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Targeted Killing: A Modern Strategy of the State.

Essay by A.E. Stahl, King's College London and International Institute for Counter-Terrorism, Israel (aestahl@infinityjournal.com), and William F. Owen, Defence Academy of the United Kingdom (william@infinityjournal.com).

This article focuses on much discussed questions of targeted killings. Are they matters of policy, strategy, or tactics? How is their effectiveness to be gauged, in light of contingencies of time, place, and jurisdiction? Why are there such divergent views of this conceptually straightforward activity? Is any international consensus on targeted killing either possible or necessary? In addressing these questions, we hope to spur needed further debate on the topic.

Policy, Strategy, or Tactics?

What is a targeted killing? The fact is that there is no officially accepted definition for this action, no internationally agreed upon consensus.¹ Arriving at a better understanding of what targeted killings represent, as well as assessing their effectiveness raises other questions. The first is related to terminology. Can a state have a “policy of targeted killing,” as is often claimed? Or are such actions rather strategic or tactical means of removing targeted people in the furtherance of state policy? And what is the role of politics in these matters? A number of current scholars and practitioners have characterized the connection of politics to war and warfare. Colin S. Gray, for example, states that “War is about politics, and politics is about the distribution of power—who has how much of it, what they do with it, and what the consequences are.”² Christopher Bassford, in a study of Carl von Clausewitz, asserts that “Politics is the highly variable process by which power is distributed in any society.... The process of distributing power may be fairly orderly—through consensus, inheritance, election, some time-honored tradition, or it may be chaotic—through assassination, revolution, and warfare.”³ For our present purposes, politics will be taken to concern the exercise of power in a cycle of distribution and redistribution within a given state’s society. Policy emanates from politics.

Though most studies of targeted killing refer to the activity as policy,⁴ some see it as a strategy, others as a tactic. Such divergent perspectives attest to both the complexity of the subject and a prevailing uncertainty regarding the (purportedly) precise, discriminating, and proportional use of lethal force.

Let us begin by stressing that policy is not itself an action but a precondition for action. It gives those in power direction towards a desired objective realizable by appropriate tactics. Clausewitz wrote: “In no sense can the art of war ever be regarded as the preceptor of policy, and here we can only treat policy as repre-

1. Though there is no shortage of individuals who attempt to define it according to international law: see, e.g., Yael Stein, “By Any Name Illegal and Immoral,” *Ethics & International Affairs* 17.1 (2003) 127–37; Nils Melzer, *Targeted Killing in International Law* (Oxford: OUP, 2008); Gary D. Solis, *The Law of Armed Conflict: International Humanitarian Law in War* (Cambridge: CUP, 2010) 538–46.

2. “War—Continuity in Change, and Change in Continuity,” *Parameters* 40 (Sum 2010) 6. See also Justin Kelly and Mike Brennan, “Looking for the Hedgehog Idea,” *Australian Army Journal* 7.1 (2010) 41–56.

3. “The Primacy of Policy and the Trinity in Clausewitz’s Mature Thought,” in *Clausewitz in the Twenty-First Century*, ed. H. Strachan and A. Herberg-Rothe (Oxford: OUP, 2007) 84.

4. See, e.g., Steven R. David, “Fatal Choices: Israel’s Policy of Targeted Killing,” *The Begin-Sadat Center for Strategic Studies, Mideast Security and Policy Studies* 51 (2002) <www.miwsr.com/rd/1109.htm>; Anthony H. Cordesman, “Escalating to Nowhere: The Israeli-Palestinian War—The Actors in the Conflict: The Palestinian Factions That Challenge Peace and the Palestinian Authority,” *Center for Strategic and International Studies* (23 Feb 2005); Gal Luft, “The Logic of Israel’s Targeted Killing,” *Middle East Quarterly* (Win 2003) 3–13 <www.miwsr.com/rd/1110.htm>; Gabriella Blum and Philip Heymann, “Law and Policy of Targeted Killing,” *Harvard National Security Journal* 1 (2010) 145–70 <www.miwsr.com/rd/1111.htm>; Matthew J. Machon, “Targeted Killing as an Element of U.S. Foreign Policy in the War on Terror,” *School of Advanced Military Studies, United States Army Command and General Staff College* [monograph] (Fort Leavenworth, KS, 2006).

