

BETWEEN SELF-DEFENSE AND TERRORISM: THE CASE OF ISRAELI ACTIONS DURING THE AL-AQSA INTIFADA

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Abstract

The aim of this study is to examine the concept of state terrorism; demonstrate the elusiveness between legitimate self-defense and terrorism and point to the fact that counter terrorism measures are prone to transform into state terrorism. Within this context, the study would introduce the Israeli politics vis-à-vis Palestinians within the framework of counter-terrorism and it would analyze, as case study, the Second Intifada(al-Aqsa Intifada) period which has begun after the collapse of the Oslo Peace Process. The study would seek to examine Israeli counter-terrorism policies via the concept of state terrorism. It is the hypothesis of this study the Israeli methods of coping with terrorism (counter terror measures) ironically breed terrorism as Israel resorts to harder methods; and in return have turned to state terrorism.

Key words: State Terrorism, Counter-terror Measures, Right of Self-Defense Al-Aqsa Intifada, Israel

MEŞRU MÜDAFAA VE TERÖRİZM ARASINDA: EL-AKSA İNTİFADASINDA İSRAİL'İN DAVRANIŞLARI

Özet

Bu çalışmanın amacı bir kavram olarak devlet terörünü incelemek; terörizm ile meşru müdafaa arasındaki ince çizginin bulanıklığını göstermek ve terörle mücadele politikalarının yeri geldiğinde devlet terörizmine dönüşebildiğini göstermektir. Bu bağlamda, çalışma İsrail'in terörle mücadele tedbirleri bağlamında Filistinlilere yönelik olarak yürüttüğü politikaları önceleyecek ve örnek olay olarak Oslo Barış Süreci'nin çökmesinin akabinde başlayan 2. İntifada(el-Akşa İntifadası)sürecinde İsrail'in Filistin terörü ile mücadele için başvurduğu yöntemleri devlet terörizmi kavramı açısından analiz edilecektir. Çalışmanın öne sürdüğü hipotez İsrail'in söz konusu terörle mücadele eylemlerinin nihayetinde terörizme dönüşe bildiği ve şiddetin şiddeti besleyerek her iki tarafın şiddet sarmalına hapsoldüğüdür.

Anahtar Kelimeler: Devlet terörü, Terörle Mücadele Tedbirleri, Meşru Müdafaa Hakkı, el-Akşa İntifadası, İsrail

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Introduction

The idea that the sovereign state is the primary constitutive organization within the international system was consolidated in the Treaty of Westphalia in 1648. The Westphalian system assumed that the interests and goals of the states transcend those of any individual citizen or a ruler. The state has become an independent actor with the Westphalia doctrine; now it has the absolute authority within its borders over its own people, it shares the legal equality with other states and it enjoys the principle of non-intervention of other states in its internal affairs. However, during the 20th century, the idea of Westphalian sovereignty has been disturbed by military interventions in Afghanistan, in Sudan, or in Iraq. These interventions have been supported with the idea of “humanitarian intervention” aimed at preventing the genocide or mass killings. The state as the only provider of human rights within its jurisdiction and as the only protector of these rights; has become also the major violators of human rights.¹

The argument of this study is that terrorism is not only used by non-state actors but also by states in order to achieve political objectives; thus along with the study, the term terrorism refers to any type of political violence regardless of whether the actor is a terrorist group or a government. It is evident that certain acts perpetrated by groups or individuals against a state or its citizens are labeled as terrorism while violent acts of states against a population are not interpreted in that term. It is also evident that state sponsored terrorism is evaluated within a double standard as Third World sponsorships are given attention while Western nations’ aiding to repressive regimes who commit acts of terrorism in other parts of the world are ignored. As Richard Falk observes “anti-state violence is demonized, while greater state violence is virtually immunized from criticism.”²

A rapid glance at the literature on the field of terrorism demonstrates that the relation between states and terrorism has largely been ignored. Mainstream definition of terrorism attributes the violent acts that are specified as terrorism only to non-state actors. On the other hand, mainstream social scientists disregard the states’ capacity to commit acts of terrorism either by sponsoring terrorist acts or by directly involving in them in the name of their national interests. By doing so, they have failed to recognize that states do carry out acts of terrorism by adhering to Max Weber’s classical definition that

¹Michael Stohl, “The State as Terrorist: Insights and Implications”, *Democracy and Security*, 2:1-25, 2006, p. 17

² Richard Falk, “State Terror versus Humanitarian Law”, in *War and State Terrorism: The United States, Japan and the Asia Pacific in the Long Twentieth Century*, ed. Mark Selden, Alvin Y. So, (Oxford: Rowman & Littlefield Publishers, 2004), p. 48

*“a state is a human community that (successfully) claims the monopoly of the legitimate use of force within a given territory”*³

As the state is “the sole human community that claims the monopoly of the use of physical force within a given territory”; thus the existence of the state is determined in respect to its right to use of force. If the state recourse to force for coercing the community rather than protecting it, then this means that the state has begun to abuse its monopoly of use of force.⁴ Recourse to force may also be the part of a state ideology; as Machiavelli indicates in his work “the Prince” by suggesting to the governors that “It is safer to be frightened of rather than to be loved.”

Within the light of this background, this study would analyze the Israeli methods of coping with terrorism which ironically breed terrorism as Israel resorts to harder methods; and which in return have turned to state terrorism according to some. Israeli counter insurgency tactics such as coercive control, collective punishment, border closings and economic restrictions have a huge impact on the life of the Palestinians by increasing unemployment, therefore humiliated and angry Palestinians easily join militant groups in order to attack on settlers, Israeli Defense Forces-IDF and civilians within Israel. Finally terrorism increases so does the counter-terror measures that were appealed in the name of self-defense. But, what separates self-defense from state terrorism? Or, can this separation be made easily? Do the measures taken by states in order to curb terror backlash and turn, they also, a form of terrorism, known in the literature as state terrorism?

To do so, the study would examine the acts of Israel during the Al-Aqsa Intifada in order to find out whether there are the traces of actions that might be counted within the concept of state terrorism. The analysis proceeds in two steps. First, the concept of state terrorism would be analyzed and the right of self-defense would be evaluated in order to find the obstacles that blur the distinction between acts of terrorism and the acts of self-defense. Besides, the relation between human rights and counter-terrorism measures would be dealt to emphasize that certain measures are taken at the expense of human rights. And finally, the Israeli actions perpetrated during the Al-Aqsa Intifada would be evaluated within the perspective of state terrorism.

The Concept of State Terrorism

The question whether the state can commit acts of terror has occupied the scholars on the field of terrorism. The rejectionists who claim that the state

³Mark Selden, Alvin Y. So, *War and State Terrorism: The United States, Japan and the Asia Pacific in the Long Twentieth Century*, (Oxford:Rowman&Littlefield Publishers, 2004), pp.3-4.

