

1-1-1997

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### Recommended Citation

Beres, Louis Rene (1997) "After the "Peace Process:" Israel, Palestine, and Regional Nuclear War," *Penn State International Law Review*: Vol. 15: No. 2, Article 3.

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# After the “Peace Process:” Israel, Palestine, and Regional Nuclear War

Louis René Beres\*

## I. Introduction

An ironic connection exists between the so-called Middle East Peace Process<sup>1</sup> and the risks of regional nuclear war. Although the creation of Palestine from the Israeli lands of Judea, Samaria (West Bank) and Gaza is widely expected to reduce tensions and prevent conflict, its more likely effect will be to encourage both war and terrorism.<sup>2</sup> Indeed, if expanding violence were left to escalate, the

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1. As a jurisprudential aside, the Oslo Agreements upon which this process is founded are null and void according to international law. All states are obligated by international law to seek out and to prosecute the perpetrators of crimes of war, crimes against peace, crimes against humanity and *crimes of terrorism*. See, e.g., Draft Code of Offenses Against the Peace and Security of Mankind, U.N. GAOR, 9th Sess., Supp. 9 U.N. Doc. A/2693 (1954). Derived from the peremptory norm of *Nullum crimen sine poena*, “No crime without a punishment,” this obligation has been violated flagrantly by Israel’s agreement with the terrorist organization, Palestine Liberation Organization. Indeed, recognizing that, according to Article 53 of the Vienna Convention on the Law of Treaties, any agreement “is void, if at the time of its conclusion, it conflicts with a peremptory norm of general international law,” the Oslo Agreements should be abrogated. Conflicting with a peremptory or *jus cogens* norm—a norm that, according to Article 53 of the Vienna Convention—is “a norm accepted and recognized by the international community of states as a whole from which no derogation is permitted. . . .” the agreements confer no jurisprudential responsibilities upon Israel of any kind. See Vienna Convention of the Law of Treaties, opened for signature May 23, 1969, art. 53, 1155 U.N.T.S. 331, 344.

2. Terrorism is a “conglomerate” crime under international law. For current conventions in force on this crime, see Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents, Dec. 14, 1973, 28 U.S.T. 1975, 1035 U.N.T.S. 167; Vienna Convention on Diplomatic Relations and Optional Protocol on Disputes, Apr. 18, 1961, 23 U.S.T. 3227, 500 U.N.T.S. 95; Convention on Offenses and Certain Other Acts Committed on Board Aircraft, Sept. 14, 1963, 20 U.S.T. 2941, 704 U.N.T.S.

creation of Palestine could even spawn the use or exchange of nuclear weapons.

Why is this the case? First, it is likely that Israel, feeling more threatened by its loss of buffer territory, will feel increasingly compelled to bring its bomb out of the "basement."<sup>3</sup> Here, fearing that its expanded need for a credible deterrent were no longer served by the nuclear posture of "deliberate ambiguity," Israel would probably move to some form of explicit declaration of nuclear capability. Such disclosure could be full or partial and could be carried out with or without appropriate public demonstrations or tests.

Whether or not such a shift from ambiguity to disclosure would actually enhance Israeli deterrence would depend upon several complex factors, including the types of weapons involved, the reciprocal calculations of Arab or Iranian leaders,<sup>4</sup> the effects upon rational decision-making processes by these Islamic leaders, and the effects upon both Israeli and enemy command/control/communications operations. If, for example, bringing the Israeli bomb out of the basement were to result in Arab or Iranian pre-delegations of launch authority and/or new launch-on-warning procedures,<sup>5</sup> the

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219; Convention for the Suppression of Unlawful Seizure of Aircraft, Dec. 16, 1970, 22 U.S.T. 1641, 860 U.N.T.S. 105; Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Sept. 23, 1971, 24 U.S.T. 564, 974 U.N.T.S. 177, reprinted in 10 I.L.M. 1151; International Convention Against Taking of Hostages, opened for signature Dec. 17, 1979, T.I.A.S. No. 11,081, 18 I.L.M. 1456; and European Convention on the Suppression of Terrorism, opened for signature Jan 27, 1977, Europ. T.S. No. 90, 15 I.L.M. 1272 (entered into force Aug. 4, 1978).

3. See Louis René Beres, *Israel's Bomb in the Basement: A Revisiting of 'Deliberate Ambiguity' vs. 'Disclosure,'* 2 ISR. AFF. 112 (Autumn 1995).

4. See Louis René Beres, *Israel, Iran and Preemption: Choosing the Least Unattractive Option Under International Law*, 14 DICK. J. INT'L L. 187 (1996); Louis René Beres, *Israel, Iran and Nuclear War: A Jurisprudential*, 1 UCLA J. INT'L L. & FOREIGN AFF. 65 (1996); and Louis René Beres, *The Iranian Threat to Israel: Capabilities and Intentions*, 9 INT'L J. INTELLIGENCE & COUNTER-INTELLIGENCE 51 (1996). According to an article in the 19 October 1996 edition of AL HAYAT, the Jordanian publication: "Western intelligence reports note that Iran will succeed within one year to manufacture catastrophic nerve gas. . . . Iranian activities, which President of Iran, Rafsanjani, personally oversees, are advancing in three areas: nuclear, chemical and biological weapons." Reported by IMRA (Independent Media Review and Analysis; 22 October 1996).

5. The accepted theory of "Launch-on-Warning" describes a strategic doctrine calling for the launch of bombers and/or land-based missiles on receipt of warning (from satellites or other early-detection systems) that a missile attack is underway. This established doctrine, which requires launch before the attacking warheads reach their intended targets, is sometimes called "launch on positive or confirmed notification of attack" to distinguish between possible and actual attack.

likelihood of unauthorized and/or accidental wars (including in the future, nuclear wars)<sup>6</sup> would be increased.

It is also clear that merely acknowledging what one's adversaries have already believed need not necessarily enhance Israeli deterrence. Even if Israel should move from its position of ambiguity to disclosure (full or partial), enemies of the Jewish state might not realize the nuclear threat and thus commence aggression.<sup>7</sup> Or, perhaps even more ominously for Israel, disclosure

In a crisis situation, it could be seriously destabilizing.

6. *See generally*, LOUIS RENÉ BERES, *APOCALYPSE: NUCLEAR CATASTROPHE IN WORLD POLITICS* (1980); LOUIS RENÉ BERES, *MIMICKING SISYPHUS: AMERICA'S COUNTERVAILING NUCLEAR STRATEGY* (1983); LOUIS RENÉ BERES, *REASON AND REALPOLITIK: U.S. FOREIGN POLICY AND WORLD ORDER* (1984); and LOUIS RENÉ BERES, *SECURITY OR ARMAGEDDON: ISRAEL'S NUCLEAR STRATEGY* (1986) (explaining expected consequences of nuclear war).

7. *See* Resolution on the Definition of Aggression. G.A. Res. 3314 (XXIX), U.N. GAOR, 29th Sess., Supp. No. 31, at 142, U.N. Doc. A/9631 (1975), *reprinted in* 13 I.L.M. 710 (1974). For pertinent codifications of the criminalization of aggression, *see also* The 1928 Kellogg-Briand Pact (Pact of Paris), Treaty Providing for the Renunciation of War as an Instrument of National Policy, Aug. 27, 1928, 46 Stat. 2343, 94 L.N.T.S. 57; U.N. Charter art. 2, ¶ 4; Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, G.A. Res. 2131, U.N. GAOR, 20th Sess., Supp. No. 14, at 11, U.N. doc. A/6014 (1965), *reprinted in* 5 I.L.M. 374 (1966); Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp. No. 28, at 121. U.N. Doc. A/8028 (1970); Declaration on the Non-use of Force in International Relations and Permanent Prohibition on the Use of Nuclear Weapons, G.A. Res. 2936, U.N. GAOR, 27th Sess., Supp. No. 30 at 5, U.N. Doc. A/8730 (1972); Charter of the International Military Tribunal, annex to the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, Aug. 8, 1945, art. 6, 59 Stat. 1544, 82 U.N.T.S. 279; Resolution Affirming the Principles of International Law Recognized by the Charter of the Nuremberg Tribunal, G.A. Res. 95(1), U.N. Doc. A/236 at 1144 (1946). *See also* Convention on the Rights and Duties of States, Dec. 26, 1933, arts. 8, 10-11, 49 Stat. 3097, 165 L.N.T.S. 19 (known generally as the "Montevideo Convention"); Pact of the League of Arab States, Mar. 22, 1945, art. 5, 70 U.N.T.S. 237; Charter of the Organization of American States, Apr. 30, 1948, chs. II, IV, V, 2 U.S.T. 2394, T.I.A.S. No. 2361, 119 U.N.T.S. 3 and Protocol of Amendment, Feb. 27, 1967, 21 U.S.T. 607, T.I.A.S. No. 6847 (known generally as the "Protocol of Buenos Aires"); Inter-American Treaty of Reciprocal Assistance, Sept. 2, 1947, 62 Stat. 1681., 121 U.N.T.S. 77 (known generally as the "Rio Pact"); American Treaty on Pacific Settlement, Apr. 30, 1948, 30 U.N.T.S. 55 (known generally as the "Pact of Bogota"); Charter of the Organization of African Unity, May 25, 1963, arts. II, III, 479 U.N.T.S. 39. For more on aggression, *see* Draft Code of Crimes Against the Peace and Security of Mankind, adopted by the U.N. International Law Commission in 1954, 2 Y.B. Int'l L. Comm. 150 (1954), revised in 1987, 1988 and 1989. U.N. Doc. A/42/420 (1987), U.N. Doc. A/CN.4/404 (1987), U.N. Doc. A/43/539 (1988), U.N. Doc. A/CN.4/419 (1989), and U.N. Doc. A/44/150 (1989). *See also* Declaration on the Right of Peoples to Peace. G.A. Res. 39/11/ Annex,

could prod enemy leaders to preempt in the near future, a decision that would flow from their presumption that (1) war with Israel is inevitable;<sup>8</sup> and (2) Israel's vulnerability will only diminish.

The creation of Palestine from the territories could also affect Israel's inclination to preempt.<sup>9</sup> One argument suggests that because of Israel's diminished size, its inclination to strike first at enemy hard targets would be especially high.<sup>10</sup> After all, now deprived of strategic depth,<sup>11</sup> it could not hold out for as long as

U.N. GAOR, 39th Sess., Supp. No. 51 at 22, U.N. Doc. A/39/L.14 (1984).

8. The agreements that concluded the first Arab-Israeli War (1947-1949) were general armistice agreements negotiated bilaterally between Israel and Egypt on Feb. 24, 1949 (42 U.N.T.S. 251-70, 1949); Israel and Lebanon on Mar. 23, 1949 (42 U.N.T.S. 287-98, 1949); Israel and Jordan on Apr. 3, 1949 (42 U.N.T.S. 303-20, 1949); and between Israel and Syria on July 20, 1949 (U.N.T.S. 327-40, 1949). Pursuant to these agreements, the Security Council, on Aug. 11, 1949, issued a Resolution which, *inter alia*, "notes with satisfaction the several Armistice Agreements," and "F[inds] that the Armistice Agreements constitute an important step toward the establishment of permanent peace in Palestine and considers that these agreements supersede the truce provided for in the resolutions of the Security Council of 28 May and 15 July 1948." See Security Council Resolution Noting The Armistice Agreements and Reaffirming The Order To Observe An Unconditional Cease Fire Pending A Final Peace Settlement, Aug. 11, 1949, S.C. Res. 73, U.N. SCOR, 20th Sess., U.N. Doc. S/1376, II, (1949).

9. The PLO, of course, has already *declared itself* a state. See Palestine National Council, Declaration of Independence, Nov. 15, 1988; in Walter Laqueur and Barry Rubin eds., *THE ISRAEL-ARAB READER* 542-46 (New York: Penguin Books, 1955). But such declaration does not satisfy the generally-accepted criteria for statehood identified under international law: control over a fixed and clearly defined territory; a population; a government; and the capacity to engage in diplomatic and foreign relations. See Convention on Rights and Duties of States, Dec. 26, 1933, art. 1, 49 Stat. 3097, 165 L.N.T.S. 19.

10. Let us recall, here, Pufendorf's argument:

... where it is quite clear that the other is already planning an attack upon me, even though he has not yet fully revealed his intentions, it will be permitted at once to begin forcible self-defense, and to anticipate him who is preparing mischief, provided there be no hope that, when admonished in a friendly spirit, he may put off his hostile temper; or if such admonition be likely to injure our cause. Hence, he is to be regarded as the aggressor, who first conceived the wish to injure, and prepared himself to carry it out. But the excuse of self-defense will be his, who by quickness shall overpower his slower assailant. And for defense, it is not required that one receive the first blow, or merely avoid and parry those aimed at him.