sentative of all interests of the community.”⁵ Policies of a state vary in purpose and urgency. They may reflect a comprehensive goal linked to a state’s very existence. Frederick the Great faced such a scenario in 1756, when he confronted a triple threat from Austria, France, and Russia. His policy was to preserve the continued existence of Prussia as a state.⁶

Policies may be more specific and limited to, say, convincing or compelling an adversary to cease armed violence. For example, the Israeli government has long used targeted killing in dealing with Palestinian militants. Whether broadly or narrowly conceived, policy is concerned with ends rather than ways and means.

Strategy is a notoriously complex subject area. Four points must be borne in mind in deciding whether targeted killing is principally a matter of strategy. First, as war is violence carried out for the purposes of policy, strategy links policy to tactics; it is “the bridge connecting the military instrument with the guidance of political purpose.”⁷ Regarding targeted killings, if the policy of a state is to disrupt activities of militant organizations, then the security apparatus of that state must devise strategies to carry out that policy tactically.

Second, strategy is essentially about fighting: “the concept of the engagement lies at the root of all strategic action, since strategy is the use of force, the heart of which is the engagement.”⁸ Without the actual or threatened use of (military) force, strategy cannot exist.

Third, strategy must be realizable through viable tactics. Killing is a tactic used to attain a desired strategic effect in the service of policy. Targeted killings, by definition, cannot occur if there is no use of force. One caveat: “It has long been commonplace to claim that while one *has* a strategy, one *does* tactics. This is useful, and in an important sense true, but, alas, it is also misleading. Why is that so? The truth that strategy is done by tactics is overshadowed by the yet greater truth that strategy is done as tactics.”⁹

Fourth and most important, strategy is subordinate to policy, which is assumed to be rooted in logic and reason; it is “shaped by the higher level of policy, the purpose of war.”¹⁰ Strategy must always be formulated by policy-makers. It can (or at least should) never be either divorced from the policy level or devoid of tactics.¹¹ Additionally, poor tactics could undermine policy, necessitating new strategic plans or even a revamp of policy.

Academic and military theorists have defined strategy in many ways—from the normative to the descriptive—as an art or a science. Most, however, understand it to be, like tactics, subordinate to policy. On that basis, is targeted killing a strategy? We believe so. It is not policy per se nor is it some discrete type of warfare apart from armed conflict. It is nothing more than a “way” selected by policy-makers to assist a state in realizing some stated political condition.

Colin Gray has convincingly maintained that “targeted killings are a component of an attritional strategy” and that “a targeted killing is a tactic, but you are ‘doing’ your chosen strategy when you do a targeted killing and necessarily your targeting has a military, for strategic, for political, effect.... It is vitally important not to confuse strategy with tactics, because if you do you are confusing instrument with purpose.... The instrument of tactics is that which brings life to strategy.”¹² Gray is correct: killing is a tactic.

5. *On War*, ed. and trans. M. Howard and P. Paret (Princeton: Princeton U Pr, 1984) 606.

6. Brian Bond, *The Pursuit of Victory: From Napoleon to Saddam Hussein* (Oxford: OUP, 1996) 20.

7. Colin S. Gray, “Irregular Enemies and the Essence of Strategy: Can the American Way of War Adapt?” *Strategic Studies Institute* (Mar 2006) 15 <www.miwsr.com/rd/1112.htm>.

8. Clausewitz, *On War*, book 3, chapter 1.

9. Colin S. Gray, “Schools for Strategy: Teaching Strategy for 21st Century Conflict,” *Strategic Studies Institute* (Nov 2009) 6 <www.miwsr.com/rd/1113.htm>.