⁴Emre Öktem, *Terörizm, İnsancıl Hukuk ve İnsan Hakları*, İstanbul: Derin Yayınları, 2007,p. 257

cannot commit acts of terrorism base their arguments according to law implying that such a crime – i.e. committed by the state – does not exist in the international positive law. Another rejectionist claim is that when states appeal to violence this is because they defend a line, a territory which differentiates state actions from those of insurgent groups. On the other hand, it's claimed that what state perpetuates in the territories it already controls cannot be labeled as terrorism since it has the monopoly of the tools of military power and political violence.⁵ As this monopoly of violence given to the state is legitimate, so the acts perpetrated by the state would be considered as legitimate according to this point of view. However, all legal acts are not legitimate and vice versa. If the state recurs to violence as a means of coercing the society and if a state adopts a policy of elimination of entire sections of its own society, then it is clearly behaving in an unacceptable and illegitimate manner.⁶

It is a prevailing recognition that state terrorism is frequent within authoritarian, totalitarian and military regimes. However, it is evident that the governments that come to power by democratic elections may also choose this way in order to appease the opposition. Examples may be found in the campaign against black radicals in US during 1960s and 1970s, vigilantism and police connivance in Northern Ireland before “troubles”, Felipe Gonzalez’s former Socialist government who responded to ETA’s violence by setting up the GAL which assassinated ETA members in Spain during the 1980s or Israel and its zones of occupation.⁷ Ascribing terrorism only to authoritarian regimes or tyrannical governments would lead to a definition of state terrorism that parallels the cliché which makes the definition of non-state terrorism problematic: one person’s terrorist is another person’s freedom fighter. Thus, making such a distinction in defining state terrorism would cause labeling particular regimes as terrorists and the others as non-terrorists according to value judgments. The hypocrisy of governments who are employing terrorist strategies and their condemnation of terrorism as a totally immoral means of achieving a political goal make use of the subjectivity of terrorism.⁸ Reagan administration’s disapprobation of terrorism while sponsoring the Contras in Nicaragua and Dead Squads in El Salvador, supplying arms to Iranian regime which is condemned for its appealing to terrorism by the same administration may be given as an example of this dilemma.

⁵Peter A. Sproat, “Can State Commit Acts of Terrorism?: An Opinion and Some Qualitative Replies to a Questionnaire”, *Terrorism and Political Violence*, Vol.9, No.4, 1997, pp.119-120

⁶ DavidClaridge, “State Terrorism? Applying a Definitional Model”, *Terrorism and Political Violence*, Vol.8, No.3, 1996, p. 48

⁷Stohl, op.cit., p. 19

⁸Claridge,op.cit., p. 49

State terrorism is not peculiar to a certain ideology. As well as the politics named *Nacht und Nebel*⁹ in Nazi Germany that was also pursued as a model by the military dictatorships in Latin America; the violence and bloodshed perpetrated by the Marxist Pol Pot regime in Cambodia are the examples that state terrorism is independent from ideology.¹⁰ The word terrorism came to be mentioned with totalitarianism during the 20th century as a result of Nazi barbarism and Stalinist despotism. Both systems relied upon organized, systematized, discriminate terror in order to create bondage of the mind as well as of the body.¹¹ In the early 1930s, Stalin used terror against the peasantry through his campaign “delukakization”; forced collectivization unleashed a famine that claimed almost six million victims. The years 1936-1937 were marked by Great Terror during which certain sectors of the populace was exposed to generalized terror.¹²

No regimes are likely to label their actions as terrorism; they prefer more neutral designations as “coercive diplomacy”, self-defense, and national security interests and so on. On the other hand, there are difficulties of framing many cases in which states are involved, as terrorism. Deaths often take place during a civil war or within disputed territories, therefore they are not considered as state terrorism or mass killing. Per contra, the state argues that those kinds of killings are legitimate since the population poses a threat to national peace and security. This idea was taken into consideration by South American leaders as National Security Ideology in 1970s which saw significant portions of the population as threats to the intertwined goals of development and security.¹³

As the state is understood in terms of force and violence, the possible definition of state terrorism becomes too narrow as a result of exclusion of all the acts committed in warfare (notwithstanding serious human rights violations where the military is operating) and as a result of adopting existing legal and security structures. In such cases, states usually follow pseudo-democratic

⁹Nacht und Nebel (Night and Fog) was a policy implemented by Nazi government with aim of kidnapping of many political activists and helpers to resistance through Nazi Germany’s occupied territories. It is unknown till this day, how many people are kidnapped and disappeared during that period.

¹⁰Marcelo G. Kohen, “Les Controverses sur la Question du Terrorisme d’Etat”, in *Le Droit International Face au Terrorisme*, ed. Karinne Bannelier et al., (Paris : CEDIN, Paris I, Pédone, 2002),p. 89

¹¹ James P. Terry, “State Terrorism: A Juridical Examination in terms of Existing International Law”, *Journal of Palestine Studies*, Vol.10, No.1, 1980, p. 95

¹² GerardChaliand, Arnaud Blin, “Lenin, Stalin and State Terrorism”, in *History of Terrorism: From Antiquity to Al Qaeda*, ed.Gerard Chaliand, Arnaud Blin, (London, University of California Press, 2007), p. 205

¹³Stohl, op.cit.p. 18

framework of arrest, charge, trial and sentencing facilitated by the introduction of emergency legislation which can also be used to bypass any of these stages while legitimating a facade of legitimate behavior.¹⁴ Nonetheless, the question whether there is a moral difference between the state's activities of law enforcement and its extra ordinary activities that are named as state terrorism remains unanswered.

Marcelo Kohen divides state terrorism in three categories by systematizing different compartments of states. According to this categorization: (a) states commit acts of terrorism in the context of armed conflicts (intentional homicide, torture and other treatments inhumane, taking hostage, destruction of properties non justified by the military necessities and executions on a large scale, etc.); (b) states commit acts of terrorism through their agents outside hostilities (the destruction of Greenpeace ship "Rainbow Warrior" in the harbor of Auckland by the agents of DGSE^{15*} – Directorate of the External Security and several assassinations of Palestinian leaders by Shin Beth); (c) states commit acts of internal/domestic terrorism (two modalities: state organize legally the terror or state introduces a regime of terror outside all legality). This form of terrorism covers more than a method of political action; it is primarily a political system.¹⁶ There are two forms of domestic terrorism: dead squads and ethnic cleansing. Dead squads were used by Indonesian government under Suharto when he took over East Timor ignoring a local declaration of independence in 1974 after Portugal relinquished its colony. When Indonesian government faced with a national liberation struggle, it appealed to use of dead squads in order to maintain control of the new province.¹⁷

Another form of domestic terrorism is ethnic cleansing. Ethnic cleansing is defined as "*expulsion by force in order to homogenize the ethnically mixed population of a particular region or territory*";¹⁸ the goal is to evacuate as many residences as possible because they are viewed as potential dissidents. What distinguishes ethnic cleansing from genocide is its goal: The aim of ethnic cleansing is to cleanse an area while genocide aims to eliminate certain group. The most recent example to ethnic cleansing is the politics of Sudanese government which plasticized ethnic cleansing in the southern part of

¹⁴Claridge, op.cit., p. 49

¹⁵Formed in 1982, DGSE was a counter-espionage service. One of its most infamous missions was Operation Satanic which ended with two DGSE agents' blowing up the Greenpeace Ship, Rainbow warrior whose aim was to protest France's testing of nuclear weapons in the Pacific Ocean.