SAMUEL PUFENDORF, *ON THE DUTY OF MAN AND CITIZEN ACCORDING TO NATURAL LAW* 32 (Frank Gardner Moore trans. 1964).

11. Efraim Inbar points out that according to Israel's new strategic thinking, strategic depth—an article of faith in the past—is now a "strategic anachronism." See Efraim Inbar, *Contours of Israel's New Strategic Thinking*, 111 *POL. SCI. Q.* 41, 50-51 (1996). This change of thinking, says Inbar, is part of a growing overall depreciation of military power and a growing overall reluctance to use military

was possible when Palestine was still the territories. In this connection, it is possible that a shift from deliberate ambiguity to disclosure after Palestine came into existence would reduce the Israeli incentive to preempt, but only if Jerusalem were made to believe that its nuclear threat, as a result of this shift, was being taken more seriously by the Arabs and/or Iran.

We are so often told, however, that this is the "era of missiles."<sup>12</sup> In such an era, strategic depth is allegedly no longer vital. Hence, Israel could dispose of the territories with impunity, at least as far as security matters are concerned.

Such reasoning, however, ignores a chief menace to Israel, which is that enemy ground forces often attack and occupy. Even if missiles<sup>13</sup> fired from considerable distances could produce great harm to Israeli cities and populations, they could not make possible an Arab or Iranian takeover of certain Jewish State areas without a prior cession of Judea/Samaria (West Bank)/Gaza and/or the

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force. *Id.* at 42.

12. In early October 1991, Israel announced its agreement to formally join the Missile Technology Control Regime (MTCR) by the end of the year. See Gerald Steinberg, *Middle East Arms Control and Disarmament*, BESA Security and Policy Studies, No. 10, BESA Center for Strategic Studies, June 1993; and Efraim Inbar, *Contours of Israel's New Strategic Thinking*, BESA Security and Policy Studies, No. 27, BESA Center for Strategic Studies, June 1996, pp. 60-61. Conceived in April 1987, MTCR seeks to control the transfer of highly-sensitive missile technology from industrialized states to the Third World. *Id.* By focusing on missiles carrying 500 kg payloads or more at ranges beyond 300 km, it is especially aimed at control of nuclear missiles. *Id.*

13. The major surface-to-surface (SSM) missile threat to Israel is from missiles equipped with chemical or nuclear warheads. See Louis René Beres, *SECURITY THREATS AND EFFECTIVE REMEDIES: ISRAEL'S STRATEGIC, TACTICAL, AND LEGAL OPTIONS: A Comprehensive Master Plan Prepared Especially for Prime Minister Netanyahu*, Houston, TX: Freeman Center for Strategic Studies 46 (1996). See also Yoash Tsiddon-Chatto, *Israel Must Prepare for the Missile Threat*, JERUSALEM POST, Jan. 5, 1997, reprinted in *THE MACCABEAN*, Feb. 1997 at 13-14. It is the author's opinion that until it becomes possible to reliably intercept SSMs in flight, the Jewish State will have to focus on destroying them while they are still on the ground. Should this preemption option be undertaken in the near term, it could not be complemented by effective anti-tactical ballistic missile (ATBM) defenses. If, however, it should be undertaken more than five or six years from now (essentially by the start of the next millennium), it could be reinforced by "Arrow" missiles that are integrated into a multi-stage system for in-flight interception. Nevertheless, recalling the extraordinary destructiveness of even a single nuclear missile that would defy interception, it is unlikely that an Israeli deferral of preemption would be cost-effective. Unless the Arrow were judged nearly 100% effective (an inconceivable judgment) and unless Israel's enemies judged certain not to attack until Jerusalem's ATBM deployment were complete (an impossible determination), near-term preemption (for all of its political and military costs) would appear to be more rational.

Golan Heights.<sup>14</sup> The ultimate danger to Israel is thus physical conquest of Israeli territory by enemy ground forces,<sup>15</sup> and this danger would be heightened enormously by the creation of Palestine and/or transfer of the Golan.

Several other problems must be considered. First, how would Israel's leadership actually know that taking the bomb out of the basement had improved its deterrence posture? To a certain extent, the credibility of Jerusalem's nuclear threats would be contingent upon the severity of different provocations. For example, Israel might be believable if it were to threaten nuclear reprisals for provocations that endanger the very survival of the Jewish state,<sup>16</sup> but it would almost certainly be unbelievable if the

14. This point was made as early as June 29, 1967, when a U.S. Joint Chiefs of Staff Memorandum specified that returning Israel to pre-1967 boundaries would drastically increase its vulnerability to actual takeover. In October, 1988, one hundred retired U.S. generals and admirals, seven of four-star rank, issued a statement urging Israel not to withdraw from Judea and Samaria. The statement read, in part:

The Samaritan and Judean high ridges cannot be effectively demilitarized or adequately inspected. If Israel loses its extensive early warning line, it would have virtually no warning of attack. Now the Arab armies are at least four times their size in 1967. Even with missiles and supersonic aircraft causing great devastation, they cannot occupy. Only infantry and armor can overrun a country and those are vulnerable to natural borders. *To remain strong, Israel must retain the Jordan River as its eastern border. Pressing Israel to withdraw from this line will bring neither peace nor serve America's interests.*

See Gail Winston, *Israel's Chief of Staff Cites U.S. Joint Chiefs of Staff on Israel's Defensible Borders*, THE CAUCUS CURRENT, Sept. 1993, at 24-25. See also HIRSH GOODMAN & W. SETH CARUS, *THE FUTURE BATTLEFIELD AND THE ARAB ISRAELI CONFLICT* (1990); Yohanan Ramati and Shlomo Baum, *Can Israel Survive the Loss of Judea and Samaria*, MIDSTREAM, Aug.-Sept. 1992, at 19-21; Edward Saar, *The West Bank and Modern Arms*, 1 NATIV. 3 (1990).

15. This danger must still include Iraq. Saddam Hussein's country has been an active enemy of Israel since the Jewish State's initial drive for independence. Baghdad sent substantial expeditionary forces against Israel in the 1948 War of Independence, the Six Day War (1967), and the Yom Kippur War (1973). During the 1948 War, Iraqi forces entered Transjordan and engaged Israeli forces in Western Samaria. In the aftermath of the 1967 War, Iraqi forces, which were again deployed in Jordan, remained there for more than two years. During the 1973 War, Baghdad committed about one-third of its then 95,000 man armed-forces to assist Syria in its campaign against the IDF on the Golan. See Yonathan L., *Iraq: Regional Ambitions and Traditional Fears*, IDF J., Summer 1989, at 56-62.

16. Such provocations could amount to authentic instances of genocide. War and genocide need not only be mutually exclusive. Rather, war might well be the means whereby genocide is undertaken. According to Articles II and III of the Genocide Convention, which entered into force on January 12, 1951, genocide includes any of several acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such. . . ." Convention on the

threats are based on relatively minor territorial infringements or incursions.<sup>17</sup>

In view of what is now generally believed about Israel throughout the Middle East and beyond, there is every reason to assume that Israel's nuclear arsenal does exist, and that Israel's enemies share this assumption.<sup>18</sup> The most critical question about

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Prevention and Punishment of the Crime of Genocide, Jan. 12, 1951, 78 U.N.T.S. 277, 280. Therefore, it follows that where Israel is recognized as the institutionalized expression of the Jewish People (an expression that includes national, ethnical, racial and religious components), acts of war intended to destroy the Jewish State could assuredly be genocidal. Regarding such intentions, the Israeli people have already seen much of the Islamic world, Iran and Syria in particular, seek Israel's forcible destruction. In the words of Islamic Jihad, the Iranian-backed terrorist group claiming responsibility for the March 1992 bombing of the Israeli Embassy in Buenos Aires: "The war is open until Israel ceases to exist and until the last JEW . . . Israel is all evil and should be WIPED OUT OF EXISTENCE in the world is eliminated. . . ." (emphasis added). Nadim Ladki, *Islamic Jihad Vows More Attacks on Israel*, REUTERS, Mar. 23, 1992, available in LEXIS, Nexis Library, CURRENT File.

17. In the aftermath of the recent Gulf War, Israel—intrawar threats notwithstanding—decided not to respond with any reprisals to Iraq's 39 missile attacks against the Jewish State. In the author's opinion, if Israel had decided to respond, against Baghdad's military assets, this response could have been characterized by Jerusalem as any one of the following: (1) reprisal; (2) self-defense; or (3) anticipatory self-defense. Alternatively, Israel could have argued persuasively that: (4) a condition of war has existed between the Jewish State and Iraq since 1948 at Iraq's insistence, and that Israel's latest military strikes were not measures of self-help short of war (i.e., not instances of reprisal, self-defense, or anticipatory self-defense), but rather just one more legitimate use of force in an ongoing conflict. In the final analysis, the lawfulness of Israel's counterstrike and the reasonableness of its characterization would have depended upon such facts as general moves toward peace underway in the region, amount of elapsed time between Iraq's aggression and Israel's response and level of continuing danger to Israel from the Baghdad regime. Significantly, if Jerusalem should have opted for number (4) (above), unless a formal peace settlement were already being negotiated between Israel and Iraq (highly improbable), its military counterstrike would have been *prima facie* lawful so long as it fulfilled the settled peremptory criteria of the laws of war—namely, the expectations of discrimination, proportionality and military necessity.

18. Shortly before leaving office, former Israeli Prime Minister Shimon Peres remarked that Israel would be willing "to give up the atom" if other states in the region were to achieve "full peace." This stated willingness followed by Peres' earlier remark that Israel would be prepared to join the NPT (Nonproliferation Treaty) two years after the conclusion of a comprehensive peace with all Arab states and Iran. See AVI BEKER, *ISRAEL'S LONG CORRIDOR: AMBIGUITY AND NUCLEAR NON-PROLIFERATION*, INST. OF THE WORLD JEWISH CONGRESS 7 (1995). See also JERUSALEM POST, Aug. 31, 1994 and HA'ARETZ, Mar. 24, 1995. For a very recent statement of Israel's position on the establishment of a Nuclear Weapons Free Zone in the Middle East, see Yehiel Yativ, Statement to the United Nations General Assembly, Fifty-first Session, First Committee, Oct. 18, 1996 (copies available from Israel's Permanent Mission to the United Nations, New



Israel's nuclear deterrent, therefore, is not one of capability, but one of *willingness*. How likely is it that Israel, after launching non-nuclear preemptive strikes against enemy hard targets, would respond to enemy reprisals with nuclear counterretaliation?

To answer this question, Israel's decision-makers will have to put themselves into the shoes of various enemy leaders. Will these leaders calculate that they can afford to retaliate against Israel, i.e., that such retaliation would not produce nuclear counterretaliation? In asking this question, they will assume, of course, a non-nuclear retaliation against Israel. A nuclear retaliation, should it become technically possible, would assuredly invite a nuclear counterretaliatory blow.<sup>19</sup>

What will they conclude? This depends, in turn, upon their view of enemy reciprocal judgments about Israel's pertinent leaders. Do these judgments suggest a leadership that believes it can gain the upper-hand with nuclear counterretaliation? Or do they suggest a leadership that believes such counterretaliation would bring upon Israel intolerable levels of harm and destruction? Depending upon the way in which the enemy decision-makers interpret Israel's authoritative perceptions, they will accept or reject the cost-effectiveness of a non-nuclear retaliation against Israel. This means that it is in Israel's interest to communicate the following strategic assumption to its enemies: Israel would be acting rationally by responding to enemy non-nuclear reprisals to Israeli preemptive attacks with nuclear counterretaliation.<sup>20</sup> The plausibility of this assumption would be enhanced considerably if

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York City). This statement by the distinguished Israeli diplomat acknowledges the prospect of a denuclearized Israel, but only as part of a "durable peace" in the region, a condition where no other state in the area would have nuclear weapons. These remarks represented an unprecedented departure from Israel's longstanding policy of "deliberate ambiguity" on nuclear weapons. *See id.*

19. There is, of course, no way to authoritatively substantiate this assertion. Israel's policy on such matters remains a very deep secret. Nevertheless, we can extrapolate from Israeli "hints" from time to time (e.g., to Iraq during the Gulf War) that any use of nuclear weapons against Israel would elicit a response in kind. Further, common sense dictates that Israeli survival would be contingent upon such nuclear responses. For more by this author on the probable nuances of Israeli nuclear policy, *see, e.g.,* Louis René Beres, *Israel's Bomb in the Basement: A Second Look*, 2 ISRAEL AFF. 112 (Autumn 1995).

