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THE ASSASSINATION OF HIGH-RANKING STATE OFFICIALS AND MILITARY COMMANDERS IN INTERNATIONAL LAW: AN EXAMINATION OF THE BOUNDARIES BETWEEN SELF-DEFENCE AND TARGETED KILLINGS

CASE STUDY OF THE ASSASSINATION OF IRAN'S SUPREME LEADER BY THE UNITED STATES AND ISRAEL

Abstract: *The phenomenon of “targeted killings of state officials” represents one of the most intricate challenges in contemporary international law, blurring the boundaries between the jus ad bellum (the law on the use of force) and international humanitarian law (IHL). Adopting a descriptive-analytical approach, the present article examines the legal legitimacy of this practice in light of the United Nations Charter, the Geneva Conventions, and the Rome Statute. The research findings indicate that invoking the doctrine of “self-defence” under Article 51 of the Charter to justify such attacks often conflicts with the principles of necessity and proportionality. From an IHL perspective, political officials, due to their lack of “direct participation in hostilities,” enjoy protected civilian status, and targeting them constitutes a clear violation of the “principle of distinction.” In its specific section, the article explores the scenario of assassinating officials during diplomatic missions or while they are managing high-level peace negotiations from within their own sovereign territory. The results indicate that this scenario not only violates absolute diplomatic immunities and the fundamental principle of “good faith,” but also, by breaching Article 2(4) of the UN Charter, can constitute a manifest instance of the “crime of aggression.” Furthermore, in the context of armed conflict,*

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the abuse of the negotiation process to physically eliminate leaders, under the rubric of “perfidy” as defined in Article 8 of the Rome Statute, is considered an aggravated war crime, entailing absolute individual criminal responsibility for its commanders and perpetrators.

Keywords: *Targeted Killing, State Officials, International Humanitarian Law, War Crime, Peace Negotiations.*

L'ASSASSINAT DE HAUTS RESPONSABLES D'ÉTAT ET DE COMMANDANTS MILITAIRES EN DROIT INTERNATIONAL : EXAMEN DES LIMITES ENTRE LÉGITIME DÉFENSE ET ASSASSINATS CIBLÉS.

ÉTUDE DE CAS : L'ASSASSINAT DU GUIDE SUPRÊME IRANIEN PAR LES ÉTATS-UNIS ET ISRAËL

Résumé : Le phénomène des « assassinats ciblés de responsables étatiques » constitue l'un des défis les plus complexes du droit international contemporain, brouillant les frontières entre le jus ad bellum (le droit relatif à l'usage de la force) et le droit international humanitaire (DIH). Adoptant une approche descriptive et analytique, cet article examine la légitimité juridique de cette pratique au regard de la Charte des Nations Unies, des Conventions de Genève et du Statut de Rome. Les résultats de la recherche indiquent que l'invocation de la doctrine de la « légitime défense » au titre de l'article 51 de la Charte pour justifier de telles attaques entre souvent en conflit avec les principes de nécessité et de proportionnalité. Du point de vue du DIH, les responsables politiques, en raison de leur absence de « participation directe aux hostilités », bénéficient d'un statut civil protégé, et les cibler constitue une violation manifeste du « principe de distinction ». Dans une section spécifique, l'article explore le scénario de l'assassinat de responsables lors de missions diplomatiques ou alors qu'ils mènent des négociations de paix de haut niveau sur leur territoire souverain. Les résultats indiquent que ce scénario viole non seulement les immunités diplomatiques absolues et le principe fondamental de « bonne foi », mais constitue également, en enfreignant l'article 2(4) de la Charte des Nations Unies, un cas manifeste de « crime d'agression ». De plus, dans le contexte d'un conflit armé, l'instrumentalisation du processus de négociation pour éliminer physiquement des dirigeants, sous le terme de « perfidie » tel que défini à l'article 8 du Statut de Rome, est considéré comme un crime de guerre aggravé, engageant la responsabilité pénale individuelle absolue de ses commandants et auteurs.

Mots-clés : Assassinats ciblés, représentants de l'État, droit international humanitaire, crimes de guerre, négociations de paix.

THE EVOLUTION OF WARFARE METHODS AND TOOLS in the 21st century has presented the international legal system with unprecedented challenges. One of the most controversial phenomena in this arena is the increasing resort by states to extraterritorial lethal operations under the heading of “targeted killing.” Although the term ‘targeted killing’ is not formally defined in any international treaty, Professor Nils Melzer, in UN reports and legal doctrine, has explained it

as “the intentional, premeditated and deliberate use of lethal force by a subject of international law (such as a state) against a specific individual outside a judicial framework” (Melzer, 2008, p. 3).