¹⁶Kohen, op.cit.,pp. 86-90

¹⁷ James Lutz, Brenda Lutz, "State Uses of Terrorism", in *The Politics of Terrorism: A Survey*, ed. Andrew T. H. Tan,(London:Routledge, 2006), p. 97

¹⁸IlanPappe, *The Ethnic Cleansing of Palestine*, Oxford:Oneworld Publications, 2007, p.2

the country and in Darfur in the western part of the country. The Sudanese state created one of the largest death tolls. When two Darfurian rebel groups in western Sudan, Sudan Liberation Movement/Army – SLM/A and Justice and Equality Movement – JEM attacked military garrisons in February 2003, the government mobilized, armed and unleashed a terrorist militia known as Janjaweed in order to collectively punish the peoples of Fur, Zaghawa and Massalit. It is estimated that 70,000 people were killed by state soldiers and Janjaweed militia in West Sudan. These attacks led to massive displacement, indiscriminate killings, looting and mass rape.¹⁹

David Claridge proposes a model of state terrorism which exhibits seven dimensions. According to his definition, state terrorism is composed of terroristic actions of states which are systematic, actually or potentially violent, political, committed by the agents of the state, intended to generate fear, intended to communicate a message to a wider group than immediate victims and action is oriented to the victims who are not armed and organized for aggression at the time of the incident.²⁰ According to this definition, it can be pointed out that genocide cannot be considered as state terrorism since there is not a target audience whose behavior the state aims to modify through use of violence²¹ unless the genocide is perpetrated in order to intimidate another ethnic group.

Teichman's definition of state terrorism includes the tactics which make the actions of the state be labeled as terrorism: "State terrorism is characterized by such activities as kidnapping and assassination of political opponents of the government by the police or the secret service or the army: imprisonment without trial, torture, massacres of racial or religious minorities or of certain social classes; incarceration of citizens in concentration camps and generally speaking governing by fear."²²

As is seen, states use terrorism as an extension of oppression or repression systems, as a method of consolidating power, as a reaction to "reformist-minded" political, social or economic organizations and their policy demands and as a reaction to an insurgent challenge to the state.²³ Furthermore, states desiring to control the whole population may resort to terrorism because of its being a cost effective means of providing control. When they perceive themselves weak, states might also choose terrorism as the costs are low and

¹⁹ For further information see, Asafa Jalata, "State Terrorism and Globalization: The Cases of Ethiopia and Sudan", *International Journal of Comparative Sociology*, Vol.46, No.79, 2005, pp. 90-94

²⁰ Claridge, op.cit., pp. 53-54

²¹ Sproat, op.cit., p. 140

²² Ibid., p. 129

²³ Stohl, op.cit., p. 7

the probability of success is high. States may appeal to terrorism as a means to govern socially marginal groups. When the scale of potential opposition is greater enough to pose a threat to government, state terrorism becomes applicable. The greater the heterogeneity is, the greater the likelihood that the state would resort terrorism as a means of rule. Saddam's Iraq was in such a situation. As Kurds in the Northern Iraq were composing a potential threat to Saddam's government, they tragically witnessed Saddam's violence.

Almost all cases of state terror are preceded by campaigns which seek to marginalize and dehumanize the potential victims and are further justified in the name of national security.²⁴ Once dehumanization and marginalization process is finished, charges of terrorism are rationalized. The most common tactics invoked by the state in order to eliminate the potential threat are forced disappearances, torture, unlawful detentions, etc. Mark Selden and Alvin So designate the emergence of the new forms of state terrorism in the Korean and Vietnam Wars. For example, the US military employed tactics ranging from the use of indiscriminate airpower to search –and–destroy and strategic-hamlet missions that drew no distinction between military and civilian targets and inflicted large scale civilian deaths.²⁵

Richard Falk implies that the most extreme and permanently traumatizing instance of state terrorism involved the use of atomic bombs as a tactic against the cities of Hiroshima and Nagasaki with the aim of terrorizing the population through mass slaughter and confronting its leaders with the prospect of national annihilation.²⁶ Another example of strategic bombing may be the bombing of Dresden by British forces which caused mass deaths among the population. In his letter to Lord Beaverbrook about the area bombing strategy, Churchill was clear that *the strategy was directed at civilians, confronting the Nazi homeland with an absolutely devastating and exterminating attack.* (emphasis added)²⁷

After 9/11 attacks, the debate whether the state could recourse to terrorist practices in order to combat terrorism with efficacy has emerged. On theoretical basis, the answer of this question would be “no” since these kinds of acts are prohibited in the international law. However, the actual practices of the Israeli government, the practices of British against IRA, and Spanish against ETA or those of the Algerian government against GIA – GroupeIslamiqueArmé, Armed Islamic Group²⁸ are some examples among the

²⁴ Ibid., p. 17

²⁵ Selden, So, op.cit., p. 8

²⁶ Falk, op.cit., pp. 45-46

²⁷ Tom Nairn, Peter James, *Global Matrix: Nationalism, Globalism and State Terrorism*, London: Pluto Books, 2005, p. 224

²⁸ Kohen, op.cit., p. 90

others. It is worth emphasizing that the “war against terror” does not justify the employment of the terrorist actions. State terrorism needs to be theorized and challenged by the concrete legal embodiments with which the states will comply. Admitting that a state can employ all the means in order to beat terrorism means producing more terror which would lead a dead end.

The Concept of Right of Self-defense and Terrorism

That the states have the right of protecting their security is acknowledged by the international law. The right of self-defense, on the other hand, is warranting the security of the states through use of force. The right of self-defense is based on the fundamental right of states to survival, but it can be appealed only if the survival of the state is at stake. The essence of self-defense may be found in *self-help* which means under certain conditions set by international law, a state acting unilaterally may respond with lawful force to unlawful force or to the imminent threat of unlawful force.²⁹ Self-help may be displayed in various ways. One of them may be taking of non-forcible measures, for instance, declaring a foreign diplomat *persona non grata* or immobilizing diplomatic relationship with another state.³⁰ Legitimate self-help may also be displayed by taking forcible measures; in this case self-help becomes legitimate self-defense.

The right of self-defense is substantiated in customary law by a doctrine known as Caroline doctrine³¹. According to this doctrine, self-defense accompanied by the use of force may only be applied in rare cases where the need for self-defense is immediate and there is no possibility of employing other less harmful measures.³² According to customary law, self-defense is permitted in cases of aggression. States may seek the right of self-defense only in the cases of self-defense. What constitutes the acts of self-defense is still an issue among scholars of international law.

After 9/11 attacks the issue has become more complicated by the setting forth of the concept “preemptive self-defense” which is not binding according to the actual international law. Nevertheless, there have been various opinions about what constitutes the acts of self-defense. During the Caroline

²⁹Yoram Dinstein, *War, Aggression and Self Defense*, New York: Cambridge University Press, 2003, p. 159

³⁰ *Ibid.*, p. 160

³¹ The traditional self-defense doctrine is based on the incident which took place in 1837, near the Niagara Falls where a boat called Caroline was attacked and tipped over by British forces. The boat was being used by Canadian rebels who were preparing for an attack. In order to prevent the potential attack, the British forces had implemented the operation which would later found a basis for the self-defense as well as anticipatory/preemptive self-defense doctrines.

