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***Jus Ad Bellum, Jus In Bello* and Targeted Killings**

Pagers and Walkie-talkies: Fear in everyday devices

Vitória Rafaela de Almeida Pinto Monteiro Rafael

Master's in Law

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Supervisor: José Alberto Azeredo Lopes

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To my grandfather Nano and uncle Salvador
...thank you

“Injustice anywhere is a
threat to justice everywhere.”
-Rev. Martin Luther King Junior

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Abstract:

Targeted killings are a controversial practice under International Law. It consists in the use of lethal force against enemies to kill them with precision, this is done, mostly, extraterritorial.

Issues of data and information, the difference between civilians and combatants, as well as the difference between civilian and non-civilian objects are some of the topics contested when it comes to the use of this practice, and even the fact that it causes division in the international community regarding its legality under *Jus ad Bellum* and *Jus in Bello*.

A recent example is the pagers and walkie-talkies explosions in Lebanon and Syria where in a, supposedly, targeted operation, conducted by Israel, many civilians were casualties of this attack, with diplomatic ramifications, involving foreign diplomats to the countries concerned.

The whole operation is involved in many doubts and concerns regarding its validity under International Law, specifically, *Jus ad Bellum* and *Jus in Bello*.

The way the operation was conducted brought about reactions all over the world from the UN to Amnesty condemning this action and its consequences in the communities and on-going conflict.

The numbers demonstrate that from an apparently precise action came consequences that made the international community question if principles such as Proportionality and Distinction, which are fundamental, were applied in this operation.

Keywords: Targeted Killings, *Jus ad Bellum*, *Jus in Bello*, Israel, Syria, Lebanon, Pagers, Walkie-talkies.

Resumo:

“Targeted killings” é uma prática controversa no que respeita ao Direito Internacional, consiste no uso da força, nomeadamente, letal, para matar inimigos com precisão, este tipo de operações são, maioritariamente, extraterritoriais.

Problemas de acesso a informação e dados, a diferença entre civis e combatentes e ainda a diferença entre objetos civis e não-civis são alguns dos dilemas no que diz respeito à aplicação desta prática e até o facto de que estas operações causam divisão na comunidade internacional referente à sua legalidade em confronto com *Jus ad Bellum* e *Jus in Bello*.

Um exemplo recente desta prática é a explosão de pagers e walkie-talkies no Líbano e na Síria onde numa ação que era aparentemente uma operação de “targeted killing”, conduzida com suposta precisão por Israel, muitos civís foram vítimas deste ataque, com ramificações diplomáticas, envolvendo diplomatas estrangeiros aos países em apreço.

Toda esta operação está envolvida em muitas dúvidas e inquietações relativamente à sua validade no Direito Internacional, particularmente, *Jus ad Bellum* e *Jus in Bello*.

A forma como esta operação foi conduzida levou a reações por todo o mundo, desde as Nações Unidas até à Amnistia Internacional condenando esta ação e as consequências que trouxe para as comunidades afetadas e para o conflito em apreço.

Os números demonstram que de uma operação, aparentemente, precisa, surgiram consequências que fizeram a comunidade internacional questionar se os Princípios da Proporcionalidade e Distinção, que são fundamentais, foram, efetivamente, aplicados.

Palavras-chave: Targeted Killings, *Jus ad Bellum*, *Jus in Bello*, Israel, Síria, Líbano, Pagers, Walkie-talkies.

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Disclaimer:

The following dissertation takes upon a case study that is set in the recent and ongoing conflict in the middle east, where there is new information and new data to study and evaluate every day, as such the information and data observed in the time of writing might have evolved since then, with new information being added every passing moment.

List of Acronyms and Abbreviations:

BIJ	Bureau of Investigative Journalism
CICV	Comité Internacional da Cruz Vermelha
EU	European Union
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
IHRL	International Human Rights Law
NGO	Non-governmental organization
OBL	Osama Bin Laden
UK	United Kingdom
UN	United Nations
USA	United States of America

Introduction:

Targeted killing operations are a common practice in ongoing conflicts, the usages of drones or other unmanned vehicles being the most well-known way to target and kill enemies with precision.

At first sight this might seem to solve several problems in conflict, specifically the number of casualties, but the numbers and examples help to dissipate this idea as, in practice, targeted killing operations might be way less precise than the name shows. With casualties among civilians being vast and creating other substantial issues when it comes to *Jus ad Bellum* (law that dictates the criteria to use force) and *Jus in Bello* (defines the rules by which conflict should be guided), for example the law applicable, the definition of the targets, the methods used, the number of times these techniques where used, and others.

Recently a targeted killing operation made headlines, specifically in September 2024 and that was the explosion of Pagers and Walkie-talkies in Lebanon and Syria killing members of Hezbollah, combatants, noncombatants, and civilians alike. The target of the attack was Hezbollah, the attacker was Israel, even though the state issued no official confirmation the reactions left no space for denial, and if any doubts existed, they ceased when in February of the current year Netanyahu, Israel Prime Minister, gifted Donald Trump a statute of a golden Pager.

The operation was aimed at targeting members of Hezbollah, but civilians and noncombatants were, indeed, victims and the pagers detonated in public spaces such as markets and streets. This operation is an ideal example to demonstrate what are the harms and doubts arising from this practice, what are civilians and combatants, what type of conflict and, even, the application of the Principles of Proportionality and Distinction.

All in all, the goal of deterrence and prevention don't really seem to be achieved, by performing targeted killing operations, as the numbers show that even if the attacks perpetrated by the opposing side might diminish for a period of time they end up going back to the same level once the group is able to reassemble¹, at the same time the attacks diminishing, even for a certain period, might be seen as a win in conflict and an

¹ Abed, Talia (2023), «The Role of International Law in Targeted Killing: From the Bush Administration to the Biden Administration», *Fordham International Law Journal* 46, n.º 4: 533–74.

opportunity to shift strengths to another necessity, this is a small example of the confronting arguments that are possible to expose.

This dissertation will investigate the questions and problems above and many others that delve into the *Jus ad Bellum* and *Jus in Bello* interrogations that this method has created. Moreover, the explosions in Lebanon and Syria stand as an example of this practice, performed in a way that is not common. Through the dissection of this case study, it is possible to address multiple of the enquires that this practice brings along and that are transversal to many other targeted killing operations and the connections and juxtapositions this operation led by Israel conveyed that are common with many others of the same nature. Trying, this way, to demonstrate different positions and how International Law and the International Community reacts and has reacted to these events and what is to come.

1. Targeted Killings as a concept in history:

Firstly, the concept of Targeted Killings is defined by the ICRC as “The intentional and pre-meditated use of lethal force, by a State or organized armed group against a specific individual outside their physical custody”². This is a simple and concise definition of an otherwise ambiguous and divisive concept.

Throughout different conflicts, in different years and geographies, with varied targets and attackers, it is possible to find examples of this deadly actions such as, the killing of OBL, Qassem Soleimani and recently Hezbollah’s leader Nasrallah³. Most of the killings done using these methods and practices are not as high profile as the ones mentioned above, and, so, these operations end up not being of the public’s knowledge and the data is consequently not vast.

Regarding OBL the doctrine is divided when it comes to considering the operation a targeted killing. It was the use of lethal force against an individual who was outside the custody of the state, meaning that OBL was killed by the United States when hiding in Pakistan. Pouring next, questions of legality regarding this action or the applicable law, for example and quoting “As for IHL, the jus in bello, it either does not apply at all as the killing was not done as a part of any legally cognizable armed conflict (probably the better view), or OBL was a lawful target as a leader of an organized armed group taking part in a non-international armed conflict *a la Hamdan*.”⁴.

The USA classified it as a “kill-or-capture mission” expressing that it was “lawful to **target** an enemy commander”⁵, claiming that if possible OBL would have been captured, but that the nature of the target would make that hard or impossible. These leaves range for how this operation is to be classified, but many experts choose to classify it as a targeted killing operation, for example Amnesty International cites the Rapporteur to justify its position in this matter – “It has since clarified that Osama bin Laden was unarmed when he was shot in the head during the raid. It has not made clear

² “Target Killings”, https://casebook.icrc.org/a_to_z/glossary/targeted-killings.

³ Hassan Nasrallah was the leader of Hezbollah since 1992 and was killed in Beirut in 27 September 2024, by Israeli airstrikes.

⁴ Milanovic, Marko, “Was the Killing of Osama bin Laden Lawful?”, 2/may/2011, <https://www.ejiltalk.org/was-the-killing-of-osama-bin-laden-lawful/>.

⁵ Amnesty International, May 2011, “US A REFLECTION ON JUSTICE”, Amnesty International Publications.

precisely why it was deemed necessary immediately to shoot him rather than to attempt to take him into custody.”⁶.

Once again, and citing, “The Killing of Osama Bin Laden would commonly be described as a “targeted killing” or “targeted assassination””⁷, the author going on explaining, “The particular circumstances of the operation in May 2011—a night operation without the consent of the host State against a human target with a record of supporting and organizing suicide attacks on civilians and who had sworn that he would never be taken alive”⁸, concluding that when it comes to the killing of OBL it’s the case of an operation of targeted killing as arresting wouldn’t be possible.

2. The explosions of pagers and walkie-talkies an overview:

Recently, in the Israeli Palestinian conflict there are examples of this practice, mostly, with the usages of drones and bombings. One that stands out, is the killing of Hezbollah’s members, and civilians, through the detonation of pagers and walkie-talkies in the Lebanese and Syrian territory, the method used was, precisely, the reason why this operation stands out. The attack was enacted by Israel, as there are reports confirming it (not through its official channels)⁹. However, Netanyahu giving a golden pager to Donald Trump is a, fairly, convincing confirmation¹⁰.

This operation consisted of two attacks. The first one happening on the 17th of September (Tuesday) around 15h30 (Beirut time) in the capital of Lebanon – Beirut. The second attack happened the next day, 18th of September, at 17h00 (Beirut Time) in both Lebanon and Syria.¹¹

⁶ See Supra footnote 5.

⁷ Rogers, APV, Dominic McGoldrick, July 2011, “ASSASSINATION AND TARGETED KILLING—THE KILLING OF OSAMA BIN LADEN”, *The International and Comparative Law Quarterly*, Vol. 60, No. 3), pp. 778-788.

⁸ See Supra footnote 7.