The legal complexity of this issue reaches its zenith when the targets of such operations are not ordinary individuals or “non-state armed groups,” but rather high-ranking political officials or senior military commanders of a “sovereign” state. In recent years, some states have sought to legally justify the assassination of other states’ officials by invoking the doctrine of “self-defence” under Article 51 of the UN Charter and its conceptual expansion into “anticipatory self-defence” (Henderson, 2018). Nevertheless, this expansionist approach has profoundly blurred the delicate boundaries between a legitimate military action under the *ius ad bellum* and an “extrajudicial killing” or even a “war crime.”

The fundamental question of this research is that the use of lethal force against senior officials of a foreign sovereignty is in manifest contradiction with fundamental principles of international law, including the “principle of sovereign equality,” the “principle of non-intervention,” and the prohibition of the use of force enshrined in Article 2(4) of the UN Charter (Cassese, 2005). This article is premised on the assumption that many assassinations of high-ranking state officials and military commanders not only fail to meet the legal threshold for establishing “self-defence” but also often constitute flagrant violations of “international human rights law” and, in the presence of an armed conflict, “international humanitarian law.”

A review of existing legal literature shows that the issue of “targeted killings” has received extensive attention in international legal doctrine over the past two decades; however, the overwhelming focus of this scholarship has been on the confrontation between states and non-state actors and terrorist groups. For example, Kretzmer (2005), in his foundational study, assessed targeted killings solely within the context of countering transnational terrorism and measured their legitimacy against individuals lacking sovereign affiliation. Also, Alston (2011), in his critical inquiries, focused more on covert intelligence operations against militants in areas outside active battlefields. On the other hand, scholars like O’Connell (2010) concentrated their attention on the tools and technologies employed in these operations (such as the use of armed drones) and their non-compliance with IHL, without independently analyzing the legal status of state targets. Regarding the specific subject of “assassination of state officials,” classical international law literature has largely examined it under the rubric of “state terrorism” or within

the framework of domestic criminalization. Schmitt (1992), in his comprehensive article, examined state-sponsored assassinations, but his analysis pertains to the era preceding the development of the anticipatory self-defence doctrine and does not fully align with contemporary legal challenges. The major gap in the aforementioned research literature is that it has neglected the intersection of the two concepts of “targeted killing” and “high-ranking state/military official” in light of modern interpretations of Article 51 of the UN Charter.

The fundamental distinction and innovation of the present article are summarized in three essential axes:

First, unlike previous research that examines targeted killing within the context of “counter-terrorism,” this article specifically analyzes this concept in relation to the “official organs of a sovereignty” and demonstrates that extending the rules of engagement with non-state actors to official officials is a “legal fallacy.” Second, while previous studies largely focused on the illegitimacy of the means (e.g., drones), this article focuses on the “status” of the target and argues that invoking anticipatory self-defence to assassinate state officials lacks legal validity due to the impossibility of definitively establishing the condition of an “imminent armed attack” by a political or military official. Third, this research goes beyond analyses based solely on the *jus ad bellum*, taking a novel step by examining the feasibility of classifying these acts as a “war crime” within the framework of the “Rome Statute” and the “International Criminal Court (ICC).” Fourth, it examines the assassination of high-ranking officials within their domestic territory while managing high-level negotiations. Fifth, it examines the indicators for assessing self-defence versus unlawful targeted killing through the case study of the assassination of Iran’s Supreme Leader by the US and Israel.

The necessity of conducting this research stems from the fact that the growing practice of some military powers in using modern technologies to assassinate officials of other states is creating a dangerous precedent and exploiting gaps in international law. The international legal system faces serious ambiguities and gaps in precisely defining an “armed attack” in the era of asymmetric warfare, determining the legal status of military commanders in grey zones (neither complete peace nor full-scale war), and the overlap between human rights law and humanitarian law (Blum & Heymann, 2010).

To precisely elucidate this issue, the present article, adopting a descriptive-analytical approach and examining authoritative international documents, the

jurisprudence of the “International Court of Justice (ICJ),” and the doctrine of prominent jurists, seeks to answer the following objectives and questions: First, what are the different examples and classifications of targeted killings in international law, and under which category does the assassination of state officials fall? Second, how can it be demonstrated that invoking self-defence to assassinate military commanders and political officials generally lacks legal validity? Third, what structural and substantive gaps in international law have facilitated these actions by states? And finally, can the assassination of these officials be prosecuted as a “war crime” under the Rome Statute and the Geneva Conventions (1949)? To address the stated objectives and precisely elucidate the legal dimensions of the issue, the structure of the present article is organized into three main sections. The first section deals with the conceptual classification of instances of targeted killings and distinguishes the distinct legal status of high-ranking state and military officials in comparison to non-state actors. The second section critically and meticulously analyzes states’ invocation of the anticipatory self-defence doctrine (Article 51 of the UN Charter) to justify the assassination of state officials. Finally, the third section is dedicated to examining the feasibility of attributing the criminal designation of “war crime” to such actions within the framework of the Rome Statute and the Geneva Conventions. The article concludes by presenting a comprehensive conclusion synthesizing the research findings.

