

Terrorism, Targeted Killings and the Right to Life

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Abstract

The right to life concerns the prerogative that belongs to any human being to exist as such, once a part of the world. Over the centuries, most religious and philosophical movements around the world have strongly condemned any act that harms the life of a human being. In the modern age of war, technology plays an increasingly important role in strategic thinking, leading to a change in the way operations are conducted around the globe.

The biggest change in the new technological environment is the increasing use of clandestine operations, the so-called target killings, which in recent decades have been largely considered of dubious legality. In this regard, as will be seen, some consider targeted killings to be „executions” or „extrajudicial killings”, while others consider these operations to be legitimate acts of war carried out as part of the state's inherent right to self-defense.

Keywords: terrorism, human rights, the right to life, targeted killings, international humanitarian law.

I. The Right to Life – European Regulations

There is no doubt that terrorism attacks democracy and the rule of law, that it seeks to destroy human rights through violence and by spreading fear among the civilian population. On the other hand, although counter-terrorism measures are crucial, they can also threaten several rights and freedoms.

Specifically, state-imposed counter-terrorism actions often involve violations of many fundamental human rights, including the right to life.

Article 2 of the European Convention on Human Rights governs the right to life, stating that:

- „1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*
- 2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:*
 - a. to in defense of any person from unlawful violence;*

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- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
- c. in action lawfully taken for the purpose of quelling a riot or insurrection”².*

It is also necessary to mention the fact that through art. 1 of Protocol no. 6 of the European Convention on Human Rights, the death penalty has been abolished, and no person can be sentenced to such a punishment or executed.

At the same time, according to art. 3 of the Additional Protocol mentioned above, no derogation from its provisions is allowed, even in the cases prescribed by art. 15 of the European Convention on Human Rights.

However, according to art. 2 of Protocol no. 6 of the European Convention on Human Rights, a state may provide in its law for the death penalty for acts committed in time of war or imminent danger of war. Such punishment shall be applied only in the cases provided for by that legislation, the State concerned being required to communicate to the Secretary General of the Council of Europe the provisions related to that legislation.

At the level of the European Union, the right to life is guaranteed by the provisions contained in art. 2 of the Charter of Fundamental Rights, according to which „(1) *Everyone has the right to life.* (2) *No one may be sentenced to death or executed*”.

The right to life concerns the prerogative that belongs to any human being to exist as such, once a person comes into the world. Over the centuries, most religious and philosophical movements around the world have strongly condemned any act that harms the life of a human being. International human rights law, in turn, has sought to find effective ways to ensure respect for this sacrosanct right through several treaties and practices aimed at protecting human life against the arbitrary action of states³.

The right to life, which protects the human value on which all other fundamental rights and freedoms are grafted, is therefore the „most fundamental” right of the person, this expression belonging to the UN Human Rights Committee⁴.

The use of lethal force was first examined in detail in the judgment of the Grand Chamber in *McCann and Others v. The United Kingdom*, which concerned the UK security forces’ shoot to kill policy in relation to alleged IRA terrorists in Gibraltar. The Court held that these actions violated the European Convention on Human Rights at least because the UK’s forces could have taken alternative action instead of killing them⁵.

² https://www.echr.coe.int/Documents/Convention_ROM.pdf, accessed on 22.03.2020.

³ R. Chiriță, *Convenția europeană a drepturilor omului. Comentarii și explicații* [European Convention on Human Rights. Comments and explanations], Ed. 2, CH Beck Publishing House, Bucharest 2008, p. 31.

⁴ UN Human Rights Committee, Suarez de Guerrero, decision of 31 March 1982, UDHR 1982, p. 341.

⁵ ECHR Judgment in *McCann and Others v. The United Kingdom*, available at <http://www.globalhealthrights.org>, accessed on 26.11.2021.