20. The author's basis for this proposition is the need to enhance deterrence credibility. Without such communication by Israel, enemies of the Jewish State could conclude that they would be able to dominate escalation processes, i.e., to achieve what military strategists call "escalation dominance." Such a conclusion would undermine Israeli deterrence and endanger national survival.

enemy reprisals were to involve chemical and/or biological weapons.

All of these calculations, of course, assume rationality.<sup>21</sup> In the absence of calculations that compare the costs and benefits of strategic alternatives, the result of what will happen in the Middle East is only a matter of conjecture. Significantly, the prospect of non-rational judgments in the region is increasingly likely, especially as the influence of Islamic fundamentalism<sup>22</sup> spreads to Arab leadership elites.<sup>23</sup> To the extent that Israel might one day believe itself confronted with nonrational enemies, particularly ones with highly destructive weapons in their arsenals, its incentive to preempt would become overwhelming. In fact, if Israel believes such enemies hold nuclear weapons, Israel might even decide to

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21. Even if one were to assume that Arab leadership behavior will always be rational, this would say nothing about the accuracy of information used in rational calculations. Rationality refers only to the intention of maximizing specified values or preferences. It does not tell us anything about whether the information used is correct or incorrect. Hence, rational state actors may make errors in calculation that lead them to war.

22. In Islam, the Prophet is said to have predicted a final battle to annihilate the Jews. See D.F. Green, ed., *Arab Theologians on Jews and Israel: Extracts from the Proceedings of the Fourth Conference of the Academy of Islamic Research 49-50 (1976)*, cited in ROBERT S. WISTRICH, *ANTISEMITISM: THE LONGEST HATRED* 230 (1991). Mohammed, it is reported, had stated: "The Hour (i.e., salvation) would not come until you fight against the Jews; and the stone would say, 'O Muslim! There is a Jew behind me: come and kill him.'" *Id.* at 230.

23. In considering these elites, one must not fail to include Saudi Arabia. Although long regarded by Washington as a "moderate Arab" state that has no strong and active opposition to Israel, Saudi Arabia preceded every other Muslim and Arab state in its open expression of virulent antisemitism. See WISTRICH, *supra* note 22, at 232. Even before World War II, King Abd al Aziz ibn Sa'ud deplored "the strange hypnotic influence which the Jews, a race accursed by God according to His Holy Book, and destined to final destruction and eternal damnation," appeared to exercise over his people. See Foreign Office File 371/20822 E7201/22/31. The text is reproduced and elucidated in ELIE KEDOURIE, *ISLAM AND THE MODERN WORLD AND OTHER STUDIES* 71 (1980). See also WISTRICH, *supra* note 22, at 232. Curiously, Ibn Sa'ud's strong hatred of the Jews paralleled the Christian core of antisemitism: "Our hatred for the Jews dates from God's condemnation of them for their persecution and rejection of Isa (Jesus Christ), and their subsequent rejection later of His chosen Prophet." *Id.* On another occasion, King Sa'ud informed a British visitor to his court: "Verily, the word of God teaches us, and we implicitly believe it, that for a Muslim to kill a Jew, or for him to be killed by a Jew, ensures him an immediate entry into Heaven and into the august presence of God Almighty." *Id.* at 233. King Feisal, in the tradition of his father, was known for distributing copies of *THE PROTOCOLS OF THE ELDERS OF ZION* (for which the Arab world is the largest global market today) to all visiting dignitaries. *Id.* This has included U.S. Secretary of State Henry Kissinger, who is Jewish. *Id.* At the moment, Saudi Arabia finances anti-Semitic Holocaust denial literature, much of it written by American neo-Nazis. *Id.*

launch a nuclear preemption against these weapons. This would appear to be the only circumstance in which an Israeli nuclear preemptive strike could be rational.

In this connection, it is conceivable, perhaps even likely, that an Israeli non-nuclear preemption would be the best way to reduce the risk of regional nuclear war.<sup>24</sup> (This follows from the assumption that if Israel waits for its enemies to strike first, these enemies may launch nuclear attacks, or—even if they strike first with conventional weapons—Israel will have no choice but to resort to nuclear retaliation.)<sup>25</sup> To the extent that this is indeed the case, the reasonableness/legality of Israeli non-nuclear preemption would be enhanced.<sup>26</sup> Here, Jerusalem's commitment to anticipatory self-defense<sup>27</sup> would be distinctly law-enforcing. No such defense, of course, could be mustered on behalf of an Israeli nuclear preemption, which would, in all circumstances, be in violation of

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24. See *infra* text accompanying notes 25-30. As explained in the following text, this assertion rests upon the presumption that Israeli rejection of the non-nuclear preemption option would more likely lead to nuclear exchanges.

25. It is the author's opinion that, although it cannot be ruled out that an Israeli non-nuclear preemption might still lead to nuclear exchanges (this would depend, in part, on the effectiveness and breadth of Israeli targeting, the surviving number of enemy nuclear weapons and the willingness of enemy leaders to risk Israeli nuclear counter-retaliation), such exchanges appear more likely if Syria and/or Iran are allowed to deploy ever-greater numbers of unconventional weapons without interference. Indeed, should such deployment ever take place, Israel's incentive to nuclear preemptions could become overwhelming.

26. This assumes, of course, that Israel will have exhausted all forms of peaceful remedy. A similar imperative can be found in Jewish religious law. "When thou comest near to a city to fight against it," proclaims Deuteronomy 20:10, "then proclaim peace to it." This thinking related back to Biblical times and commentator, Abrabanel (1437-1508) who argued not to hurry to go to war. For more complete examinations of war in the Jewish tradition, see Efraim Inbar, *War in Jewish Tradition*, 9 JERUSALEM J. INT'L REL. 83 (1987).

27. For more by this author on anticipatory self defense under international law, with particular reference to Israel, see generally Louis René Beres, *Preserving the Third Temple: Israel's Right of Anticipatory Self-Defense Under International Law*, 26 VAND. J. TRANSNAT'L L. 111 (1993); Louis René Beres, *After the Gulf War: Israel, Preemption and Anticipatory Self Defense*, 13 HOUS. J. INT'L L. 259 (1991); Louis René Beres, *Striking 'First': Israel's Post-Gulf War Options Under International Law*, 14 LOY. L.A. INT'L & COMP. L.J. 1 (1991); Louis René Beres, *Israel and Anticipatory Self Defense*, 8 ARIZ. J. INT'L & COMP. L. 89 (1991); Louis René Beres, *After the Scud Attacks: Israel, 'Palestine', and Anticipatory Self Defense*, 6 EMORY INT'L L. REV. 71 (1992). For an examination of assassination as a permissible form of anticipatory self-defense by Israel, see generally Louis René Beres, *On Assassination as Anticipatory Self-Defense: The Case of Israel*, 20 HOFSTRA L. REV. 321 (1991).

international law.<sup>28</sup> Moreover, if Israel feels compelled to actually resort to nuclear war-fighting at some point, either after (1) Arab reprisals for Israel's conventional preemption cause the Jewish State to escalate to nuclear weapons; or (2) Arab chemical/biological/conventional first-strikes cause Israel to escalate to nuclear weapons, it would confront substantial problems under international law.<sup>29</sup> Should certain enemy states launch nuclear first-strikes against Israel, Jerusalem's retaliatory use of nuclear weapons would be far less problematic jurisprudentially, but matters of law in such circumstances would assuredly be moot.<sup>30</sup>

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28. It is widely known that the laws of war, the rules of *jus in bello*, comprise: (1) laws on weapons; (2) laws on warfare; and (3) humanitarian rules. Codified primarily at the Hague and Geneva Conventions, and known throughout the international community as the law of the Hague and the law of Geneva, these rules attempt to bring discrimination, proportionality, and military necessity into belligerent calculations. See Convention No. IV Respecting the Laws and Customs of War on Land, With Annex of Regulations, Oct. 18, 1907, 36 Stat. 2277, T.S. No. 539, (known commonly as the "Hague Regulations"); Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Oct. 21, 1950, 6 U.S.T. 3114, 75 U.N.T.S. 31; Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Oct. 21, 1950, 6 U.S.T. 3217, 75 U.N.T.S. 85; Convention Relative to the Treatment of Prisoners of War, Oct. 21, 1950, 6 U.S.T. 3316, 75 U.N.T.S. 135; Convention Relative to the Protection of Civilian Persons in Time of War, Oct. 21, 1950, 6 U.S.T. 3516, 75 U.N.T.S. 287.

29. This is the case because nuclear weapons are apt to violate, by definition, the *jus in bello* expectations of discrimination, proportionality, and military necessity. See NUCLEAR WEAPONS AND LAW (Arthur S. Miller & Martin Feinrider eds., 1984). See generally LOUIS RENÉ BERES, APOCALYPSE: NUCLEAR CATASTROPHE IN WORLD POLITICS (1980); LOUIS RENÉ BERES, PEOPLE, STATES AND WORLD ORDER (1981); LOUIS RENÉ BERES, MIMICKING SISYPHUS: AMERICA'S COUNTERVAILING NUCLEAR STRATEGY (1983); LOUIS RENÉ BERES, REASON AND REALPOLITIK: US FOREIGN POLICY AND WORLD ORDER (1984); LOUIS RENÉ BERES, AMERICA OUTSIDE THE WORLD: THE COLLAPSE OF US FOREIGN POLICY (1987).

30. For assessments of nuclear weapons under international law, see generally *The Illegality of Nuclear Weapons: Statement of the Lawyer's Committee on Nuclear Policy*, 8 ALTERNATIVES: J. WORLD POL'Y, 291 (1982); RICHARD FALK ET AL., NUCLEAR WEAPONS AND INTERNATIONAL LAW (1981); John H.E. Fried, *First Use of Nuclear Weapons - Existing Prohibitions in International Law*, BULL. OF PEACE PROPOSALS, Jan. 1981, at 21-29; Matthew Lippman, *Nuclear Weapons and International Law: Towards A Declaration on the Prevention and Punishment of the Crime of Nuclear Humancide*, 8 LOY. L.A. INT'L & COMP. L.J. 183 (1986); Ian Brownlie, *Some Legal Aspects of the Use of Nuclear Weapons*, 14 INT'L & COMP. L.Q. 437 (1965); Francis A. Boyle, *The Relevance of International Law to the 'Paradox' of Nuclear Deterrence*, 80 NW. U. L. REV. 1407 (1986); James A. Stegenga, *Nuclearism and International Law*, 4 PUB. AFF. Q. 69-80 (1990); GEOFFREY BEST, HUMANITY IN WARFARE (1980); JAMES TURNER JOHNSON, JUST WAR TRADITION AND THE RESTRAINT OF WAR (1981); NUCLEAR WEAPONS AND INTERNATIONAL LAW (Istvan Pogany ed., 1987); Daniel J. Arbess,

This Article will discuss the likelihood of regional nuclear war by discussing possible decision-making processes of Israel and Israel's neighbors. Part II discusses Israel's choices with regard to levels and types of nuclear actions. Part III discusses, in detail, nuclear warfighting, as a result of an apparent need for some type or level of nuclear intervention. Next, Part IV discusses some international legal theories as well as the history of Palestine, including who has had control over the land over the centuries. Part V then discusses the concept of Israel as a "system" and the effects of the Peace Process and territorial loss on the "system." Finally, Part VI concludes that the Middle East Peace Process is leading toward war and that the Peace Process has placed Israel in an unwinnable situation.

## II. Israel's Choices

Israel's enemies and friends must understand that there are conditions wherein Jerusalem actually might decide to use its nuclear weapons.<sup>31</sup> Faced with what would be perceived as imminent destruction of the Third Temple, Israel's leaders would likely do whatever is needed to endure, including a resort to nuclear retaliation, nuclear counterretaliation, nuclear preemption, and nuclear warfighting.

### A. Nuclear Retaliation

Should an enemy launch a nuclear first-strike against Israel, Jerusalem would certainly respond, to the extent possible, with a

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*The International Law of Armed Conflict in Light of Contemporary Deterrence Strategies: Empty Promise or Meaningful Restraint?* 30 MCGILL L.J. 89 (1984); Elbert D. Thomas, *Atomic Bombs in International Society*, 39 AMER. J. INT'L L. 736-44 (1945); E.C. Stowell, *Laws of War and the Atomic Bomb*, 39 AMER. J. INT'L L. 784-88 (1945); John N. Moore, *Nuclear Weapons and the Law: Enhancing Strategic Stability*, 9 BROOKLYN J. INT'L L. 263 (1983); Eugene V. Rostow, *The Great Nuclear Debate*, 8 YALE J. WORLD PUB. ORD. 87-102 (1981).