³² Emanuel Gross, “Self Defense against Terrorism-What does it mean? The Israeli Perspective”, *Journal of Military Ethics*, Vol.1, No.2, 2002, p. 95

case, Daniel Webster US Secretary of State that time, suggested that “self-defense only applies in extraordinary circumstances where the *necessity of self-defense [is] instant, overwhelming, leaving no choice of means, and no moment for deliberation.*”³³

According to this basis, it can be pointed out that, the right of self-defense is justified when there is an imminent threat of force or a continuing attack against a state; thus a degree of immediacy becomes fundamental. Yet, the use of force in the name of self-defense must be based on the evidence of an imminent second attack, therefore which triggers the right of self-defense is not the first attack; on the contrary, it is the imminent threat of the second attack that triggers such right.³⁴

The right of self-defense is enshrined in the Charter of the UN in Article 51 which proclaims: “Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”³⁵

This means that the right of defense in Article 51 is permitted under the conditions which corresponds more or less that any national legal system provides: If someone is about to kill me and I have no time to contact the police; then I have the right to prevent this crime by killing or by neutralizing the aggressor.³⁶ When Article 51 is read in conjunction with the Article 2(4) of the Charter which calls upon all the members of UN to refrain from the threat of use of force against the territorial integrity of another state, Article 51 introduces an exception to the obligation to refrain from the use of force by allowing member states to employ force in the name of self-defense in the event of an armed attack. The use of force in self-defense is a limited exception to the Charter’s prohibition of the use of force by states. As the use of force is irreversible and irreparable; the right to self-defense should not depend merely on the credibility of compulsory statements of government officials; especially

³³Mark P. Popiel, “Redrafting the Right of Self Defense in Response to International Terrorism”, *Gonzaga Journal of International Law*, Vol.6, No.3, 2002, p. 7

³⁴*Ibid.*, p. 8

³⁵<http://www.un.org/en/documents/charter/chapter7.shtml>

³⁶Antonio Cassese, *Violence et Droit Dans un Monde Divisé*, Paris : Presses Universitaires de France, 1990, p. 52

when the government has sufficient time and opportunity to disclose supporting evidence.³⁷

There are certain conditions that must be met by the member states. According to Article 51, states may implement their right of self-defense when there is a necessary self-defensive measure to an armed attack and when the act of self-defense is authorized by UN Security Council as necessary in order to maintain international peace. It must emphasized that the right given to member states by Article 51 of the UN Charter has to be understood as “narrow authorization” not as a “carte blanche”³⁸, but as a defensive action against a continued armed attack until Security Council intervenes to restore international peace and security. Under no circumstances can the actual use of force by both parties to a conflict be lawful simultaneously; as an American Military Tribunal held in the 1949 contends: “there can be no self-defense against self-defense.”³⁹

Under Article 51, the right of self-defense arises only when an armed attack occurs. Thus, in order to recourse to force in the name of self-defense, a state must demonstrate that an armed attack has taken place. Concurrently, states do not have a right of armed response to acts which do not constitute an armed attack and not all force against states constitutes an armed attack.⁴⁰ However, the definition of armed attack is unclear. On the other hand, it has to be ascertained whether terrorist attacks amount to armed attacks. Traditionally, self-defense is justified only against the state actors. In this circumstance, terrorist attacks cannot be considered as an armed attack since it is perpetrated by a non-state entity. According to a decision held by International Court of Justice – ICJ in the Nicaragua case, an armed attack which justifies self-defense as a response under Article 51, need not take the shape of massive military operation; sending of armed bands into the territory of another state may count as an armed attack.⁴¹

According to Yoram Dinstein, since Article 51 mentions a state as the potential target of an armed attack; then the perpetrator of that armed attack is not identified necessarily as the state which means an armed attack can be carried out by non-state actors.⁴² It must be added that when there is a conflict between a state actor and non-state actor within a territory, this must be considered as a case of internal conflict or domestic terrorism. In order to be

³⁷ Jonathan I. Charney, “The Use of Force against Terrorism and International Law”, *The American Journal of International Law*, Vol. 95, No.4, 2001, p. 836

³⁸Popiel, op.cit., p. 7

³⁹Dinstein, op.cit., p. 162

⁴⁰Popiel, op.cit., p. 9

⁴¹Dinstein, op.cit., p. 176, Popeil, op.cit., pp.9-10

⁴²Dinstein, op.cit., p. 204

considered within Article 51, an armed attack of a non-state actor must be perpetrated from the outside.

After 9/11 attacks, the definition of armed attack gained flexibility. Large scale and continuing terrorist attacks are offered to be the causes for the exercise of the right of self-defense. In this context, A. Cassese's definition of armed attack may be an example: "Armed attack means a very serious attack either on the territory of the injured State or on its agents or citizens while at home or abroad (in another State or in international waters or airspace). To qualify as an armed attack, international law requires that terrorist acts form part of a consistent pattern of violent terrorist action rather than just being isolated or sporadic attacks."⁴³

Nevertheless, international law requires an aggressor State or at least an involvement of a state in an aggression which is clear from the Declaration on the Definition of Aggression (1974). In the Resolution of Aggression "sending by or on behalf of the state of the armed bands, groups, irregulars or mercenaries which carry out acts of armed force against another state of gravity⁴⁴" is considered as an aggression. This means that unless the terrorist attacks originate with the involvement of a state, it is difficult to comprehend such action within the Article 51. In this circumstance, states would highlight the involvement of other states in order to exercise right of self-defense. However, it seems illogical to simply attack states, founded on the assumptions of terrorist involvement, without direct proof of their participation.

The Resolution 1368⁴⁵ held by UN Security Council following the 9/11 attacks has opened the possibility for the states to use force against terrorist groups. With G.W. Bush's declaration of "war against terrorism", the discussions of the preemptive self-defense doctrine came on the agenda. Preemptive action is a military policy which aims to neutralize terrorist organizations by targeting their perpetrators or their commanders. However, preemptive self-defense is clearly unlawful under international law.⁴⁶

⁴³ Antonio Cassese, "The International Community's "Legal" Responses to Terrorism", *International and Comparative Law Quarterly*, Vol. 38, 1989, p. 596

⁴⁴UN General Assembly Resolution 3314 (XXIX), Article 3(g), <http://www.un-documents.net/a29r3314.htm> ,

⁴⁵ S/RES/1368 (2001) recognizes the inherent right of individual or collective self-defense in accordance with the Charter; Unequivocally condemns in the strongest terms the horrifying terrorist attacks which took place on 11 September 2001 in New York, Washington, D.C. and Pennsylvania and regards such acts, like any act of international terrorism, as a threat to international peace and security...and expresses its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations. <http://www.un.org/docs/scres/2001/sc2001.htm>

⁴⁶ Mary Ellen O'Connell, "The Myth of Preemptive Self Defense", *ASIL Task Force Papers on*