1. Conceptual Classification of Instances of Targeted Killings and the Distinct Legal Status of High-Ranking State and Military Officials in Comparison to Non-State Actors

In contemporary international legal literature, the term ‘targeted killing’ lacks an explicit and universal treaty-based definition; nevertheless, from a doctrinal perspective and in the practice of UN Special Rapporteurs, this concept is defined as “the deliberate, premeditated, and lethal use of physical force against a specific individual, by a state or its agents, outside a judicial process” (Alston, 2010, p. 3). The advent of modern military technologies and the changing nature of armed conflicts have led states to frequently resort to this tool.

However, the lawfulness of a targeted killing is directly dependent on the “legal status of the intended target” and the “legal paradigm governing the operational environment” (Melzer, 2008, p. 53). Accordingly, distinguishing between targets belonging to the entity of a “state” and those classified as “non-state actors” is the cornerstone of legal analysis in this field.

1.1. The Dual Paradigms in the Use of Lethal Force: Law Enforcement versus Armed Conflict

First, the Law Enforcement Paradigm: This paradigm is based on international human rights law (particularly Article 6 of the International Covenant on Civil and Political Rights of 1966). Within this framework, the use of lethal force is only permitted in situations of “defence of oneself or others against an imminent threat” and as a “last resort.” In peacetime, any premeditated killing constitutes a clear instance of “extrajudicial execution” (Kretzmer, 2005, p. 178).

Second, the Armed Conflict Paradigm: This paradigm, shaped by international humanitarian law, applies as the *lex specialis* during wartime. In this situation, killing enemy combatants is inherent to military operations, provided that the fundamental principles of “distinction,” “proportionality,” and “precaution” are observed (Dinstein, 2016, p. 9).

1.2. Legal Status of Non-State Actors in Targeted Killings

In assessing the legal status of non-state actors (e.g., members of insurgent or terrorist armed groups), international law faces the following challenges:

- Lack of Combatant Status: Under Article 43 of Additional Protocol I (1977) to the Geneva Conventions, members of non-state armed groups do not enjoy “combatant privilege” and, if captured, would not have “prisoner of war” status. Legally, these individuals are inherently classified as “civilians” (Sassòli, 2019, p. 241).

- Doctrine of Direct Participation in Hostilities (DPH): Article 51(3) of Additional Protocol I stipulates that civilians lose their immunity “for such time as they take a direct part in hostilities.” This exception constitutes the main legal basis for justifying the targeted killing of these actors (ICRC, 1977).

- Continuous Combat Function (CCF): The “International Committee of the Red Cross (ICRC)” in 2009 expanded the concept of direct participation in hostilities. Organized members of non-state armed groups who have a “continuous combat function” are considered legitimate targets for lethal attack for the entire duration of their membership (Melzer, 2009, p. 71).

- Operational Space: States often attempt to apply the armed conflict paradigm globally against these actors by expanding the concept of “non-international armed conflict (NIAC)” across borders and creating the notion of a “transnational armed conflict” (Corn, 2007, p. 315).

1.3. The Distinct Legal Status of High-Ranking State and Military Officials

The status of official officials of a state (both civilian and military) involves significantly higher legal complexity.

1.3.1. State Officials in the Absence of an Open Armed Conflict

In peacetime, the targeted killing of a foreign state official faces the following robust obstacles:

- **Fundamental Violation of the Prohibition of the Use of Force:** Under Article 4 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA), the conduct of these individuals is attributable to the state (International Law Commission, 2001, p. 40). Consequently, any physical attack on the armed forces of a state directly constitutes a “use of force” against that state’s sovereignty and a flagrant violation of Article 2(4) of the UN Charter (Crawford, 2013, p. 115).

- **Immunity of State Officials:** In customary international law, high-ranking state officials possess “personal immunity” (*ratione personae*) and “functional immunity” (*ratione materiae*), rooted in the principle of sovereign equality (Cassese, 2005, p. 110; ICJ, 2002).

- **Prohibition of Political Assassination:** International conventions, including the “Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons” (1973), prohibit attacks on the life of state officials (UN General Assembly, 1973).

1.3.2. Military Officials in the Context of an International Armed Conflict (IAC)

Once two states enter into war, commanders and personnel of state armed forces are considered “combatants” and “lawful military objectives” in war (Dinstein, 2016, p. 35).

On the other hand, Article 23(b) of the Hague Regulations (1907) strictly prohibits “treacherously killing” an enemy. This rule is reiterated under the prohibition of “perfidy” in Article 37 of Additional Protocol I (Henckaerts & Doswald-Beck, 2005, p. 221).

