

Ethical Aspects of the Response to Terrorism

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Introduction

The ethical questions pertaining to war are usually divided into three categories: When is it appropriate to embark on a war? What is appropriate action in the course of fighting? What is appropriate after the war, when working towards peace?

In a democratic state the question of when it is appropriate to embark on a war is within the purview of the government, because it is the body responsible for any activity touching on relations between states and other political entities. This question has ramifications for defense of the state, its citizens, and its soldiers. Similarly, the question of what is appropriate action after the war, when working towards peace, is within the government's purview because any step towards a settlement between the parties is of political significance in terms of foreign relations and is of internal political significance. The second question, however, deals with the activity of the military, a professional state organization, and often can be dealt with apart from the other two questions. This essay deals with the distinction between what is and what is not proper in military activity during an operation or in a war.

The Weaknesses of International Law

Where may we find the answer to such a question of propriety or at least a clue that can bring us closer to the answer? We often hear the suggestion or the demand to look for the answer in international law. We hear this

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from hostile bodies such as the council that appointed the Goldstone commission, from NGOs that pose as interested in human rights, from Israelis interested in serving their own political agendas, and even from some professionals expressing their naive opinions. Because this is the spectrum, it is best to respond on the most basic, fundamental level, and that is the level at which my remarks are aimed. From this perspective, the demarcation by international law of what is proper and improper in military activity seems to me to be based on four grave mistaken views.

The Required Dual Considerations

The first of the mistakes is the consistent ignoring of the obligation to have internal considerations. The considerations of a democracy with regard to war must always be twofold, both internal and external. The internal considerations of a democracy rest on its fundamental principles, such as the moral principles of the state's obligation to protect its citizens and its obligation to maintain the human dignity of all its citizens, including its citizens in military uniform. The prevailing approach in recent years has been that non-combatant civilians are sacred, while combatants and other persons in military uniform are disposable and can be used as tools. A democracy must reject such an approach, even if it is robed in the mantle of international law, and especially when the guardian knights of human rights proclaim it. In a democracy, a soldier is a citizen in a military uniform. At this moment he is a combatant, but he cannot be stripped of his human dignity, and especially not on the pretext that when he is in military uniform he has forfeited his rights to life and liberty. As a combatant he will clearly assume certain risks, and it is also clear that in time of need he will forfeit his life; combatants are liable to be killed. Nevertheless, a combatant is a human being whose human dignity must be protected. He can never be merely an instrument of the state, a tool of the government, or a resource of the military. These are examples of internal principles of a state, which operate alongside principles and considerations related to the engagement between the warring sides.

At times, internal and external considerations lead to the same conclusions, but it is wrong to blur the profound difference between the two sets of considerations. Embarking on a war is justified only on the basis of self-defense, be there a risk to the lives of the combatants (an internal consideration), and be there a diversion from a routine situation

with no bloodshed or destruction to a war situation with much danger of death and destruction to both sides (an external consideration). Nevertheless, it is clear that the state's obligation to protect the lives of its citizens, including its combatants, rests on an internal set of principles rooted in the pursuit of justice that differs from an external set of principles rooted in the desire for international peace.

The Assumptions of Conventional Wars

A second mistake among the prevalent notions of international law lies in ignoring the nature of that law, and in particular the assumptions upon which it rests. International law, as it is familiar from the Geneva Conventions, was designed to regulate the distinction between proper and improper fighting in conventional wars of state versus state, of a state military force versus a state military force. All the working assumptions familiar from international law are assumptions that were generally borne out in such wars: World War II, the Six Day War, the Yom Kippur War. These assumptions do not hold up in the irregular wars we have come to know. When the working assumptions are incorrect, the entire structure built upon them collapses.

A central assumption that any ostensibly practical system of norms must uphold is that the regulations demanded by the norms can be fulfilled. In a conventional war, it should be possible to maintain the distinction between combatants and non-combatants, and such an arrangement is met in the familiar, practical, and simple way of identifying the combatants by the uniforms they wear and the weapons they carry openly. In irregular wars such as the Second Lebanon War and Operation Cast Lead, the terrorists wear civilian clothing, live in civilian neighborhoods, operate among civilians, and operate against the non-combatant civilian population. There is no simple, practical way to distinguish between them and anyone else, as is possible in conventional wars. In short, the assumption of practicality fails the test.