⁹ CNN Staff, “Israel says “new era” of war is beginning after devices exploded across Lebanon. Here's what to know”, 19/Sep./2024, <https://edition.cnn.com/world/live-news/lebanon-pagers-explode-hezbollah-israel-09-18-24-intl-hnk/index.html>.

¹⁰ Krever, Mick, “Netanyahu gifted Trump a golden pager during their meeting in Washington”, 6/Fev./2025, <https://edition.cnn.com/2025/02/06/middleeast/netanyahu-trump-golden-pager-intl/index.html>.

¹¹ Murphy, Matt, Joe Tidy, “What we know about the Hezbollah device explosions”, 2/Sept./2024, <https://www.bbc.com/news/articles/cz04m913m49o>.

Testimonies brought forward by the BBC¹² of the attacks', report seeing smoke coming out of the pockets of people carrying the pagers before the explosions. According to USA officials (anonymous sources) the carriers of the pagers received messages claiming to be from Hezbollah's leadership before the explosions.

The explosions continued for about an hour. And, during the second attack some of the explosions happened close to a funeral of victims of the first attack.¹³

The Lebanon Health authorities reported at least 37 people killed (some children) and nearly 3,000 injured due to the explosions. Specifically, two of the dead victims of the attack were children of Hezbollah's MPs and many of the victims were medical personnel. In fact, one of the injured victims in the attack was part of the diplomatic corps, accurately, the Iranian Ambassador to Lebanon (Mojtaba Amani).¹⁴

Most injuries were, according to the Lebanese Public Health Minister¹⁵, to the face and hands, some specifically to the eyes. The attacks also took place in Syria where, according to the Syrian Observatory for Human Rights 14 people were injured.¹⁶

The explosions took place in streets, homes, cars, grocery stores, cafés, etc. Journalists on the ground reported that people were then afraid of using everyday devices, since they didn't know if any other devices were trapped. Furthermore, because of the explosion's fires developed in the areas.

The consequences of targeted killing operations in the population is not circumscribed to the pagers attack, actually, were mostly studied in Pakistan and Afghanistan where it was also clear that people became afraid, in distress and, even, the possibility of political development in the areas and communities affected was scarce, quoting, "Page and John Williams conclude from their fieldwork in eastern Afghanistan, for instance, that strikes have impaired the ability of local leaders known as *maliks* to "obtain, deliver, and distribute moral and material goods; and, to fulfil, maintain and regulate customary roles, influence and governance." Fewer people are willing to gather in large numbers, which weakens cultural practices (...)." ¹⁷ It goes on stating that "Drones strikes may also disrupt informal local governance processes such

¹² See Supra footnote 11.

¹³ See Supra footnote 11.

¹⁴ Stambaugh, Alex, Artemis Moshtaghian, 19/Srp./2024, "Iran promises response after its ambassador to Lebanon injured in attacks", <https://edition.cnn.com/world/live-news/lebanon-pagers-explode-hezbollah-israel-09-18-24-intl-hnk/index.html>.

¹⁵ See Supra footnote 11.

¹⁶ See Supra footnote 11.

¹⁷ Regan, Mitt. «Analyzing the Impacts of Targeted Killing: Lessons for the United States». *Journal of National Security Law and Policy* 13, n.º 2 (1st January 2023): 231–58.

as the *jirga* in Pashtun communities, which "can allow other political forces than the Taliban to play a stronger role."¹⁸ It highlighted the economic problems faced by these communities that is aggravated by the loss of essential goods such as housing. Making families homeless and having to converge in the same house, losing jobs and financial independence, "Destroying a single house thus can leave several people homeless. A house also "constitutes a massive financial investment (...)."¹⁹ Rebuilding it is a major financial burden and, in many cases, may be impossible. Those who lose housing must then turn to family members for shelter, but those relatives may already live in crowded conditions. A strike may also destroy businesses, shops, crops, livestock, and other property on which residents rely to make a living. As one study observes, "Even the loss of a few cattle can be devastating." One resident reported that the bakery he owns with his brother was destroyed in a drone strike, depriving them and their employees of their livelihood"²⁰, "One resident told NGO investigators of anxiety and psychological distress from living in areas in which drone strikes occur. (...) "God knows whether they'll strike us again or not. But they're always surveying us, they're always over us, and you never know when they're going to strike and attack." (...). Some fear they may be the target of an attack because incorrect information is given to drone operators. Others report that their stress is compounded by the feeling that they have no way to affect when or where a strike might occur."²¹ Regarding this article it should be noted though that "some scholars, however, question the report's conclusion that mental distresses because of drones and not the larger situation in the FATA."²²

The Lebanese Red Cross reported that more than 50 ambulances were dispatched to the attack site and that Beirut's main hospital was urging people to look for other health services since that was at full capacity. Moreover, there was the need for some of the victims to be taken to hospitals in Iran to have and complete treatments, such as surgeries.²³

Regarding the devices and explosives used, not a lot is yet known. Still persisting doubts about their model and provenience. Some theories were presented regarding the methodology of the attack.

¹⁸ See Supra footnote 17.

¹⁹ See Supra footnote 17.

²⁰ See Supra footnote 17.

²¹ See Supra footnote 17.

²² See Supra footnote 17.

²³ See supra footnote 11.

Regarding the pagers used, Hezbollah's operatives claim they acquired them from a new brand, around 5000 pagers five months before. The origin of the pagers creates severe questions. The first being which firm sold them and in which country have they been manufactured and brought. Analyzing the fragments after the explosion the model seemed, according to the BBC, to be a Rugged Pager AR-924²⁴.

This model is produced by a Taiwanese company, Gold Apollo, however this company denies knowing about it or having any involvement in the explosions but also denies selling the devices to Hezbollah. Diplomatic wise when this came to light it prompted a response from the Taiwanese government negating having been in anyway informed ahead of the explosions.²⁵

Gold Apollo raised the possibility of the involvement of a company called BAC, a Hungarian Company, with which they signed a contract so that it could produce and sell these pagers, representatives of BAC stated not knowing anything about this situation. The Hungarian government reported that no such company had any manufacturing site in its territory. The New York Times, suggested that the company could be a facade for Israeli intelligence services.²⁶

Concerning the walkie-talkies, it was possible to determine the model, IC-V82, as footages showed that the devices were from a Japanese company called Icom. The industry informed that said model hasn't been manufactured for more than 10 years, neither have the batteries, adding that they were shipped between 2004 and 2014 to the Middle East. Icom has an American subsidiary, which came up with the possibility of these devices being copies of the original models produced in Japan, which are easily found online, therefore the similarities.²⁷

The reason for Hezbollah to use pagers for their communication instead of more technological devices has to do with the pagers not being high-tech devices and wireless. This enables the group to send messages and communicate with each member and personnel, but the device doesn't have the capacity for location services, and as such can't be used to locate or track the user, unlike cellphones, for example.

²⁴ See supra footnote 11.

²⁵ Grantham-Philips, Wyatt, Michael Biesecker, Sarah El Deeb, Sarah Parvini, "What to know about the two waves of deadly explosions that hit Lebanon and Syria", 19/Sep./2024, <https://apnews.com/author/wyatte-grantham-philips>.

²⁶ Yerushalmy, Jonathan, Dan Milmo, "Hezbollah device blasts: how did pagers and walkie-talkies explode and what do we know about the attacks?", 19/Sep./2024, <https://www.theguardian.com/world/2024/sep/18/hezbollah-pagers-what-do-we-know-about-how-the-attack-happened>.

²⁷ See supra footnote 11.

In 1996 Hamas bomb maker, (Yanya Ayyash) was killed using a mobile phone explosion.²⁸ Recently (February), Nasrallah told Hezbollah's members to stop using mobile phones and that they should lock the phones in metal boxes so the "enemy" could not use it against them.²⁹ Which indicates that the group is aware of the dangers that this devices might cause in its operations and the capacities to be used against them in conflict, normally the danger for the armed group doesn't come from them exploding, but rather from being traceable, which is one of the reasons why they switch from using cellphones to using pagers, they are also easier to hack and infiltrate.

According to experts, on how the attack was executed this could take between several months and years to prepare. The Washington Post, citing sources involved in the preparation of this attack claimed it was being planned since 2022.³⁰ With sources maintaining that the reason why the explosions were triggered in those dates is that Israel's intentions were discovered and the decision was to go ahead with it before the pagers were trashed.³¹ This chronological timeline would put the planning of this attack happening before October 7th 2023³².

The hacking method was the first possible explanation for the attack. Recently, it was concluded that this was not the case and much more likely is that the devices contained explosives inside (RDX and/or PETN explosives) and could even have GPS implanted inside solely for this purpose³³. An insider claimed "The Mossad injected a board inside of the device that has explosive material that receives a code. It's very hard to detect it through any means. Even with any device or scanner,"³⁴

Most likely, according to Reuters' sources, the devices were injected with a board that was composed of explosive materials.³⁵ In order to do this, Israel would have to interfere with the supply chain. In respect to how the explosions happened, two

²⁸ Mukul, Sushim, "When Israeli cellphone bomb killed The Engineer in 1996", 22/Sep./2024, <https://www.indiatoday.in/history-of-it/story/israel-intelligence-shin-bet-mossad-first-cell-phone-bombing-pager-blasts-hezbollah-lebanon-gaza-yahya-ayyash-2603204-2024-09-20>.

²⁹ See supra footnote 26.

³⁰ Mekhennet, Souad, Joby Warrick, 5/Oct./2024, "Mossad's pager operation: Inside Israel's penetration of Hezbollah", <https://www.washingtonpost.com/world/2024/10/05/israel-mossad-hezbollah-pagers-nasrallah/>.

³¹ See supra footnote 30.

³² The 7th of October 2023 attack won't be studied independently in this work, as it is not the focus. But it should be said, that, as the attack that gave leverage to the more recent attacks perpetrated by Israel, it is a subplot present in this work. The attack was enacted on October 7th by Hamas against Israeli citizens, civilians, in a music festival close to the border, many of the civilians were taken as hostages.

³³ See supra footnote 25.

³⁴ See supra footnote 26.