1.3.3. High-Ranking Political (Civilian) Officials During Wartime

Political officials (e.g., leader, president, ministers), even during an armed conflict, are inherently “civilians” and directly subject to the “principle of distinction.” Targeting them constitutes a grave breach of IHL, unless they are directly participating in military operations or, at the apex of the chain of command as

Commander-in-Chief, issuing direct tactical orders – a scenario that creates an exceptional and challenging situation (Sassòli, 2019, p. 375).

1.4. The Dualistic Clash of Attribution Regimes

When the target is a member of a non-state group, the international system generally deals with it within the human rights law framework. In contrast, the targeted killing of state officials directly activates the “regime of state responsibility,” entitling the state of nationality to resort to international mechanisms, countermeasures, or even self-defence (Crawford, 2013, p. 218).

State officials are symbols of a state’s territorial and political sovereignty. The targeted killing of a high-ranking commander in peacetime directly transgresses the boundaries of the *jus ad bellum* and, in the absence of well-founded justifications (such as established self-defence), constitutes a definitive internationally wrongful act and a violation of sovereignty (Alston, 2010, p. 25).

2. Critical Analysis of Invoking the Anticipatory Self-Defence Doctrine (Article 51 of the UN Charter) to Justify Targeted Killings of State Officials

The contemporary international legal system is founded on the fundamental principle of the “prohibition of the use of force” (Article 2(4) of the UN Charter), and exceptions to this *jus cogens* rule are interpreted very restrictively and narrowly. One of the most challenging issues in the *jus ad bellum* is the attempt by some states to justify the “targeted killing” of other states’ high-ranking state and military officials under the protective umbrella of the “anticipatory self-defence” doctrine enshrined in Article 51 of the UN Charter. This section critically analyzes the legal capacities and limitations of this invocation.

2.1. Revisiting the Concept of “Anticipatory Self-Defence” and the Caroline Test

Article 51 of the UN Charter conditions the inherent right of self-defence upon the occurrence of an “armed attack.” However, in international legal doctrine, there has always been debate over whether a state must wait to receive the first blow of a devastating attack or whether it can use force pre-emptively to avert it.

Prominent jurists like Yoram Dinstein distinguish between “preventive self-defence,” which is applied against ambiguous, remote threats and is absolutely

unlawful in international law, and “anticipatory self-defence,” which is undertaken in the face of an imminent threat (Dinstein, 2017, p. 232). The legitimacy of the anticipatory doctrine is rooted in the well-known customary practice in the “Caroline Incident” (1837). According to the Caroline formula, articulated by Daniel Webster, the use of anticipatory force is only permissible when its necessity is “instant, overwhelming, leaving no choice of means, and no moment for deliberation” (Ruys, 2010, p. 254).

Consequently, invoking this doctrine to justify the killing of a state official primarily requires the indisputable proof that the targeted official was directing or executing an “imminent and certain” armed attack against the acting state.

2.2. The Dual Nature of the Target: Legal Distinction between State Officials and Non-State Actors

Invoking self-defence to justify targeted killings has largely developed within the context of counter-terrorism and against “non-state actors.” David Kretzmer argues that states have attempted to extend the executive model of the laws of war into the realm of law enforcement to target suspected terrorists outside judicial frameworks (Kretzmer, 2005, p. 173).

However, extending this approach to official officials of an independent sovereign state faces fundamental legal obstacles. Nils Melzer emphasizes that high-ranking state and military officials are considered organs and sovereign symbols of a state (Melzer, 2008, p. 54). Under the rules of state responsibility (ARSIWA), any military action against an official official is equivalent to military action against the entire state. Therefore, the targeted killing of a state official in peacetime (outside the context of an ongoing armed conflict) is not merely a police or counter-terrorism measure; it is a clear instance of the “use of force in international relations” (violation of Article 2(4)) and risks the immediate escalation of the situation into an international armed conflict (IAC) (Cassese, 2005, p. 341).

2.3. The Threshold of “Armed Attack” and the Challenge of Evidentiary Proof

The next fundamental challenge in invoking Article 51 is proving the element of an “armed attack.” The International Court of Justice (ICJ) has consistently provided a restrictive interpretation of this concept. In its famous judgment in the *Military and Paramilitary Activities in and against Nicaragua* (1986), the Court stated that not every use of force necessarily reaches the threshold of severity of

an “armed attack” (ICJ, 1986, p. 103, para. 195). Also, in the Oil Platforms case (2003), the Court placed a very heavy burden of proof on the state claiming the right of self-defence; the state invoking Article 51 must prove with conclusive evidence that the target of the attack was committing or directly preparing an armed attack against that state (ICJ, 2003, p. 189, para. 51).

Applying this stringent standard to the scenario of targeted killing of state officials demonstrates that vague intelligence suggesting a military official is strategically planning or operationally supporting proxy groups in the future can never pass the tests of “imminence” and “severity threshold.” Christian Henderson, in his analyses of states’ expansive interpretations of Article 51, warns that accepting unverifiable security intelligence as the basis for “anticipatory self-defence” would signify the complete collapse of the legal regime governing the prohibition of the use of force and a return to the pre-UN Charter era (Henderson, 2014, p. 215).