Proponents of a broader right of self-defense generally base their arguments on the word “inherent” of the Article 51. The argument is that Article 51 left intact and unchanged the law of customary self-defense predating the adoption of the UN Charter.⁴⁷ Yoram Dinstein prefers to label this kind of self-defense as “interceptive self-defense”. He argues that while preemptive self-defense is unlawful, interceptive self-defense is lawful “for it takes place after the other side has committed itself to an armed attack in an ostensibly irrevocable way.”⁴⁸ As self-defense cannot be exercised based on the assumptions or expectations, it has to be apparent that the other side is already engaged in carrying out an armed attack. Thus, this interpretation leads some to argue that Israel’s war of 1967 may be considered as preventive war given the outbreak of hostilities, Israel stated that it had convincing intelligence that Egypt would attack. On the other hand, the measures taken by Egypt which demonstrated that it would aggregate. However, O’Connell implies that Israel acted on less than convincing evidence; therefore the 1967 Arab-Israel war does not provide an example of interceptive self-defense.⁴⁹

Destroying a terrorist infrastructure by bombing a terrorist training camp, arrest or preventive detention of the terrorists, the killing of an individual on the grounds of self-defense may be considered among the preemptive acts which are believed to prevent a possible terrorist attack. However, preventive actions lack assertive evidence and some moral questions arise about their applicability. States have to respect the proportionality principle while taking measure against an armed attack that has already occurred. However, preemptive self-defense not only undermines the restraint on when states may use force, it also undermines the restraints on how states may use force. What measure should be taken by the state acting preemptively? As the state can only guess the scale of a possible armed attack; then, it would have to make subjective determination on how much force would be used; which is incompatible with the UN Charter.⁵⁰

The Counter-terrorism Measures of States and Human Rights

Terrorism usually may be an excuse for authoritarian practices and human rights violations. The best way to legitimize the infringement of liberties is surely to demonstrate the effectiveness of the action undertaken to safeguard the collective security.⁵¹ As well as non-state terrorism, state

Terrorism, (August 2002), p. 1, www.asil.org

⁴⁷ *Ibid.*, p. 12

⁴⁸ Dinstein, *op.cit.*, p. 191

⁴⁹ O’Connell, *op.cit.*, p. 9

⁵⁰ *Ibid.*, p. 19

⁵¹ Nicolas Angelet, “Vers un Renforcement de la Prévention et la Répression du Terrorisme par

terrorism also threatens fundamental rights and liberties, primarily the right to live. Arbitrary detentions, assassinations, torture, inhuman treatment, forced disappearances, violation of right to liberty and right to fair trial are some of the practices of state terrorism. Responding terrorism with the methods of state terrorism would place the state in the same logic as the terrorist. Therefore, the legitimacy of state would be breached.

One of the policies of countering terrorism is the armed reprisals which may end with accepting the value systems of terrorism when it is practiced without any discrimination. The origin of the doctrine of reprisal is found on Middle Ages when it was consulted as a special right.⁵² Reprisal is an unlawful action taken by a state against another state as a result of unlawful act which the victim state has witnessed. Despite the fact that, both of the actions are unlawful; the reprisal of the victim state that was exposed to unlawful act, becomes legitimate as a result of the unlawful act of the aggressor state. The forms of reprisal may be embargo, declaration of blockage in peace, boycott, bombardment and invasion in peace. The armed reprisal is used for revenge and its aim is the punishment or general deterrence. It must be emphasized that reprisal against terrorism is not a convenient measure since it does not comprise the aim of protection from it, but to take revenge from terrorism, including the aggressors and the host state.

Two examples can help understanding this point of view. *The Operation El Dorado Canyon*: US air bombing of Libya with the assumptions of its involvement in the attack that was occurred in West Berlin in 1986. This reprisal was unjustified by other states on the grounds that its being indiscriminate and based on no substantial Libyan involvement in terrorist activities.⁵³ *The bombardment of PLO Headquarters in Tunisia by Israel*: In response to the killing of three Israelis in Cyprus, Israel bombed PLO Headquarters in Tunisia, killing 60 Palestinians, 12 Tunisians and wounding over 40 people. This reprisal is disproportional and a deliberate action taken as a result of the killing of three Israelis. It is condemned by UN with the Resolution 573 (1985).⁵⁴

On the other hand, the violent response to terrorism; would not make it disappear; on the contrary, this would help the legitimization of terrorism by the oppressed and would culminate in increasing the number of terrorists and their area of practice. The detainees in Abu Guraib, for instance, who have

des Moyens Financiers et Economiques?" in *Le Droit International Face au Terrorisme*, ed. Karinne Bannelier et al., Paris : CEDIN, Paris I, Pédone, 2002 , p. 235

⁵²FatmaTaşdemir, *Uluslararası Terörizm Karşı Devletlerin Kuvvete Başvurma Yetkisi*, Ankara: USAK Yayınları, 2006, p. 118

⁵³Popiel, op.cit.,p. 25

⁵⁴Taşdemir, op.cit.,p. 129

been exposed to torture although they were ordinary people, may leave the prisoner becoming a jihadist because of the treatment he/she has witnessed.⁵⁵

There is always a thin line between security and liberty. Responding to terrorism does not always mean taking harsh unlawful methods. Still, terrorism can be responded by forcible methods permitted by the law. It must be emphasized here that, terrorist is also a human being, so he/she must not be debarred from human rights although they may be violated by him/her. If the idea that a captured terrorist may be debarred from human rights is accepted as a principle; then this means that the practices ranging from tortures to deaths in custody would be in question; which is also a sort of terrorism, an intimidation.

Case Study: Israeli Actions during the al-Aqsa Intifada, 2000-2005

Events leading the al-Aqsa Intifada go back to the Oslo Peace Process. The process was expected to be the lynchpin of the solution to the Israeli-Palestinian conflict; however Palestinian terrorism inside Israel (especially suicide bombings had become a phenomenon of the period) and ongoing Israeli settlements in the occupied territories fostered violence and reaction. Hence, the process came to a deadlock with the Camp David talks which were considered to be the final round of peace talks between Palestinians and Israel.

The Camp David summit based on “make-or-break” was offered in 2000 to overcome the deadlock that the Oslo process had reached. All the major outstanding issues of the Israeli-Palestinian conflict, including settlements, borders, security and refugees were envisaged to be settled with a final status agreement. The hope of the Palestinian side was the creation of the Palestinian state. However, the disagreement over Jerusalem was the biggest stumbling block of the talks; ultimately the Camp David talks collapsed. Nevertheless, two sides continued the contacts but little progress was made. The breakdown of the negotiations was followed by the violence.

The immediate event that initiated violence was a visit by Ariel Sharon the opposition leader, to the Temple Mount/Haram al-Sharif that was approved by Barak. The response to Sharon’s visit was predictable; it was so predictable that the Palestinian leadership, the head of Jerusalem police Yair Yitzhaki and US officials all warned Ehud Barak, then the Prime Minister, to prevent it.⁵⁶ On 28 September 2000, the clashes erupted and the following day, the violence grew worse, transforming into asymmetrical low-intensity warfare.