³⁵ Kelly, Tim, Casey Hall, Ben Blanchard, "Hack of Hezbollah devices exposes dark corners of Asia supply chains", 22/Sep./2024, <https://www.reuters.com/world/asia-pacific/hack-hezbollah-devices-exposes-dark-corners-asia-supply-chains-2024-09-20/>.

options were presented. Either that the Israeli intelligence and army could do it accessing the trigger remotely and causing the explosions and/or that since the pagers needed a two-step procedure to read the messages (testimonies said that the victims received a message before), when the steps were done to reach the reading stage, then the pagers were encrypted to explode, this would cause the attack to wound the victims directly in both hands, at least.³⁶

3. Analysis to the reactions of the International Community:

3.1 Hezbollah, Iran, Lebanon:

The reaction to these attacks were spread across continents and institutions. Beginning with Hezbollah, Nasrallah, said that the group was subjected to a “huge and severe blow”³⁷, claiming that the enemy (Israel) had crossed a red line, and that it would continue its attacks on the border. Hezbollah’s lawmaker, Ibrahim, said that the pagers were detonated by Israel - “We can say that over two days, in one minute on Tuesday and one minute on Wednesday, the Israeli enemy wanted to kill no fewer than 5,000 people in two minutes without concern for any constraint and with no problem with where or how they were killed.”³⁸

Iran reacted to its ambassador being one of the victims, warning Israel that it would respond to the attack, the commander of the Revolutionary Guard Corps promised a “crushing response”³⁹, calling it a terrorist act that was enacted by the “Zionist Regime” (Israel)⁴⁰. This is underlined in a letter written by Iran’s mission to the UN: “Iran will duly follow up on the attack against its ambassador in Lebanon, which

³⁶ See supra footnote 30.

³⁷ See supra footnote 26.

³⁸ Arraf, Jane, “Hezbollah chief, hospitals and Lebanon react to explosion attacks”, 19/Sep./2024 <https://www.npr.org/2024/09/19/nx-s1-5119672/hezbollah-chief-hospitals-and-lebanon-react-to-explosion-attacks>.

³⁹ “Iran warns Israel of ‘crushing response’ after attacks on Hezbollah”, 19/Sep./2024, <https://www.aljazeera.com/news/2024/9/19/iran-warns-israel-of-crushing-response-after-attacks-on-hezbollah>.

⁴⁰ See supra footnote 39.

resulted in his injury, and reserves its right under international law to take required measures deemed necessary to respond to such a heinous crime and violation.”⁴¹

The Lebanese Information Minister called the attack “a serious violation of Lebanese sovereignty and a crime by all standards”⁴². The Foreign Minister claimed in a statement that Lebanon did not want war and blamed Israel for the attack, calling it an “introduction to war”⁴³. “We cannot talk to Hezbollah now in the way we were talking to them in the past because, of course, they were hit very badly and therefore retaliation is a must to them,”⁴⁴, stating that the relation between the Lebanese government and Hezbollah was, also, now tainted and more difficult after the operation as Hezbollah’s focus was concentrated in retaliating against the attack. The Foreign Minister spokesman (Naser Kanaani) titled it a mass murder.⁴⁵

3.2 USA and Israel:

The USA denied by official channels any sort of involvement in this attack. However, as maintained by several publications, informants (anonymous) do admit that Israel briefed the USA about the attack, saying that the country was informed of a possible attack on Lebanon, without any sort of details, in a call to the Former American Defense Secretary Loyd Austin.⁴⁶ Moreover, there was reluctance from USA officials in condemning the attack, White House Press Secretary declined to comment when asked in a press conference, just referring the sadness of children being harmed, while Matthew Miller (Statement Department spokesman), refused to say if the attack was legitimate or not and reaffirmed the USA belief on the right to self-defense against terrorism.⁴⁷

⁴¹ See supra footnote 14.

⁴² Khraiche, Dana; Diab, Youssef, “Hezbollah Says Israel Orchestrated Pager Blasts in Lebanon.”, 18/Sep./2024, www.Bloomberg.com.

⁴³ Danaher, Caitlin, “Lebanese foreign minister fears "introduction of war" after 2 days of device explosions”, 18/Sep./2024, <https://edition.cnn.com/world/live-news/lebanon-pagers-explode-hezbollah-israel-09-18-24-intl-hnk/index.html>.

⁴⁴ See supra footnote 43.

⁴⁵ “Lebanon Pager Explosions: Iran accuses Israel of ‘mass murder’ amid rising tensions”, 18/Sep./2024, <https://economictimes.indiatimes.com/news/defence/lebanon-pager-explosions-iran-accuses-israel-of-mass-murder-amid-rising-tensions/articleshow/113451561.cms?from=mdr>.

⁴⁶ See supra footnote 45.

⁴⁷ “US says 'not involved' and 'not aware' in advance of Lebanon pager blasts”, 17/Sep./2024, <https://www.rfi.fr/en/middle-east/20240917-us-says-not-involved-and-not-aware-in-advance-of-lebanon-pager-blasts>.

According to John Kirby⁴⁸ after the pagers explosions the USA was still believing in the possibility of finding a diplomatic way to end the conflict, Antony Blinken indicated that the explosions might have negatively affected the negotiations, derailing or delaying them.⁴⁹

Israel's response came on Wednesday 18th, the day of the second explosions. Yoav Gallant⁵⁰ speaking to the troops states that the war was moving North (where the Lebanese border is situated) and, even though, there was no mention of the pagers the minister said “we are at the start at of a new phase in the war”⁵¹.

3.3 The European Union:

Looking at the European Union, the French Foreign Minister showed concern that the attacks might cause an escalation of the conflict, interestingly enough, France opted to call the operations a “security development”.⁵²

The EU reacted through a statement by Joseph Borrel in its capacity as Union High Representative for Foreign Affairs and Security Policy, at the time, expressing “Following yesterday’s series of explosions in Lebanon, I called the Lebanese Foreign Minister Abdallah Bou Habib. He briefed me on the explosion of a high number of electronic devices in many areas across the country. Thousands of people were injured - hundreds in critical condition - hospitals are collapsing.

Even if the attacks seem to have been targeted, they had heavy, indiscriminate collateral damages among civilians: several children are among the victims

I consider this situation extremely worrying. I can only condemn these attacks that endanger the security and stability of Lebanon and increase the risk of escalation in the region.

⁴⁸ Assistant Secretary for Public Affairs and Department Spokesperson.

⁴⁹ AP, “Blinken frustrated by pager attacks that threaten efforts for a cease-fire in Gaza”, 18/SEP./2024, <https://www.pbs.org/newshour/world/blinken-frustrated-by-pager-attacks-that-threaten-efforts-for-a-cess-fire-in-gaza>.

⁵⁰ Yoav Gallant is the Israeli Minister of Defense, highly involved in the armed forces in Israel, he came into the mainstream spotlight with his prominent role after the October 7th attacks. Recently, in May 2020 the International Criminal Court Prosecutor announced he was looking into getting arrest warrants to be issued, specifically against Yoav gallant, among others.

⁵¹ See supra footnote 26.

⁵² “France warns of escalation after more Hezbollah pagers explode in Lebanon”, 19/Sep./2024, <https://www.rfi.fr/en/international/20240919-france-warns-of-escalation-after-more-hezbollah-communication-devices-explode-in-lebanon-walkie-talkie>.

The EU calls on all stakeholders to avert an all-out war, which would have heavy consequences for the entire region and beyond.”⁵³.

The EU has been criticized about the way it handles and even communicates in the Israel-Palestine War versus the Russia-Ukraine War. Coming up with a perceived double standard in the way it addresses the two conflicts, and the International Law questions associated, with the criticism being centered in the lenience shown towards law violations by Israel.

Concerning the pagers and walkie-talkies attack, the EU showed a much more severe position being taken by a high representative of the Union, in condemning the attack and by doing so Israel. It is clear in this statement by Borrell that his opinion, and as such of the institution he represented, is that the attacks have caused indiscriminate victims among civilians as much as they might seem to be targeted in nature, hinting that they might encapsulate a violation of International Law. The use of the word “indiscriminate” appears to be leveraging towards a violation of the Principle of Distinction.

3.4 Non-governmental Organizations:

It is worthy of note the statements put out by NGO’s such as Amnesty International. “An international investigation must be established to hold perpetrators of the simultaneous mass explosions targeting electronic devices across Lebanon and Syria”⁵⁴, raising awareness to the fact that there is no way to know that only combatants and people actively taking part in the hostilities carried those pagers and walkie-talkies, since they were daily usage objects. Going as far as saying “The mass explosions across Lebanon and Syria in recent days bear the hallmarks of a sinister dystopian nightmare.”⁵⁵ calling it a violation of the laws of armed conflict. Amnesty also claims to have had access to evidence showing that civilian workers were carrying the pagers.

⁵³ EEAS Press Team, “Lebanon: Statement by the High Representative on the series of explosions across the country”, 18/Sep./2024, https://www.eeas.europa.eu/eeas/lebanon-statement-high-representative-series-explosions-across-country_en.

⁵⁴ “Lebanon: Establish international investigation into deadly attacks using exploding portable devices”, 20/Sep./2024, <https://www.amnesty.org/en/latest/news/2024/09/lebanon-establish-international-investigation-into-deadly-attacks-using-exploding-portable-devices/>.

⁵⁵ See supra footnote 54.

Human Rights Watch also put out a statement calling attention to the fact that Customary International Humanitarian Law prohibits that civilian usage devices be booby-trapped as this may cause grave harm and casualties among civilians and that these attacks for their proportion and arbitrariness of targets are indiscriminate violating the Principle of Distinction.⁵⁶

3.5 The UN:

Promptly, it is imperative to address the reactions and positions taken by the UN.

By request of Algeria, having as justification these explosions in Syria and Lebanon, the UN Security Council convened a meeting.⁵⁷

António Guterres, UN Secretary General stated that, “I think it’s very important that there is an effective control of civilian objects, not to weaponize civilian objects. (...) What has happened is particularly serious not only because of the number of victims that it caused but because of the indications that exist that this was triggered, I would say, in advance of a normal way to trigger these things because there was a risk of this being discovered.”⁵⁸. Once again, like in Josef Borrell’s statement, the attention is towards the civilians that were, wrongfully, victims of this attack and a call to try to not escalate this war. It, also, seems that, in the end, it is hinting in the direction of the theory that the reason why the explosives in the pagers and walkie-talkies were activated is because the plan was at risk of discovery and if that was the case the attacks might not have been as effective as Israel intended them to be.