2.4. The Principles of Proportionality and Necessity within the Framework of Self-Defence

Even if we impossibly assume that the threat emanating from a state official is completely imminent and equivalent to an armed attack, the use of force remains bound by the customary fundamental principles of “necessity” and “proportionality.” The ICJ’s jurisprudence in the Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons (1996) affirms that no self-defence claim is considered lawful without strict adherence to these two principles (ICJ, 1996, p. 245, para. 41).

- Principle of Necessity: Requires that the acting state has no other peaceful means (such as recourse to the Security Council, diplomatic pressure, or arresting the official if possible) to avert the danger. Regarding state officials, since they represent a bureaucratic structure (their own state), crisis management through international channels is usually possible, which makes resorting to the “necessity” of killing very difficult.

- Principle of Proportionality: Requires that the volume and intensity of the force used be solely commensurate with repelling that potential attack and not exceed it. The killing of high-ranking officials, due to the wide-ranging political and security consequences that destabilize regional and international stability, generally fails the proportionality test in self-defence, because instead of averting a specific threat, it escalates tensions and creates a cycle of reprisals (O’Connell, 2002, p. 12).

The outcome of doctrinal analyses and judicial practice indicates that the effort to situate targeted killings of state officials within the framework of the “anticipatory self-defence” doctrine is incompatible with the fabric of general international law. On the one hand, the stringent conditions of the Caroline Test (especially the condition of instant imminence), and on the other hand, the restrictive jurisprudence of the ICJ in defining an “armed attack,” prevent a state from targeting the sovereign officials of another state based on confidential intelligence and claims of preventing future threats. Such an action, as long as it occurs outside the context of an ongoing armed conflict and without Security Council authorization, is considered in modern international law literature a clear violation of Article 2(4) of the UN Charter and an unlawful use of force.

3. Feasibility of Attributing the Criminal Designation of “War Crime” to Targeted Killings within the Framework of the Rome Statute and the Geneva Conventions

Justifying targeted killings of state officials within the framework of the *jus ad bellum* and the self-defence doctrine faces fundamental challenges. Nevertheless, if these acts occur in the context of an armed conflict (whether international or non-international), or themselves cause an international armed conflict, they become unconditionally subject to the rules of “international humanitarian law” and “international criminal law.” This section assesses the legal capacities of the four Geneva Conventions (1949) and the Rome Statute (1998) for criminalizing these acts.

3.1. The Principle of Distinction and the Legal Status of the Target: The Challenge of Continuous Combat Function

The most fundamental customary and treaty rule in the law of armed conflict is the “principle of distinction,” codified in Article 48 of Additional Protocol I (1977). Based on this principle, military attacks may only be directed at “combatants” and “military objectives.”

When confronting high-ranking officials of a state, a delicate distinction exists between “political officials” and “military officials.” The political and civilian officials of a state, under IHL rules, have the status of “civilians,” and any deliberate attack against them constitutes a grave breach of the Geneva Conventions. On the other hand, regarding military commanders, although they are generally classified as combatants, in situations outside the battlefield, such as diplomatic travel

or presence in non-combat zones during peacetime, targeting them is subject to human rights law and the right to life (Article 6 of the ICCPR). The doctrine of “continuous combat function” (CCF), developed by the ICRC, is fundamentally intended for assessing the status of members of non-state armed groups, and extending it to official officials of national armies lacks doctrinal validity in international jurisprudence (Melzer, 2008, p. 312).

3.2. Targeted Killings and Grave Breaches under Article 8 of the Rome Statute

The Rome Statute of the International Criminal Court (ICC), in Article 8, establishes jurisdiction over “war crimes.” Targeted killings, depending on their execution and the nature of the target, can be prosecuted under several paragraphs of Article 8:

- Wilful Killing: Article 8(2)(a)(i) of the Rome Statute pertains to grave breaches of the Geneva Conventions. If the targeted individual is a “protected person” at the time of the hostilities (such as a civilian official or diplomat), depriving them of life without “fair judicial processes” is a definitive instance of this provision (Schabas, 2016, p. 241).

- Killing or Wounding by “Perfidy”: Targeted killing operations often require intelligence infiltration and the use of civilian cover. Article 8(2)(b)(xi) of the Rome Statute considers the commission of “perfidy” as a war crime. Article 37 of Additional Protocol I also stipulates that resorting to bad faith and inducing the enemy’s belief that the attacker is entitled to protection under international law (e.g., using civilian clothing or ambulances to approach and assassinate a target) is prohibited and criminal (Cassese, 2008, p. 98).