31. On Israel's nuclear weapons posture, see generally SHLOMO ARONSON, *THE POLITICS AND STRATEGY OF NUCLEAR WEAPONS IN THE MIDDLE EAST: OPACITY, THEORY AND REALITY, 1960-1991* (1992); FRANK BARNABY, *THE INVISIBLE BOMB: THE NUCLEAR ARMS RACE IN THE MIDDLE EAST* (1989); MCGEORGE BUNDY, *DANGER AND SURVIVAL* (1988); YAIR EVRON, *ISRAEL'S NUCLEAR DILEMMA* (1987); PIERRE PEAN, *LES DEUX BOMBES* (1982); TAYSIR NASHIF, *NUCLEAR WARFARE IN THE MIDDLE EAST: DIMENSIONS AND RESPONSIBILITIES* (1984); SEYMOUR M. HERSCH, *THE SAMSON OPTION* (1991); LEONARD S. SPECTOR, *THE UNDECLARED BOMB* (1988); SECURITY OR ARMAGEDDON: ISRAEL'S NUCLEAR STRATEGY (Louis René Beres ed., 1986).

nuclear retaliatory strike.<sup>32</sup> If enemy first-strikes were to involve other forms of unconventional weapons such as chemical and/or biological weapons, it is conceivable that Israel might launch a nuclear reprisal (depending, in large measure, upon Jerusalem's expectations of follow-on aggression and on its associated calculations of comparative damage-limitation). If Israel absorbed a massive conventional attack, a nuclear retaliation could not be ruled out, especially if: (a) the aggressor were perceived to hold nuclear and/or other unconventional weapons in reserve; and/or (b) Israel's leaders were to believe that non-nuclear retaliations could not prevent destruction of the Third Temple.<sup>33</sup> A nuclear retaliation by Israel could be ruled out only in circumstances where enemy aggression were clearly conventional, "typical," (i.e., consistent with previous instances of Arab attacks in degree and intent) and hard-target directed.<sup>34</sup>

### *B. Nuclear Counterretaliation*

Should Israel feel compelled to preempt enemy aggression with conventional weapons, the target State's response would largely determine Jerusalem's next moves. If this response were in any way nuclear, Israel would assuredly resort to nuclear counterretaliation.<sup>35</sup> If this retaliation were to involve chemical and/or biological weapons, Israel might also feel pressed to take the escalatory initiative (again, depending upon Jerusalem's judgments of enemy intent and its calculations of essential damage-limitation). If the enemy response to Israel's preemption is limited to hard-target conventional strikes, it is unlikely that the Jewish State would proceed with nuclear counterretaliations.<sup>36</sup> If, however, the enemy conventional retaliation were all-out and directed toward civilian populations as well as to military targets, an Israeli nuclear counterretaliation could not be ruled out.<sup>37</sup> It would appear that

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32. It is simply inconceivable that Israel would act contrary to the *talionis* principle in such an instance. In the Torah, the *talionis* principle is espoused in three separate passages that advance an "an eye for an eye, tooth for a tooth," calculus of justice. See AARON M. SCHREIBER, *JEWISH LAW AND DECISION-MAKING: A STUDY THROUGH TIME* (1979).

33. The Third Temple is used to refer to the current State of Israel.

34. It is impossible to authoritatively assess this argument in an empirical sense, but it represents an informed extrapolation "by the author" from what is known about Israeli military doctrine and from careful deductive reasoning.

35. See generally SCHREIBER, *supra* note 32.

36. *Id.*

37. *Id.*

such a counterretaliation *could* be ruled out only if the enemy conventional retaliation were entirely proportionate to Israel's preemption, confined exclusively to Israeli hard-targets, circumscribed by the jurisprudential limits of military necessity, and accompanied by explicit assurances of non-escalatory intent.

### C. Nuclear Preemption

It is extremely unlikely that Israel would ever decide to launch a preemptive nuclear strike. Although circumstances might arise wherein such a strike would be perfectly rational (i.e., the prospective benefits of the strike would outweigh the prospective costs), it is implausible that Israel would allow itself to reach these circumstances.<sup>38</sup> Moreover, unless the nuclear weapons involved were used in a fashion consistent with the authoritative expectations of the laws of war—the limits of discrimination, proportionality, and military necessity—this form of preemption would clearly represent an egregious violation of international law.<sup>39</sup> And even if such consistency were possible, the psychological/political impact on the world community would be negative and far-reaching.<sup>40</sup> It follows that an Israeli nuclear preemption could be expected only: (a) where Israel's enemies<sup>41</sup> had acquired nuclear and/or other

38. This assertion is based upon the author's belief that Israeli decision-makers are thoughtful and rational.

39. Here, again, we refer to the issue of "just means" or *ius in bello*. See *supra* note 28, the "Hague Regulations." The origins of such criteria are much older than the nuclear age. At book 3, Chapter 11, of Hugo Grotius' *THE LAW OF WAR AND PEACE*, the writer speaks of the need to allow innocents an opportunity to escape from carnage, an imperative that is itself drawn from the Hebrew Bible. According to Grotius: "The Jewish interpreters note that it was a custom among their ancestors that, when they were besieging a city, they would not completely encircle it, but would leave a sector open for those who wished to escape, in order that the issue might be determined with less bloodshed." A similar argument was made by Polybius (*PUNIC WARS*) in his account of Scipio Aemilianus' proclamation upon the destruction of Carthage: "Let those who wish, flee;" and by the judgement of Tacitus, "To butcher those who have surrendered is savage." See LOUIS RENÉ BERES, *AMERICA OUTSIDE THE WORLD: THE COLLAPSE OF US FOREIGN POLICY*, *supra* note 29, at 90.

40. This assertion is based upon the author's understanding that world public opinion would be enormously hostile to such a use of nuclear weapons.

41. This term refers to any Arab state (including Egypt and Jordan, with which Israel has made formal peace arrangements) and to Iran. Although it is generally fashionable to conclude that formal peace treaties end belligerencies, such a conclusion displays the fallacy of legalism. In fact, relations between Israel and Egypt remain cold and strained, in spite of the formal peace condition. On this "cold" peace, see, e.g., Yohanan Ramati, *Israel's Most Dangerous Enemy*, 6 *BULL. JERUSALEM INST. FOR WESTERN DEF.* 2-14 (June 1993); Gerald M. Steinberg, *Israel, Egypt and Nuclear Policy*, *JERUSALEM LETTER/VIEWPOINTS*, June 15, 1995,

unconventional weapons judged capable of destroying the Third Temple; (b) where these enemies had made clear that their intentions paralleled their capabilities; (c) where these enemies were believed ready to begin a "countdown to launch;" and (d) where Jerusalem believed that Israeli non-nuclear preemptions could not achieve needed minimum levels of damage-limitation (i.e., levels consistent with preservation of the Third Temple).<sup>42</sup>

### III. Nuclear Warfighting

If nuclear weapons are introduced into conflict between Israel and its enemies, nuclear warfighting, at one level or another, would ensue. This would hold true as long as: (a) enemy first-strikes against Israel would not destroy Jerusalem's second-strike nuclear capability; (b) enemy retaliations for Israeli conventional preemption would not destroy Jerusalem's nuclear counterretaliatory capability; (c) Israeli preemptive strikes involving nuclear weapons would not destroy enemy second-strike nuclear capabilities; and (d) Israeli retaliation for enemy conventional first-strikes would not destroy enemy nuclear counterretaliatory capability.<sup>43</sup> It follows, from Israel's strategic requirements, that Jerusalem should now ensure the likelihood of (a) and (b) above, and the unlikelihood of (c) and (d). This means, among other things, strengthening the hard-target kill capacity of its survivable nuclear forces.

To function successfully, Israel's deterrent, even after being removed from the "basement," would have to be secure from enemy preemptive strikes. Moreover, Israel must also be wary of "decapitation," of losing the "head" of its military command and control system because of enemy first strikes.<sup>44</sup> If Israel's enemies

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at 1; Louis René Beres, *Where the Shadow Really Falls: Why Israel Must Have Nuclear Weapons*, THE BROWN JOURNAL OF WORLD AFFAIRS (prepared in response to *In the Shadow of the Israeli Nuclear Bombs: Egyptian Threat Perceptions*, an article by Abel Monem Said Aly in the Summer/Fall 1996 issue of THE BROWN JOURNAL, pp. 151-62). Said Aly, who contends that Israel is an aggressor state, is Director of the Al-Ahram Center for Political and Strategic Studies, Cairo.

42. This assertion by the author is based upon the assumption that Israel's decision-makers are rational and that they value national survival more highly than any other preference or combination of preferences.

43. It is the author's opinion that nuclear retaliation remains a possibility so long as *any* state in the region maintains nuclear weapons. This does *not* mean, however, that nuclear weapons are invariably destabilizing or that such weapons are harmful irrespective of who holds them.

44. This raises the issue of what is generally called "regime targeting." See, e.g., David Rodman, *Regime-Targeting: A Strategy for Israel*, 2 ISR. AFF. 153-67 (Autumn 1995).



are unpersuaded by Jerusalem's move away from deliberate ambiguity they might direct such strikes that could effectively immobilize Israel's order of battle.

A contrary argument concerning the effects of Palestine on Israel's inclination to preempt suggests that because of Israel's newly expanded vulnerability,<sup>45</sup> its nuclear deterrent would be more credible than ever before. As a result, Jerusalem could better afford not to strike first than when it still administered the territories. In this situation the principal benefit of shifting from ambiguity to disclosure would seem to lie in an explicitly-identified escalation ladder revealing a broad array of intended Israeli reprisals, ranging from limited conventional responses to measured nuclear strikes.

In weighing the various arguments concerning the effect of Palestine upon Israeli preemption, particular attention must be directed toward Israel's presumptions about the inevitability of war<sup>46</sup> and the long-term expectations for enemy vulnerability. If

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45. This vulnerability would be even greater if transformation of the territories into Palestine were accompanied by a transfer of the Golan Heights to Syria. See Louis René Beres & Zalman Shoval, *On Demilitarizing a Palestinian 'Entity' and the Golan Heights: An International Law Perspective*, 28 VAND. L.J. TRANSNAT'L. 959 (1995). Should Israel relinquish the territories and the Golan, all Israeli military airfields would be within range of modern conventional artillery and would be covered by enemy radar. See *id.* Under such conditions, the Israeli Air Force might not even be able to get off the ground. Further, even if the new state of Palestine and the Golan were demilitarized, enemy tanks could cover the distance from the Jordan River to the pre-1967 border in 3 to 4 hours. See *id.* In the Golan, this time would be reduced to about one hour. See *id.*

46. The ongoing Middle East Peace Process has done nothing to challenge these presumptions. Whatever their current military incapacities, Israel's enemies—especially the Damascus and Teheran regimes—still prepare for a war of annihilation against “the Zionist entity.” See Louis René Beres, *Attrition, Annihilation and the End of Israel*, U. DET. MERCY L. REV., (forthcoming Winter 1997). Regarding Syria, a recent report indicates that Syria together with Iran, Iraq, and The Palestinian Authority, “are cooperating in preparation for war with Israel.” Freedom Center Broadcast, Jan. 22, 1997, <http://freman.io.com>. “Syrian President Assad and Saddam Hussein of Iraq met secretly to this end in the spring of 1996. Other secret meetings have been held between the Syrian Government and the Palestinian Authority, including agreements that the Palestinian police and other ‘armed elements’ will cause flare ups in the Israeli interior in case of an escalation in the north.” *Id.* Altogether unconcerned with Palestinian self-determination, it is a matter of common knowledge that these regimes will be satisfied only with Israel's disappearance. Ironically, by their public declarations and by their deeds, in this author's experience, Iran and Syria are remarkably open and honest about their objectives. In the words of Sheik Hassan Nasrallah, new leader of the pro-Iranian Party of God: “The only way to achieve a lasting peace in the Middle East is the return of all the Jewish occupiers to the lands from which they originally came.” *Arab, Israeli Guns Silent in Lebanon; 200 Shiite Fighters*

Israel's leaders conclude that the creation of Palestine would make another major war inevitable and that, over time, enemy vulnerability to Israel would diminish, Jerusalem's inclination to strike first would be increased.