This was also possible to apprehend from the press release by several UN experts published by the Office of the High Commissioner – United Nations Human Rights, in which the press release title is very comprehensive “Exploding pagers and radios: A terrifying violation of international law, say UN experts”⁵⁹.

⁵⁶“Lebanon: Exploding Pagers Harmed Hezbollah, Civilians”, 18/Sep./2024, <https://www.hrw.org/news/2024/09/18/lebanon-exploding-pagers-harmed-hezbollah-civilians>.

⁵⁷ Nichols, Michelle, “UN Security Council to meet Friday over Lebanon pager blasts”, 18/Sep./2024, <https://www.reuters.com/world/middle-east/un-security-council-meet-friday-over-lebanon-pager-blasts-2024-09-18/>.

⁵⁸“Civilian objects should not be weaponised’: UN chief on Lebanon blasts”, 18/Sep./2024, <https://www.aljazeera.com/news/2024/9/18/civilian-objects-should-not-be-weaponised-un-chief-guterres-lebanon-explosions>.

⁵⁹ Saul, Ben, Morris Tidball-Binz and others, “Exploding pagers and radios: A terrifying violation of international law, say UN experts”, 19/Sep./2024, <https://www.ohchr.org/en/press-releases/2024/09/exploding-pagers-and-radios-terrifying-violation-international-law-say-un>.

Carefully looking into the press release, the following extracts are worthy underlining: “condemned the malicious manipulation of thousands of electronic pagers and radios to explode simultaneously across Lebanon and Syria as “terrifying” violations of international law.”⁶⁰, this first passage repeats the title and underlines that the UN experts see in this attack a clear violation of International Law, not holding back in the usage of adjectives such as malicious. Moreover, “These attacks violate the human right to life, absent any indication that the victims posed an imminent lethal threat to anyone else at the time,”⁶¹ and “Such attacks require prompt, independent investigation to establish the truth and enable accountability for the crime of murder.”⁶², in these passages there is the underlying issue of the need for an attack or imminent attack in order to invoke article 51 of the Charter of the UN, the Right to Self-Defense, indicating that neither was the case and the victims of the attack might not have been directly taking part in the hostilities. Going as far as considering the possibility of the crime of murder. Furthermore, “To the extent that international humanitarian law applies, at the time of the attacks there was no way of knowing who possessed each device and who was nearby,”⁶³ the experts said. “Simultaneous attacks by thousands of devices would inevitably violate Humanitarian Law, by failing to verify each target, and distinguish between protected civilians and those who could potentially be attacked for taking a direct part in hostilities”⁶⁴, once again the Principle of Distinction. In these attacks, there might be violations in differentiating the targets, the randomness of the attack might violate International Law, specifically IHL. “Such attacks could constitute war crimes of murder, attacking civilians, and launching indiscriminate attacks, in addition to violating the right to life,”⁶⁵, this excerpt reinforces the application of International Criminal Law with the possibility of these attacks constituting war crimes.

“Humanitarian law additionally prohibits the use of booby-traps disguised as apparently harmless portable objects where specifically designed and constructed with explosives – and this could include a modified civilian pager”⁶⁶ (Article 6 – Prohibition on the use of certain booby-traps, Additional Protocol II), this is a very specific and interesting part. As we will look on the functions and roles of Hezbollah, many of these

⁶⁰ See supra footnote 59.

⁶¹ See supra footnote 59.

⁶² See supra footnote 59.

⁶³ See supra footnote 59.

⁶⁴ See supra footnote 59.

⁶⁵ See supra footnote 59.

⁶⁶ See supra footnote 59.

devices were in the hands of civilians, dealing with what may be considered civilian objects that were filled with explosives before there was knowledge of who was holding the devices. Under International Law this type of devices being filled with explosives might constitute a violation. Additionally, the press release goes on stating that in the opinion of the experts it can be the war crime of committing violence “intended to spread terror among civilians, including to intimidate or deter them from supporting an adversary,”⁶⁷ and “A climate of fear now pervades everyday life in Lebanon,”⁶⁸. Finishing by calling for de-escalation of the conflict, and on the states to exercise universal jurisdiction and the Security Council and the General Assembly to fulfill their duties.

4. An ongoing analysis under the lenses of International Law:

4.1 Jus ad Bellum and Jus in Bello:

Probing the facts and the reactions this is a good starting point to how targeted killings, and this operation in specific, might be viewed as problematic and how and why this method raises many questions in International Law.

To begin with, the term targeted killing appears to indicate a certain degree of constraint when it comes to the target or targets. This term is supposed to show, a certain degree of specification when the target is attacked, however one of the first problems of this practice is that it is not always possible to reduce the killings to a minimum, having a misleading degree of certainty, and creating danger and affecting the people in the surrounding areas. One example is “The reported attack, in October 2001, on the house in Afghanistan of Mullah Omar, in which his stepfather and nephew were reported killed, raises the question of whether Mullah Omar, or his house, was a legitimate target. Perhaps one should consider this as an attack on the house, which may have been a legitimate target if it was a place, or command post, from which the

⁶⁷ See supra footnote 59.

⁶⁸ See supra footnote 59.

operations of the Taliban and al-Qaeda forces were directed.”.⁶⁹ It questions not only the legality of the victims but also of the attack being done in that specific place, the house. The difference between civilian and non-civilian objects and that some civilian objects might be valid targets if used in any other capacity, according to article 48 and 52 of Additional Protocol I, due to their role in the ongoing conflict, confronting with *Jus in Bello*.

Firstly, regarding if it is possible to consider the pager and walkie talkies explosions as targeted Killings. In short to do that one should look at the definition provided by the Red Cross⁷⁰. It was an intentional and premeditated attack using force by a state in this case Israel, against specific individuals that were not under its custody, as such it fulfills the necessary description to characterize it as a targeted killing operation.

In this case the targeted killing method used was the explosion of pagers and walkie-talkies. In theory it emerges as a circumscribed attack, specifically, as only the people using the pagers would be attacked, however, in practice, this did not happen as the numbers of casualties demonstrate it. Not only were victimized the civilians in the vicinities of the explosions, but it is ultimately necessary to look at the people who were carrying the pagers.

Should we even consider that the direct targets of the attack were the ones carrying the pagers and walkie-talkies, because if so, then the attack seems to be very broad, as it is not realistic to imagine that Israel would know that every single person carrying these, were going to be valid targets when the devices were infiltrated. In practice it turned out that many of the victims were not taking direct part in the hostilities.

It is important to note that Hezbollah members, or in general members of designated terrorist organizations, do not keep insignias identifying them. It is common when dealing with conflicts involving terrorist organization, that they take advantage of mixing with the civilian population not wearing identifiable regalia. On one hand, this does make it harder for identification, including in targeted killing operations, making the planning and targeting more arduous, at the same time, it should also require more effort from the striking side to make sure of the distinction between those who take part in the hostilities and those who are not.

⁶⁹See supra footnote 7.

⁷⁰ See the first paragraph of this dissertation for the definition.

To develop the attack one of the theories put forward is that Israel would have to have intervened in the lines of production which would mean that Israel would intervene in the making of the devices⁷¹.

Believing in the reports of the involvement of “ghost” companies in the preparation of the attack than this is a meticulous operation that was years in the making to be as deadly as possible. Intervening in the lines of production means that once the pagers are done and get delivered than it is hard to discern who exactly was getting the pagers - "If the supply chain was compromised to put explosives inside ... it's incredible engineering to do that. But the actual supply chain compromise is not that hard. Probably the easiest part was the supply chain compromise,"⁷². So, it is hard to know who were going to be the, actual, targets and if those were indeed having direct participation in the hostilities so that *Jus ad Bellum* and *Jus in Bello* has been rightfully attended to.

It, also, boils down to what is Hezbollah, and consequently who were the expected victims and, actual, victims. The group is a Shiite Muslim political party, while it is known for and considered a terrorist group for example by the USA, the group is also a military and political entity, as well as it provides first necessity goods for the people in the areas it controls, guaranteeing services such as health, culture and even education⁷³.

So, even though, Hezbollah has fighters involved in armed conflict and, all in all, participating in terrorist activities, it also has a political flank, it has member who are Mps (see some of the victims), having a permanent participation in Lebanon's Political life, and a humanitarian/social branch as it guarantees basic necessities⁷⁴. This means that pagers would have been delivered to people who were not actively taking part in the hostilities.

Specifically, one of the victims was an Iranian Ambassador⁷⁵, and it is comprehensible how a country harming an ambassador of another country, regardless of the way it is done, is problematic and constitutes a serious diplomatic incident.

⁷¹ See supra footnote 26.

⁷² See supra footnote 35.

⁷³ Council on Foreign Relations, “What is Hezbollah?”, 29/Oct./2024, <https://www.cfr.org/backgrounder/what-hezbollah>.

⁷⁴ Holmes, Oliver, “What is Hezbollah's role and influence in Lebanon?”, 24/Sep./2024, <https://www.theguardian.com/world/2024/sep/18/what-is-hezbollah-role-influence-lebanon-israel-pagers>.

⁷⁵ See supra footnote 14

In this instance there was a show of disapproval by the Iranian government in another case, also involving the same Government when the killing of Qassem Soleimani occurred it created a diplomatic issue between at least 3 countries, the USA - the perpetrators of the attack, Iran where the general is from and in which he was a high-ranking military leader and Iraq where he was murdered. Iran retaliated, directly, against the US military, and the Iranian government admitted under international pressure that it had indeed shot a Ukrainian civilian plane by mistake through its air defenses when retaliating.⁷⁶ This is an example of the diplomatic and international ramifications that a targeted killing operation can have. Posing problems of territory sovereignty as, for example, in the scenario above, where the territory of Iraq was used by a foreign country to kill a foreign diplomat.

Targeted killings are mostly extraterritorial operations, since one is examining attacks in which the targets are out of the control of the state issuing the attack. A similar situation happened when the USA killed OBL, regarding the sovereignty of Pakistan, as he was killed in the country without any warning to the government of Pakistan which implies that a foreign state initiated a military operation in the territory of another state without its consent⁷⁷.