10. Hugh Smith, *On Clausewitz: A Study of Military and Political Ideas* (NY: Palgrave Macmillan, 2005) 127.

11. Tactics simply refers to the actual fighting or combat, as well as the weaponry used in the fighting. In regards to targeted killings, the tactic is killing by means of snipers, remote-control explosives, tanks, fighter jets, helicopter gunships, unmanned aerial vehicles, or even watercraft, among many others.

12. Personal communication (19 Feb 2011).

Targeted killings are carried out against specific individuals because of their relevance or relationship to policy. If the security apparatus of a state recommends the elimination of a particular person, it thereby links tactics with policy via strategy. For example, the Israelis would not arbitrarily target random members of Hamas or the Palestinian Islamic Jihad just because they belong to the organization. Rather, Israel, or any state, acts on the basis of an (ideally very precise) intelligence picture that proves the need to eliminate an individual in the furtherance of some state policy. Killing is thus a tactic—targeted killing is a strategy, a means to attain a policy end.

Effectiveness

Israeli Targeted Killings

We turn now to the inherent difficulties of measuring the efficacy of targeted killing. Given all the variables of time, place, jurisdiction, geopolitical conditions, and concerned actors, it is virtually impossible to evaluate confidently the overall, long-term efficacy of targeted killings. Thus we will concentrate on specific instances.

That targeted killing is successful in one region against a specific opponent does not mean it will succeed in another region under the command and control of another state against a different opponent. To be clear, “effectiveness” here will denote the measurable political and security consequences of a targeted killing and its degree of success in removing individuals in pursuit of policy objectives. A caveat: reported death counts and casualty ratios should be approached with skepticism. Statistics are too easy to manipulate for political purposes, vitiating arguments based on them. It is, nevertheless, possible to assess the efficacy of targeted killing within a carefully circumscribed time-frame against a specific actor.

For example, the killing of Fathi Shiqaqi, head of the Palestinian Islamic Jihad (PIJ), crippled that organization for nearly a decade. But the PIJ returned with a vengeance during the Palestinian Armed Rebellion of 2000–2005. The many targeted strikes by Israel’s security apparatus against leaders, engineers, and “foot soldiers” of militant organizations, mainly Hamas, during the rebellion led to Palestinian calls for ceasefires¹³ and a rapid decline in suicide attacks.¹⁴ But other countermeasures against militant activity—such as the West Bank security fence and military raids designed to disrupt militant activity and destroy infrastructure—also played a direct role in the reduction of attacks against Israelis. This makes it very difficult to evaluate precisely the effectiveness of targeted killings. We do know that, in specific times and places, targeted killings directed against particular groups actually worked, because the enemy literally confessed as much. Moreover, the Israelis understood that targeted killings were one strategy in pursuit of a policy, not a panacea. Once the limited policy objectives (for example, a provisional cessation of violence) were achieved, targeted killings were cut back, if only temporarily.

US Targeted Killings

In contrast to the general effectiveness of the Israeli strategy between 2000 and 2005 is the still-undetermined case of targeted killings carried out by the United States in, among other places, Pakistan. The differences certainly have nothing to do with competence, as the Americans have been quite successful in removing specific individuals from armed conflict. Rather, there is an intrinsic tension in US military doctrine, which the Israelis do not suffer from: for the United States has adopted the practice of *population-centric* counterinsurgency (POP-COIN), which differs significantly from the traditional COIN approach. While the British experience in Malaya is often touted as proof that COIN as currently practiced by the Americans works, this ignores the fact that physical attrition, not a “hearts and minds” approach, broke the insurgency in Malaya. The same goes for the British practice in Kenya (Mau Mau) and to some extent against Arab uprisings in Mandated Palestine.

13. “Israel’s “Targeted Killings,” *BBC News* (17 Apr 2004) <www.miwsr.com/rd/1114.htm>.

14. Yoram Schweitzer, “The Rise and Fall of Suicide Bombings in the Second Intifada,” *Strategic Assessment* 13.3 (2010) <www.miwsr.com/rd/1115.htm>.

