Targeted Killings: An Examination of its Permissibility under Human Rights Law, the Law on the Use of Inter-state Force, and International Humanitarian Law

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Numerous incidents of “targeted killings” have been widely documented. The State of Israel has openly and publicly acknowledged the use of targeted killing as part of a long-term deliberate policy and the United States has openly adopted and accepted the practice of targeted killing following the events of 11 September 2011.

Against this background, the Author traces the legal framework that governs the use of targeted killings. The Israeli Supreme Court, in PCATI v. Government of Israel, has ruled on the legitimacy of the State’s policy on the use of targeted killing provided that a four-fold test as proposed by the court is complied with. In the United States, the use of targeted killings is authorized under orders given by the President of the United States to the Central Intelligence Agency to undertake “lethal covert operations” against al-Qaida and other international terrorists. The Author then examines international law that is applicable in the context of targeted killing. International human rights law recognizes the paramount right to life of every individual which cannot be arbitrarily or unlawfully taken away. The law on the use of inter-state force provides a State the right of self-defense under Article 51 of the United Nations Charter. However, proper invocation of said article requires an actual and imminent armed attack directed against a state or its citizens by non-state actors. During the course of armed conflict, International Humanitarian Law governs the use of targeted killings and provides that the lawfulness of targeted killings is determinable on the basis of specific rules.

The Author opines that targeted killings cannot properly be called as unlawful as his analysis shows that the practice can fit into an applicable legal framework and be governed by the rules of such framework depending on the context it is undertaken.