Now the inquiry would be whether a state is unlawful or unwilling to stop terrorist activities, affecting other countries, and the first country is being used as a base to do so, and if the affected state can act to stop it (*Jus ad Bellum*). There is the doctrine that if a state is unable to stop the operations of the terrorist group other states can aid and if a state is unwilling than foreign states could perform this type of military operations to stop the dangers to their own territory/people – “It is unclear whether Pakistan consented before or endorsed the action afterwards. If it did consent, there is no jus ad bellum issue. US officials publicly stated that the US neither sought nor obtained consent from Pakistan. (...). If it didn't consent then prima facie the act the US would be a clear breach of the prohibition of the use of force in Article 2(4) UN Charter and a violation of Pakistan's sovereignty. (...) . However, it is arguable that a State's right of self-defense can be exercised in the territory of another State if that other State

⁷⁶ Karimi, Nasser, Joseph krauss, “Under pressure, Iran admits it shot down jetliner by mistake”, 11/Jan./2020, <https://apnews.com/general-news-21f4a92a2dfbc38581719664bdf6f38e>.

⁷⁷ See supra footnote 4.

is unable or unwilling to deal with the source of the attacks and the source continues to pose a significant danger.”⁷⁸.

Regarding the relevance of the type of conflict we have before us, in summary, it should be said that the many targeted killings operations happened in the so called “war against terror” a term coined by the USA.

In short, there are International Armed Conflicts, those which happen between states, and Non-international Armed Conflicts which occur between states and armed groups or between armed groups. The application of techniques of targeted killings is very common in Non-international Armed Conflicts, such as happened in the assassination of OBL, but there are also reports of targeted killings being applied in recent International Armed Conflicts such as in the war of Russia against Ukraine.

Next there is the qualification of those involved, civilians are specially protected, see Protocol I article 51 which and quote is named “Protection of the Civilian Population”⁷⁹, while this applies to International Armed Conflicts, the same protection is afforded to civilians in Non-international Armed conflicts even though it is not as easy to decipher who are the civilians in this scenario.

Observing the attacks in the case study, the first query is if we are before a Non-international Armed Conflict between Hezbollah as an armed group and Israel as a state or whether it is possible to consider this to be an International Armed Conflict between two states, Israel and Lebanon.

Regardless of type, civilians were victims of this attack. Were the Principles of Proportionality and Necessity rightly executed? With such a high number of victims in a, supposedly, such targeted attack, the nature of the attack should be questioned. Many of the victims were not members of Hezbollah, including children. And even from those that were part of the group there is the need to separate between the ones taking direct part in the hostilities, and as such are valid targets, and the ones who aren't, for example

⁷⁸ See supra footnote 7.

⁷⁹ “Number 1, 2 and 3 are clear in explaining the protection afforded to civilians:

1. The civilian population and individual civilians shall enjoy general protection against dangers arising from military operations. To give effect to this protection, the following rules, which are additional to other applicable rules of international law, shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Section, unless and for such time as they take a direct part in hostilities. “Article 51 - Protection of the civilian population”, <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-51>.

doctors, teachers, etc. that carry pagers affiliated with Hezbollah as they work in areas controlled by the group and are employed by them.

These last groups of people might be members in the *latu sensu*, but they are not taking part in the hostilities. According to the Direct Participation in the Hostilities Project, citing from the International Committee of the Red cross: “In order to qualify as direct participation in hostilities, a specific act must meet the following cumulative criteria:

- a. the act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm);
- b. there must be a direct causal link between the act and the harm likely to result either from that act, or from a coordinated military operation of which that act constitutes an integral part (direct causation); and
- c. the act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).”⁸⁰

All in all, interpreting these paragraphs a person who works with Hezbollah in health or education purposes and happens to be carrying a pager is not a valid target.

The next issue in any targeted killing operation, is what happens to the people projecting and directing these operations. This is because it is a situation where most of the action happens far from the target, and in the case of the pagers this was even clearer as there was no need for the attackers to be in the vicinities. Are the ones commanding and participating in the process of detonating the pagers participating in the hostilities? Are they valid targets? As an academic example, if Lebanon found out that one of the people involved in developing the explosive mechanism was living in Portugal would it be ok to shoot him in the middle of Lisbon, would this be a valid target? Where would International Law draw the line in this situation?

Concerning information, targeted killings are largely kept undisclosed. Which means that the public is not aware of many of the situations where these techniques were used, or the number of casualties, New America and the Bureau of Investigative Journalism came up with the following data for Pakistan, Yemen, and Somalia:

⁸⁰“Direct Participation in hostilities”, https://casebook.icrc.org/a_to_z/glossary/direct-participation-hostilities.

- New America estimates that from 2002-2012, 11.2% of deaths were of civilians while BIJ's estimate is 23.3%.
- Concerning 2013-2020, New America's estimate declined to 3.5%, BIJ's estimate was 4.4%.⁸¹

“It is important to keep in mind when considering all these estimates that they are *estimates*. There are many challenges in attempting to gather accurate, detailed information about targeted strikes. First, one must verify the fact that targeted strikes have occurred and that deaths were not the result of other types of operations. This is especially the case for strikes conducted by the CIA, which will virtually never be confirmed by the United States. Second, gaining access to strike sites to gather information may be difficult because many are in remote areas where the government or militants may prevent access. (...) Finally, getting an accurate count is also challenging because different observers may use different criteria to identify militants and civilians.”⁸² which “may involve formally joining the group or simply participating sufficiently in its activities to be deemed part of it.”⁸³. On the contrary, ICRC takes the position that as non-state combatants can only be valid targets if they perform a continuous combat function – direct participation in the hostilities project⁸⁴ – these criteria show that even the numbers that are possible to achieve are doubtful and require a warning regarding the possibility of error and the amount of hazels that every organization needs to go through to give the public information regarding this practice that is as accurate as possible.

Information is power, is a valid argument in war, the public opinion of conflicts matters when it comes to changing the pendulum and their course, because the ones involved in them many times have interest in following the public’s opinion.

If there is no information than there is no discussion since one cannot discuss something one doesn’t know it is happening. Targeted killing operations are particularly hidden and not always documented. The ones that are well known are so because the targets are high profile like OBL or Qassem Soleimani or because the public is already paying attention to that conflict such as the operations taken by Israel to kill Nasrallah and Sinwar. Many operations are not documented, sometimes because they happen in

⁸¹ See supra footnote 17.

⁸² See supra footnote 17.

⁸³ See supra footnote 17.

⁸⁴ See supra footnote 17.

conflicts where other and bigger operations take place and so take precedent, or simply because people attention is not in that specific situation.

The Special Rapporteur on “Extrajudicial, summary or arbitrary executions on the Use of armed drones for targeted killings”, using drones as the example, since it is a common and well-known method of targeted killing says as follows “Military officials and others have argued that drones enable the most surgical of strikes; (...) and that heightened accuracy comes with far fewer collateral casualties. But these assertions are not all supported by evidence. Far more casualties are attributable to drone strikes than has been acknowledged”⁸⁵, solidifying the point made above.

Are targeted killings assassinations? One of the theories is that targeted killings can be viewed as assassinations or extrajudicial killings since it is done without any prior judgement, from someone with a higher position of authority that takes its decision outside the conflict scenario. On contrary, “The neutral term “targeted killing” will be preferred to the expression “targeted assassination”, because assassination is generally understood as the killing of a particular individual for political reasons. The more general expression “targeted killing” includes assassinations but may also refer to the unlawful killing of protected persons, no matter their political position. It is “a lethal attack on a person that is not undertaken on the basis that the person concerned is a ‘combatant’, but rather where a state considers a particular individual to pose a serious threat as a result of his or her activities and decides to kill that person, even at a time when the individual is not engaged in hostile activities”⁸⁶ and “Targeted killings and assassinations are closely related, but not identical, phenomena; moreover, neither has a precise and accepted definition. Roughly speaking, assassination is “the deliberate killing, without trial, of a political figure” (Lackey 1974:57) and, we might add, “for political reasons” (Khatcha-dourian 1974:41).⁸⁷

In most of these operations, not to say all, there is no judicial decision. The army, or group perpetrating the act, are the ones acting as prosecutor, judge and executor.

⁸⁵ Callamard, Agnès, Human Rights Council, 15/August/2020, “Use of armed drones for targeted killings Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions”.

⁸⁶ CORACINI, CELSO EDUARDO FARIA, “Targeted Killing of Suspected Terrorists During Armed Conflicts: Compatibility with the Rights to Life and to a Due Process?”, III ANUÁRIO BRASILEIRO DE DIREITO INTERNACIONAL, Vol.2.

⁸⁷ Miller, Seumas, 2011, “The Ethics of Assassination and Targeted Killing”, Themenschwerpunkt: Politische Ethik / Political Ethics, Vol. 19, pp. 309-322.

All in all, there is no review of this decision, the attack is perpetrated against people that are considered suspected terrorists, but if so than should the idea of innocent till proven guilty be maintained or is war and armed conflict under different rules.

Of course, no one is naïve to think that in war every single rule is followed when it comes to the innocence or not of the parties when the decisions are taken in seconds. But the question of targeted killing vs assassinations is worth reviving, to try to understand what is the line that separates a possibly valid and rule abiding act of targeted killing and crosses into the domain of an assassination.

Once again quoting the Special Rapporteur, “The right to protection from arbitrary deprivation of life is a rule of customary international law, a general principle of international law and a rule of *jus cogens*. It is recognized in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and regional conventions.”⁸⁸, this report introduces the interesting topic of whether to apply IHL, which allows more lenience to the fact that wars might have casualties while still protecting civilians, or IHRL, which upholds the right to life as inviolable. Considering that in some situations we might have to apply the doctrine of the *lex specialis* or apply both laws if compatible and to adjust to the situation. International Law and the Human Rights Council try to understand which branch of law to apply to situations that are still novel and need further investigation. This topic takes us back to essential questions of International Law such as the frontier of IHL and IHRL and the way both are applied to whom and when, and even if it is possible to consolidate both – “Although there is notable overlap among IHL principles and THRL standards, the latter's interpretation of the obligations under this standard is more restrictive: "A state killing [under IHRL] is legal only if it is required to protect life (making lethal force *proportionate*) and there is no other means, such as capture or nonlethal incapacitation, of preventing that threat to life (making lethal force *necessary*). The concept of imminence arises in the context of HIRL, but differently than it does under self-defense.”⁸⁹.