3.3. Nexus with Armed Conflict and Individual Criminal Responsibility

One of the conditions for the application of the Geneva Conventions and Article 8 of the Rome Statute is establishing a “nexus between the act and the armed conflict.” In a situation where no armed conflict is ongoing between two states, the targeted killing of a foreign state official is, in itself, an unlawful “use of force.” The Appeals Chamber of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the Tadić case (1995) held that whenever there is resort to armed force between states, an international armed conflict exists (ICTY, 1995, para. 70). Therefore, at the very moment the attack (assassination) occurs, IHL rules become applicable, and the act may be considered a war crime.

Within this framework, under Article 25 of the Rome Statute, not only the direct perpetrators of the operation but also the commanders, planners, and political/military superiors who ordered the assassination bear “individual criminal responsibility.”

3.4. Legal Status of Targeted Killing of Officials During Negotiations and Diplomatic Missions

One of the most complex and sensitive scenarios in examining targeted killings is when the targeted official is engaged in a diplomatic mission, mediation, or participating in “peace negotiations.” The occurrence of an assassination in such a context, in addition to violating the rules on the use of force and IHL, also severely violates the law of diplomacy and the fundamental principles of the UN Charter. The legal analysis of this situation can be distinguished at two levels: peacetime and armed conflict.

3.4.1. Violation of Absolute Diplomatic Immunities and the New York Conventions:

Outside the context of armed conflict, high-ranking state officials and official envoys traveling to a third state for negotiation have the status of a “special mission.” Under established international custom and the provisions of the “Convention on Special Missions” of 1969, representatives of states during negotiations enjoy absolute personal inviolability and immunity.

More importantly, the provisions of the “Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents” (adopted by the UN General Assembly in 1973) classify high-ranking state officials (such as heads of state, ministers, and official envoys) as “internationally protected persons.” Article 2 of this Convention obligates states to criminalize in their domestic law any deliberate attack on the life or liberty of such persons as a serious international crime. Therefore, taking the life of a state official en route to or during negotiations is a crime that, in addition to the international responsibility of the attacking state, provides a basis for the exercise of “universal jurisdiction” to prosecute its perpetrators (Denza, 2016, p. 412).

3.4.2. Assassination of Negotiators within the Framework of IHL and the Concept of the “Parlementaire”:

If the targeted killing of a state official occurs during an ongoing armed conflict with the aim of disrupting ceasefire or peace negotiations, the matter falls directly under the purview of the peremptory rules of IHL. In the customary

law of armed conflict, crystallized in Article 32 of the Hague Regulations (1907), the institution of the “parlementaire” (envoy) is recognized. A parlementaire is a person authorized by one of the belligerents to enter into communication with the other and enjoys absolute inviolability.

Professor Yoram Dinstein emphasizes that the deliberate targeting of negotiators is one of the oldest and most flagrant war crimes in international law (Dinstein, 2016, p. 285). From the perspective of the Rome Statute, if a state, by promising negotiation or creating a safe diplomatic passage, entices a hostile state official to leave a secure haven and then assassinates them, this act goes beyond a simple wartime killing; it is a clear instance of “perfidy,” which under Article 8(2) (b)(xi) of the Rome Statute constitutes an aggravated war crime.

3.4.3. Conflict with the Principle of Peaceful Settlement of Disputes:

From a systemic perspective, the assassination of a state official during negotiations is a direct attack on Article 33 of the UN Charter, which obligates states to seek “peaceful settlement of disputes.” Abusing diplomatic processes as a trap for the physical elimination of rivals or enemies destroys “good faith” in international relations and eliminates the possibility of legally ending hostilities. In international jurisprudence, such an act can be cited as strong evidentiary proof for establishing “specific intent” (*dolus specialis*).

4. Assassination of High-Ranking Officials Within Domestic Territory While Managing High-Level Negotiations (Direct Intervention and Dual Violation)

One of the most challenging scenarios in international legal doctrine is a situation where the leader of a state or a high-ranking official responsible for directing and “managing high-level negotiations” is subjected to a targeted killing while performing this function from within their own sovereign territory (and not during a diplomatic trip abroad). This scenario represents the convergence point of fundamental violations of several legal regimes:

4.1. From the Perspective of the Jus ad Bellum and the Crime of Aggression:

Targeting the leader of a state within that state’s own territory is no longer merely a violation of diplomatic law; it is a clear instance of violating Article 2(4) of the UN Charter (prohibition of the use of force against territorial integrity and political independence). Regardless of the level of negotiations underway, the

assassination of the highest political official of a state within its domestic territory, under Article 3(b) and (d) of General Assembly Resolution 3314, constitutes an “act of aggression.” From an international criminal law perspective, such an act could trigger Article 8 bis of the Rome Statute under the heading “crime of aggression,” for which criminal responsibility directly attaches to the leaders of the attacking state (Crawford, 2012, p. 154).