The First Intifada had become a battle of political and economic exhaustion ending in a peace process based on hope; unlike the first one; the

⁵⁵Emre Özkan, Ö. Faruk Kotan, “Ebu Garip Hapiseseni: Terörle Mücadelede Yanlış Bir Strateji” in *Terörizm*, ed. İhsan Bal, Ankara: USAK Yayınları, 2006, p. 73

⁵⁶ Jonathan Cook, *Blood and Religion: The Unmasking of the Jewish and Democratic State*, London: Pluto Press, 2006, p. 34

Second Intifada broke out because of the failure of that same peace process as the trust and the willingness to compromise did not evolve at the rate required to reach peace.⁵⁷ Israel was convicted that the Intifada was a planned action which was foreseen to start after the collapse of the Camp David talks. However, certain observers argue that the Al-Aqsa Intifada derived from long years of severe and systematic discrimination of Palestinians and their political parties' exclusion from political power.⁵⁸

The initial features of the Intifada were marked by mass demonstrations, riots, the blocking of intersections and the throwing of Molotov cocktails at Israeli security forces. However, the following days witnessed a terror campaign intensified into roadside bombs, mortar attacks and large-scale ambushes and shooting incidents.⁵⁹ From the outset, the suicide bombings were a key Palestinian weapon. Shin Bet statistics show that during the first two years of the Al-Aqsa Intifada; there occurred 145 suicide bombings, 52 of which were Hamas men and 32 of which belonged to PIJ (Palestinian Islamic Jihad) and 40 to Fatah.⁶⁰ Sergio Catignani and Anthony Cordesman argue that the second Intifada was not a popular uprising because of the nature of violence used by Palestinians. They employed different tactics and weaponry which helped to transform a civil uprising into an urban guerilla war and terror campaign.⁶¹

The first suicide bombing was conducted on 26 October 2000 by PIJ on Israeli post in Gaza. In 2001 both suicide bombings and Israeli retaliations ascended. On 27 March 2001, a car bomb exploded in Jerusalem, injuring 7 people. PIJ claimed responsibility. The same day, 28 people were injured in a suicide bombing directed against a bus in Jerusalem. Hamas claimed responsibility. The following day, Israel retaliated with helicopter gunships, bombarding bases and training camps of Arafat's security forces. One member of the force and two Palestinians were killed. On 18 May 2001, a Palestinian suicide bomber with links to Hamas detonated himself outside a Shopping Mall in Netanya, killing 5, wounding 100. Israel retaliated by sending F-16 fighter jets against security buildings in West Bank and Gaza for the first time since 1967. On 17 October 2000, Rehavam Zeevi, a right wing Israeli tourism minister was killed by PFLP. On 15 November, Israeli troops, tanks and bulldozers entered the Khan Yunis refugee camp; one Palestinian was killed,

⁵⁷ Anthony H. Cordesman, *The Israeli-Palestinian War, Escalating to Nowhere*, Westport: Praeger Security International, 2005, p. 255

⁵⁸ Cookop.cit., p. 48

⁵⁹ Sergio Catignani, "The Security Imperative in Counter Terror Operations: The Israeli Fight against Suicidal Terror", *Terrorism and Political Violence*, Vol. 17, No.1, 2005, p. 255

⁶⁰ Ibid., p.259

⁶¹ Cordesmanop.cit., p. 101, Catignani, op.cit., p. 255

13 were wounded. As suicide bombings intensified, Israel launched the Operation Defensive Shield at the end of March 2002. Israeli strategy included targeted assassinations, arrests, curfews, closures, house demolitions and also expanded counter terrorism measures such as naval bombardments, surgical air strikes with F-16s and artillery barrages. With Operation Defensive Shield, Israel re-occupied all major Palestinian cities and elicited widespread Israeli presence in the entire West Bank.⁶²

The most spectacular event happened during the Operation Defensive Shield was the IDF's entry into Jenin refugee camp on 3 April 2002, which was believed to harbor militants who were organizing suicide attacks against Israeli civilians. In Jenin, at least 52 Palestinians were killed and numerous houses were demolished. During the Battle of Jenin, IDF used artillery and bombs to destroy residential buildings and killing civilians in the process.⁶³ Both Human Rights Watch and Amnesty International accused Israel of committing numerous "prima facie war crimes" during the battle which seriously disrupted the lives of Palestinian civilians but also degraded the ability of militants to work out of the town for a time.⁶⁴

Since Israel faced a more serious Palestinian threat in terms of scale and weapons, it expanded its counter-terrorism methods which were excessive and disproportionate, thereby violating the human rights and adding to the cycle of violence by causing greater numbers of revenge attacks of Palestinian terrorist organizations. As a form of conflict management, the counter terrorism became therefore counterproductive. The US State Department 2003 Country Report on Human Rights Practices offers some insight about the difficulty that Israel faced while balancing its security measures and preserving human rights. The report indicates that Israel "often used excessive lethal force" when confronting Palestinian demonstrations who threw stones, Molotov cocktails and also fired weapons at IDF soldiers. As a result of Israeli retaliations, Palestinian civilian areas suffered extensive damage with shelling, bombings and raiding. Another method that the report found highly controversial for apprehending terror suspects was the "neighbor practice". The report claims that with this practice IDF placed Palestinian civilians in danger by "ordering the Palestinian civilians to enter buildings to check whether they were booby-trapped, to expel their occupants, to remove suspicious objects from the road

⁶²Ze'ev Maoz, *Defending the Holy Land: A Critical Analysis of Israel's Security & Foreign Policy*, Ann Arbor: University of Michigan Press, 2006, p. 265

⁶³ Robert J. Brym, Yael Maoz-Shai, "Israeli State Violence during the Second Intifada: Combining New Institutional and Rational Choice Approaches", *Studies in Conflict and Terrorism*, Vol. 32, No. 11, 2009, p. 619

⁶⁴ Mark Le Vine, *Impossible Peace: Israel/Palestine since 1989*, Halifax: Frenwood Publishing, 2009, p. 71

and to walk in front of soldiers to protect them from gunfire.”⁶⁵ Former justice minister Yossi Beilin called the practice “immoral and un-Jewish” adding that “the Sharon government is teaching the army worst practices and is turning the concept of purity of arms into slander.”⁶⁶

Palestinian challenge composed of suicide bombings in military and civilian places, buses and other spots, popular unrest, mortar attacks and guerilla warfare was responded by Israel with measures which included targeted assassinations, large-scale military campaigns and forms of collective punishment such as mass arrests, closures, curfews; also with defensive measures such as fortifications and internal security measures. Given these forms of Palestinian challenges and Israeli responses; the Israeli-Palestinian conflict is considered to be one of the clearest illustrations of “violence as a rational choice” in which patterns of mutual slaughter resembles “synchronized moves of tit-for-tat retaliation.”⁶⁷ When this trend continues and the death tolls reach to high levels, then the tit-for-tat violence transforms into a “cycle of violence” as one could witness in the ongoing Israeli-Palestinian conflict.