In its jurisprudence⁶, The European Court of Human Rights has ruled that Article 2 of the European Convention on Human Rights governs an absolute, fundamental right from which no derogation is permitted. Together with art. 3 of the Convention, it enshrines one of the core values of the democratic societies that make up the Council of Europe. At the same time, it was argued that this right represented the supreme value on the scale of human rights internationally⁷.

The objective of the European Convention on Human Rights, as an instrument for the protection of individuals, requires that these provisions be interpreted and applied by the signatory states so that the guarantees conferred by the provisions of the foregoing are practical and effective.

When complaints are formulated invoking the violation by the authorities of the provisions of art. 2 of the ECHR, the Strasbourg court is obliged to undertake an extremely rigorous examination, which will be based on all the material made available by the parties involved in the proceedings before the Court, and, if it deems it necessary, based on evidence which the court itself will obtain⁸.

At the same time, in the considerations of the judgments ruled, the Court reiterated that the obligation of the signatory states to protect the right to life, provided by art. 2 of the European Convention on Human Rights, in conjunction with the general duty of the authorities prescribed by art. 1 of the Convention to recognize to any person under their jurisdiction the rights and freedoms defined in Title I of the Convention, imposes the need for a formal investigation whenever an individual is violently killed⁹.

II. Targeted Killings and the Right to Life

In the modern age of war, technology is playing an increasingly important role in strategic thinking, leading to a change in the way operations are conducted around the globe. The biggest change in the new technological environment is the increasing use of clandestine operations, the so-called targeted killings, which in recent decades have been largely considered of dubious legality.

Following the terrorist attacks of September 11, 2001, the United States, Russia, Pakistan, and other NATO member states have openly adopted targeted killings, as they are considered part of the main instruments of counter-terrorism operations.

The attack on Osama Bin Laden in the Pakistani camp is the best example of this strategy, but the problems raised by the new technique have much wider implications.

⁶ ECHR Judgment in *Tahsin Acar v. Turkey*, paragraphs 209-210, available at [https://hudoc.echr.coe.int/eng#{,tabview":\[,,document"\],"itemid":\[,,001-61698,,\]](https://hudoc.echr.coe.int/eng#{,tabview), accessed on 22.03.2020.

⁷ ECHR judgment in *Streletz, Kessler and Krenz*, available on <https://jurisprudencedo.com/Streletz-KesslersiKrenz-c.-Germania-si-K.-HW-c.-Germania-Principiul-legalitatii-incriminarii-si-pedepsei-penale.-Succesiune-de-state.html>, accessed on 22.03.2020.

⁸ ECHR Judgment in *Tahsin Acar v. Turkey*, paragraphs 209-210, available at [https://hudoc.echr.coe.int/eng#{,tabview":\[,,document"\],"itemid":\[,,001-61698,,\]](https://hudoc.echr.coe.int/eng#{,tabview), accessed on 22.03.2020.

⁹ ECHR judgment of 27 September 1995 in *McCann and Others v. The United Kingdom*, available on www.hudoc.echr.coe.int, accessed on 22.03.2020.

Thus, is it right for nations that have suffered from high-profile terrorist attacks to respond, in a form of self-defense – as the US authorities do, with the murder, without trial, of those suspected of terrorism? Are there certain criteria to consider when a person is placed „legitimately” on the list of those to be targeted? And if so, what are these criteria and who is entitled to establish them? Finally, can targeted killings be in any way legally and morally justified?

Regarding the answers to the questions stated above but also about whether persons suspected of committing acts of terrorism should be considered as combatants at risk of „legal” killing under the laws of war, or civilians protected by international humanitarian law, there is no common ground.

In this regard, as will be seen, some consider targeted killings as „executions” or „extrajudicial killings”, while others see these operations as legitimate acts of war carried out as part of the state’s inherent right to self-defense.

III. Examples of Targeted Killings

As shown, some states have adopted for some years policies that allow the use of so-called „targeted killings”, including in the territories of other states. Such policies are often justified by the fact that they are a needed and legitimate response to terrorist threats and to the challenges of „asymmetric warfare”, but they have had the effect of extending the legal limits applicable to the use of inter-state force.