In addition, prospect of some form of Israeli preemption likely will increase in the future because rival states that acquire nuclear weapons will be unwilling or unable to create the essential infrastructure to safely manage these weapons. Inadequate investment in nuclear weapons survivability, for example, could generate dangerous incentives to preempt. With Israel's enemies unlikely to possess a second-strike capability—the capacity to retaliate after absorbing an Israeli attack—these states may calculate a substantial military advantage to striking first. Recognizing this calculation, Israel will confront an overwhelming incentive to strike first itself.

Even in the best case scenario, wherein Israel would receive credible assurances from its enemies concerning rejection of first-strike options, Jerusalem will inevitably understand that such assurances could become meaningless in the wake of political upheavals, coup d'etat, etc. Faced with enemy states that are characterized by weak and authoritarian political institutions, fragile civil-military relations, and competing factions representing numerous ethnic and religious groupings, Jerusalem undoubtedly will recognize the danger posed by alienated elements within enemy societies. Such danger is one for which Israel's only reasonable antidote is apt to be one or the other form of preemption.

Are such presumptions about Israeli preemption reasonable? Regarding the inevitability of war,<sup>47</sup> current Arab/Iranian rearma-

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*Leave Battle Zone*, BALT. SUN, Feb 2, 1992, at 3A. As for Syria, it has done little to hide a superheated military buildup with billions of dollars supplied by Saudi Arabia—money transferred, with the full blessings of Washington, for Syrian "cooperation" in the anti-Iraq Gulf War coalition. *Id.*

47. Strictly speaking, of course, general historical knowledge about this region reveals that Israel is already at war with Iran and with all Arab states except Egypt and Jordan. The courts of individual countries have affirmed the principle that an armistice does not end a war. *See, e.g., Kahn et al. v. Anderson*, 255 U.S. 1 (1921). Throughout history, armistices have normally envisaged a resumption of hostilities. A general armistice is a war convention, an agreement or contract concluded between belligerents. This author posits that such an agreement does not result in the termination of a state of war. The 1907 Hague Convention IV Respecting the Laws and Customs of War on Land, stipulates, at the Annex to the Convention, that "[a]n armistice suspends military operations by mutual agreement between belligerent parties" (emphasis added). *See* Convention No. IV Respecting the Laws and Customs of War on Land, With Annex of Regulations. Done at The

ment efforts and associated preparations for conflict certainly suggest little else.<sup>48</sup> As for enemy vulnerability to Israel's military forces, this will depend primarily on relative adaptation to the changing technologies of war, a process that cannot be accurately evaluated at this time. It follows that unless Israel's leadership believes that shifting from ambiguity to disclosure would greatly inhibit all or virtually all enemy Arab/Iranian forces (i.e., to the extent that war would become not inevitable, but decreasingly probable), Palestine would make Israeli preemptive attacks more likely.

This does not mean that the creation of Palestine would make Israeli nuclear deterrence irrelevant. Although nuclear weapons

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Hague, Oct. 18, 1907, entered into force, Jan. 26, 1910. 36 Stat. 2277, U.S.T.S. 539, 1 Bevans 631, at Chapter V, Art. 36. Throughout history, armistices have normally envisaged a resumption of hostilities. None of this should be taken to imply that a formal condition of peace necessarily brings with it an authentic end to hostilities or to the prospect of new hostilities. In January 1995, Amin A. Elbwidi, former Egyptian Minister of War and Head of General Intelligence, stated about Israel: "I expect war with a certainty because the agreements which have been signed and are being signed today lead to war." (From an article in the Egyptian weekly RUZ-EL-YUSUF, Jan. 23, 1995; cited by Aaron Lerner, *Egyptian Views of Israel's Nuclear Capability*, IMRA NETVISION, Dec. 23, 1995. Regarding the Treaty of Peace (1979) between Israel and Egypt, Sadat's intent to adhere to the terms in good faith (what the author refers to as in international law, *Pacta Sunt Servandum*) is very problematic. A vast portion of the Islamic world, for whom any peace with Israel was and remains unacceptable, treated Sadat as a traitor. For further discussion of this issue, see Louis René Beres, *Power and Survival: Why Israel Needs Nuclear Weapons*, 26 INT'L J. GROUP TENSIONS 58, n.75 (1996).

48. At the conclusion of the 1991 Gulf War, the Bush administration announced plans to sell Saudi Arabia, a country of six million inhabitants, an arms package of \$24 billion - including over 500 tanks, 48 (now 72) F-15 fighter planes, Apache helicopter gunships, more than 30 Patriot batteries, tens of thousands of armored vehicles, multiple rocket-launchers, and command/control systems. See Louis René Beres, "Israeli Security and Self-Reliance After the Cold War: Geopolitical Imperatives, Strategic Considerations and Tactical Options," delivered at the international scholarly conference, SECURITY REGIMES - ISRAEL AND ITS NEIGHBORS, Bar-Ilan Center for Strategic Studies, June 3, 1991; Louis René Beres, *The Real Bases of Middle East Instability*, XXXVIII MIDSTREAM 9-10 (June-July 1992). Rationalizing the Saudi demand for this vast arsenal by pointing to the "growing danger from Iran," the Bush administration ignored that such American arms can be used for aggression against Israel. *Id.* Indeed, while a Saudi Arabia that joined in the coalition to defeat Saddam now appears benign, this monarchy has been busily compensating the Assad regime in Syria with billions of dollars in aid—money to be used entirely for Syria's ongoing military buildup. *Id.* Egypt, in addition to acquiring substantial military assets from the United States, is developing its own home-grown missile, the Saqr-80 (which can be launched from FROG-7 launchers), while Iran is deploying its domestically-produced Oghab missile. *Id.*

might not serve Israel as an assured means of deterring enemy first-strikes, they could function to support Israeli preemptions. Here, Israel's adversaries—having suffered Israeli attacks on various hard targets and military installations—would be deterred from retaliation against the Jewish State by the threat (implicit or explicit) of Israeli nuclear counterretaliation. It is conceivable, of course, that this nuclear strategy could fail and that Israel's nuclear weapons would then have to be used for actual warfighting. The only military strategy capable of preventing this prospect altogether lies in Israeli preemptive strikes involving nuclear weapons, a strategy that would normally appear altogether inconceivable.

There seems to be only one contingency in which nuclear warfighting options might appear cost-effective to Israel: to prevent imminent destruction of the Third Temple.<sup>49</sup> Faced with this contingency, Israel would very likely threaten to use whatever nuclear capability it had with the intention of carrying out the threat. Should such threats be ignored, however, the resultant nuclear destruction and societal disintegration in the region could jeopardize Israel's continuance as a state, even though it had used nuclear weapons only to stave off total annihilation.

If Israel were to use nuclear weapons against non-nuclear adversaries to prevent such annihilation, its continuance as a state would also be jeopardized, in this case for political reasons. To assess the credibility of an Israeli nuclear threat under conditions of expected annihilation, one needs to understand the special perspectives of Jewish history. Plainly, virtually all of Jewish Israel would view any concerted effort to annihilate their country as more than war.<sup>50</sup> Rather, they would view such an effort as part of an

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49. In Jewish-historical terms, the "Third Temple" refers to the current State of Israel, and the "End of the Third Temple" signifies the destruction of this current State. See Kitty O. Cohen, *Temple Mount Faithful—Amutah et. al v. Attorney General Inspector-General of the Police May of Jerusalem Minister of Education and Culture Director of the Antiquities Division Muslim WAQF*, 45 CATH. U. L. REV. 861, 870 (1996). The first Jewish temple, and commonwealth, was destroyed by the Babylonians (ancestors of contemporary Iraqis) in 587 B.C. II Kings 25:1-11. The Second Temple was destroyed by the Romans in the year 70 A.D. *Books of the Bible*, THE NEW INDEXED BIBLE xxxiv (1929).

50. The author's assertion is drawn from the understanding that Israel is presently the individual Jew in macrocosm, and that the current Arab/Islamic effort to defeat Israel is simply a new form of historic hatreds and intentions. Abortion of the Islamic world's genocidal hatreds and intentions directed against "Jewish occupiers" predates even the creation of the State of Israel in 1948 in this author's opinion.

ongoing process of genocide in spite of the historical variation in perpetrators.<sup>51</sup>

If the territories become Palestine, will Israel be more or less inclined to prepare for nuclear warfighting? Extrapolating from what we have already assumed, insofar as the creation of another hostile Arab state and another "hot" border would heighten the prospect of catastrophic war against the Jewish state, it is almost certain that Israel would be substantially more dependent upon its nuclear capabilities. Whether such capabilities would be put to better use as part of an "assured destruction" or countervalue strategy (MAD) or a "counterforce" (warfighting) strategy remains to be calculated.

If, for example, Israel were to remain satisfied with developing the relatively inaccurate apparatus of an "assured destruction" posture,<sup>52</sup> it could limit the prospect of enemy first-strikes. And

51. Jurisprudentially, therefore, we are also speaking here of what is commonly known as "Crimes against humanity." For definition of such crimes, see Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis Powers and Charter of the International Military Tribunal, Aug. 8, 1945, 59 Stat. 1544, 82 U.N.T.S. 279. The principles of international law recognized by the Charter of the Nürnberg Tribunal and the judgment of the Tribunal were affirmed by the U.N. General Assembly as Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal, adopted by the U.N. General Assembly, Dec. 11, 1946. G.A. Res. 95 (I), U.N. GAOR at 1144, U.N. Doc. A/236 (1946). This Affirmation of the Principles of International Law Recognized by the Charter of the Nürnberg Tribunal (1946) was followed by General Assembly Resolution 177 (II), adopted Nov. 21, 1947, directing the U.N. International Law Commission to "(a) Formulate the principles of international law recognized in the Charter of the Nürnberg Tribunal and in the judgment of the Tribunal, and (b) Prepare a draft code of offences against the peace and security of mankind. . . ." (See U.N. Doc. A/519, p. 112). The principles formulated are known as the Principles of International Law Recognized in the Charter and Judgment of the Nuremberg Tribunal. *Report of the International Law Commission*, 2d Sess., U.N. GAOR, 5th Sess., Supp. No. 12, at 11 A/1316 (1950).

52. "Assured destruction" refers to the ability to inflict an "unacceptable" degree of damage upon an attacker after absorbing any first strike. See LOUIS RENÉ BERES, *APOCALYPSE: NUCLEAR CATASTROPHE IN WORLD POLITICS* (1980). Mutual assured destruction (MAD) describes a condition in which an assured destruction capability is possessed by opposing sides. *Id.* Counterforce strategies are those which target an adversary's strategic military facilities and supporting infrastructure. *Id.* Such strategies may be dangerous not only because of the "collateral damage" they might produce, but also because they may heighten the likelihood of first-strike attacks. *Id.* In this connection, collateral damage refers to the damage done to human and non-human resources as a consequence of strategic strikes directed at enemy forces or at military facilities. *Id.* This "unintended" damage could involve large numbers of casualties and fatalities.

this prospect might be limited further if the assured destruction posture were accompanied by public and fairly precise disclosure of Israel's nonthreatening nuclear stance. At the same time, should this posture fail to deter concerted enemy first-strikes, its intrinsic damage-limiting inferiority to a developed counterforce capability would produce much larger casualty figures and even a possible end to the Third Temple.

If, on the other hand, Israel were to start off with a declared nuclear warfighting posture, Arab perceptions of inevitable war with Israel could be enlarged. With such perceptions, enemy leaders would have to decide whether or not it would be more gainful to await an Israeli preemption or to strike first themselves. In the final analysis, this decision would be contingent on, *inter alia*, the condition of inter-Arab and Arab/Iranian cooperation.<sup>53</sup>

How might Israel choose in the aftermath of surrendering the territories?<sup>54</sup> If it should opt for nuclear deterrence based on assured destruction, it would run the risk of "losing" any nuclear war that might arise. If, on the other hand, it should choose counterforce, the Arabs/Iranians would feel especially threatened, a condition that could heighten the actual prospect of nuclear weapons use.