According to the *United States Army/Marine Corps Counterinsurgency Field Manual* [FM 3-24], “the focus must remain on gaining and maintaining the support of the population. With their support, victory is assured; without it, COIN efforts cannot succeed”; in the end, the members of the host-nation “determine the ultimate victor.”¹⁵ To be strictly avoided is “overemphasizing killing and capturing the enemy rather than securing and engaging the populace.”¹⁶ Put another way, in the new US military doctrine of protecting and assisting the population takes precedence over—or is another way toward—breaking the will of the enemy. Significantly, one of the FM 3-24 authors has recently acknowledged that “the manual ‘overcorrected’ on the ‘kill-capture—drink-tea spectrum’ [and] may lean a bit too heavily toward the tea drinking.”¹⁷ If, in the history of warfare, breaking the enemy’s will has always been paramount, physical attrition, not winning “hearts and minds,” has passed the test of time. There is no proof—yet—that socioeconomic interventions influence an enemy’s determination more forcefully than conventional military operations.

The United States is intensifying its targeted strikes in Afghanistan and Pakistan to a level causing astonishment even among Israeli security specialists. American forces now carry out more targeted killings than any state in the world.¹⁸ Moreover, for the first time in its ten-year COIN experience in Afghanistan, the US Marine Corps has deployed tanks with 120mm cannon.¹⁹ As a result, American policy-makers and combat personnel alike are left to espouse a doctrine that conflicts with the realities on the ground. A strategy of targeted killings does not accord well with POP-COIN doctrine, which flouts the lessons of the long history of warfare. Naturally, this further complicates efforts to gauge the effectiveness of targeted killing. This is not to imply that the US military views “killing the enemy” as distinct from or opposed to COIN but rather that it has taken a figurative backseat in the COIN vehicle.

That said, US targeted killings have successfully removed a number of high-value individuals, to include the recent Navy SEAL operation against Osama bin Laden in Abbottabad, Pakistan. In fact, the United States has successfully targeted over 50 percent of al-Qa’ida’s top leadership, as well as members of the Taliban.²⁰ While eliminating the enemy is a military good, there have been no calls for ceasefires. Indeed, targeted killings in Pakistan may even be causing more problems than they solve. As Daniel Byman notes, “U.S. strikes on Pakistani soil are deeply unpopular.... No political leader wants to line up publicly with Washington.”²¹ The killing of bin Laden and others, including many innocent collateral victims, has heightened political tension between Washington and Islamabad and inflamed the resentful Pakistani population. While statistical reports of casualties inflicted by US strikes in Pakistan are highly questionable, making it hard to reckon how effective the targeted killings have been there,²² they have certainly disrupted Taliban operations and decimated the al-Qa’ida leadership. However, the backlash in Pakistani society has put an increased strain on an already weak Pakistani government and made it less likely that the Taliban or al-Qa’ida will call for a ceasefire. Thus, the elimination of specific individuals has not had a satisfactorily positive strategic effect. Only time will tell whether US targeted killings—however successful in the near term—will have been worth the long-term costs.

As stated previously, the successful strategy of targeted killings for one state in one territory against one opponent in no way ensures the same results for another state in another region against a different oppo-

15. FM 3-24 (Chicago: U Chicago Pr, 2007) 303; see also, Gian P. Gentile, “A Strategy of Tactics: Population-centric COIN and the Army,” *Parameters* 39 (Aut 2009) 6.

16. FM 3-24: 51.

17. Thomas Rid, “Trail Running with John Nagl,” *Kings of War* (27 Mar 2011) <www.miwsr.com/rd/1116.htm>.

18. “U.S. Is World’s Top User of Targeted Killings, U.N. Says,” *CNN* (2 Jun 2010) <www.miwsr.com/rd/1117.htm>.

19. Dan Lamothe, “Corps to Deploy M1A1 Tanks to Afghanistan,” *Marine Corps Times* (19 Nov 2010) <www.miwsr.com/rd/1118.htm>.

20. Dexter Filkins, “Stanley McChrystal’s Long War,” *NY Times* (14 Oct 2009) 8 <www.miwsr.com/rd/1119.htm>.

21. “Taliban vs. Predator: Are Targeted Killings inside Pakistan a Good Idea?” *Foreign Affairs* (18 Mar 2009) <www.miwsr.com/rd/1120.htm>.