Explicitly, regarding Israel, targeted killings operations and the discussion behind them isn't new. Back in 2006 from the Israeli Supreme Court came the so called “Targeted Killings case”, named as “*Public Committee against Torture in Israel v.*

⁸⁸ See supra footnote 85.

⁸⁹ See supra footnote 1.

*Government of Israel*⁹⁰ - “The Government of Israel employs a policy of preventative strikes which cause the death of terrorists in Judea, Samaria, or the Gaza Strip. It fatally strikes these terrorists, who plan, launch, or commit terrorist attacks in Israel and in the area of Judea, Samaria, and the Gaza Strip, against both civilians and soldiers. These strikes at times also harm innocent civilians. Does the State thus act illegally?” – these queries are similar in the case of the pagers and walkie-talkies attacks in Lebanon and Syria, as the goal was apparently to cause casualties in between Hezbollah terrorists, however civilians and people not taking direct part in the hostilities were injured or dead.

According to this court case, terrorists may be targets if they are taking direct part in the hostilities - while they have some active participation.

Regardless of being in some capacity employed by Hezbollah, targets were not taking direct part in the hostilities in the moment, they were walking down the streets and grocery shopping. The criticism of this theory is the idea that one cannot be an “on and off terrorist” which means while doing something directly connected with the attack one is a valid target and stops being so when the activity halts and the next day the cycle would restart⁹¹. But if this criticism might be valid when it comes to members of the group who participate in terrorist activities the same cannot be said when it comes to the doctors, teachers and so on who are employed and in no way part of the hostilities but were victims. This is also applicable to the surrounding civilians.

This is to be read according to International Customary Law, as Israel is not part of the I Protocol article 51 nr. 3 where this same principle is stated⁹². According to the position of the ICRC we are before Customary International Law when it comes to the protection of civilians, as such, even if Israel is not part of the protocol, it is still applicable as argued by the Israeli Supreme court⁹³. This is a detailed case when it comes to dissecting every aspect of the article and its wording when deciding.

It is also reinforced in this court case that targeted killings are an exceptional mean of warfare and that the Principles of Proportionality and Distinction should always be considered. Citing Talia, “The first principle, necessity, stresses that the

⁹⁰ “Israel, the targeted Killings case”, <https://casebook.icrc.org/case-study/israel-targeted-killings-case>.

⁹¹ Akande, Dapo, “Clearing the Fog of War? The ICRC’s Interpretive Guidance on Direct Participation in Hostilities”, 4/Jun./2009, <https://www.ejiltalk.org/clearing-the-fog-of-war-the-icrcs-interpretive-guidance-on-direct-participation-in-hostilities/>.

⁹² “The Geneva Convention and Additional Protocols”, <https://theblueshield.org/resources/library/customary-law-international-humanitarian-law-and-the-laws-of-armed-conflict/the-geneva-conventions-1949-and-additional-protocols-1977/>.

⁹³ See supra footnote 90.

amount of force a state uses against its enemy must not exceed the amount that is necessary to achieve its purpose, (...) humanity principle requires "restraining, to the greatest extent possible, the effects of armed violence on people's security and health." The notion behind this principle is that once the government achieves the military purposes of its mission or operation, any additional infliction of suffering is unwanted. The proportionality principle holds that attacks are legal so long as the casualties "are not excessive in relation to the concrete and direct military advantage anticipated." Finally, the Principle of Distinction ensures that the military only targets individuals who are involved in the conflict; it strictly emphasizes avoiding the targeting of civilians."⁹⁴

These principles are two elements to which we end up circling back when dealing with targeted killings. Proportionality and Distinction are overall fundamental principles of International Humanitarian Law and take center stage in targeted killings. Quoting "The attitude behind the "targeted killing" policy is that the weapons should be directed exclusively toward those substantially involved in terrorist activity"⁹⁵ (Vice President E. Rivlin) emerging that while civilians must always be specially protected, when in Non-International Armed Conflicts, it is harder to distinguish between civilians and combatants as sometimes terrorist end up disguising themselves in the civilian population.

Using pagers and walkie-talkies highlights another issue that surges from this specific targeted killing attack, cybersecurity,⁹⁶ demonstrating how an attack to such simple objects can be weaponized in context of war, quoting "how seemingly innocuous cyber-physical devices, such as pagers and walkie-talkies, can be weaponized to pose direct and severe risks to public safety"⁹⁷.

These devices might be carried by civilians and Hezbollah members alike, we are not talking about war specific devices, these are everyday devices carried by common people who have inherently no participation in armed conflicts. It is comprehensible than how this attack is "not as targeted" as it might and how in the end public safety might have been endangered. Civilians were, not only, physically hurt and even dead but this attack, also, spread terror among the population with reports of

⁹⁴ See supra footnote 1.

⁹⁵ See supra footnote 90.

⁹⁶ Sheng, Chuan, Wanlun Ma and others, "Pager Explosion: Cybersecurity Insights and Afterthoughts", 20/Nov./2024, IEEE/CAA Journal of Automatica Sinica (Volume: 11, Issue: 12, December 2024), P. 2359 – 2362, <https://ieeexplore.ieee.org/document/10759611>.

⁹⁷ See supra footnote 96

people being afraid of using everyday devices such as computers and mobile phones. The following was said by a specialist to CNN “Just to give you a sense of the rumors we’ve been hearing, there are all these messages circulating for people telling people to shut off their wi-fi routers or take out batteries from certain devices,”⁹⁸ and. “There really is a fear of the normal items you have at home.”⁹⁹

We can now look at article 13 (2) of Additional Protocol II and article 51 (2) of Additional Protocol I¹⁰⁰, which reiterates the protection of civilians from acts that spread terror, though this cannot be, straightforwardly, applied in this situation. To do so we would have to consider that the primary goal of this attack was to spread terror, as the complete definition of this rule goes as follows “acts or threats of violence the primary purpose of which is to spread terror among the civilian population”¹⁰¹. The focus here could be the word “primarily”, as the goal was attacking Hezbollah. If that is the case then “primarily” the aim was not to spread terror in between the population, even though the attack in the way it was conducted did spread terror among the public as, we might say, would cause in any population, since it endangered such essential parts of people’s lives. But if we can’t apply this article would that mean that such a large-scale attack that spread such an amount of terror is legitimate in this sense, or that it is not reprehensible?

In the words of The Special Rapporteur “The strain caused by the constant anticipation of a drone attack causes significant psychological harm, including post-traumatic stress disorder, cripples daily activities and creates largely unaccounted for socioeconomic burdens, particularly on women.”¹⁰², this position of the Special Rapporteur shows that this is not a one-time situation where the pagers and walkie talkies due to their nature cause terror when exploding, but it is a generalized consequence with targeted killings as an instrument of war, regardless of how they are perpetrated.

Next, looking at the places where these attacks happened, this type of attacks cause victims that go beyond the target. When Soleimani was killed, the people with him in the car also perished and as indirect victims were all the passengers of a civilian

⁹⁸ Magramo, Kathleen, “People in Lebanon fear everyday devices following twin attacks, Middle East journalist tells CNN”, 19/Sep./2024, <https://edition.cnn.com/world/live-news/lebanon-pagers-explode-hezbollah-israel-09-18-24-intl-hnk/index.html>, 25/Jan./2025;

⁹⁹ See supra footnote 98.

¹⁰⁰ See supra footnote 92.

¹⁰¹“Rule 2. Violence Aimed at Spreading Terror among the Civilian Population”, <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule2>.

¹⁰² See supra footnote 85.

flight¹⁰³. Looking at the Hezbollah operation, these pagers exploded in crowded streets, markets, hospital and pharmacies.

The explosions were timed from a military or strategist perspective if that were not the case then there would be time for people to ditch the pagers and in the end the goal of the explosions might not be achieved, however at the same time, randomly exploding the pagers regardless of where the targets were will necessarily lead to a situation of no control about the victims or a disregard for the Principles of Proportionality and Distinction. It is not feasible to believe that in all these places that were random civilian places the ones who commanded the attack knew the number of casualties would be proportionate.

Now onto the validity of the self-defense against terrorism. These operations tend to be implemented in situations in which we are before the so-called “war against terror”. Whether looking into OBL, Qassem Soleimani, the pagers and walkie-talkies explosions, Nasrallah, Sinwar and so on, these were perpetrated against suspected and well known terrorists and terrorist leaders as the main targets.

The problem is that the idea of self-defense against terrorism is not recognized by most of the international community, it is, though, for example by the USA. If the idea of self-defense against terrorism is rejected then most of the defenses used by Israel and the USA to uphold these operations are not effective and do not justify and validate them under International Law – “(...)international law's principles of self-defense are generally more expansive than those of Article 51, providing a nation with the ability to anticipatorily respond to "'imminent threats' of armed attack that have not yet materialized" rather than limiting nations to responding only to *past* armed attacks. Administrations often invoke this notion of imminence, within the broader context of self-defense, as another justification for targeted killing.”¹⁰⁴.

Another example of a targeted killing that raised many questions recently and might have changed the course of the war in the middle east, is the killing of Ismail Haniyeh. Hamas Leader, born in a refugee camp he had risen to Hamas leadership, having peace talks with former president Jimmy Carter¹⁰⁵. Back in April 2024 when in ceasefire negotiations he was informed of the death of his three sons and grandchildren

¹⁰³ See supra footnote 76.

¹⁰⁴ See supra footnote 1.

¹⁰⁵ Picheta, Rob, Helen Regan, Kareem El Damanhoury, Abeer Salman and Paul Murphy, "Hamas political leader Haniyeh assassinated in Iran, plunging Middle East conflict into dangerous new phase", 31/Jul./2024, <https://edition.cnn.com/2024/07/30/middleeast/hamas-political-leader-ismail-haniyeh-killed-intl-hnk/index.html>.

by an Israeli strike and answered in the following way “Whoever thinks that by targeting my kids during the negotiation talks and before a deal is agreed upon that it will force Hamas to back down on its demands, is delusional”¹⁰⁶. This death was once again a targeted killing perpetrated by Israel.