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53. See, e.g., Fouad Ajami, *The End of Pan-Arabism*, FOREIGN AFF., Winter, 1978-79, at 355-73. This decision could also be contingent, to a considerable extent, upon the related but anti-Arab nationalism of pan-Arabism

54. For earlier discussions of such policy choices by this author, see generally Louis René Beres, *Striking 'First': Israel's Post-Gulf War Options Under International Law*, 14 LOY. L.A. INT'L & COMP. L.J. 1 (1991); Louis René Beres, *Israel's Destruction of Iraq's Nuclear Reactor*, XXXVII MIDSTREAM 8 (1991); Louis René Beres, *After the Gulf War: Israel, Palestine and the Risk of Nuclear War in the Middle East*, XIX STRATEGIC REV. 48 (1991); Louis René Beres, *The Question of Palestine and Israel's Nuclear Strategy*, 62 POL. Q. 451-60 Oct./Dec. 1991; Louis René Beres, *A Palestine State and Israel's Nuclear Strategy*, 31 CROSSROADS: AN INT'L SOCIO-POL. J. 97-104 (1991); Louis René Beres, *Israel, Palestine and Regional Nuclear War*, 22 BULL. OF PEACE PROPOSALS 227-34 (1991); Louis René Beres, *A Palestinian State - Implications for Israel's Security and the Possibility of Nuclear War*, 4 BULL. OF THE JERUSALEM INST. FOR W. DEF. 3-10 (Oct. 1991); Louis René Beres, *Israeli Security in a Changing World*, XVIII STRATEGIC REV. 11-22 (Fall 1990); Louis René Beres, *Palestine and Nuclear War*, JERUSALEM REP., Aug. 1, 1991, at 45; Louis René Beres, *Israeli Nuclear Strategy*, INT'L STUDIES NOTES, Spring (1990); Louis René Beres, *The Growing Threat of Nuclear War in the Middle East*, 12 JERUSALEM J. INT'L REL. 1-27 (1990); Louis René Beres, *Staring Down the Specter of Nuclear War*, 2 ISRAELI DEMOCRACY, 44-48 (Summer/Fall 1988); Louis René Beres, *Perils of Nuclearism*, 15 PRESENT TENSE 60 (Sept./Oct. 1988); Louis René Beres, *Nuclear Weapons and Nuclear War in the Middle East*, 12 TRANSNAT'L PERSP. 8-13 (1986); Louis René Beres, *Israel, Force and International Law: Assessing Anticipatory Self-Defense*, 13 JERUSALEM J. INT'L REL. 1-14 (1991).

One factor that would influence this decision is the type and number of nuclear weapons required. A relatively small number of nuclear weapons are needed for assured destruction. These weapons, of course, with only "countervalue" objectives, might be inaccurate.

A counterforce or warfighting objective, on the other hand, would require a larger number of far more accurate weapons, ones that could destroy even the most hardened targets. To a certain extent, "going for counterforce" could make Israeli nuclear threats more credible. This is based on the assumption that because the effects of such warfighting weapons would be more precise and controlled, they would be more amenable to actual use.

Yet, as previously discussed, warfighting postures are apt to encourage preemption.<sup>55</sup> And if counterforce-targeted nuclear weapons are ever fired, especially in a proliferated regional setting, the resultant escalation could still produce extensive countervalue exchanges. Indeed, even if such escalation were averted, the so-called "collateral" effects of counterforce detonations could still be devastating.

In making its nuclear choices, Israel will have to confront a paradox: Credible nuclear deterrence, essential to security and survival in a world made more dangerous by the creation of Palestine, would require "usable" nuclear weapons. If, after all, these weapons were obviously inappropriate for any reasonable objective, they would not deter. At the same time, the more usable the weapons become in order to enhance nuclear deterrence, the more likely it is that, at one time or another, they will actually be fired. While this paradox would seem to suggest the rationality of deploying the least-harmful forms of usable nuclear weapons, the fact that there would be no coordinated agreements with enemy states on deployable nuclear weapons points to a conclusion. Unless Israel calculates that the more harmful weapons would produce greater hazards for its own population as well as for target countries, there would be no tactical benefit to opting for the least injurious usable weapons.

All things considered, Israel—if confronted by a new state of Palestine—would be well-advised to do everything possible to prevent the appearance of Arab or Iranian nuclear powers,<sup>56</sup>

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55. See *supra* text accompanying notes 24-27.

56. This was done, of course, in the June 1981 attack on the Baghdad nuclear reactor. See Louis René Beres & Tsiddon-Chatto, *Reconsidering Israel's Destruction of Iraq's Osirak Nuclear Reactor*, 9 TEMP. INT'L & COMP. L.J. 437

including pertinent non-nuclear preemptions. Bringing its own bomb out of the basement is unlikely to serve any serious purpose unless Jerusalem were to conclude that enemy intractability toward the Jewish state had become overt and overwhelming and that preparations for nuclearization in particular Arab states and/or Iran could no longer be stopped, even by Israeli preemptive strikes.<sup>57</sup> Under these very portentous conditions, Israel would require a very believable (and hence usable) nuclear deterrent, one that could be employed without igniting Armageddon for all regional belligerents and one that could serve some damage-limiting military purpose (whatever the collateral effects) against enemy weapons (nuclear and non-nuclear) if deterrence should fail.

Although it is highly unlikely that Israel would choose to use high-yield nuclear explosives that would produce indiscriminate casualties and fatalities throughout the region (including perhaps radioactive fallout within Israel itself), it may be reasonable to use low-yield, "small" nuclear explosives. In this connection, Israel might choose to use enhanced-radiation weapons rather than nuclear explosives (weapons that have been referred to by the strategic community as the "neutron bomb"). The neutron bomb, or ER warhead, (deliverable by artillery shells or missile warheads) is a relatively small thermonuclear weapon that is designed to minimize the fraction of energy going into blast and heat.<sup>58</sup> Upon detonating, large quantities of radioactive neutrons would be

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(1995). For information on Israel's attack on Osiraq; See H. Grumm, *Safeguards and Tammuz: Setting the Record Straight*, 23 IAEA BULL. 10-14 (Dec. 1981); Shai Feldman, *The Bombing of Osiraq revisited*, 7 INT'L SECURITY 114-42 (Fall 1982); and Roger F. Pajak, *Nuclear Status and Policies of the Middle East Countries*, 59 INT'L AFF. 596-600 (1983). Saddam Hussein's reactor, named Osiraq by France (which had supplied the reactor "for peaceful purposes") was changed by Iraq to Tammuz, a Babylonian god. The project was even coded as Tammuz 17, a reference to the day in 587 B.C. when the army of Nebuchadnezzar broke through the walls of Jerusalem.

57. In this connection, the author recognizes that neutralization of Iraqi nuclear potential was not achieved entirely by the Gulf War. On Oct. 7, 1991, more than seven months after conclusion of hostilities, United Nations inspectors discovered a complex of buildings that served as the nerve center of Saddam Hussein's covert nuclear weapons program, but had escaped allied attack during the war. See Efraim Karsh, et al., *Arms Control and the New Middle Eastern Environment*, 12 DEF. ANALYSIS 33, 38 (1996). It was here, at an installation called Al Atheer about 40 miles south of Baghdad, that Iraq planned, according to the report, "to design and produce a nuclear device." See Paul Lewis, *U.N. Aides Discover Atom Arms Center Concealed by Iraq*, N.Y. TIMES, Oct. 8, 1991, at A1, A7.

58. See LOUIS RENÉ BERES, *MIMICKING SISYPHUS: AMERICA'S COUNTER-VAILING NUCLEAR STRATEGY*, *supra* note 29, at 72.



released, killing people but leaving buildings and other structures unaffected.<sup>59</sup>

Because such a weapon could be used with less “Armageddon potential” than other kinds of nuclear weapons, it may appear more reasonable to use. At the same time, because the “spillover” effects upon the using state could be as harmful as those of other nuclear weapons, the reasonableness of using the neutron bomb may be contingent, in the final analysis, on prevailing winds and weather conditions.<sup>60</sup> Enhanced radiation warheads would produce appreciable fallout from the fission trigger (the neutron bomb is triggered by a minimum-yield fission explosion) and their critical effect would be death spawned by intense radiation.<sup>61</sup>

In its decisions concerning nuclear weapons, however, Jerusalem will have to look far beyond tactical military calculations toward long-term political considerations. With such a view, Israel’s leaders will doubtlessly discover that the weight of international opinion, both official and public, is now more strongly arrayed against nuclear weapons than ever before, and that a world led by a denuclearizing super-power would be enormously hostile to any first-use of nuclear arms in the Middle East. This does not mean that Jerusalem will likely reason that matters of negative world public opinion should override expectations of national survival, but it does suggest that, given sufficient incentives, Israel’s leaders will be anxious to do everything possible to avoid nuclear battles in the region. At this precarious moment in history, the most obvious and important of these incentives would be general agreement among all parties to the conflict—interstate and intercommunal—that the territories should not be transformed into an independent Arab state of Palestine.

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59. See generally LOUIS RENÉ BERES, APOCALYPSE: NUCLEAR CATASTROPHE IN WORLD POLITICS, *supra* note 29, at 148-50, 172 (discussing the effects of enhanced radiation weapons). The neutron bomb, which falls under the category of “enhanced radiation weapons,” releases large quantities of radioactive neutrons which are effective in killing people while leaving buildings intact. See *id.* Exploded 130 yards in the air, a neutron bomb would kill instantly anyone within a half-mile radius, and cause delayed deaths for people within a one-mile radius. See *id.* Because of its extraordinary precision, the neutron bomb erodes the distinction between conventional and nuclear conflict. See *id.*

60. See *id.*

61. See *id.*

#### IV. International Law and the History of Palestine

This geostrategic conclusion is reinforced by international law. Contrary to widely-accepted notions, proprietary right to the territories rests with Israel, at least for the moment.<sup>62</sup> Although Israel has a peremptory and reciprocal obligation to ensure Arab human rights throughout pertinent parts of Judea/Samaria (West Bank) and Gaza, its claim to sovereignty is founded upon settled historical developments and upon the unequivocal right to endure.<sup>63</sup>

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62. See, e.g., JOAN PETERS, SINCE TIME IMMEMORIAL, *supra* note 51. It must also be kept in mind that Judea/Samaria/Gaza came under Israel's control in 1967 after a war of aggression planned by front-line Arab states. When the Jews accepted the United States plan for the partition of Palestine in 1947—a plan which would have placed these territories under Palestinian control—the reaction of the Arab world was one of total rejection. The UN Special Commission was appointed in 1947 to investigate the situation in Palestine and to recommend action to the UN General Assembly. THE ISRAEL-ARAB READER 91 (Walter Laqueur & Barry Rubin eds., 1995). The commission was known as the United Nations Special Committee on Palestine (U.N.S.C.O.P.). *Id.* The UN General Assembly's Resolution 181 adopted the majority recommendation of the U.N.S.C.O.P. Report, which was passed on Nov. 29, 1947, by a vote of 33-13. *Id.*

63. Regarding this right, it is held authoritatively under international law that a state need not ever be bound by agreements that threaten its very survival. According to Thomas Jefferson, in his Opinion on the French Treaties (Apr. 28, 1793), in THE POLITICAL WRITINGS OF THOMAS JEFFERSON 113-14 (Merrill D. Peterson ed., 1993), "[t]he nation itself, bound necessarily to whatever its preservation and safety require, cannot enter into engagements contrary to its indispensable obligations." *Id.* at 115. Citing to Grotius, Pufendorff, and Wolf, that "treaties remain obligatory notwithstanding any change in the form of government, except in the single case where the preservation of that form was the object of the treaty." *Id.* at 114. Jefferson further states:

Compacts then between nation & nation are obligatory on them by the same moral law which obliges individuals to observe their compacts. There are circumstances however which sometimes excuse the non-performance of contracts between man & man: so are there also between nation & nation. When performance, for instance, becomes *impossible*, non-performance is not immoral. So if performance becomes *self-destructive* to the party, the law of self-preservation overrules the laws of obligation to others.

*Id.* (emphasis in original).