22. Anthony H. Cordesman and Marissa Allison, “Putting the Air War in Pakistan in Perspective: The Only Real Option We Have,” *Center for International and Strategic Studies* (6 Oct 2010) <www.miwsr.com/rd/1121.htm>.

ment. Complicating factors include, crucially, a given state's intelligence capabilities; the nature of the terrain—the Gaza Strip is not Waziristan; the structure of the targeted organization—the Taliban and al-Qa'ida can withstand leadership losses far better than Hamas or the Palestinian Islamic Jihad; and the malleability of casualty statistics.

Definitions and Legalities

Are targeted killings “assassinations”? The word “implies a moral evaluation” and represents a “betrayal of trust.”²³ It is also not an objective term. There is no international legal basis for the (commonplace) equation of targeted killing with assassination. Now, some scholars cite Article 23(b) of Hague Convention IV (1907), which states that it is prohibited “to kill or wound treacherously individuals belonging to the hostile nation or army.”²⁴ Problematically, the article is subjective in its terminology and provides no guidelines. Moreover, in times of war, it is in fact permissible to target an enemy combatant, unless he or she first surrenders. Although “treacherously” is hopelessly vague, it could be taken to interdict the use of snipers or techniques of concealment, surprise, and ambush generally; in short, tactics regularly used and rarely questioned in times of war. Assassination for some type of political gain or grievance is another matter, normally considered abhorrent and unacceptable, despite the lack of any formal international consensus.

We maintain that targeted killing is neither “assassination” nor “extrajudicial,” though that adjective has been applied in certain cases.²⁵ Many use the ambiguous phrase “extrajudicial killing” as a synonym for both assassination and targeted killing, denoting the killing of individuals outside or in violation of a legal framework at some particular time and place. It need not, we contend, however, pertain to the actual elimination of individuals in furtherance of policy. To be clear, since international law does not deal with targeted killings, states must rely on their own legal framework. Absent such a basis, the targeting of an individual is not extrajudicial and the designation becomes irrelevant.

We turn now to several interesting attempts to define targeted killing. Yael Stein has argued,²⁶ incorrectly in our view, that targeted killings are in fact assassinations and illegal under international law. Steven R. David counters that “international law applies best to situations of war and peace between recognized states. Targeted killing, however, takes place in a context that is neither war nor peace, between belligerents, one of which is not a state.”²⁷ But there does not exist a situation that is “neither war nor peace.” It must be one or the other, though targeted killing may occur during a period of a cessation of hostilities in an ongoing conflict.

Thomas Hunter has written that targeted killing is “the premeditated, preemptive, and intentional killing of an individual or individuals known or believed to represent a present and/or future threat to the safety and security of a state through affiliation with terrorist groups or individuals.” Hence, terrorism provides states with “a rationale for implementing a policy of targeted killings.”²⁸ This is half-correct: while such action is indeed the premeditated killing of those thought to threaten state security, Hunter's linking of targeted killings to terrorism is procrustean. He is not alone in this regard. For example, a high-ranking Israeli security official has stated that suicide attacks during the 2000–2005 Palestinian Armed Rebellion prompted Israel's strategy of targeted killings.²⁹ However, neither terrorism nor a terrorist organization is a sufficient *raison d'être* for such acts, which may only be carried out in the context of a wider armed conflict. Terrorism is not in itself armed conflict but a part of some wider conflict—a violent, illegal expression of politics

23. Asa Kasher, and Amos Yadlin, “Assassination and Preventive Killing,” *SAIS Review* 25.1 (2005) 41.

24. Hague Conv. IV, art. 23(b) <www.miwsr.com/rd/1122.htm>.

25. James Hider, “Israel Arrests Soldier Anat Kam over Targeted-Killings ‘Leak,’” *London Times* (3 Apr 2010) <www.miwsr.com/rd/1123.htm>.