Another central assumption that fails the test of experience is the assumption of reciprocity. A state fulfills its part in an arrangement by limiting its own use of the force at its disposal. It does not thereby bestow a military advantage on the enemy state it is fighting, because the enemy state is supposed to limit its own use of the force at its disposal to the same degree. The assumption of reciprocity is an assumption of

symmetry as to limitations the warring sides impose on themselves. This symmetry underlies considerations on self-restraint: it is advisable for a state to concede some of its force because in return it receives the enemy's concession of the parallel portion of its force. In the last decade, the assumption of reciprocity has consistently been violated in the wars Israel engaged in: all of Israel's enemies in the early 2000s, the Second Lebanon War, and Operation Cast Lead used terrorism designed to harm the largest possible number of Israeli non-combatants. Israel, by contrast, took many steps in order to minimize the number of Palestinian non-combatant casualties in its activities against terrorists. Those who are aware of these steps know how impressive they were, both at the ethical and at the professional levels.

Since the working assumptions do not hold up, one may say that international law in its familiar form does not apply to irregular wars. If there is no basis to the demand to act upon it in these wars, the question becomes: how should Israel act in these new wars?

Criticism of Creative Interpretations of International Law

Here I come to the third mistake inherent in the prevalent notions of international law as the source of guidance for military activity in irregular wars. There are those engaged in creative interpretation of international law to make it possible to apply it in situations of irregular warfare. Proponents of this method like it because it leaves the power of compelling interpretation in their own hands. This inclination to retain the authority of compulsory guidance is understandable but certainly not justified.

The idea of developing creative interpretations for the purpose of practical guidance is mistaken because it keeps practical guidance in the political world of international law institutions and interpretations. When dealing with this province of international law we are liable to find ourselves in a bind, because organizations trying to interpret the current norms of international law in a binding way are organizations that had, have, and will likely continue to have a hostile political structure. These are the organizations that established the Goldstone commission and expressed themselves in its spirit well before it started its work.

In my opinion, it is preferable for Israel to take a different direction, both on the basis of conceptual responsibility and of political responsibility.

Israel must encourage any state that finds itself fighting an irregular war of a certain type to develop its own doctrine for irregular wars of this type, and not just a doctrine in the operational sense – something every state already does – but also an ethical doctrine for irregular wars. Such a doctrine can largely be non-classified. For example, the doctrine of the US Army and Marines with respect to insurgency and counterinsurgency was openly published (by the University of Chicago Press), and anyone can buy a copy. It goes without saying that the doctrine includes an ethical chapter.

Were every democracy engaged in irregular wars of a certain type to develop its own ethical doctrine for such wars, it would be possible to compare them. To a limited extent, it is already possible to make such comparisons. The doctrines of democracies engaged in similar irregular wars resemble one another despite their particular differences. In this manner, what would finally emerge would be what one could call customary international law: if all democracies engaged in irregular wars of a certain type act on the basis of the same ethical doctrine or on the basis of ethical doctrines with a sufficiently wide common denominator, it may be possible to make a serious claim that this constitutes customary international law.

Therefore, it is incumbent to get out of the business of creative interpretation of conventional international law and move into the world of ethical doctrines of democracies such as the United States, Great Britain, Germany, Canada, and Israel, all of which are developing customary international law by means of their doctrines.

The Foundations of International Law

The fourth mistake inherent in current allusions to international law is the superficial understanding of the grounds on which it rests. People often use it as if it is the basis for every consideration relating to proper war. In truth, international law does not constitute such a basis. Existing international law rests on a longstanding philosophical (and theological) tradition of what is called the just war doctrine (or theory).

The just war doctrine began with St. Augustine and was developed further by St. Thomas Aquinas. In seventeenth century Netherlands, Hugo Grotius framed it as a proposal for international law. In the nineteenth and twentieth centuries, its practical expression was international

treaties. Whenever there is a lack of ready-made international law, there is a rich, ready-made conceptual tradition of the just war doctrine, which is a system of philosophical principles underlying familiar international law that may serve as the foundation for new doctrines regarding proper wars.

This method is acceptable in every normative system: when a structure is created for a particular purpose or situation and is found to be unsuitable to a new purpose or situation, the question of what are the principles at the foundation of this structure is an apt one. The method uses these principles in order to guide the action for the new purpose or situation.