### A. *The Owners and Inhabitants of Palestine*

As a legal entity, Palestine ceased to exist in 1948, when Great Britain relinquished its League of Nations mandate.<sup>64</sup> Prior to that decisive moment in history, which was followed by Israel's declaration of independence on May 14, 1948, Palestine had never existed as an independent sovereign state.<sup>65</sup> When the West Bank came under the illegal control of Jordan and Gaza under the illegal control of Egypt during the 1948-1949 war of independence, these Arab states did not put an end to a pre-existing state.<sup>66</sup>

From the Biblical period (ca. 1350 B.C. to 586 B.C.) to the British Mandate (1918-1948), the land named by the Romans after the ancient Philistines was controlled by a large number of non-Palestinian forces.<sup>67</sup> Significantly, a continuous chain of Jewish possession of the land was recognized after World War I at the San Remo Peace Conference of April 1920.<sup>68</sup> A treaty signed at this Conference which gave Great Britain mandatory authority over Palestine, in order to prepare it to become the "national home for the Jewish people."<sup>69</sup> Palestine, according to the treaty, comprised territories encompassing what are now the states of Jordan and Israel, including West Bank (Judea and Samaria) and Gaza.<sup>70</sup> Present day Israel, including West Bank and Gaza, comprises only twenty-two percent of Palestine, as defined and ratified at the San Remo Peace Conference.<sup>71</sup>

In 1922, Great Britain unilaterally and illegally split off seventy-eight percent of Palestine—all of Palestine east of the Jordan River—and gave it to Abdullah, the non-Palestinian son of

64. See THE MIDDLE E. CONGRESSIONAL QUARTERLY, Seventh Edition (1990) at 12-13.

65. See generally *id.* Nevertheless, the Palestine National Council declared the establishment of an independent Palestinian state at its November 15, 1988, meeting in Algiers. For the text of this declaration, see *id.* at 310. The declaration did not satisfy the generally-accepted criteria for statehood identified under international law; control over a fixed and clearly-defined territory; a population; a government; and the capacity to engage in diplomatic and foreign relations. See Convention on Rights and Duties of States, Dec. 26, 1933, T.S. No. 881, 165 L.N.T.S. 19, Article 1.

66. See THE MIDDLE E., *supra* note 64, at 13, 16.

67. See PETERS, *supra* note 50.

68. See generally THE MIDDLE E., *supra* note 62.

69. See generally *id.*

70. See generally *id.*

71. See generally *id.*

the Sharif of Mecca.<sup>72</sup> Thereafter, in 1947, rather than designate the entire land west of the Jordan River as the Jewish national homeland, the newly-formed United Nations enacted a second partition.<sup>73</sup> Ironically, because the second fission again gave unfair advantage to the Arabs, Jewish leaders accepted the judgment while Arab states did not.<sup>74</sup> On May 15, 1948, exactly one day after the State of Israel came into existence, Azzam Pasha, Secretary General of the Arab League, declared: "This will be a war of extermination and momentous massacre . . ."<sup>75</sup> This declaration, of course, has been at the heart of all subsequent Arab policies toward Israel.<sup>76</sup> Almost twenty years after Israel's entry into the community of sovereign states, the Jewish state—as a result of its victory against Arab aggressor states—has gained control over West Bank and Gaza.<sup>77</sup> Although the idea of the inadmissibility of the acquisition of territory by war was enshrined in the U.N. Charter,<sup>78</sup> there existed no authoritative sovereign to whom the territories could be "returned." In this connection, Israel could hardly be expected to transfer the territories back to Jordan and Egypt, which had exercised illegal control since the Arab-initiated war of aggression in 1948. Moreover, the idea of Palestinian self-determination was just beginning to emerge and was not even codified in the pertinent United Nations Security Council Resolution<sup>79</sup> (#242; adopted on November 22, 1967).

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72. See generally *id.*

73. See generally *id.*

74. See generally THE MIDDLE E., *supra* note 62.

75. See ISI LEIBLER, THE CASE FOR ISRAEL 15 (1972); see also Louis René Beres & Yosah Tsiddon-Chatto, *Reconsidering Israel's Destruction of Iraq's Osiraq Nuclear Reactor: A Rejoinder*, 9 TEMP. INT'L & COMP. L.J. 449 (1995).

76. It is the author's observation that from 1948 onward, Arab states have threatened Israel at all levels. For example, the PLO Covenant's call for Israel's "extermination"—Oslo Accords notwithstanding—has never been abrogated. Israel remains denounced, as it always has been, as an instrument of evil, by the fact that she rose on a foundation of evil. Y. HARKABI, ARAB ATTITUDES TOWARD ISRAEL 307-10 (1972). For The Palestinian National Charter, see THE ISRAEL-ARAB READER, *supra* note 62, at 218-22. On the ongoing preparations for war against Israel, by both the Arab states and the PA/PLO, see U.S. House of Representatives Task Force on Terrorism & Unconventional Warfare, *Approaching the New Cycle of Arab-Israeli Fighting*, Dec. 10, 1996, <<http://www.emet.com/report.htm>>.

77. See THE MIDDLE E., *supra*, note 64, at 18-22.

78. See CHARTER OF THE UNITED NATIONS. Done at San Francisco, June 26, 1945. Entered into force Oct. 24, 1945; for the United States, Oct. 24, 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153, 1976 Y.B.U.N. 1043.

79. See Resolution 242 (1967) of Nov. 22, 1967.

The Arab states convened a summit in Khartoum, in August, 1967, concluding that "there would be [n]o peace with Israel, no recognition of Israel, no negotiations with it, and insistence on the rights of the Palestinian people in their own country."<sup>80</sup> Although Security Council Resolution 242 links the establishment of peace with Israeli withdrawal from the territories, no insistence on direct negotiations among the hostile parties is mandated by the text.<sup>81</sup> Resolution 242 does not require Israel to withdraw from each of the territories it came to control in 1967—control stemming not from a war of aggression, but from a legitimate war of self-defense.<sup>82</sup>

In 1979, when Egypt made peace with Israel, Egypt received the Sinai in return—land constituting over ninety percent of the territory taken by Israel in 1967.<sup>83</sup>

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80. See CHAIM HERZOG, *THE ARAB-ISRAELI WARS: WAR AND PEACE IN THE MIDDLE EAST FROM THE WAR OF INDEPENDENCE THROUGH LEBANON* 191 (1982).

81. See Resolution 242 (1967) of Nov. 22, 1967; KAREL C. WELLENS, *RESOLUTIONS AND STATEMENTS OF THE UNITED NATIONS SECURITY COUNCIL (1946-1989)* 454 (1990).

82. The right to self-defense is well-established in contemporary international law—both the right of post-attack self-defense, codified at Article 51 of the U.N. Charter, and the long-standing, customary right of anticipatory self-defense. Since World War II, aggression has defined a military attack directed against the territory of another state which is not justified under international law. The Arab nations, however, persistently rejected these obligations. The question of defining aggression first acquired significance with the Draft Treaty of Mutual Assistance of 1923 (see *Report of the Permanent Advisory Commission of the League of Nations*, L.N.O. 7, Spec. Suppl. No. 16, 1923).

By a resolution of Nov. 17, 1950, the U.N. General Assembly decided to refer a proposal of the U.S.S.R. concerning the definition of aggression to the International Law Commission. See Resolution 378B, V, Soviet proposal: Off. Recs. Gen. Assem., 5th Sess. Annexes, agenda item 72, p. 4; A/C. 1/608. An authoritative definition of aggression was adopted without a vote by the U.N. General Assembly as Resolution 3314 (XXIX) on Dec. 14, 1974. Article 1 enjoins members to refrain from "the threat or use of force against the territorial integrity or political independence of any state. . . ." It also emerges in the definition that the first use of armed force represents *prima facie* evidence of unlawful conduct, but that "other relevant circumstances" may also be taken into account. The requirements that the first use of force, to qualify as aggression, must be "in contravention of the Charter" clarifies that there may exist some first uses of force that are entirely legal and defensive. It follows, *inter alia*, that the use of force, to qualify as aggression, must be carried out to achieve a prohibited objective (i.e., that *animus aggressionis* is an essential element of the offense). With particular reference to Israel, this suggests that preemptive attacks which only seek to forestall annihilation of the Jewish state (acts of anticipatory self-defense) and which comply with the expectations of humanitarian international law, may be altogether lawful and law enforcing.

83. For full text of Camp David Agreements, dated Sept. 17, 1978, see *THE ARAB-ISRAELI READER supra* note 62, at 409-10. For full text of Egypt-Israel

Resolution 242 has been generally misinterpreted. The formula envisioned by the Resolution is one of "peace for land," not "land for peace."<sup>84</sup> The Resolution grants to every state in the Middle East "the right to live in peace within secure and recognized boundaries."<sup>85</sup> It points, therefore, to peace before territorial withdrawal to "recognized boundaries."<sup>86</sup> The 1978 Camp David Accords stipulated that negotiations on the final status of the West Bank and Gaza Strip must address the "legitimate rights" of its Arab inhabitants.<sup>87</sup> But these legitimate rights do not include the right to establish another Arab state, especially as that state would likely be established upon the intended ruins of the State of Israel.

#### *B. Security Council Resolution 242*

Security Council Resolution 242 is "a balanced whole," according to Lord Caradon of Great Britain, its sponsor.<sup>88</sup> "To add to it, or to detract from it would destroy the balance . . . It must be considered as a whole and as it stands."<sup>89</sup> Considering the text, the "right of self-determination of the Palestinians" does not appear in the Resolution, an international conference is never mentioned, the parties referred to include only states, and the

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Peace Treaty (Mar. 26, 1979), *see id.* at 409-10. Although it is generally believed that the peace treaty in force with Egypt constrains Egypt from joining with other Arab forces against Israel, this belief is incorrect. A minute to Article VI, paragraph 5, of the Israel-Egypt Peace Treaty provides that it is agreed by the parties that there is no assertion that the Peace Treaty provides that it is agreed by the parties that there is no assertion that the Peace Treaty prevails over other treaties or agreements, or that other treaties or agreements prevail over the peace Treaty. This means that the Treaty with Israel does not prevail over the defense treaties that Egypt has concluded with Syria, and that Cairo—should it determine that Israel has undertaken "aggression" against Syria—could enter permissibly into belligerency against Israel on behalf of Damascus. Indeed, it is the author's opinion that there is reason to believe that even if Syria were to commence hostilities against Israel to recover the Golan Heights, Egypt might abrogate its agreement with Israel and offer military assistance to Syria. Shortly after the Israel-Egypt Peace Treaty was signed, then Egyptian Prime Minister Khalil stated that he would regard any attempt by Syria to recover the Golan Heights as a defensive war, one that would bring into play the Egypt-Syrian Peace Treaty. For terms of the pertinent treaties, *see* Treaty of Peace, Mar. 26, 1979, Egypt-Israel, Minute to Art. VI(5), 18 I.L.M. 362, 392; and Joint Defense Agreement Between Syria and Egypt, Oct. 20, 1955, 227 U.N.T.S., 126.

84. *See* Res. 242 (1967), *supra* note 79.

85. *Id.*

86. *Id.*

87. *See* Camp David Agreements, *supra* note 83.

88. *Id.*

89. *Id.*

phrase “territories occupied” is neither preceded by “the,” nor is it followed by “on all fronts.”<sup>90</sup> Finally, 242 specifically mentions withdrawal only of Israel’s armed forces, not of its administrative apparatus or sovereign control.<sup>91</sup>

Israel’s current right to reject the idea of the territories as “occupied” also stems from its incontrovertible right to security. Because transformation of these lands into an Arab state of Palestine would threaten the very existence of the Third Temple, Israel is under no obligation to transfer West Bank and Gaza to another sovereign authority especially as the extant Arab states, together with Iran, persistently call for “elimination” or “liquidation” of the “Zionist entity.”<sup>92</sup>

International law is not a suicide pact. Moreover, Israel’s jurisprudential rights to security are reinforced, as we have seen, by compelling geostrategic expectations.<sup>93</sup> Transformation of the territories into another enemy Arab state, therefore, would represent neither the fulfillment of binding legal requirements nor the creation of a tolerable, benign neighbor. Rather, the creation of an independent state of Palestine would signal the end of Israel’s most peremptory right—the right to physical survival—and a greatly heightened prospect of regional nuclear war. It should be widely understood that this prospect would impact all peoples in the affected area, including Christian, Muslim and Arabs as well as Jews.

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90. *Id.*

91. See Res. 242 (1967), *supra* note 79.

92. See HARKABI, *supra* note 76, at 307-11.

93. It is the author’s belief that these expectations are based upon explicit and persistent Arab/Islamic commitments to destroy Israel. See U.S. House of Representatives Task Force on Terrorism and Unconventional Warfare, *supra* note 76. Further, the PLO remains unwilling to amend its Covenant provisions to destroy the State of Israel. In his exchange of letters with Prime Minister Yitzhak Rabin on Sept. 9, 1993, at the beginning of the Oslo Process, Yasser Arafat undertook a commitment to amend the PLO Covenant. Two years later, the Covenant had still not been changed, but a deadline was fixed in the Interim Agreement (Oslo 2) of Sept. 28, 1995. Under Oslo 2, the PLO was obligated to change the Covenant no later than two months after the inauguration of the elected Palestinian Council. Since the council was inaugurated on Mar. 7, 1996, the deadline for the PLO to amend the Covenant was May 7, 1996. On several occasions, the Palestinians have asserted that a legal committee was working on a new draft of the document. To date, no new version of the Covenant has been submitted to the Palestine National Council (PNC). See *Amending the Covenant: An Unfulfilled Commitment*, Israel Government Press Office (Jan. 26, 1995), [imra@netvision.net.il](mailto:imra@netvision.net.il).