Questions came regarding how Israel had in fact practiced the attack, specifically, how it was done, while it was said, the media taking Israel word as truthful, that he was killed through an attack with explosive being placed in the house he was staying, it was later claimed by Iran's Revolutionary Guard Corps that his death was actually the product of an execution by a short range projectile¹⁰⁷. Raising questions of whether this was a lawful war technique or whether this falls under the classification of assassination or execution. If the Revolutionary Guards are correct, do the molds in which this was done violate the way a captured person or war prisoners, must be treated by the opposing side? Shouldn't he have been arrested, instead of murdered through gunshot? Because if it was possible to arrest him and he ended up being shot to death than there was no respect for the Principle of Proportionality. Once again the issue of information, because there is a difference in the information coming from both sides, and the consequences under International Law whether the Israeli or the Iranian version are correct are different and might make the act legal or illegal, if his house was a command center it is not illegal to target it using the explosives (as presented in paragraphs above when explaining difference between civilians and non-civilian objects) that changes if he survived the explosion and was executed when he could have been captured.

Hamas considered this “a grave escalation”¹⁰⁸ and Iran ordered an immediate strike in Israel. Posing questions about how this would change the course of negotiations of a ceasefire and with no data yet on how much this action delayed this possibility.¹⁰⁹

As targeted killings become the norm and normalized. The truth is that this is not an unquestionable practice in International Law, with many countries opposing the lawfulness of this practice.

¹⁰⁶ See supra footnote 105.

¹⁰⁷ Murphy, Matt, Jenny Hill, “Iran says Hamas leader killed from close range” 3/Aug./2024, <https://www.bbc.com/news/articles/cg64642q0dxo>.

¹⁰⁸ See supra footnote 105.

¹⁰⁹ See supra footnote 105.

Some claim that this would diminish the number of terrorist attacks, but confronting opinions exist regarding this matter, al-Qaeda is one of the most common examples “This effect lasts at most four or perhaps five weeks, however, after which terrorist attacks resume at roughly the same rate. More enduring declines require an ongoing campaign of persistent strikes, which may be difficult to sustain. More ambitiously, the respite from attacks that strikes provide could be used to try to institute governance reforms that might reduce the appeal of violent extremism, although this can be a very difficult task.”¹¹⁰

4.2 Countries approach to this concept:

While the USA, Israel and the UK, defend this as a valid and lawful practice, “These, according to Gross, 'must meet the same conditions demanded of any form of legitimate warfare. Only insofar as Israel targets aggression or a clear threat of aggression, responds proportionately and respects humanitarian law will target killings excite little moral outrage.' The UK Manual of the Law of Armed Conflict (2004) simply states that each case must be decided on its facts and reiterates that, although attacks may be directed by combatants against enemy combatants, perfidy is prohibited.”¹¹¹, seemingly saying that they are permitted and possible to reconcile with International Law the same stance is taken by USA doctrine defending the use of targeted killings as lawful practices if, as like in any other war method, it follows the needed rules of International Law - “US State Department Legal Adviser Harold Koh has argued that 'Under domestic law, the use of lawful weapons systems—consistent with the applicable laws of war - for precision targeting of specific high level belligerent leaders when acting in self-defense or during an armed conflict is not unlawful and hence does not constitute "assassination”¹¹² and “Reported cases where targeted killings have been employed against High Profile Targets involve Russia, Israel, the UK, the USA and NATO.”¹¹³

¹¹⁰ See supra footnote 17.

¹¹¹ See supra footnote 7.

¹¹² See supra footnote 7.

¹¹³ Bachmann, Sascha-Dominik, May 2013, “Targeted Killings: Contemporary Challenges, Risks and Opportunities”, Journal of Conflict & Security Law β Oxford University Press 2013.

These countries are open supporters of these practices and have taken part in operations such as the ones mentioned.

Other countries have and had policies of developing or increasing their drone programs and usage and have in the past already announced it - “As well as China, which has an active drone programme, Russia, Saudi Arabia, and Turkey are either developing or have announced an intention to purchase armed UAVs.”¹¹⁴

The same can't be said for example for Pakistan and Yemen, with targeted killings being one of the ways the community defines the western countries, and their consequences, “A careful study by the International Crisis Group found some evidence that “there is less opposition within FATA [the Federally Administered Tribal Areas] to drone strikes than among activists and commentators in the country's urban centres”, but concluded that the drone programme was exploited by hardliners in Pakistan to ignite anti-US sentiment (...). Some Western diplomats in Yemen argue that drone strikes are not broadly unpopular, but scholars who have studied the issue contend that a more focused and restrained use of strikes against high-level members of armed groups would limit civilian casualties and be more effective in reinforcing US national security. A young Yemeni activist who testified before the US Senate Judiciary Committee in April 2013 said that drones had become “the face of America to many Yemenis” and complicated the internal political dynamics in his country.”¹¹⁵, in this case there are questions of sovereignty among others such as the consequences that these practices have in civilians and civilian activities and the perspective that is left in the local communities.

To clarify certain issues in targeted killing operations the USA under the Obama administration (Department of Justice) issued a White Paper addressing the legality of the use of lethal force against al-Qaeda operatives, explaining the circumstances under which this would be legal¹¹⁶, and continued by issuing a "Report on the Legal and Policy Frameworks Guiding the United States' Use of Military Force and Related National Security Operations", according to the President the goal was to reinforce the transparency of this operations and its legality to the public.¹¹⁷

¹¹⁴ Dworkin, Anthony, July 2023, “DRONES AND TARGETED KILLING: DEFINING A EUROPEAN POSITION”, European Council on Foreign Relations – Policy Brief.

¹¹⁵ See supra footnote 114.

¹¹⁶ See supra footnote 89.

¹¹⁷ Pollack, Kenneth M., Daniel L. Byman, (2024), “On Targeted Killing and Warfare”, *The Washington Quarterly*, 47 (2), 41-54.

Considering the convulsed reactions to this practice it is understandable that the responses from International Law are quivered. Targeted killings are a semi recent practice which means that its most common means were made possible by the evolution of technology, and this creates the need for International Law to evolve along, and study the effects of this practice, according to Laurie R. Blank “To assess the effectiveness of targeted killing, an essential first question is “effectiveness at doing what?” Beyond the common conceptions of effectiveness, which might include metrics such as eliminating, weakening, or defeating a particular terrorist group or deterring future attacks by such group, a range of other possible ways to consider effectiveness are relevant as well. Broadening the lens of inquiry from one particular adversary group, one might consider whether targeted killing is effective in combating terrorism more generally or, even more broadly, as one instrument in protecting national security. However, the “what” and “how” of effectiveness is opaque at best”¹¹⁸. On the other hand, there is the correspondence of Attiyah Abd al-Rahman¹¹⁹, OBL seems to believe in the resurgence of the group, but the first demonstrates its fear of the consequences of the attacks on the number of members and even in the morale of the group reflecting in its communications which shows one of the perspectives in which these operations might somehow help in the so called “war against terror”, particularly how it distraught the group’s strategy, “The experiences of different terrorist groups offer some, although limited, additional support for this argument. Hamas, al-Qaeda, and other groups that endured major targeted killing campaigns often found the resulting pressure to retaliate overwhelming. Although they publicly professed their desire for martyrdom, in private correspondence (and in Hamas’s case, requests for truces with Israel), they found the campaigns functionally devastating. Attiyah Abd al-Rahman, a senior al-Qaeda leader whom the US later killed, complained to Bin Laden, “Our situation is difficult due to a severe deficiency in cadres,”¹²⁰ while Bin Laden told his then-deputy, Ayman al-Zawahiri, “if the leadership dies, young leaders who do not possess all the expertise that the previous leadership did take over.”¹²¹ Even when leaders were not killed, the campaign disrupted communications, hindering the group’s ability to operate. Attiyah

¹¹⁸ Blank, Laurie R. «Analyzing the Legality and Effectiveness of U.S. Targeted Killing». *Journal of National Security Law and Policy* 13, n.º 2 (1st January 2023): 259–82.

¹¹⁹ Al-Qaeda’s operational leader, and second in command who was killed in 2011 in Pakistan by a CIA Drone Strike.

¹²⁰ See supra footnote 17.

¹²¹ Loydolt, Bryce ,2022, “Were Done strikes effective? Evaluating the drone campaign in Pakistan through captured al-Qaeda documents”, <https://tnsr.org/2022/01/were-drone-strikes-effective-evaluating-the-drone-campaign-in-pakistan-through-captured-al-qaeda-documents/>.

also warned, “[even] motorcycles are getting bombed... any message and any movement is danger ...”¹²²

As mentioned, the definition of protected persons, civilian, and the definition of the different conflicts comes up like in any practice, how should, does, and will International Criminal Law respond is indeed another obstacle to be looked at - If “States were to shift from a law enforcement approach, and instead treat their operations to confront violent threats as global wars, the result would likely be increased international lawlessness, not to mention dire humanitarian consequences, with States arrogating to themselves the right to target those it designates as combatants or persons directly participating in hostilities, wherever they may be situated. The threat is even starker when one considers that for some States the primary source of violence may types of organized crime other than terrorism, (...). There would be no principled reason why the war paradigm could not be extended to these other threats of organized violence, beyond terrorism”¹²³ (legal memoranda by ICJ Legal and Policy Director Ian Seiderman).

4.3 International Criminal Law, IHRL and State Responsibility:

Crimes of war are punishable under International Law the question is how International Law accommodates the new necessities of these crimes.

Violations of IHL are sanctioned by law under International Criminal Law, “Thus, there are essentially two levels of State responsibility relevant to the practice of targeted killings. The first is to ascertain the *jus ad bellum* justification for infringing another State's sovereignty. The second is to establish that the deprivation of an individual's life was lawful under IHRL. It is also evident from the International Law Commission's Articles on State Responsibility, *Jus ad bellum* justification does not preclude the wrongfulness of any violation of IHRL.”¹²⁴. This practice raises many questions in terms of the application of international law, whether be it *Jus ad bellum* or

¹²² See supra footnote 120.

¹²³ Seiderman, Ian, “The United States Targeted Killing Policy and the Threshold of Armed Conflict under International Law”, <https://www.icj.org/wp-content/uploads/2013/12/EUI-targeted-kilings.pdf>.

¹²⁴ Ramsden, Michael, (2011), “Targeted Killings and International Human Rights Law: The Case of Anwar Al-Awlaki”, *Journal of Conflict & Security Law*, Vol. 16, No. 2, pp. 385-406.