The scope of this essay limits me to brief comments on two principles of the just war doctrine. The principle of distinction (or discrimination), which distinguishes combatants from non-combatants, is a principle designed in familiar arrangements to fulfill the deeper philosophical, ethical principle of *minimizing the calamities* of war. One minimizes the calamities of war through the division of every dimension of fighting into two parts – the proper and the improper. This is true for people who are encountered by military force; this is true of targets; this is true of arms and of methods of fighting. One may also use this general notion to formulate an ethical doctrine for the purpose of irregular wars of a certain type, such as the Second Lebanon War and Operation Cast Lead.

Now, some brief comments on the *principle of proportionality*: A numerical comparison of the casualties on both sides of the front is not the idea at the basis of the principle of proportionality. First of all, it is designed for cases in which the military action is expected to harm non-combatants, not because they are the targets but because they happen to be near a legitimate target. In this particular context, the principle of proportionality dictates the question: does the value of accomplishing the military action justify the unintended damage it results in? Thus, the question of proportionality is very difficult, and any casually made claim about proportionality or non-proportionality is usually unreasonable and irresponsible.

Take, for example, the beginning of the Second Lebanon War. When it broke out, we heard the usual superficial claims about proportionality: the force used by Israel against Hizbollah was supposed to be similar to the force Hizbollah used against Israel to abduct and kill soldiers. Such

claims are unsustainable: legitimate claims regarding proportionality are claims made regarding the justification of collateral damage on the basis of what is gained by military utility.

In contrast, the relevant considerations on the opening of the Second Lebanon War can be sketched in general terms. First, because Israel was attacked in a certain manner, with soldiers killed and others abducted, the first action that should be taken is to ensure, to the extent possible, that the same type of action, i.e., Hizbollah killing some soldiers and abducting others, not recur. To this end, it is necessary to render a significant blow to Hizbollah forces able to authorize such an action, command it, control it, and carry it out. Such a significant blow means attacking Hizbollah beyond attacking the force that acted against Israel and killed and abducted soldiers, and there is nothing wrong with that.

Second, Israel knows what Hizbollah will do when it is denied the opportunity to attack again, abduct, and kill soldiers: it will attack northern Israel with high trajectory fire and thereby endanger the state's citizens. This is an entirely foreseeable reaction and therefore Israel is entitled to prevent this too from happening. In such activity, which is of a preemptive defensive nature, there is liable to be collateral damage. Here is where the real question of proportionality arises: does the military value of preventing Hizbollah activity against the citizens of the State of Israel – totally foreseeable after its ability to repeat operations of abducting and killing soldiers has been stymied – justify the collateral damage? If the army takes great and effective pains to minimize the collateral damage as much as possible, we may say that the principle of proportionality has been maintained.

It is therefore clear that the application of the principle of proportionality does not lie in one measure of damage or another but in the justification of the damage on the basis of the military value of the action. In truth, the principle of proportionality would be more appropriately called the principle of justifiability.

Ethical Aspects of the Threats

In order to present some ideas for developing ethical doctrines for irregular wars, one must first deal with the map of threats. The ethical aspects of the threats affect the ethical aspects of the response.

Every threat one may be exposed to is a threat that can be characterized by some fundamental aspects. Let us call it the profile of the threat. Every such profile has meaning in terms of the ethics of the response, in terms of what is proper and what is improper in a response. This is not the place for a full discussion of all ten parameters from which threat profiles are created; I will therefore only note them with some examples for relevant analysis.

First and foremost is *the object of the threat*: towards whom is the threat directed. Is it directed at the state or its army, at its citizens or state infrastructures, at the routine life of the public, and so on. The ethical significance of the difference in the host of values of this parameter is clear in some of the cases: if the threat comes from a body that behaves like an army, in that it limits the objects of its attacks to military targets, even if it is not the military of the nation from whose territory it is operating, then it is necessary to treat it and its people in a way similar to how we would treat an army and its soldiers. However, if the threat emanates from an organization whose major activity is directed against the citizens of the country who do not participate in any fighting whatsoever, then it should not be treated as an army with soldiers, but rather as a body of “illegal combatants” who may be attacked the way soldiers are, though they do not have the status of prisoners of war if they are caught.