Even though the term „targeted killing” has been increasingly invoked lately, there is no definition of the notion in international law. The term came into common use in 2000, after Israel unveiled a so-called „targeted killing” policy of alleged terrorists in the Occupied Palestinian Territories.

Although there is no definition of the term in international law, the UN Special Rapporteur described extrajudicial or arbitrary executions as:

„intentional, premeditated and deliberate use of lethal force, by a State acting through its agents or by an organized group in armed conflict against a specific individual who is not in the custody of the perpetrator”¹⁰.

In other words, *targeted killing* is the premeditated, intentional killing of a uniquely identified individual. Moreover, it should be noted that, at the time of the killing, the person concerned does not pose an imminent threat to the life of other members of society.

Targeted killing was also defined as

„the intentional killing of a specific civilian who cannot be reasonably captured and who is directly involved in hostilities, carried out with the

¹⁰ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, available at <https://www2.ohchr.org/A.HRC.14.24.Add6.pdf>, accessed on 02.03.2020.

authorization of the state in the context of an international armed conflict or non-international armed conflict"¹¹.

Another author who addressed the complexity of this definition stated that *„targeted killing is the intentional killing of a suspected terrorist or a group of suspected terrorists, committed with government approval and exercised when they cannot be arrested by reasonable means*"¹².

The great problem of the above definition is the use of the term „terrorist“, which has so far not received a definition that is unanimously accepted by the international community due to differing views on the subject. As a result, the definition simply lacks the distinction needed to determine who is being targeted. On the other hand, by referring to the targeting of terrorists, the definition seeks to provide a sense of moral acceptability. However, in our view, a certain person can, legally, acquire the attribute of terrorist only when an independent and impartial court establishes this in a trial in which all the procedural guarantees were provided to the accused.

While the above definitions have limited the scope of what constitutes targeted killing, other authors have given broader definitions.

Such a definition is given by Thomas Hunter who argued that targeted killing is *„the preventive and deliberate killing of a person or persons known to be a clear and current threat to the security and safety of a State through membership in terrorist groups*"¹³.

It is important to note that, although the above definitions of targeted killing sometimes contain different elements, they tend to limit the scope of the term to either armed conflict or suspected terrorists or group of suspected terrorists, whether they are persons known to be a clear and current threat to the security and safety of a State, *or a* subject of international law.

Also, the killing itself is always done with *intention and premeditation*. These conditions regarding intention and premeditation refer to the fact that such an action as the one under analysis is performed with the intention of killing the person concerned, this intention being based on a conscious choice, not on the use of force in an impulsive, reckless manner.

However, regardless of the elements contained in the definitions, given that it is a deprivation of life, the target killing is a controversial practice that raises some human rights issues.

In this regard, *intended* killing or target killing is sometimes also called *„extrajudicial killing*“, which denotes the idea that it is illegal. A targeted killing must

¹¹ G. Solis, *Targeted Killings and the Law of Armed Conflict*, Naval War College Review, Vol 60, No. 2, p. 127.

¹² W. Jason Fisher, *Target Killing, Norms and International Law*, 2007, p. 715.

¹³ Th. Byron Hunter, *Targeting Killing: Self-Defense, Preemption and The War on Terrorism*, 2009, p. 3.

also be distinguished from an assassination, which is unanimously accepted as an illegal practice. In addition, the context in which the targeted killing takes place must be taken into account, as must the nature of the targets.

Unlike the killing by combatants – including snipers, of enemy combatants in a theater of war, in the case under analysis, the targets are precisely identified; in other words, these targets are not simple combatants, anonymous enemies identified only by their uniform. An individual identified in a targeted killing operation is a person about whom there is detailed information, collected in advance, about his or her role in an armed conflict or terrorist organization.

