

# Ethical Dilemmas in Counterterrorism

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Over the course of the past six decades, the reason for the existential threat to Israel has remained unchanged: The refusal of many, if not most, governments and peoples in the Middle East to accept the existence of the Jewish state. The nature of that threat, however, has undergone a dramatic evolution. In recent years, we have witnessed a shift from conventional warfare—that is, wars between armies and states—to “subconventional” warfare (such as terrorism and crude rockets) and superconventional warfare (such as missiles and weapons of mass destruction). Accompanying this change has been a profound political-ideological shift, from the prominence of nationalist-secular movements to that of religious-jihadist ideologies.

This new type of warfare, and the ideology that fuels it, are defined by the intent to kill civilians. Terrorism, rockets, missiles, and WMDs all avoid engaging the Israel Defense Forces (IDF) directly, aiming instead at the general Israeli population. The groups that exploit these methods of warfare do so partially because they know they cannot emerge victorious from a direct confrontation with the IDF. They do so primarily, however, because of their belief that Israeli society is the weakest link in Israel’s national-security chain.

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And indeed, attacks on Israeli civilians—and the military retaliation they provoke—are the kind most likely to arouse critical moral dilemmas for both the Israeli military and the democratic society it seeks to protect.

Faced with this new kind of warfare, military decision makers at every level, from the chief of staff down to the regular soldier, are forced almost daily to make choices of the most extreme kind—namely, those that will cost lives. In order to grasp the true difficulty, even impossibility, of these choices, it is first necessary to understand what the IDF has been up against in recent years.

Since September 2000, when Yasser Arafat launched the terror war (which is falsely called the second Intifada), the IDF has faced a systematic effort by Palestinian terrorists to wreak death and destruction on Israeli society. This unprecedented onslaught, carried out by well-organized and well-funded groups, is in fact a full-blown and calculated armed conflict.

In this conflict, Israel's enemies have distinguished between combatants and non-combatants only insofar as such a categorization clarifies their target: Civilians. Now, anyone with even the most rudimentary knowledge of modern military ethics knows that the basic distinction between combatants and non-combatants (or civilians) is what determines the rules of engagement and defines the scope of the battlefield. But terrorism, which subscribes to no code of ethics—which is, in fact, the very embodiment of the unethical—deliberately targets those who should be immune to war's devastation.

Furthermore, Palestinian terrorists not only attack Israeli civilians in their homes, their restaurants, their shopping malls, and their buses, but they also use their own civilians as human shields. They operate from highly populated civilian areas so as to complicate and deter Israel's ability to thwart their attacks. Indeed, due to the likelihood of civilian casualties, *any* Israeli military action—offensive or defensive—is extraordinarily costly in

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terms of both lives and publicity. By triggering a panicked response by the government and provoking potentially overzealous army tactics, the terrorists are certain to ensure condemnation of Israel by foreign governments, non-governmental organizations, and the world media. Most importantly, perhaps, such counterterror measures may cause a rift within Israeli society itself over the legitimacy of our cause and the moral stature of our armed forces.

Put simply, the more we apply force and the heavier the collateral damage to the Palestinian civilian population, the more we play into the hands of our enemies, and the more we undermine the legitimacy of our actions.

If there is any doubt as to the nature of our enemy's strategy, one need only look at the frequency with which Palestinian terrorists falsely accuse Israel of gross human rights violations and massacres in pursuit of sympathetic media coverage. An example is the infamous claim of a "Jenin massacre," a sensational fabrication of Palestinian propagandists and their abettors in the international media. In this instance, it was claimed that the IDF had massacred hundreds, even thousands of civilians in the West Bank city of Jenin during an offensive operation in April 2002. In reality, only fifty-two Palestinians were killed in intense, house-to-house urban combat in the Jenin refugee camp—almost all of them armed terrorists. In this same battle, twenty-three Israeli officers and soldiers were killed in a surgical operation that shunned the use of artillery or air strikes—which would have dramatically decreased the number of Israeli casualties—in order to avoid a greater number of Palestinian civilian ones.