Second is *the military status of the threat*. Is the threat coming from individuals or from organizations of the type we encountered in the early 2000s, or is it coming from a semi-military organization operated by a civilian organization, such as Hizbollah today, or perhaps the military of a state? Again, the differences between the various values of this parameter are of far reaching ethical significance. A central question is how to relate to an organization that is quasi-military even though it is not the army of a state. For example, if we relate to Hizbollah (its military wing) as we relate to the army of an enemy state, then every member of Hizbollah’s military wing would be a legitimate target even if no immediate danger is emanating from him. At the same time, any one of these fighters who is caught, unless accused of war crimes, should be considered a POW who cannot be judged in Israel for his actions against it.

Third is *the political status of the threat*. Who is acting against Israel – individuals acting of their own volition, a political entity that is not a state, a political entity as part of a state, an entity that is part of the state

regime such as Hizbollah today, or an entity that is a branch of the regime? Each of these values (and many others) has its own distinct ethical significance. The simplest example is as follows: a war between two states is a regular war and international law is applicable to it, but if the enemy is not a state then the war is irregular and it is necessary to make use of an ethical doctrine that can guide us in how to fight. Sometimes, the state will have to decide if the war it is fighting is regular or irregular. This is not a theoretical decision but one that has political significance as well as clear ethical aspects.

In a recent article in the *Washington Post*, IDF Maj. Gen. (ret.) Giora Eiland was quoted as saying that in the near future, should we have to confront Hizbollah, it will in fact be a confrontation with Lebanon – not with the organization called Hizbollah but with the state called Lebanon. If one considers the need to develop an ethical doctrine for such a scenario, it may possibly be a classified ethical doctrine – which is new in the world of ethics – because it may involve decisions about the nature of dealing with the enemy, and it is sometimes undesirable to reveal the contents of such decisions in advance. It would be unreasonable to tell all of our enemies exactly how we would relate to them in every contingency of their relationships with their host countries.

Other parameters include *the territory where the threat originates, the territory where the threat is targeted, the methods of the threat, and the self-limits of the threat*. Let us delve for a moment into the parameter of self-limits because this is a point of great ethical importance. There are organizations that are not interested in any sort of ethical norm. Hamas and Hizbollah are organizations not self-constrained in their operations against Israel and its citizenry by any ethical norms. By contrast, there are those who take ethical norms into partial consideration, such as the armies of non-democratic states, and there are those who claim to be interested in taking ethical norms into consideration fully – the democracies.

When an entity fails to consider ethical norms or even announces that in the future it will not consider them, a democracy facing it must view this as cause for two declarations: one, that it views the enemy as an entity that in advance has admitted it is going to violate its obligations; and two, that the state has a special ethical doctrine for this situation. This doctrine is designed both to help the state defend itself in face of

the military advantages the enemy would acquire by violating the norms, and to minimize to the extent possible the deviation from appropriate norms and do the most it can to ensure that these regulate the conduct of both sides.

When we hear of 160 towns and villages that are Hizbollah fortifications in southern Lebanon, the State of Israel could already announce first, that the conditions of reciprocity do not exist and Hizbollah is deemed an entity violating its obligations with regard to norms that must control a war; and second, that we have a doctrine that tells us how to conduct ourselves under conditions in which there is no reciprocity. What is that doctrine? Israel must decide if it wants to present it, and whether to discuss it now or later or not at all. However, whether Israel desires to present it publicly or not, it must have such a doctrine.

Other parameters are: *the measure of responsibility the enemy assumes for the threat; the cause of the threat; and the future development of the threat on the basis of the enemy's views.* Each of these parameters has varied values and therefore also a spectrum of ethical meanings.

Changes in the Ethics of Irregular Wars

What follows is a short, preliminary survey of some novelties in the ethics of irregular wars, non-standard ideas in military ethics as compared with the norms guiding us in regular wars.

First of all, the State of Israel needs well defined and different ethical doctrines for irregular wars of different profiles. The Second Lebanon War was an irregular war and Operation Cast Lead was an irregular war, yet their profiles differ from one another and differ from the profile of the war during the early 2000s and the profile of the Third Lebanon War, should it occur in the current framework of Hizbollah as an organization that is a partner to the Lebanese government maintaining its own semi-military and terrorist force. A separate ethical doctrine is needed for each type of war because they are all essentially different given the values of the various parameters. In the Second Lebanon War, Israel confronted a semi-military terrorist organization that was not the Lebanese government; in Operation Cast Lead, the fighting was against a semi-military terrorist organization that was in practice the Hamas regime of the Gaza Strip. When fighting an entity that in practice is the government of the territory, this enemy bears moral responsibility for whatever happens in that

territory, including the measure of distinction between combatants and non-combatants. In addition, its security forces, infrastructures, and other elements all have a significant status determined in part by that profile of the irregular war. This was not the case in the Second Lebanon War in which the approach to the state of Lebanon and the Lebanese government had to be different. It should be stressed that these doctrines must be prepared with the help of commanders and other experts, not only jurists.