26. Note 1 above.

27. “If Not Combatants, Certainly Not Civilians,” *Ethics & International Affairs* 17.1 (2003) 138.

28. *Self-Defense, Preemption, and the War on Terrorism* (Amazon.com: BookSurge Pub, 2009) vii.

29. Personal interview in Tel Aviv (5 May 2011).

at a specific time and place. Lethal violence against a state, above and beyond terrorism, whether during an armed rebellion or a war, justifies targeted killing. Further, Hunter is wrong, for reasons we have explored, to speak of a policy (a sought after political condition or behavior) rather than a strategy of targeted killing.

Many definitions focus too narrowly on the issue of legality. Consider, for example, Nils Melzer's contention that targeted killing is "the use of lethal force attributable to a subject of international law with the intent, premeditation, and deliberation to kill individually selected persons who are not in the physical custody of those targeting them."³⁰ As we have seen, the legal locus of targeted killing is national, not international. This is not to say that international law is altogether irrelevant, since it does restrict military activity (which *may* include targeted killings) to circumstances involving self-defense, national sovereignty, and the principles of proportionality and discrimination.

Article 51 of the UN Charter permits states to defend themselves against actions attributable to other states, but also to sub-state and nonstate entities threatening their national security. That is, targeted killings undertaken in self-defense—to include preemptive attacks—do not breach international law.

Regarding the issue of sovereignty: unless the state where an operation is to take place agrees to that operation, a breach of that state's sovereignty may occur. This should cause serious concern to any state planning an operation on foreign soil. Does a state have the right to target an individual threatening its national security while resident in another country or do considerations of national sovereignty rule out such action? We maintain that an individual or group from one state posing a lethal threat to another state is a legitimate target of lethal preventive measures. Ideally, one state might collaborate via diplomatic channels to induce another state to arrest its own suspected citizens or resident foreigners. However, not all foreign governments can be trusted to cooperate and, if the danger to it has not been neutralized, the threatened state has a duty to protect its own citizens' security, even by violent action on another state's soil.

States conducting targeted killings must observe the principles of discrimination and proportionality. Of course, even when discrimination is applied, noncombatants are often killed during targeted operations against specific individuals or groups. But, importantly, if a state takes all due precautions and *intends* only to remove the target threatening its security, noncombatant deaths may rightly be deemed collateral damage.

Discrimination depends on, among other things, tactics and location. No state should release a 2000-pound laser-guided bomb in a densely populated area to eliminate one person. Yet the Israelis did just that in 2002 in the case of Sheik Salah Shehade, former head of Hamas's military wing. Yet, even then a "one-hit kill" was the intended outcome. Faulty intelligence, not violation of the principle of discrimination led the Israelis, who had aborted the attack eight times to avoid noncombatant deaths, to strike a building they believed to be occupied only by Shehade.

The principle of proportionality under international law has been misused and overused with respect to armed conflict. It is not a stipulation that, if a person involved in organized lethal violence against a state eliminates one individual, then that state may target only that one person in return. Proportionality is measured not by civilian deaths in a given operation but "rather by the risk posed."³¹ If an individual or group threatens a state's national security, there are few legal restraints on that state eliminating the individual or group at any place and time.

Gary Solis has defined targeted killing as "the intentional killing of a specific civilian or unlawful combatant who cannot reasonably be apprehended, who is taking a direct part in hostilities, the targeting done at the direction of the state, in the context of an international or non-international armed conflict."³² But what, objectively speaking, is an "unlawful combatant" and what exactly does it mean to take a "direct part in hostilities"? Are those who finance violent and lethal actions behind the scenes "direct" participants in those actions? And what of unarmed "spiritual leaders" who guide others toward lethal action or sanction

30. Note 1 above, 468.

31. Alan Dershowitz, "Israel's Policy Is Perfectly 'Proportionate,'" *Wall Street Journal* (2 Jan 2009) <www.miwsr.com/rd/1124.htm>.