As a result of this never ending cycle of violence, the Israeli public opinion was polarized regarding peace with Palestinians. The Israeli public became convicted on the idea that the Palestinians did not want peace, hence the supporters of extreme solutions and defensive measures increased. There was, for instance, a growing minority that believed that all Palestinians should be expelled from Israel, that more violent action should be taken to deter Palestinian violence and that the acts of violence against Palestinians were justified.⁶⁸ The course of violence and terror during the Al-Aqsa intifada fostered extremism. The following years were marked by extremist policies from both sides.

In the meantime, peace efforts continued. In 2002, a new Saudi proposal made by Crown Prince Abdullah called for the establishment of a Palestinian state, for a full diplomatic recognition of Israel by the members of the Arab League, and for the security guarantees in return for Israel’s withdrawal to 1967 lines. Another peace effort came in 2003 from the Mideast Quartet (US, European Union-EU, Russia and UN). The Quartet proposed a road map for a permanent two state solution to the conflict. The road map consisted three scheduled phases and envisaged to establish the Palestinian state by 2005. However, the ongoing terrorism and violence; the mistrust of the

⁶⁵US State Department Country Reports on Human Rights Practices, 2003, <http://www.state.gov/g/drl/rls/hrrpt/2003/27929.htm>

⁶⁶ Cited by Catignani, op.cit., p. 257

⁶⁷Brym, Maoz-Shai, op.cit., p. 615

⁶⁸Cordesman,op.cit.,p. 157

Israeli public to Palestinians regarding a peaceful solution prevented both sides to make a real commitment to peace.

Within the process, Sharon introduced a unilateral disengagement plan from the Gaza Strip. After several talks, on October 2004, the cabinet approved the plan which was envisaged to start on July 2005. Following the death of Arafat, Mahmud Abbas was elected President of the PA on January 2005 just before the meeting with Israel in Sharm el Sheikh within the framework of the Road Map. Following the summit, Abbas and Sharon declared an end to four years of violence by agreeing a cease-fire. However, the day after the summit, a 20 year old Palestinian girl was shot dead from an Israeli army post near a settlement. The next day, another Palestinian was killed as he was driving. The IDF claimed that he refused to stop at a roadblock. On 11 February, Hamas fired mortars and Qassam rockets at an Israeli settlement in Gaza in response to two killings; therefore the ceasefire was once again violated.

The ongoing settlement activity, “Judaization” of East Jerusalem and the construction of the wall as a security measure to prevent the entry of suicide bombers into Israel were the issues liable to explode the calm. While Israel presented the wall as vital for its security, a barrier to Palestinian terror; for the Palestinians the wall was dispossessing the farmers from their land, pushing them into small enclaves between fences and walls.⁶⁹ Moreover, for them, the wall was the example of how Israel trampled on their sovereign rights as land was confiscated unilaterally beyond the Green Line.⁷⁰ In the course of the conflict between 2000 and 2005, there occurred 25, 375 terror attacks killing 1,080 Israelis, including 146 suicide bombings which killed 518 Israelis.⁷¹ As for the Palestinian losses, as of May 2005, there were 3,259 deaths.⁷²

After Hamas became the winner of the 2006 Palestinian elections, the Israeli-Palestinian relations turned again into a cauldron of turmoil as Hamas was seen by Israel as a terrorist organization, intended to annihilate Israel. The election of Hamas paved the way for a large-scale Israeli attack on Gaza Strip in which on one day alone some 40 civilians, many children, were killed in a single salvo of Israeli shells, that would pour fresh poison into the brimming well of hate.

⁶⁹Tanya Reinhart, *The Road Map to Nowhere: Israel/Palestine since 2003*, (London: Verso, 2006, p. 160

⁷⁰ Clive Jones, Ami Pedahzur, *Between Terrorism and Civil War: The Al-Aqsa Intifada*, (London: Routledge, 2005), p. 2

⁷¹ Boaz Ganor, “Terrorism as a Military Factor: The Israeli-Palestinian Peace Process Era, 1993-2006” in *Conflict and Insurgency in the Contemporary Middle East*, ed. Barry Rubin, (London: Routledge, 2009), p. 138

⁷² Cordesman, op.cit., p. 325

Can the killing of an “alleged” terrorist be justified from a moral point of view when no alternative is available? Emanuel Gross suggests that two conditions have to be met for a preemptive action to be justified morally. These are the condition of certainty and the condition of necessity.⁷³ Can the preventive actions taken for the purpose of neutralizing and preventing a possible attack against citizens within the populated areas be morally justified as they would also cause injury to civilian population? This kind of strike has to rely on large quantities of reliable intelligence; despite this, a strike on the populated areas is illegal since it is inevitable to prevent civilians dying and these casualties cannot be considered as collateral damage. Even at war, the civilian population is protected based on Geneva Conventions. Consequently, the right of self-defense does not allow states to carry out retaliatory attacks or to resort to force against anticipated armed attacks which have not yet occurred. Besides, any armed response from the state which is attacked should be proportionate, necessary and immediate.

Conclusion

The sense of insecurity in Israel/Palestine increased militarization not only among society but also in politics. Israel threatened with terrorism by militant Palestinian organizations; became more aggressive and harsher both in operations and in politics. Preventing suicide bombings, controlling hostile crowds needed to be met both by military action and by some measures that were taken for repressing them. However, as this study has showed these kinds of measures proved to be counterproductive since they fostered the hatred and the feelings of humiliation that led Palestinians to continue the acts of terrorism and violence. On the other hand, Palestinians seeking for self-determination appealed to terrorism; a way that is not recognized by international law. Israel, based on the right to self-defense, took certain measures which in the end have become the acts of state terrorism, in order to preserve the security in the country.

One of the points this study has reached is that neither Palestinians nor Israel obtained what they sought through use of terrorism/counterterrorism (state terrorism). As the cases have demonstrated neither Israel became more secure; nor the Palestinians attained their ultimate goal; which is creating a Palestinian state. Both Palestinian and Israeli actions were counter-productive. Another point this study has showed that Israeli counter-terrorism methods were mostly disproportionate; exceeding the lines of self-defense and violating the human rights; therefore they ironically became the acts of terrorism against which it struggled.

⁷³Gross, op.cit.,p. 103

The study argued that the actions of both Palestinians and Israelis paved the way for a cycle of violence. While Palestinian terrorism spread fear, mistrust and the sense of insecurity among Israelis; Israeli –inhuman- methods of oppressing Palestinians in order to prevent any insurgency served to the continuation of the cycle of violence. Ultimately, with the Second Intifada which marked the end of Oslo Peace Process; structural violence became rooted in the Israeli-Palestinian conflict.

The study also argued that there seems to be a neglect regarding state terrorism in the literature and that not only non-state actors but also states resort to some kinds of actions that enter into the category of terrorism. This study emphasized that divided societies are likely to enter into violent internal conflicts. That the states may commit acts of terrorism during those internal conflicts has been demonstrated in this study with the Israeli-Palestinian case. This can be detected in other divided societies too. As well as the actual practices of the Israeli government; the practices of British against IRA, and Spanish against ETA or those of the Algerian government against GIA – Groupe Islamique Armé (Armed Islamic Group) are some other examples in which the traces of state terrorism could be pursued.