4.2. Assessing the Status of the Target in IHL and the Direct Participation in Hostilities Doctrine:

If this assassination occurs in the context of an ongoing armed conflict, the legal status of the targeted official must be assessed under IHL rules. Senior political officials (even leaders or ministers who nominally or structurally hold the position of Commander-in-Chief), as long as they are based in their state’s capital or political centers and are advancing diplomacy and managing negotiations, have “civilian status.”

According to the ICRC’s Interpretive Guidance on “Direct Participation in Hostilities,” high-level peace policy-making and management of negotiations are by no means equivalent to direct participation in military operations. Therefore, the assassination of these officials is not only excluded from the scope of legitimate military objectives but also constitutes an “intentional attack against civilians” and, under Article 8(2)(b)(i) of the Rome Statute, is an unjustifiable war crime (Melzer, 2009, p. 65).

4.3. Fundamental Conflict with the Principle of Good Faith and Abuse of Diplomatic Passivity:

From the perspective of international practice, when a state (or its representatives) is formally engaged in a negotiation process (whether direct or indirect through a mediator), it is considered to be in a state of “diplomatic passivity” or reduced belligerency. The abuse of this situation of relative suspension by a belligerent state to locate the leaders of the opposing state and assassinate them within their own territory violates the fundamental principle of “good faith” in international law.

This act degrades diplomacy into a tool for “strategic deception” to facilitate killing and, from the perspective of international courts, is assessed as an “aggravating factor” in establishing criminal intent (*mens rea*) for war crimes and aggression.

5. Indicators for Assessing Self-Defence versus Unlawful Targeted Killing (Case Study of the Assassination of Iran's Supreme Leader by the US and Israel)

In this section, first, the test criteria are presented, and then these criteria are applied to the assassination (killing) of Iran's Supreme Leader.

5.1. Test Criteria

To assess whether an assassination action constitutes self-defence or an unlawful targeted killing, the following probing questions can be used:

5.1.1. The Threat Imminence Test

Was the targeted individual, at the moment of the assassination, operationally commanding an imminent armed attack? If the planning relates to an uncertain future or general threats, the condition of "imminence" is not met, and the act falls outside the scope of self-defence, becoming a pre-emptive punishment (extra-judicial killing).

5.1.2. The Last Resort Test

Did the attacking state have no peaceful, diplomatic, or arrest option available? Self-defence is legitimate only when the use of lethal force is absolutely the sole remaining option to avert the danger.

5.1.3. The Status of the Target Test

Was the assassinated individual a military commander on the battlefield or a political/state official performing civil or diplomatic duties? International law does not accept extending the concept of "military threat" to high-ranking political officials. Justifying the assassination of a state official under the rubric of self-defence is practically in contradiction with the principle of official immunity and the principle of non-intervention.

5.1.4. The Nexus with Armed Conflict Test

Did the assassination occur in an area where an active armed conflict is ongoing? If a state assassinates an individual in conditions of peace or negotiation, this act is an extrajudicial killing and constitutes a war crime.

5.2. Application of the Tests to the Assassination of Iranian Leaders and Officials

According to reports published in international media, the military conflict between the US and Israel on one side and Iran on the other began on February 28,

2026, and on the same date, it resulted in the assassination and killing of Iran's Supreme Leader, Ayatollah Seyyed Ali Hosseini Khamenei.

Applying all four tests, the assassination of Iran's Supreme Leader constitutes an extrajudicial and unlawful killing and cannot be considered self-defence.

5.2.1. *The Threat Imminence Test*

Was Iran's Supreme Leader, at the moment of assassination, operationally commanding an imminent armed attack? According to published reports, Iran's Supreme Leader was killed during a meeting of the Supreme Defence Council or in the first wave of airstrikes. Even if we assume Iran had been planning attacks prior, the role of the Supreme Leader is Commander-in-Chief, not tactical command on the battlefield.

General threats, strategic planning, or escalation of political tensions do not satisfy the "imminence" condition. Self-defence requires an "imminent armed attack" that the individual is directly executing at the moment of the assassination. Consequently, the imminence condition is not met. The act is excluded from the scope of self-defence.

5.2.2. *The Last Resort Test*

Did the attacking state (US/Israel) have no peaceful, diplomatic, or arrest option regarding Iran's Supreme Leader?

Iran's Supreme Leader resides in Tehran and is under the sovereignty of the Islamic Republic of Iran. Before the extensive military attack, the attacking state had the following options:

- Diplomatic measures: Negotiation, mediation, complaint to the Security Council, imposing further sanctions.
- Arrest: No attempt to issue an international arrest warrant (e.g., through the ICC) or negotiate extradition has been reported.
- Non-lethal operations: The possibility of conducting commando operations for arrest instead of assassination existed (albeit risky).

Self-defence is only permitted when "all peaceful means have been exhausted." In the scenario of the assassination of Iran's Supreme Leader, the widespread airstrike was carried out concurrently with the leader's assassination, indicating no effort to pursue other means. Consequently, the last resort condition is violated; lethal assassination was "absolutely not the sole remaining option."