IHRL. Regarding article 2 (2) of ECHR, the necessity requirement is essential in order to understand whether a targeted killing was legal or not “Applying this test, a State’s extra-territorial use of lethal force against a suspected terrorist may be lawful under IHRL if the action is: (i) absolutely necessary; and, (ii) in defense of the civilian population that is being targeted for a terrorist attack. The European Court of Human Rights has strictly interpreted the requirement of absolute necessity Accordingly, two conditions must be satisfied. First, no other measures—such as apprehension of the suspected terrorists—could be used to protect the threatened persons. Second, even when no other measures are available, it must be necessary to use lethal force rather than a lesser degree of force.”¹²⁵

In this case study, Israel exploded the pagers in the states of Lebanon and Syria, thus, technically, violating their sovereignty, the question remaining if Israel had a valid justification under International Law for this attack, the randomness of this situation, the attack on the states personnel and so on makes it hard to justify this attack under International Law. This also boils down to the recognition of the self-defense against terrorism as a valid claim which is tricky as detailed in paragraphs above.

“The willingness and frequency of states to undertake targeting killing does not necessarily imply the existence of a right under international law for its use. The International Court of Justice in the *North Sea Continental Shelf Cases* stated that the frequency or even the habitual character of acts is not in itself enough for a proposed rule to have evolved into a principle of customary international law.”¹²⁶. This a fact that we need to address, the conclusion that many states have adopted this practice does not make it inherently legal and in conformity with international law.

Now, looking onto state responsibility, in order for the draft articles to be applicable we need to be able to place the actions under one of the articles and to do that it must obey a criteria of attribution, so for example, when it comes to the pagers it needs to be possible to attribute it to the state of Israel, or organs of the state, people that exercise authority inside a state or if the conduct was directed or controlled by the state (articles 4, 5 and 8 of the draft articles on state responsibility)¹²⁷.

¹²⁵Lantz, Karinne, 2009, “Balancing Necessity and Individual Rights in the Fight Against Transnational: Targeted Killings' and International Law”, Schulich School of Law, Dalhousie University.

¹²⁶Serpless, Jim, (2012), “Targeted Killing in Modern Warfare”, Canberra Law Review 11(2), University of Canberra.

¹²⁷ “Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries”, 2001, International Law Commission, United Nations.

“Regardless of how the legality of targeted killing by drones is crafted, this type of killing stands against the continued relevance of human rights strands within international law. Because such extrajudicial killings are not only asymptotic with human rights law’s sanctity of life paradigm, but they also stand in contradiction to customary international law’s due process paradigm.”¹²⁸, this is the idea that due process exists in International law, when it comes to targeted killings they are mostly done without any type of due process, hence why some doctrine opts to call it a targeted assassination. Sinwar was, technically, a targeted killing, but after the explosion there are videos of him in a situation where it might be possible to retrieve him alive, he has lost or almost lost an arm, and the autopsy then reveals that he was killed through gunshot¹²⁹, so, all in all, he might have been assassinated with no regard for due process, let alone the sanctity of human life preserved under IHRL, of course this needs to be compiled with IHL that opens space for the possibility of casualties in war that are not International Law violations, and would be illegal under IHRL but not IHL.

Regarding the application of the Rome Statute and the International Criminal Court. Mandates were issued or requested for Netanyahu and Putin who have used techniques of targeted killing. But this is not explicitly due to engaging in acts of targeted killing. When acts are committed by heads of state and leaders of international organizations such as Hamas the Statute might be applied, the drawback is that this statute has geographical limits and states have to have ratified it for it be applicable. When it comes to the entirety of the statute at least one state involved must have ratified it or when it comes to the crime of aggression both states involved must be members of the Statute.

For instance, and *ad extremum*, if a genocide is somehow committed using targeted killing techniques it is not the fact that targeted killings were used that creates or excludes the responsibility, it is the simple fact that a crime under the statute was committed and that it has to follow due process as it would regardless of the technique used to commit it.

Article 2 (4) United Nations Charter: “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or

¹²⁸ Ghoshray, Saby, “TARGETED KILLING IN INTERNATIONAL LAW: SEARCHING FOR RIGHTS IN THE SHADOW OF 9/11”, *IND. INT’L & COMP. L. VER.*, vol. 42(2), <https://mckinneylaw.iu.edu/practice/law-reviews/iiclr/pdf/vol24p355.pdf>.

¹²⁹ “Autopsy Shows Hamas Leader, Yahya Sinwar, Was Killed by a Gunshot to the Head”, <https://www.nytimes.com/live/2024/10/18/world/israel-hamas-yahya-sinwar-news>.

political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”¹³⁰. Targeted killings are not only extrajudicial killings, but they are also most of the time extraterritorial killings, such as in the pagers operation and might violate this Prohibition on the Use of Force.

Once the killings happened, Israel has used force against Lebanon and against Syria in their territory, which violates the countries territorial integrity and the article above, since there was no decision or approval of the UN for this. Is it possible to somehow apply the right to self-defense, article 51 of the UN Charter? Reinforcing the debate on self-defense against terrorism, using the concept of imminence to defend the possibility of self-defense approaching a concept of anticipatory self-defense – “In other words, by accusing India of violating Mr. Singh’s human rights, Canada would inevitably be affecting its own position on when the right to life, and other human rights, apply abroad. (...) In March 2018, after the Salisbury nerve agent attack, the British prime minister, Theresa May, similarly accused Russia of violating the UK’s sovereignty, while refraining from speaking about the human rights of the victims.”¹³¹.

“Most modern accounts of just war theory do not accept punishment as a just cause for war. Braun, however, thinks that the changing nature of modern threats (especially the rise of international terrorism) warrants a return to the classical understanding of punitive war.”¹³², *just war* is the theory that while war is not a good thing it might be justified to use force under certain circumstances and in obedience to *Jus in Bello*¹³³. Targeted killings might only work as a retribution not a punishment for a crime committed as if it would amount to a death penalty, so for the individual there is no actual rehabilitation or even reparation, when it comes to the “war on terror” it can even be worst for deterrence as many times the consequence is that the other party retributes the attack. The author cited defends that by understanding targeted killings this way instead of a *just war* theory situation where we have *Jus ad bellum* and *Jus in bello* be obeyed to, it’s a punishment through vengeance – “I find it odd, not to say

¹³⁰ United Nations Charter (Full Text), <https://www.un.org/en/about-us/un-charter/full-text>.

¹³¹ Milanovic, Marko, 19/Sept./2024, “Targeted Killings: New Allegations Against India and Ukraine”, <https://www.ejiltalk.org/targeted-killings-new-allegations-against-india-and-ukraine/>.

¹³² Le, Anh, (2021), “Targeted Killing for Retribution Only Is Practically Impossible: A Rejoinder to Christian Braun”, Department of Politics, University of Manchester, Manchester, UK.

¹³³ Johnson, James T., “just war”, <https://www.britannica.com/topic/international-law>.

dishonest, that decision-makers frequently justify targeted killings as acts of self-defense, while the actual rationale seems to be retribution”¹³⁴.

4.4 The USA Domestic Perspective:

Lastly, comparing this dynamic with USA law, for example, “In addition to the War Crimes Act, the Foreign Murder of United States Nationals statute states that it is a criminal offense for a national of the United States "to kill or attempt to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country."¹³⁵ and “However, various administrations have posited that the "well-accepted" public authority justification applies in such circumstances; thus the targeted killing is lawful if the government conducts it in a manner "consistent with the applicable law of war principles governing the non-international conflict.”¹³⁶. The USA allows and defends this practice considering it legal under *Jus ad Bellum* and *Jus in Bello*, justifying it and defending it as valid, but as analyzed in all the above this practice is involved in many controversies with some states defending similar positions as the USA and others condemning these practices and techniques, as shown.

¹³⁴ Braun, Christian Nikolaus, (2021), “Targeted Killing in-between Retribution, Deterrence, and Mercy: A Response to Anh Le”, JOURNAL OF MILITARY ETHICS, 2021, VOL. 20, NO. 2, 152–157.

¹³⁵ See supra footnote 1.

¹³⁶ See supra footnote 1.

Conclusion:

The background of this dissertation is clearly set in the conflict in the middle east, the case studied appears in the mist of the current war in the region and is always analyzed inside those same parameters.

When considering the reactions to this attack they differ from others during the same armed conflict, with the European Union, which has been many times criticized for the way it communicates when it comes to this conflict, in comparison to the Russian Ukrainian armed conflict, delivering a condemnation. It is impossible to dissociate the magnitude of the reactions with the magnitude of the operation and the scale of its consequences.

People were attacked walking down the streets, in markets, while doing the most mundane things, if one were next to someone carrying one of those pagers, then would most likely be a victim, it is hard to recognize in this action any sense of distinction. If targeted killings are defended as capable of diminishing the casualties through precision, then it is valid to question where the distinction and precision in this case was. How could Israel know that every single person getting the pagers would be considered valid targets under International Law.

War and conflict are not a lawless land where every move is allowed in the name of defense or strategy. On the contrary the rules of war are perfectly stipulated and established but it is questionable how these will apply to new methods such as the targeted killing studied. Inquiring if it is necessary to create new laws to engulf these new techniques or when it comes to *Jus ad Bellum* and *Jus in Bello* it is a matter of just applying the existing law to the new concepts and techniques.

The protection of civilians, the right to territory and sovereignty, the Principles of Distinction and Proportionality and many other rules of International Law and International Customary Law are very capable to be introduced to the concept of targeted killings and are many times violated by these operations. The ease with which they were violated in this case is clear and aberrant, the prime Minister of Israel felt comfortable and enabled enough to, months later, gift a golden pager to Donald Trump.

What is factual is that in September 2024 people died and were hurt through this operation, it is also clear that the International Community reacted to this operation condemning the lack of distinction, proportionality, the disrespect for certain norms of war and so on, even the fact that this could delay a ceasefire. However, in the end there

were no consequences for the perpetrators of this attack, the bodies were buried (with another attack it must be said) and the world moved on, it is impossible not to inquire how this fragilizes the standing of International Law.

To conclude, the practice of targeted killings is not a situation of “no man’s land”, as seen in this dissertation, the rules that apply to other operations in armed conflict are possible to apply in this context and International Law has the means to do so and to avail itself in these situations. What is necessary is that there is the intention to do so. International Law is not an organism in itself and for it to be applicable the International Community and Courts must want to do so. Otherwise, inaction might only fragilize the rules of war.

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