial killings. In a recent interview, Senator Joseph Biden, chairman of the influential Senate Foreign Relations Committee, repeatedly stated that Israel's policy was not an "assassination policy" or "extrajudicial killings" and that the FBI would do the same in comparable circumstances. Similar sentiments were expressed by both Democrats and Republicans in a July Foreign Affairs Subcommittee meeting on the Mideast. What is particularly noteworthy about Senator Biden's avoidance of the term extrajudicial killings is that he is a lawyer by training, chaired the Senate Judiciary Committee (1987-95), and has been a forceful advocate of arms control agreements.

Militarily, Israel's use of American weapons directly implicates the U.S. in a policy of extrajudicial killings. The U.S. State Department has been quietly urging Israel not to use high-profile American weapons, citing potential violations of U.S. arms control agreements. In response, Shlomo Dror, a spokesman for Israel's Defense Ministry, said: "[Weapons] usually kill people. What does it matter if you kill a terrorist by shooting a gun or firing a missile? In the end, he's dead." This position is entirely inappropriate. U.S. laws are being violated.

Internationally, U.S. support for Israel's policy torpedoes America's campaign for human rights. Washington cannot retain its credibility as a human rights advocate and simultaneously support a government's right to kill those hostile to its rule. For the U.S. to tolerate a policy of extrajudicial killings by one of its closest allies seri-

ously undermines America's commitment to universal human rights.

U.S. support for Israel's policy also threatens what has been a cornerstone of American foreign policy: promoting democracy and civil societies. Extrajudicial killings, by definition, violate the fundamental principles of democracy. Extrajudicial killings, under any circumstance, cross the bounds of civil society. As human rights advocates argue, under a policy of extrajudicial killing, a government becomes prosecutor, judge, and executioner. Morally, Israel's claim to be a democracy is incompatible with extrajudicial killings.

And Israel's renegade actions jeopardize U.S. foreign policy objectives not only internationally but regionally as well. First, U.S. support for Israel's policy has destroyed Washington's credibility as a viable mediator in the Mideast peace process. In the past, the U.S. was able to assert its role as the only mediator in the Israeli-Palestinian negotiations, because it had credibility and influence with both parties. However, when the mediator remains ineffectual while one party targets and kills the leaders of the other side, the mediator discredits itself. Either the mediator does not have the influence it claims or is not working in the interest of both parties.

Second, the policy is radicalizing the citizenry of the Arab world and increasing the vulnerability of Arab leaders friendly to the United States. The U.S. silence, in what Arabs view as clear aggression by Israel, has fueled anti-American sentiment and, with it, the potential to destabilize American-backed nations. Aware of their increasing vulnerability, Egypt, Jordan, and Saudi Arabia have shifted from diplomatic hints to open pleas for a stronger American role in checking Israeli policies. If these countries fall, Washington will have difficulty recruiting new allies in a more radicalized political climate.

Finally, U.S. support for Israel's policy has implications beyond the Palestinian-Israeli conflict. The Bush administration has tried to avoid the Palestinian-Israeli conflict and instead shift the focus to Iraq. However, by trying to avoid this inexpedient regional issue, the administration is losing valuable political capital that it may need later. Culturally speaking, people in the Arab world do not tend to compartmentalize things as tightly as Americans do. The Arab cultural preference tends toward a more holistic perspective; Arabs tend to see relationships where Americans often do not. In the case of the Mideast, Saddam Hussein is an Arab leader, and the Palestinian-Israeli conflict is an Arab concern. In the Arab world, the dots are not hard to connect. How the U.S. acts regarding one issue impacts the other.