## V. The Effects of Territorial Loss on Israel as a "System"

Israel, as in the case of all states, is best understood as a "system." If this system were to suffer a nuclear terrorist "insult," the overall "organismic" threat would be substantial. Here, sensing the enormous weakening of an adversary by higher-order terrorism, certain Arab/Islamic states likely would be encouraged to resort to more-or-less full-scale war.<sup>94</sup>

One way in which the Peace Process might generate nuclear terrorism against Israel would be via its ongoing legitimization of various terrorist groups. For example, when the Clinton Administration prodded Jerusalem to enter into the Oslo Process and proceeded to host Israel's formal agreement with the PLO on September 13, 1993,<sup>95</sup> it instantly transformed Yasser Arafat and his terrorist network into a jurisprudentially and politically acceptable organization. Such diplomatic actions could give aid and comfort to terrorist groups, making it easier for them to ultimately gain access to the essential implements of nuclear terrorist attack.

Under the terms of the Peace Process, Israel's legitimization of terrorist groups is paralleling Israel's loss of strategic depth. In this situation, terrorists may draw encouragement from both the palpable weakening of Israeli power (a weakening that could inspire death-blow forms of higher-order terrorist attack) and from the idea that their ends justified their means.

The Peace Process is producing a Palestinian state. In this connection, nuclear terrorist threats against Israel likely will increase because, tactically, the sanctuary benefits of "Palestine" will make it easier to plan and to carry out a nuclear terrorist operation, and to regain all "lost territories" (i.e., all of Israel).

Although territorial loss may enhance Israel's nuclear deterrence of enemy states, it would assuredly not extend to deterrence of terrorist enemies. While territorial loss would make the Jewish State vastly more dependent upon nuclear weapons and to appear more likely to actually use such weapons, further territorial loss

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94. This argument flows from the assumption of many observers that certain Arab/Islamic states maintain their commitment to destruction of Israel, and that—tactically—they would be encouraged by a prior act of nuclear terrorism against the Jewish State.

95. See Louis René Beres, *Israel, The "Peace Process" and Nuclear Terrorism: A Jurisprudential Perspective*, 18 *LOY. L.A. INT'L & COMP. L.J.*, 767, 792 n.5 (1996).



would have no positive effects on Israeli counternuclear terrorism.<sup>96</sup> Because such counterterrorism could not be undertaken with nuclear weapons, territorial loss under the Peace Process will have an entirely negative effect on Israel's capacity to protect itself from nuclear terrorism and, consequently, from nuclear war.

Based upon the concept of Israel as a "system," the integrity and durability of the entire "organism" is dependent upon the integrity and durability of each "organ" component. Although certain "pathological insults" to the organism, by themselves, are minor and not life-threatening, together, they can be astoundingly debilitating, even lethal.

For now, the Israeli "organism" is still able to deal with ongoing, conventional terrorist attacks without suffering existential harms.<sup>97</sup> By themselves, these attacks, however odious and demoralizing, will not portend enemy victory. Over time, however, these attacks may occasion such far-reaching levels of apprehension, instability and despair within Israel that the state itself will become "unglued." If this should happen, the cumulative impact of non life-threatening instances of anti-Israel terror may become life-threatening. Aware of the Peace Process's "productive" consequences, Israel's Islamic terrorist enemies may calculate that their resort to nuclear terrorism had become distinctly cost-effective.

When assessing the Peace Process's probable effects on anti-Israel nuclear terrorism, scholars and planners should be attentive to pertinent intervening variables that could affect hypothesized relationships. Examples of such intervening variables include: (1) changes in the configuration of state and non-state participants in the Peace Process;<sup>98</sup> (2) changes in the nuclear status of state participants in the Peace Process;<sup>99</sup> (3) changes in the number of nuclear adversary states in the region, whether or not these states are participants in the Peace Process;<sup>100</sup> (4) changes of leadership

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96. This means that Israel could not possibly exploit its nuclear weapons to prevent anti-Israel nuclear terrorism.

97. This suggests to the author that, at least until now, conventional terrorist attacks have not been intrinsically destructive enough to destabilize Israel, and that such attacks have not been sufficiently harmful to provide incentives to enemy states to strike first.

98. By this, the author means any change in the particular state and non-state players in the Peace Process.

99. By this, the author means any change in the nuclear *weapons* status of any state involved in the Peace Process, e.g., in the future, Syria.

100. By this, the author means any nuclear weapons status change in the regional enemy states facing Israel.

in enemy terrorist groups;<sup>101</sup> (5) changes in relationships among enemy terrorist groups;<sup>102</sup> (6) changes of leadership in enemy states, whether or not these states are participants in the Peace Process;<sup>103</sup> (7) changes in the incidence and/or intensity of anti-Israel terrorism;<sup>104</sup> and (8) changes in the deployment of enemy state nuclear weapons.<sup>105</sup>

Regarding this last "intervening variable," the Peace Process may allow enemy states, once they have developed deployable nuclear weapons, to place their weapons and launchers in areas that would be extremely close to Israel's most populous cities and towns. Recognizing the placement's strategic advantages, enemy states and terrorist groups may forge formal or informal alignments against the Jewish State, stipulating joint and collaborative nuclear action. Nuclear terrorism may give rise to nuclear war; nuclear war may give rise to nuclear terrorism; or nuclear terrorism and nuclear war may be undertaken against Israel simultaneously, a "synergistic" attack or set of attacks with potentially catastrophic harms.

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101. By this, the author means any change in the leadership, primarily, of PA/PLO; Hamas, Islamic Jihad and Hezbollah. For example, a displacement of Arafat by a more radical Islamic leader in PA/PLO could have a substantial effect on the outcome of the Peace Process.

102. By this, the author means any changes in the relations between these groups, e.g., any change in the relationship between PA/PLO and Hamas. Various PLO/Hamas deals have been reported periodically in the press. For example, OC Intelligence, Maj. Gen. Moshe Ya'alon, indicated in October 1995 that the PA had "reached an agreement with Hamas on suspending terror attacks against Israel from the autonomous areas . . ." *Hamas-PA Deal Reported*, JERUSALEM POST INT'L ED., Oct. 28, 1995, at 6.

103. By this, the author means any changes in Arab/Islamic leadership in the region.

104. By this, the author means any increase/decrease in anti-Israel terrorism and/or increase/decrease in the "quality" of anti-Israel terrorism.

105. By this, the author means any changes in the way enemy state nuclear weapons are deployed, e.g., changes from counterforce to countervalue targeting. For now, as mentioned earlier, there are still *no* nuclear weapons states among Israel's enemies. But Israel will have to be careful and prudent. See generally BEKER, *supra* note 18. See also, Peter Sullivan, *Iraq's Enduring Proliferation Threat*, 95 STRATEGIC FORUM, Nat'l Defense Univ., Nov. 1996, at 4; and Inbar, *supra* note 11, at 64. Regarding the unconventional threat from Iran, the Jordanian Publication, ALL HAYAT, in its Oct. 19, 1996 edition, stated: "Western intelligence reports note that Iran will succeed within one year to manufacture catastrophic nerve gas. If Iran produces such gas, the Gulf States will be in danger and this will threaten the stability of the Middle East." See *imra@netvision.net.il*, Oct. 22, 1996.

## VI. Conclusion

Despite its name, the Middle East Peace Process is leading directly and indirectly toward war. Faced with a new enemy state called "Palestine," Israel—now deprived of sorely-needed strategic depth—will expand its reliance upon nuclear weapons and strategy. Moreover, this expanded reliance will likely encourage preemption on all sides and increase the risks of inadvertent/unauthorized/accidental nuclear wars. Furthermore, if Israel's leaders perceive an authentically existential threat to Third Temple Commonwealth survival, they could decide to undertake nuclear retaliation, nuclear counterretaliation, nuclear preemption and even nuclear war-fighting.

As we have seen, the Peace Process also threatens Israel's survival indirectly. Here, by enlarging the risks of nuclear terrorism, Oslo expectations are setting the stage for a dramatically weakened national "organism," one that would provide a most tempting target for enemy states inflamed by the prospect of Israeli defeat. Following the creation of an Oslo-directed Palestinian state, Israel's state and nonstate enemies will likely recognize the synergistic<sup>106</sup> benefits of nuclear terrorism and nuclear war.

*Quo Vadis?* Where should Israel go from here? If the government in Jerusalem were to back away from Oslo commitments to creation of a Palestinian state, Israel would face global condemnation, renewed terrorism (possibly even unconventional

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106. Here the concept of "synergy" is used by the author to point to what military planners normally call "wars of attrition" and "wars of annihilation." A war of attrition is a condition of belligerency designed to wear down an enemy by constant pressure in order to weaken, exhaust or destroy that enemy's forces. The word "attrition" derives from the Latin *attere* (to weaken) that comes from *terrere* (to rub). In the particular sense of current Arab/Islamic war against Israel, the objective of exhausting or destroying Israel's armed forces (IDF) is only an intermediate goal. The overriding objective of this war is *annihilation* of the State of Israel. For more specialized treatment of the concept, *war of attrition*, see Dermot Bradley, *War of Attrition*, in 6 INT'L MILITARY & DEF. ENCYCLOPEDIA 2902-06 (Trevor N. Dupuy ed., 1993). In the orthodox military sense, the term *annihilation* "is not synonymous with its nonmilitary sense of complete destruction." Rather, it means "to take action that causes an enemy force to be totally incapable of further resistance." See *id.* at 2902. In the particular context of Arab/Islamic war against Israel, however, *annihilation* is synonymous with the nonmilitary meaning of complete and utter devastation. It is such devastation, not "merely" the incapacitation of Israel's armed forces, that Israel's enemies (state and non-state) seek. Although very few military forces in history have been annihilated in the nonmilitary sense, a prominent exception is the Jewish army at Masada in 73 C.E.—shortly after the destruction of the Second Temple.

terrorism) and war (possibly even unconventional war<sup>107</sup>). If this government moves forward to accept fully a new state of Palestine, Israel would face renewed terrorism and war.

In essence, the Peace Process has given the Jewish State a lose-lose choice. There are nuanced differences, of course, but in the final analysis the issue of Palestinian independence—however it may be resolved—points only toward violence and conflict. In principle, Israel could seek some measures of security via certain combinations of selective preemption against pertinent hard-targets and selective deployments of Anti-Tactical Ballistic Missile (ATBM) systems. In reality, the time for essential preemptions has already passed (i.e., it is no longer feasible tactically) and even the most effective active defenses will be inadequate for the protection of Israel's "soft" target populations.<sup>108</sup>

In reality, all of Israel's remaining options are not only unattractive; they are also all intolerable. Of course, this is not what one would normally expect from a "Peace Process," but the Oslo Agreements were ill-fated for Israel from the start. Creating a corrosive momentum all its own, this Process has now placed Israel in an authentically unwinnable situation. Short of rescue by a *deus ex machina*,<sup>109</sup> Israel's current best hope for survival after the Peace Process probably lies in ensuring the viability of both its conventional and nuclear deterrents and in a corresponding expansion of its counterterrorist and active defense capabilities.

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107. From the author's observation, biological weapons may be somewhat less threatening to Israel than chemical weapons or even nuclear weapons. Although a growing number of states have or are currently developing capabilities to employ living organisms (such as anthrax, lassa fever, or typhus, as opposed to inert toxins), such capabilities have limited military value. This is because their dispersal mechanisms are difficult to manage; a change of wind can make them as lethal to the attacker as to the intended victim; and because it is difficult to sustain the living organism in biological weapons in hot climates for long periods. At the same time, precisely because biological weapons are better suited for mass destruction than for use as dedicated military instruments, they could hold out greater appeal to Israel's *irrational* enemies.

108. On the shortcomings of active defenses, see Richard L. Garwin, *Space-Based Defenses Against Ballistic Missiles*, PSIS PROCEEDINGS, THE FUTURE OF SMART WEAPONS, Proceedings from an AAAS Annual Meeting Symposium, Feb. 8, 1992, at 45-55.

109. This remedy of a god "out of a machine" was a theatrical device of Euripides. Born in Salamis around 485 B.C., this "father" of modern European drama would often conclude a play by bringing forth a sort of crane, which hoisted the actor representing a god above all of the other actors. Such appearance solved endless complications and supplied a happy ending. It goes without saying that the world of the contemporary Middle East is not the world of Euripides' theatrical resolutions.