The principle of constant warning: This principle appears in the ethical doctrine of fighting terrorists that Maj. Gen. Amos Yadlin and I wrote already in 2004. I assume that widespread use was made of this principle in the Second Lebanon War and Operation Cast Lead. At the core of the approach leading to the principle of ongoing warning lies the familiar moral principle of the obligation to make every justified effort to minimize the horrors of war to the extent possible. In regular wars, it is usually possible to minimize casualties by limiting the fighting, which is allowed to occur between armies while an effort is made to avoid harming civilians who are not directly involved in the hostilities. In irregular wars, the distinction between combatants and enemy innocent civilians cannot be made according to the formula of distinguishing between those who wear a uniform and those who do not or according to a similar formula, and it is therefore necessary to find indirect ways to make that distinction. A key way to contribute to the distinction is by means of the ongoing warning issued to the enemy's innocent civilians calling on them to leave the combatants' area of activity. If the means of delivering the warning are effective, it is possible to arrive at a situation in which the moral responsibility for the presence of someone in the area of combat, near the loci of terrorist activity, would rest on the shoulders of whoever has decided to remain in such an area. Should this person become a casualty, the moral responsibility for this would also rest on him/her and on the terrorist whose actions caused the state of fighting. Because the moral responsibility rests on the shoulders of those who refuse to evacuate a combat zone despite clear warnings, there would be no justification in risking the life of an Israeli soldier by checking if any people who are not terrorists remain in one building or another in the combat zone.

This is the place to add two further points. First, it is possible that the military force would not always issue a warning. If the target has great military value, it may well be that the considerations of proportionality would justify damaging the target despite the collateral damage to the innocent neighbors of the dangerous terrorist or the terrorist's means of attack. Second, if in the target area there are people who cannot evacuate themselves because they are ill and so forth, the means of warning will have to take that into consideration in various ways, such as breaks in fighting for evacuation by ambulance or some other means, with the help of family members or neighbors, within a reasonable period of time.

The principle of proportionality, not the numerical comparison of casualties but the possibility to justify collateral damage on the basis of the military value of the action, is a fundamental principle of the just war doctrine, in the spirit of familiar international law, and within the framework of our own system of constitution and law. It would be best if the State of Israel, by means of its various spokespeople, would never announce it was about to act disproportionately. Such a statement is always a self-inflicted wound. Israel should always act proportionately, though it should always operate according to a responsible understanding of proportionality rather than according to the superficial, fallacious understanding Israel's enemies and their friends try to impose. Israel should not count its losses the day before the Second Lebanon War and compare them to the number of Hizbollah's losses in that war, and it should also not compare the size of the IDF force that participated in the war itself to that of the terrorist force. These are baseless comparisons, lacking in any moral value. They do not support the true considerations of proportionality, but only political considerations cloaking themselves in the mantle of morality or legality.

I also propose distinguishing between global proportionality and local proportionality. Local proportionality can be the familiar form of proper application of the principle of proportionality in regular wars: there is an enemy sniper or gunner on top of a house, but there are also 30 people the terrorists have brought up to the roof to serve as human shields, a strategy the enemy has employed time and again. If we destroy the building, not only will the terrorist be killed but 30 other people will be killed as well. Another given is the assessment of the military advantage of destroying the house, which is the military advantage of

killing the sniper or gunner who is there. The proper application of the familiar principle of proportionality does not compare the number of people killed on both sides but asks if the military advantage justifies the harm to human shields. In order to understand the situation better, let us assume that a proper application of the principle of proportionality tells us there is no justification to destroy the house because its destruction would give us on the one hand only a small decrease in the already-low probability of harming civilians or soldiers and, on the other hand, the killing of dozens of innocent people. In this application of the familiar principle of proportionality, the assessment is “local”: we assess the local military utility and the local collateral damage. Therefore, I label such considerations local proportionality considerations.