Key Problems

- Extrajudicial killings violate fundamental American principles, yet American officials and policymakers appear to be actively supporting Israel's actions both politically and militarily.
 - Washington's support for Israel's policy of extrajudicial killings undermines U.S. foreign policy initiatives to promote human rights, democracy, and civil society.
 - Washington's support for Israel's policy also thwarts U.S. objectives in the Mideast, including future initiatives regarding Iraq.
-

Toward a New Foreign Policy

The legal and human rights implications of the Israeli policy are severe; they constitute war crimes. In an era of Slobodan Milosevic, Augusto Pinochet, and Saddam Hussein, there is little tolerance for human rights abuses. European capitals have put Israel on notice for its past and present abuses, and the Israeli government has responded by cautioning its high-ranking diplomats about traveling in Europe. Against this backdrop, any appearance of support for Israel's policy is counterproductive to U.S. interests and relations with the international community. Washington needs to immediately and unequivocally distance itself from Israel's state-sanctioned policy of extrajudicial killings.

Key Recommendations

- Washington must immediately and unequivocally distance itself from Israel's policy of extrajudicial killings and must convince Israel to stop the killings.
- Israel's use of American-made weapons to conduct a policy of extrajudicial killings violates U.S. laws. Washington must suspend weapons sales and transfers to Israel.
- American weapons must not be used to escalate the same conflict that American officials are struggling to contain. The U.S. must move vigorously to halt all forms of aggression and restore peace negotiations in the Middle East.

The U.S., as Israel's closest ally and major economic, political, and military supporter, is the one that must persuade Israel to stop the extrajudicial killings. Washington contends that it has no leverage in influencing Israeli policy. This is clearly not the case; the claim defies logic, since Israel receives \$3.1 billion in U.S. aid annually. And Washington has not hesitated to flex its political, economic, or military muscle when other nations have initiated policies

counter to U.S. interests. Israel has been particularly sensitive to American interests, as demonstrated during the Gulf War and even during the current situation. On April 18, the day Israel made its first incursion into Palestinian-controlled territory, Israel stated that it intended to remain there. However, only two hours after a telephone call from U.S. Secretary of State Colin Powell, Israeli troops withdrew.

Given that American laws are being violated, Washington should suspend further arms sales and transfers to Israel. Both the U.S. Arms Export Control Act and the 1952 mutual-defense pact between the U.S. and Israel stipulate that American weapons are to be used for defensive purposes only. Extrajudicial killings by a democratic state can in no way be construed as defensive. U.S. law also circumscribes weapons exports that "will increase the possibility of outbreak or escalation of the conflict." Israel's policy has clearly escalated

the conflict, as reflected in statements by the White House and State Department, which labeled Israel's actions "excessive," "highly provocative," and a "dangerous escalation." On August 27, the State Department said that Israel's killings are "only inflaming an already volatile situation." American weapons must not be used to escalate the same conflict that American officials are struggling to contain.

The use of America's heavy weaponry in a civilian setting further violates American moral sensibilities. American F-16 fighter jets, Apache and Cobra helicopters, and TOW missiles are specifically designed for military combat against a conventional army. The West Bank and Gaza are urban, civilian settings. Gaza, the site of numerous attacks, has one of the highest population densities in the world; seven refugee camps fill a 25-by-8-mile stretch of land. Israel's use of combat and antipersonnel weapons in such densely populated civilian settings must be immediately banned, and further U.S. arms shipments should be halted.

There is a precedent for suspending American weapons transfers to Israel. In 1978, 1979, and 1982, the U.S. administration notified Congress that Israel might have broken the rules on American weapons use. In 1982, former President Ronald Reagan suspended arms shipments twice during Israel's invasion of Lebanon. Since last September, when hostilities first erupted, both Britain and France have engaged in an undeclared arms embargo against Israel. It is time for the U.S. to follow suit.

Finally, the U.S. must restore peace negotiations. In the absence of any visible peace process, unchecked aggression silences the voices of moderation and creates a vacuum readily filled by extremists across the region. Washington needs to recognize the intimate connections underlying the politics of the Mideast. Unchecked aggression by Israel—once accepted, legitimized, and condoned—becomes a license for aggression by all. If the U.S. is to have any weight on the diplomatic front regarding its future objectives in the region, it must move vigorously to halt all forms of aggression and restore negotiations. This approach must be applied today if the U.S. is to have any credibility for American foreign policy initiatives tomorrow.

R.S. Zaharna <zaharna@american.edu> is an assistant professor of public communication at American University and served as a media analyst for the Palestinian Delegation to the Washington peace talks (1991-93). This brief was written before the events of September 11, 2001.