Furthermore, the targets in the case of the so-called „*targeted killings*” do not pose an imminent threat at the time of their killing.

As related to the above, we note that, in the light of the provisions of the European Convention on Human Rights, a *targeted killing is considered an arbitrary act and, like any deprivation of life, violates Article 2* of the European Convention on Human Rights.

Targeted killings, as arbitrary acts, are characterized by inadequacy, injustice, lack of predictability, reasonableness, necessity, proportionality, and the absence of a trial carried out under legal conditions. This means that even if there is a legal basis, the legal basis of the measure must be precise: the law must strictly control and limit the circumstances in which a person may be deprived of their life by the state authorities.

Then, states must take appropriate measures to protect individuals from deprivation of life by other states operating in their territory or in other areas under their jurisdiction – especially if the individual is particularly vulnerable due to a specific threat, for example, prominent public figures. Therefore, a targeted killing committed by one state in the territory or jurisdiction of another state may give rise to liability for both states.

It should also be added that exceptional measures leading to deprivation of life must be accompanied by effective institutional guarantees. Such safeguards are described in relation to law enforcement operations, including mandatory reporting, review and investigation, as well as procedures to ensure that operations are properly planned so as to minimize the risk of loss of other lives as well.

Therefore, such safeguards are an absolute need in the case of targeted killings. This is because states must take appropriate measures to establish the truth about the events leading to the killing of a person, including the reasons and legal basis for such acts and the procedures used by state forces before, during and after the date on which the deprivation of life took place. Also, information about the investigation and its findings should be made public, although, in the case of targeted killings, public disclosure is usually limited, citing security considerations¹⁴.

¹⁴ F. Shaheed, *Targeted Killing and the Right to Life: A Structural Framework*, 6 February 2019, available at <https://www.justsecurity.org/62485/targeted-killing-life-structural-framework/>, accessed on March 8, 2020.

An extreme case of a targeted killing was the attack on Salah Shehadeh, the leader of Hamas' military wing, Iz Adin al-Kassam, considered to be responsible for numerous attacks on Israeli soldiers and civilians.

Following the Gaza operation of 22 July 2002, in addition to Shehadeh, another 16 people were killed, amongst which 15 civilians, including 9 children, Shehadeh's wife and son, and hundreds more were injured when an Israeli Defense Force plane dropped a 1-ton bomb above a house in a densely populated area of Gaza¹⁵. In view of the public crisis, the Israeli Defense Forces have carried out an investigation into this attack.

The decision of the Supreme Court of Justice of Israel on the targeted killing, delivered on 14 December 2006, (HCJ 769/02) reviewed, reformulated and revised the regulatory framework and instructions for the implementation of the targeted killings¹⁶.

The ruling stated that Shehadeh's terrorist activity classified him as a civilian directly involved in hostilities and that the threat he posed to the lives of the citizens of Israel and all the territories under his control was certain, immediate and significant.

At the same time, Shehadeh's classification as a „*target*“, carried out by the Israeli Security Agency (ISA), was assessed as professional, based on concrete information and in accordance with the principles of Israeli and international law. It was therefore noted that the method used by the Israeli army to assassinate the perpetrator of terrorist attacks against the civilian population is legal provided that certain human rights restrictions are met, namely: verification and proof of information on the identity of terrorists, investigation of the circumstances of terrorist attacks, attempting to apply legal arrest procedures rather than the use of lethal force¹⁷.

The Supreme Court has ruled that Israel is involved in an international armed conflict with Palestinian terrorist organizations and that the targeted killing of Shehadeh was aimed at ending its terrorist activity¹⁸.

The report prepared following the investigation also noted that „*There were also shortcomings in carrying out the attack, caused by the available information and the assessment of that information, regarding the presence of civilians near Shehadeh, who was in an operational hideout*“¹⁹. The Commission concluded that the serious side effects of the action against Shehadeh, in which uninvolved civilians, women and children were killed and many others were injured, were disproportionate.