Nevertheless, the commanders of the IDF were hit with criticism from all sides: The media, foreign governments, and, most painful of all, the families of the fallen soldiers. These families are naturally more concerned with soldiers' lives than with the potential for increased collateral damage on the enemy's side—and understandably so. Yet the military, and the government that directs it, must strive to keep in mind the larger picture. This is what we strove to do in Jenin, and in this, we were successful: While our caution

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did not change Palestinian attitudes (nor did we expect it to), it did serve a critical strategic purpose. So, then, who was right: The families of the fallen soldiers or our political and military leaders? I am not sure.

One of the most important considerations in counterterrorism operations is a cost-benefit analysis of the fallout from the use of force. On one hand, killing a terrorist prevents more terror attacks; on the other hand, it often elicits revenge emotions, as terrorists and their supporters use the occasion as a rallying cry for still more attacks. This is also the case in defensive measures, such as checkpoints, closures, and curfews, which, while they frequently succeed in foiling an imminent terror attack, stir hatred among civilians. Humiliated by their powerlessness, these civilians may turn into terrorists themselves, or at least their supporters.

Another example of a controversial anti-terror tactic of which Israel has made use in recent years is the practice of so-called “targeted killing”—surgical killings of terrorists, primarily high-ranking members of terror organizations. These operations are often condemned as “extra-judicial,” since terrorists are eliminated without bringing them to trial. Yet objections often misunderstand, among other things, the nature of targeted killings. These operations are not used to punish terrorists for past acts; rather, they are used to prevent future ones. Furthermore, in a targeted killing, just as in any other military act, there are strict rules of engagement, including political and legal oversight. An operation must first be approved by both the highest military commander and the highest echelon of the political leadership, on the advice of both the military and civilian attorney generals. Second, a targeted assassination is used as a last resort, when we have concrete, reliable intelligence regarding a terrorist’s plans but no way to arrest him. Indeed, our preference is always to arrest terrorists, since they can then be interrogated and possibly provide vital, life-saving information. Furthermore, arrests also reduce revenge emotions. When targeted killings are carried out, the public may be assured that we felt we had no other, better option.

Finally, even in the case of targeted killings, the IDF has demonstrated a remarkable concern for morality. In the seven years since the Palestinian

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terror war began, there has been only one case in which the IDF deliberately targeted a civilian, along with a terrorist, in an operation. The terrorist in question was crucial to the planning and execution of numerous suicide attacks. The first time we had the chance to kill him, he was with his daughters, and we aborted the mission to spare their lives. Six months later, we decided to target him when he was alone with his wife. Did the fact that his wife was also killed make our mission wrong? Was our delay in killing him—during which time many Israelis were killed on his orders—correct? On questions such as these, who can decide? Morally, one might claim that “by being merciful to the cruel, we were cruel to the merciful.” And he might well be right.

**A**lthough there are no clear answers to these dilemmas, there *are* certain principles that we must always follow, even when confronted with a terrorist threat. First, the use of force should be a last resort; second, targeted killing should be the last resort of the use of force; and third, when we are forced to kill, we should do so as surgically and decisively as possible. All three principles aim to impart the same message: That terrorism does not pay.

To this end, the IDF has a three-pronged test for evaluating prospective operations. First, we consider how the army itself—soldiers and commanders—will perceive its own actions. This is often referred to as the “mirror test”—will we be able to look ourselves in the mirror after the operation?—and is concerned primarily with morality. Second, we consider how the society we wish to defend will perceive our actions; this is where both moral and political considerations abound. And third, we consider how our actions will be perceived internationally; here, political considerations dominate.

Once the IDF has decided upon a course of action, it relies upon various operational capabilities and concepts to address terrorist threats in a way that satisfies both our moral imperatives and our strategic goals. In this vein,

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we educate our soldiers—and especially our commanders—to integrate ethical considerations into their military strategizing. Moreover, in working to achieve the moral standards we have set for ourselves, we have adopted technological capabilities that allow for ever more exacting surgical operations, including in the areas of intelligence-gathering, precision-guided munitions, and special operations.

It is thus no real surprise that the IDF revised—and raised—its already high standards of morality during the period of the last few years' heaviest fighting, particularly the value of purity of arms. Our soldiers and commanders must, and do, know that the weapons placed in their hands are to be used only in accordance with the values of our society and our military's strict rules of engagement.