Now let us complicate the picture. Because this is an enemy strategy, it may be that we will find dozens of innocent civilians serving as human shields on every rooftop of every house in the area from which terrorists operate against the state, its citizens, and its soldiers. Let us imagine a situation in which considerations of local proportionality conclude, with regard to each individual house, that it would be improper to destroy it. Therefore, the application of local proportionality considerations along the entire front brings us to the conclusion that there is no way to defend ourselves against enemy snipers or gunners in any location or at any time. This is not an acceptable conclusion: avoiding the destruction of a single house, which contains an active enemy and dozens of innocent people, creates a situation of a low – though not zero – probability of the terrorists harming civilians or soldiers (but certainly damaging to the state, which is attacked with every incident of fire). By contrast, avoiding the destruction of every single house creates a higher probability of the terrorists harming civilians and soldiers and no permitted way to defend them.

If local proportionality considerations bring us to the conclusion that we are not allowed to harm any one of these houses, despite the not-negligible risk emanating from terrorist activity taking place in them, then we find that considerations of proportionality cancel out our capability of self-defense and grant the enemy a clear military advantage just because of its use of human shields, which to begin with is patently immoral. This is where a consideration that I call global proportionality comes into play: the considerations of proportionality with regard to justifying the

collateral damage on the basis of the military value of the action occur not at the tactical but at the operational or strategic level. The military value of the activity would be realizing the nation's capability of self-defense, a capability the enemy is trying to deny it through the immoral use of human shields. This is a military value of supreme importance when we compare it to the possibility in which seemingly the state is denied the ability to defend its citizens and itself because of the enemy's immoral conduct.

Nonetheless, realizing self-defense capabilities does not allow an attack on every single house containing dozens of innocent people. The basic moral idea of the obligation to mitigate the horrors of war to the justified extent possible, including loss of civilian non-combatant lives, requires us to ask: to what extent are we allowed to attack houses and their human shields in order to realize our right of self-defense? The answer depends on circumstance, but it is possible to understand its essence by means of a simple example. If one house serving terrorist activity against Israelis (and the state) is destroyed along with its terrorists and their human shields who did not evacuate the premises, we have realized our right to self-defense and have shown that the strategy of the human shield used by the enemy does not work and does not give the enemy the military advantage it is seeking thereby – denying the state its ability to defend itself. What happens if only one house is destroyed, one house from which there is terrorist activity, on whose roof there are dozens of unfortunate people where the head of the household – the zealous terrorist himself – will not allow them to leave? The military value is the clear realization of the state's ability to defend itself in order to puncture the enemy's human shield strategy. The collateral damage is the death of several dozens of innocent people. There is no desire to hurt them and they were also warned about the coming danger. If such an action does not cause the collapse of the enemy's strategy and a clear change in its conduct, one should continue to apply the considerations of global proportionality as long as the enemy's strategy threatens to deny the state's right to self-defense. If the enemy stops using the human shield strategy, the state should resort to considerations of local proportionality.

The State of Israel must make it clear that it will act on the basis of a range of considerations, including proportionality, but that proportionality considerations are sometimes local and sometimes

global. In both cases it is appropriate to stress that this entails not a numerical comparison, rather the justification of collateral damage on the basis of the military value of the action planned.

Finally, consider issues of proportionality under conditions of uncertainty. When can Israel make justified, responsible, and credible proportionality considerations? If the military advantage is extensive and the collateral damage is low, such as property damage rather than human casualties, then it is clear that utility decides. By contrast, if the military advantage is small, such as a very slight improvement regarding the probability of property damage and human casualties, in a situation in which this advantage is low to begin with, and on the other hand the collateral damage is high, then the damage decides. Of course the leading question is what happens in the middle zone, when there is no simple way of deciding one way or the other?

Here is a possible proposal: in any situation in the middle zone, in which there is no simple way of deciding one way or the other, we have to assume that the situation is balanced, i.e., that the military advantage and the collateral damage are even. Now the question becomes what should the state do when the advantage and the damage are equally balanced? My answer is that in such situations, the state must act for the good of its citizens and its own well-being, first because it is inconceivable that in a balanced situation one has to prefer the enemy's best interests, and second because the state's obligations to its own citizens and soldiers take precedence over its obligations to any other person, and in a case of this type it is appropriate that this difference be expressed. It seems that the only way to avoid using such considerations is to invent a better way for comparing advantage and damage in the intermediate zone.