¹⁵ A. Meyerstein, *The Israeli Strike Against Hamas Leader Salah. Shehadeh*, Crimes War Project (Sept. 19, 2002); S. Krebs, *Rethinking Targeted Killing Policy: Reducing Uncertainty, Protecting Civilians from the Ravages of both Terrorism and Counterterrorism*, 44 Fla. St. UL Rev. 943, 2018, available on <https://ir.law.fsu.edu/lr/vol44/iss3/2>, accessed on 03.03.2020.

¹⁶ Supreme Court of Israel, Public Committee against Torture in *Israel v. Government of Israel*, HCJ 769/02, 13 December 2006, at <http://elyon1.court.gov.il/files>, accessed on 03.03.2020.

¹⁷ *Ibidem*.

¹⁸ I. Dragoman, D. Ungureanu, *Treaty on International Humanitarian Law*, Ed. Universul juridic, Bucharest, 2018, p. 116.

¹⁹ *Findings of the investigation into Salah's death Shehadeh*, 2 August 2002, available at <http://www.mfa.gov.il/mfa/government/communiques/2002/>, accessed on 21.03.2020.

The Commission stated that if it had been able to predict the seriousness of the collateral damage that actually resulted, the operation would not have been authorized²⁰.

The above case exemplifies the fact that, although theoretically the targeted killings should involve precision and accuracy, in reality, a great number of victims of such operations are innocent civilians.

Another case that provoked extensive debate among international public opinion was the one from October 2006, when a CIA drone killed 69 children, the youngest victim being a seven-year-old child, at a religious school in Chenegai, Pakistan. Another 80 civilians were injured on that occasion. This attack, although considered one of the worst incidents of the entire campaign in which drones were used, was at the same time one of the least reported²¹.

Regarding the role and importance of technology in thinking about how to carry out operations on „targeted killings”, we must remember the November 27, 2020 assassination of the scientist who led the Iranian nuclear program – Mohsen Fakhrizadeh.

The blow was carried out by Israeli agents using a machine gun controlled via a remote satellite (outside Iran) by a human operator.

Advanced technology allowed the weapon to take into account the time between the intervention of the operator and the pistol actuation so that the recoil of the pistol could be adjusted accordingly, and biometric facial recognition techniques were used to avoid hitting Mr. Fakhrizadeh's wife, who was standing in the front passenger seat of the car, or other passerbyers²².

Although it is considered that the use of lethal force against a person can be justified in case of an immediate threat to the lives of others and if no other options are available to deal with the threats, in the abovementioned case Mohsen Fakhrizadeh, despite his involvement in Iran's nuclear program, did not pose such a threat.

In the same vein, we should not ignore the drone strike carried out by the US military in Kabul on August 29, 2021, allegedly performed against terrorists who were planning a second attack on the international airport. The aftermath of this attack shows that 10 civilians including a humanitarian worker and seven children were killed. The US military later admitted that it had made a „tragic mistake”²³.

The abovementioned examples allow us to distinguish as characteristics of targeted killing that the purpose of the action is to kill and not to capture or arrest the persons concerned and that operations take place despite the fact that there is no imminent threat from anyone to the target.

²⁰ *Ibidem*.

²¹ Available at <https://www.thebureauinvestigates.com › stories>, accessed on 03.03.2020.

²² M. Milanovic, *The Law and Tech of Two Targeted Killings-EJIL: Talk!*, available at <https://www.ejiltalk.org › the-l>, accessed on 26.11.2021.

²³ Available at <https://www.cnbc.com/2021/09/17/us-airstrike-in-kabul-last-month-killed-10-civilians-including-seven-children-pentagon-says.html>, accessed on 27.11.2021.

IV. Moral considerations regarding the use of targeted killing

Despite some states' arguments in favor of the moral admissibility of targeted killings in theaters of war, in the general context of the ongoing armed conflict between liberal democracies and non-state terrorist groups, various other considerations have been expressed against such operations.