Yet the process of inculcating in our military a deep sense of morality doesn't stop with the phrasing and re-phrasing of opulently worded codes or statements of principle, though these are also important. Rather, these codes and principles are translated into tangible rules of engagement and standard operating procedures; they are reflected in our choice of weapons and tactical measures; and their violation entails severe penalty and reprimand. In this way, we ensure that moral and ethical considerations form the day-to-day decision-making compass of the IDF, and that we not only win, but win and remain human beings.

**O**f course, the Israeli soldier's ability to adhere to the high ethical standards of our military is severely tested—and intentionally so—by the terrorists with whom we are currently engaged in war. These tests take several forms.

First, ongoing intensive fighting can easily result in what is called the “dulled senses” effect among soldiers, in which they lose their sense of morality, discipline, and precision—and, in civilian areas, end up causing a greater number of civilian casualties. Second, Israel's enemies deliberately

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blur the distinction between combatants and civilians, making the enemy harder to identify. Moreover, since we are dealing with a largely hostile civilian population, there is an understandably strong tendency among soldiers under fire to perceive everyone in their path as the enemy. This, in turn, causes them to believe that massive military strikes, guaranteed to result in widespread collateral damage, are a legitimate tactic.

Third, terrorists hope that Israeli soldiers will absorb their own standards of military engagement—or lack thereof. Since the enemy operates entirely without moral standards, the soldier will naturally wonder, why shouldn't we? And how can we hope to win if we're not willing to fight as ruthlessly as they do? Of all the sentiments expressed by our soldiers, this is perhaps the hardest one to respond to. Indeed, how can we explain to someone who is risking his life, someone who has lost his brothers-in-arms to an enemy that knows no boundaries, why we must constantly restrain ourselves? Thus do we try to educate our soldiers from day one, formally as well as by example, that ethical combat is no less crucial to our ultimate victory than superior technology and tactics.

Fourth, there is the constant need to combat the logic of "the ends justify the means." Our war is legitimate, it is in self-defense, and it is about survival. Therefore, say many soldiers, any and all means should be used to win it. To counter this way of thinking, we try to instill in our soldiers the understanding that our objective is not only to win, but to win with the knowledge that we have upheld our society's morality. We teach our soldiers that a justly fought war is the only kind of war worth winning, and that they will be evaluated for not only whether they achieved their goals, but *how* they achieved them.

Fifth, our regular army, which bears most of the burden of combat, is made up of young soldiers and commanders. Quite naturally, these young men and women may have a simplistic understanding of the world around them. It is no easy task for them to act with the required broad vision, creativity, and flexibility of thought. After all, who knows better than these

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young people the price of failure on the battlefield? This is a heavy—many would say unduly heavy—burden for such young people to carry, and it may lead soldiers to be overzealous in their pursuit of security.

Finally, our enemies have shattered every bit of trust we have ever placed in them. Examples abound: When we allowed ambulances unimpeded passage through checkpoints, they were used to transport arms and terrorists; when we eased restrictions on women and the disabled, they were used as suicide bombers; when we granted freedom of movement to local employees of international humanitarian organizations, they used their special status to transport explosive belts; when we refrained from targeting terrorists in civilian surroundings, they re-located their headquarters to civilian residences. This sad reality has forced us to trust less, doubt more, and impose stricter limitations than we would otherwise like.

In light of all of these factors, ensuring that our armed forces continue to uphold the values and principles we hold dear is, to say the least, no easy task. But it is one that we demand of them, and one they do a praiseworthy job of fulfilling.

**A**bove all, in this age of subconventional wars, there is a crucial need for clarity among Western allies. After almost four decades of military service, most of it spent in counterterrorism, it is my belief that the West is too concerned with treating the symptoms of terrorism, rather than attacking its cause: The culture of death and destruction that pervades much of the Arab world. To do so, we undoubtedly need to harness all our military might. Yet we must not make the mistake of thinking that military power will prove the ultimate solution. Rather, alongside a concerted and creative military effort, we must confront the very means by which citizens of Arab and Muslim countries are enjoined to embrace and glorify death. This indoctrination is carried out in schools and mosques, on television broadcasts and in the pages of newspapers, and through the ubiquitous martyrdom posters that decorate the roads and alleyways of every city and village.

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The greatest challenge facing democratic societies today, then, is the need to convince the Arab and Muslim nations of the world to promote for the sanctity of life. There is no doubt that this will be a long and uphill battle. We will win it, however, if we refuse to allow the barbarity of our enemies to rob us of our own honor.

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