This study has reached the conclusion that state terrorism needs to be theorized and challenged by the concrete legal embodiments with which the states will comply and that admitting that a state can employ all the means in order to beat terrorism means producing more terror which would lead a dead end. Today, the debate whether the state could recourse to terrorist practices in order to combat terrorism with efficacy continues. Although the arguments and discussions are limited to the Israeli-Palestinian case in this study, the issues disclosed are not limited to a geographical area and can surely be replicated in other societies that are exposed to violent conflicts and may serve as an example in raising new questions

At the outset of the Oslo, Palestinians hoped that they would attain the statehood; but the end of the Process, the Al-Aqsa Intifada marked the end of this dream. As for the Israelis, living securely in Palestine became a dream. Today, Israel and the occupied territories are so interconnected that dividing the land of Palestine between two people is impossible. In order to attain a lasting peace in Palestine, new identities and new forms of citizenships have to be created for a better and more secure life for both peoples. As long as the problem is fostered by violence and terrorism from both sides which nurture on the other hand hatred and vengeance, all the peace efforts are doomed to frustration. Only a cooperative coexistence has the power to erase bad memories covered with blood and tear.

References

- ANGELET N., “Vers un Renforcement de la Prévention et la Répression du Terrorisme par des Moyens Financiers et Economiques?” in *Le Droit International Face au Terrorisme*, ed. Karinne Bannelier et al., (Paris : CEDIN, Paris I, Pédone, 2002)
- BAL I.(ed.),Terörizm: Terör, TerörizmveKüreselTerörleMücadeledeUlusalveBölgeselDeneyimler, (Ankara: USAK Yayınları, 2006)
- BANNELIER K. et al. (eds.),*Le Droit International Face au Terrorisme* ,(CEDIN, Paris I, Paris, Pédone, 2002)
- BRYM R.J., MAOZ-SHAI Y., “Israeli State Violence during the Second Intifada: Combining New Intuitionist and Rational Choice Approaches”, *Studies in Conflict and Terrorism*, Vol. 32, No. 11, 2009
- CASSESE A.,*Violence etDroitDans un Monde Divisé*, (Paris: Presses Universitaires de France, 1990)
- CASSESE A., “The International Community’s “Legal” Responses to Terrorism”, *International and Comparative Law Quarterly*, Vol. 38, 1989
- CATIGNANI S.,“The Security Imperative in Counter Terror Operations: The Israeli Fight against Suicidal Terror”, *Terrorism and Political Violence*, Vol. 17, No.1, 2005
- CHALIAND G., BLIN A. (eds.), *History of Terrorism: From Antiquity to Al Qaeda*, (London: University of California Press, 2007)
- CHARNEY J. I., “The Use of Force against Terrorism and International Law”, *The American Journal of International Law*, Vol. 95, No.4, 2001
- COOK J.,*Blood and Religion: The Unmasking of the Jewish and Democratic State*, (London: Pluto Press, 2006)
- CLARIDGE D.,“State Terrorism? Applying a Definitional Model”, *Terrorism and Political Violence*, Vo.8, No.3, 1996
- CORDESMAN A.H.,*The Israeli-Palestinian War, Escalating to Nowhere*, (Westport:Praeger Security International, 2005)
- DINSTEIN Y.,*War, Aggression and Self Defense*, (New York: Cambridge University Press), 2003
- FALK R.,“State Terror versus Humanitarian Law” in *War and State Terrorism: The United States, Japan and the Asia Pacific in the Long Twentieth Century*, ed. Mark Selden, Alvin Y. So,(Oxford: Rowman& Littlefield Publishers, 2004)
- GANOR B. “Terrorism as a Military Factor: The Israeli-Palestinian Peace Process Era, 1993-2000”in *Conflict and Insurgency in the Contemporary Middle East*, (ed.) B. Rubin (London:Routledge, 2009)
- GROSS E.,“Self Defense against Terrorism-What does it mean? The Israeli Perspective”, *Journal of Military Ethics*, Vol.1, No.2, 2002
- JALATA A., “State Terrorism and Globalization: The Cases of Ethiopia and Sudan”, *International Journal of Comparative Sociology*, Vol.46, No.79, 2005
- JONES C., PEDAHZUR A. (eds.), *Between Terrorism and Civil War: The Al-Aqsa Intifada*, (London:Routledge, 2005)
- KEGLY C.W., Jr. (ed.), *The New Global Terrorism, Characteristics, Causes, Controls*,(New Jersey: Prentice Hall, 2003)
- KOHEN M.G.,“Les Controversessur la Question du Terrorismed’Etat”in *Le Droit International Face au Terrorisme*, (eds.) K.Bannelier et al. (CEDIN, Paris I, Paris, Pédone, 2002)
- LEVINE M., *Impossible Peace: Israel/Palestine since 1989*, (Halifax:Frenwood Publishing, 2009)
- LUTZ J. M., LUTZ B. J., *Global Terrorism*, (London:Routledge, 2008)
- MAOZ Z.,*Defending the Holy Land: A Critical Analysis of Israel’s Security & Foreign Policy*, (Ann Arbor: University of Michigan Press, 2006)

- NAIRN T., JAMES P., *Global Matrix: Nationalism, Globalism and State Terrorism*, (London: Pluto Books, 2005)
- O'CONNEL M. E., "The Myth of Preemptive Self Defense", *ASIL Task Force Papers on Terrorism*, August 2002
- ÖKTEM E., *Terörizm, İnsancıl Hukuk ve İnsan Hakları*, (İstanbul: Derin Yayınları, 2007)
- ÖZKAN E., Ö. KOTAN F., "Ebu Garip Hapishanesi: Terörle Mücadelede Yanlış Bir Strateji" in *Terörizm*, ed. İhsan Bal, (Ankara: USAK Yayınları, 2006),
- PAPPE I., *Ethnic Cleansing of Palestine*, (London: Oneworld Publications, 2006)
- POPIEL M. P., "Redrafting the Right of Self Defense in Response to International Terrorism", *Gonzaga Journal of International Law*, Vol.6, No.3, 2002
- REINHART T., *The Road Map to Nowhere: Israel/Palestine since 2003*, (London: Verso, 2006)
- RUBIN B. (ed.), *Conflict and Insurgency in the Contemporary Middle East*, (London: Routledge, 2009)
- SELDEN M., SO ALVIN Y. (eds.), *War and State Terrorism: The United States, Japan and the Asia Pacific in the Long Twentieth Century*, (Oxford: Rowman & Littlefield Publishers, 2004)
- SPROAT P.A., "Can State Commit Acts of Terrorism?: An Opinion and Some Qualitative Replies to a Questionnaire", *Terrorism and Political Violence*, Vol.9, No.4, 1997
- STOHL M., "The State as Terrorist: Insights and Implications", *Democracy and Security*, 2:1-25, 2006
- TAŞDEMİR F., *Uluslararası Terörizme Karşı Devletlerin Kuvvete Başvurma Yetkisi*, (Ankara: USAK Yayınları, 2006)
- TERRY J. P., "State Terrorism: A Juridical Examination in terms of Existing International Law", *Journal of Palestine Studies*, Vol.10, No.1, 1980