5.2.3. *The Status of the Target Test*

Was Iran's Supreme Leader a military commander on the battlefield, or a political/state official performing civil and diplomatic duties?

The position of "Leader of the Islamic Republic of Iran" is a high-ranking political and religious authority with civil and sovereign powers, not a field commander physically present on the frontline. Even if he is the Commander-in-Chief, IHL does not accept extending the concept of "military threat" to high-ranking political officials. Justifying the assassination of a state official under the pretext of self-defence contradicts the principle of official immunity and non-intervention. A political official is considered a legitimate target only if directly participating in a specific and imminent military operation, which is not applicable here. Consequently, the status of the target condition is not met; the target was a high-ranking civilian political official, not a field commander on the battlefield.

5.2.4. *The Nexus with Armed Conflict Test*

Did the assassination occur in an area where an active armed conflict was ongoing? The assassination occurred in the first hours of the war and in Tehran (Iran's capital). At the moment of assassination, the Tehran area was not an "active battlefield." The conflict had just begun, and a state of "relative peace" and negotiation existed prior to the airstrikes. IHL considers the use of lethal force against the leader of a state in its capital, in the absence of an active armed conflict in that specific location, as an extrajudicial killing and a war crime. Even if a war has begun on a national scale, not every point of enemy territory automatically becomes a "battlefield." Political and civilian centers are under special protection. Consequently, the nexus with armed conflict condition is not met; the assassination occurred in a situation where no active armed conflict yet existed in that geographical location.

Final Legal Conclusion: The aforementioned action was not self-defence but rather an extrajudicial killing and, within the framework of international criminal law, constitutes a war crime or a crime against humanity. Generally, from the perspective of international law, claims of "self-defence" in the assassination of individuals face very high evidentiary standards. In the absence of a formal armed conflict and without indisputable proof of an "imminent and instant attack" by the target individual, such actions are generally classified by human rights bodies and UN Special Rapporteurs as "extrajudicial and unlawful targeted killings," entailing international responsibility for the violating state.

Conclusion

The present article, aiming to analyze one of the most contentious phenomena in contemporary international law, namely the “targeted killing of state officials,” examined the complex intersection of three legal regimes: the use of force (*jus ad bellum*), international humanitarian law (*jus in bello*), and international criminal law.

The findings of this research can be explained in three fundamental axes:

First, conceptually and structurally, extending the rules governing counter-terrorism and non-state armed groups to the institutions and official officials of a sovereign state is contrary to the fundamental principles of international law. High-ranking officials are considered sovereign symbols, and targeting them directly activates state responsibility for violating national sovereignty.

Second, the analytical examination of the “anticipatory self-defence” doctrine in Article 51 of the UN Charter and the analysis of ICJ jurisprudence (including the Nicaragua and Oil Platforms cases) demonstrated that justifying the assassination of state officials based on intelligence information and claims of preventing ambiguous future threats lacks legal validity. The stringent criteria of the Caroline doctrine regarding the need for instant necessity and “imminent immediacy” prevent states from taking the lives of other states’ officials outside an ongoing conflict. Regardless of their justifying political rhetoric, such actions constitute a clear violation of Article 2(4) of the UN Charter.

Third, assessing this phenomenon through the lens of international criminal law proved that targeted killings, especially when accompanied by violations of the principle of distinction and resort to perfidy, meet the threshold for the ICC’s jurisdiction. Grave breaches of the Geneva Conventions (1949) and the compatibility of these acts with Article 8(2)(a) and (b) of the Rome Statute provide a strong basis for establishing “individual criminal responsibility” for the perpetrators and commanders of these attacks.

Fourth and finally, committing this act, whether during extraterritorial diplomatic missions or while managing a peace process from within sovereign territory, is more than a tactical violation of IHL or an unlawful use of force. It is a destructive convergence of simultaneous violations of the diplomatic law regime (absolute immunities), fundamental rules of the UN Charter (prohibition of the use of force), and international criminal law (the crime of aggression and aggravated

war crimes such as perfidy and intentional attacks on civilians). Abusing peaceful dispute resolution mechanisms as a cover for the physical elimination of leaders and policymakers undermines the fundamental principle of “good faith” in international relations and blocks the prospect of legally ending hostilities. Hence, such targeted killings not only entail absolute international responsibility for the ordering state but also, due to their profoundly destructive nature on international public order, provide a basis for the exercise of criminal jurisdiction (including universal jurisdiction) and individual prosecution of its perpetrators under the strictest standards of the ICC.

In summary, the correct practice in modern international law dictates that the maintenance of international peace and security should not be sacrificed to expansive and unilateral interpretations of the right of self-defence. Legal acceptance of targeted killings of state officials would not only weaken the IHL regime but also, by promoting a cycle of reprisals, risk the irreparable collapse of the legal framework prohibiting the use of force. ■

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