First, the killing of terrorists in theaters of war gives rise to moral problems given the difficulty of differentiating them from innocent civilians. Also, such killings have the potential to increase threats against the perpetrator, which means that they are both morally and pragmatically unjustified.

Some of the arguments against targeted killings take into account practical considerations, such as the inefficiency and excessive cost of such operations, given that they are often followed by other acts of terrorism and therefore tend to escalate the conflict. In this regard, it was found that the targeted killings fail to deter potential terrorists and do not lead to a decrease in terrorist attacks, given the fact that there will always be other people willing to sacrifice their life for a cause that they consider sacred.

Despite these arguments, many appreciate that the targeted killings of leaders of terrorist entities is, in principle, morally permissible²⁴.

Regarding the legal regulations of such operations, provisions enshrined in the Charter of the United Nations, domestic law or humanitarian law have been invoked.

While Article 2 (4) of the Charter of the United Nations prohibits the threat or use of force by one state against another, two exceptions are relevant to answering the question of whether or not the killing in question is lawful: 1. when the use of force is carried out with the consent of the host state; and 2. when the use of force is used for self-defense in response to an armed attack or imminent threat and if the host State is unwilling or unable to take appropriate action.

The Charter of the United Nations regulates „Actions Relating to Threats to the Peace, Violations of the Peace and Acts of Aggression” in Chapter VII²⁵, ruling that only the Security Council can determine what such threats to the peace are and, consequently, can decide on the measures that must be taken to maintain or restore peace. The only exception is that provided for in Article 51 of the Charter of the United Nations and refers to the inherent right to individual or collective self-defense in the event of an armed attack on a member of the United Nations.

At the beginning of the third millennium, there were discussions related to the extensive interpretation of art. 51 of the Charter of the United Nations, arguing that states can exercise anticipatory and preventive attacks and even preventive wars, without a previous act of aggression and without the need for the reaction of the alleged victim to be proportional to the attack.

²⁴ S. Miller, *Shooting to Kill: The Ethic of Police and Military Use of Lethal Force*, Oxford University Press, 2016, Chapter 9.

²⁵ Articles 39-50 of the Charter of the United Nations available on http://www.anr.gov.ro/docs/legislatie/internationala/Carta_Organizatiei_Natiunilor_Unite_UNU_.pdf, accessed on 15.01.2021.

As such, many nations have cited Article 51 of the Charter of the United Nations as the basis for their right to take unilateral military action, citing the hypothesis of individual self-defense, with or without approval of the Security Council. Besides, the Security Council admitted by resolutions no. 1368 and 1373 of 2001²⁶ that an armed attack also refers to a terrorist attack. It should be noted that Resolution no. 1368 of 12 September 2001 was given on the background of the emotional impact of the New York tragedy. For this reason, the tone of the convention is harsh, critical and directly calls for the participation of states, both for catching suspects, for involvement in the fight against terrorism and for the adoption of anti-terrorist legislation for this purpose.

In the context of armed conflict, according to the rules of the international humanitarian laws, a „targeted killing” is legal only when the target is a „combatant” or „fighter” or, exceptionally, a civilian, but only during the period in which he or she is directly involved in hostilities.

Moreover, the killing must be militarily necessary and the use of force must be proportionate, so that the military advantage is considerably greater than the expected damage to nearby civilians. Measures must also be taken to prevent mistakes and to minimize harm to civilians.

In the context of the above, it can be seen that, in order to legally qualify targeted killings, it is necessary to determine the way in which terrorism is approached: as a crime or as an act of war.

On the one hand, there are states adopting a strategy that focuses on law enforcement and the punishment of individuals who have committed acts of terrorism and whose guilt must be proved in court of law, as a result of a public trial in which the defendant can benefit from the protection of all procedural guarantees.