32. Note 1 above, 538.

attacks? The Israelis targeted the founder of Hamas, Sheik Ahmed Yassin, an unarmed, elderly, quadriplegic, citing his authorization of “a suicide bombing by a woman with children at Erez junction, killing four Israelis.”³³

Furthermore, just what does “hostilities” denote? In some states, vandalism is considered “terrorism,” while in others, protests and stone-throwing are considered hostile actions.³⁴ Hostilities justifying targeted killing must rise to the level of a threat to national security. Solis, presumably out of basic humanitarian concerns, allows recourse to killing only when the target “cannot be reasonably apprehended.” We would argue that only if targeting an individual for killing breaks national law, which may in turn undermine policy, should arrest even be considered. Again, however unsavory it may seem, national policy trumps “human rights” every time. War is the realm of violence, not benevolence.

William Banks has defined targeted killing as the “premeditated killing of an individual by a government or its agents.” This is true enough but too simplistic. During his Congressional testimony, Banks elaborated as follows: “Just what does distinguish lawful targeted killing from unlawful political assassination? The answer turns upon which legal framework applies. During war, whether authorized by Congress or fought defensively by the President on the basis of his authority, targeted killing of individual combatants is lawful, although killing by treacherous means—through the use of deceit or trickery—is not. In peacetime, any extra-judicial killing by a government agent is lawful only if taken in self-defense or in defense of others.”³⁵

Now, this testimony was tailored to a specific audience regarding a specific tactic (use of drones) and refers to the laws specifically of the United States. Overall, Banks’s reasoning is cogent. We do, however, find fault with the phrase “treacherous means,” a concept dealt with above. “Treachery,” “perfidy,” “trickery”—these are highly subjective terms bound to the perspective of various actors, regular and irregular, throughout the history of warfare. From the vantage point of those who use it, treachery is acceptable for a simple reason: it works.

To treat targeted killing vaguely as a “subject of international law” is misguided. Until there is a clear international legal ruling on targeted killings, states engaging in such actions need concern themselves only with their own national law.

Toward a General Definition

In conclusion, we will propose a definition of targeted killing to stimulate further much-needed debate about the subject. We have identified seven indispensable elements of any general definition: first and foremost, a targeted killing is a *strategy* of the state, linked to a wider stated policy objective and executed by a state’s armed forces or other security institutions (for example, intelligence agencies, police forces). Second, a targeted killing is a focused use of proportionate and limited lethal force by tactics carried out on land and sea or from the air. Third, “targeted killing” designates only actions against individuals engaged (or threatening to engage) directly or indirectly in violent, lethal conflict against a state (including its interests abroad). Fourth, there should be an attempt at apprehension, if and only if it should prove feasible. Fifth, in the absence of international legal consensus, a targeted killing is ultimately subordinate to a state’s policy-makers, since it represents one means to attain a political condition. Sixth, any strategy of targeted killing must be adopted as a self-defense measure. Seventh, it must occur only in the context of an armed conflict, not during peacetime or some notional state that is “neither war nor peace.” Targeted killing may, however, occur during a cessation of hostilities between two or more actors, such a hiatus constituting not peace but “war on hold.”

33. Aluf Benn and Amos Harel, “ Hamas Leader Surfaced Only to Worship,” *Haaretz* (23 Mar 2004).

34. Bruce Hoffman, *Inside Terrorism*, rev. ed. (NY: Columbia U Pr, 2006) 32–33.

35. “Testimony of William C. Banks before the Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform, United States House of Representatives” (28 Apr 2010) 7–8 <www.miwrs.com/rd/1125.htm>.

Targeted killing is a state strategy carried out in self-defense, which may take the form of preemption and prevention. It is part of a wider policy objective to be attained by the limited, discriminate, and proportionate exercise of force against individuals or groups using (or threatening to use) lethal violence against the state, during armed conflict or a temporary cessation of hostilities.

Targeted killings are a regular strategy of modern warfare. While not policy in themselves, they do reflect state-level policy decisions. They are neither assassinations nor extrajudicial, provided they remain within the legal parameters a given state has set forth. Judiciously employed, they are no different from any other strategy of a state during warfare.