Subscribe to the *Self-Determination Crisis Watch* listserv!

Send an email to majordomo@fpif.org with the message "subscribe selfdeterminationlist" in the body.

Foreign Policy in Focus is a joint project of the Interhemispheric Resource Center (IRC) and the Institute for Policy Studies (IPS). The project depends on sales and subscription income, individual donors, and grants from foundations and churches. *In Focus* internships are available, and we invite article queries and comments. ISSN 1524-1939

Editors

Tom Barry (IRC)
Martha Honey (IPS)
Media Officer
Alec Dubro (IPS)

Communications Directors

Tim McGivern (IRC)
Erik Leaver (IPS)
Project Administrator
Nancy Stockdale (IRC)

Orders and subscription information:

Mail: PO Box 4506
Albuquerque, New Mexico 87196-4506
Voice: (505) 842-8288
Fax: (505) 246-1601
Email: infocus@irc-online.org

Editorial inquiries and information:

IRC Editor
Voice: (505) 388-0208
Fax: (505) 388-0619
Email: tom@irc-online.org

IPS Editor
Voice: (202) 234-9382/3 ext. 232
Fax: (202) 387-7915
Email: ipsps@igc.org

Website: <http://www.fpif.org/>

Sources for More Information

Publications

Amnesty International, "Israel and the Occupied Territories: State Assassinations and Other Unlawful Killings," (ai-index MDE 15/005/2001, February 21, 2001), available at <http://web.amnesty.org/802568F7005C4453/0/89051063083CB980802569F8005D5C44!Open&Highlight=2,15/005/2001>.

B'Tselem, Israeli Information Center for Human Rights in the Occupied Territories, "Israel's Assassination Policy: Extra-judicial Executions," (Position Paper, January 2001), available at http://www.btselem.org/Files/site/e_publications/Full_Text/Assasinations_Policy/Index.asp.

Palestine Human Rights Monitoring Group, "Report on Assassinations," available at <http://www.phrmg.org/english/Assassinations/AssassinationsReport.htm>.

Palestine Society for the Protection of Human Rights and the Environment, "Extra-Judicial Executions During the Al-Aqsa Intifada," available at <http://www.lawsociety.org/Reports/reports/2001/extrajud.html>.

UN Commission on Human Rights, "For the Record 2000: Israel and the Occupied Territories, Report of the Special Rapporteur," available at <http://hri.ca/fortherecord2000/vol3/israelchr.htm>.

Discussion Papers from *Foreign Policy In Focus*

Addressing the Demand Dimensions of Small Arms Abuse: Problems and Opportunities, By Alejandro Bendaña

Global Economic Governance: Strategic Crossroads, By Tom Barry

Reviewing the Citizen Agenda on Global Economic Governance, By Tom Barry

Bonn and Genoa: A Tale of Two Cities and Two Movements, By Tom Athanasiou and Paul Baer

How to Debate the China Issue without China Bashing, By John Gershman

Don't Strengthen the WTO by Admitting China, By Sarah Anderson, John Cavanagh, and Bama Athreya

Progressive Unilateralism?, By Ian Robinson

Visit our *GLOBALIZATION IN FOCUS* page at:

<http://www.fpif.org/global/>

Subscribe:

Subscribe for a year for \$60 (50 issues). Individual copies of *In Focus* are \$2.50, postpaid; bulk orders of *In Focus* are \$12.00 for 10 copies of the same issue, postpaid; orders for delivery outside the U.S. are double the listed prices. (Subscriptions do not include back issues. Contact the IRC for a list of available back issues.) Make checks payable to the Interhemispheric Resource Center. We also accept VISA and MasterCard.

To subscribe to *Foreign Policy In Focus*, or to order back issues, contact the IRC:

PO Box 4506 ♦ Albuquerque, NM 87196-4506 ♦ Phone: (505) 842-8288 ♦ Fax: (505) 246-1601

Name

Email Address

Street Address

City, State, Zip Code

VISA/MasterCard Number

Expiration Date

Signature