On the other hand, if terrorism is regarded as an act of war, it is clear that there will no longer be the same legal constraints as in peacetime, including the use of deadly force.

From the perspective of human rights, the targeted killing by the state could be argued to be legal only if there are no other means to prevent a threat to the lives of citizens and to the national security of the state.

At the same time, the requirement of proportionality, which limits the level of force considered to be admissible in relation to the threat posed by potential targets, and the requirement of necessity, which imposes an obligation to reduce the level of force used, must be complied with.

One last issue that needs to be clarified in relation to targeted killings refers to an event that took place in early 2020, on 3 January 2020, when a US drone killed General Qassem Soleimani, the head of the Iranian Quds force in Baghdad, Iraq. Most commentators agreed that the killing of Soleimani was illegal, as was the use of force

²⁶ Resolution no. 1373 adopted by the Security Council at its 4385th meeting on 28 September 2001, published in the Official Gazette of Romania, in force from December 3, 2001 to July 14, 2005, being repealed by Law no. 206/2005 available on: https://www.unodc.org/pdf/crime/terrorism/res_1373_english.pdf, accessed on 15.01.2021.

against Iraq from an *ius ad bellum* perspective. Instead, the United States claimed that it was an action taken in the exercise of its inherent right of self-defense, in response to a growing series of armed attacks by the Islamic Republic of Iran and Iran-backed militants, and in a letter to the UN Security Council the US invoked art. 51 of the Charter of the United Nations, motivated by the fact that Iran and the Sunnis in particular were planning imminent attacks on the United States²⁷.

An unanswered question concerns the legality of using force against Iraq because by killing Soleiman, the US used force not only against Iran but also against Iraq. The Trump administration has not formulated any legal justification for the use of force in Iraqi territory and against the five Iraqi citizens who were with Soleimani, which raises additional questions about the legality of the attack in the context of *ius ad bellum* and the legality of killing Iraqis in relation to human rights law.

Currently, there is a real risk that the doctrine of the so-called „*Global War on Terror*” will further erode the foundations of the international human rights framework. Furthermore, preventive military action, against a threat that has not yet materialized and is uncertain over time, the doctrines of states or security organizations based on the idea of preventive war, are contrary to the principles of international law, paving the way for errors and abuses without contributing to peace and international security.

Also, the killings carried out on the territory of other states raises issues related to sovereignty because in accordance with Article 2 (4) of the UN Charter, a state is prohibited from using force in the territory of another state. Therefore, when a state commits a targeted killing on the territory of another state with which it is not in armed conflict, the former violates the sovereignty of the latter.

In our view, the targeted killings are only justifiable in the context of an armed conflict, and therefore the international humanitarian law must govern the use of such operations. International humanitarian law, in turn, requires states to demonstrate the existence of an international armed conflict, involving two or more states, regardless if one party denies the existence of a state of war, or the existence of a non-international armed conflict, when the state of prolonged armed violence exists between organized forces. Due to the existence of only two forms of armed conflict, as mentioned in international humanitarian law, the notion of „*war on terror*” cannot be a sufficient justification for the practice of targeted killings.

The conclusions can only be that the policies and practices of states that use targeted killings are illegal and that they violate one of the fundamental human rights, that of not being arbitrarily deprived of one's life. We emphasize that, although thousands of civilians and suspected terrorists have been killed in such actions, the effectiveness of using these methods in disrupting terrorist activity is minimal.

Accordingly, we believe that the illegal use of lethal force against persons suspected of terrorism should be replaced by bilateral cooperation of States so that those responsible for planning or carrying out terrorist attacks are brought to justice

²⁷ BBC News, *Qasem Soleimani: US kills top Iranian general in Baghdad air strike*, 3 January 2020, <https://www.bbc.com/news/world-middle-east-50979463>, accessed on 04.03.2020.

and prosecuted for the crimes they committed, in fair and public trials and, if found guilty, convicted.

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