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Russia's War Against Ukraine - Impacts on Israeli Nuclear Doctrine and Strategy

Louis René Beres



Mideast Security and Policy Studies No. 200

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EXECUTIVE SUMMARY

In essence, the world of statecraft and strategy is a world of systems. Derivatively, Israeli nuclear deterrence is a system-determined process, one that rests on fixed concepts and principles but varies according to shifts in the global balance of power. In view of world system impacts of Russia's war of aggression against Ukraine, Israel's defense planners will need to undertake certain re-calibrations of national nuclear doctrine. The prospective shape and timetable for implementing such more-or-less plausible recalibrations represents the guiding orientation of this article. Emphases will be placed on antecedent reductions of nuclear thresholds, higher-probability nuclear confrontations between the two principal superpowers and Iranian military assistance to Russia's ongoing aggression. *Inter alia*, this military assistance will consider generally disregarded links between Vladimir Putin's war against Ukraine and Israel's nuclear strategy.

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“Scholars build the structure of peace in the world.”

Babylonian Talmud, Order Zera'im, Tractate Berakoth, IX

THEORIZING ISRAEL'S NUCLEAR THREAT ENVIRONMENT

On its face, there is nothing about Russia's aggressive war on Ukraine that connects to Israel's threat environment, least of all to anything specifically nuclear. Still, the palpable weakening of international legal influence in the affected region and the correlative strengthening of Russian military forces suggests new opportunities for Israel's enemies. These enemies, present and prospective, include state and sub-state adversaries and “hybridized” (state/sub-state) foes.

How should Israel anticipate such presumptively “opaque” enemy opportunities and respond to associated threats? A core point of analytic departure remains Israel's traditional policy of “deliberate nuclear ambiguity.”³ Though pertinent news about the Middle East has generally been focused on sub-state or terrorist threats to Israel's national security,⁴ ultimate concern in Jerusalem and Tel Aviv should assign preeminence to those perils that originate from enemy states.⁵ Only these perils are apt to become genuinely existential.

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How shall Israel proceed? At the outset, complex geopolitical issues should be confronted at both conceptual and theoretic levels. This means looking at several plans to seek peace via diverse threats of nuclear retaliatory destruction. As such plans must be strategic *and* jurisprudential,⁶ they would not necessarily reinforce or complement each other. Additionally, basic considerations of morality⁷ ought never to be overlooked, and should continue to be respected by a Jewish State rooted in *Torah* and *Talmud*.⁸

Some further observations will be axiomatic. Nuclear weapons are not *per se* negative for global peace and national security. Rather, as thoughtful observers should have been able to glean from U.S.-Soviet relations during “Cold War I,” (arguably, we are now embroiled in “Cold War II”⁹), nuclear weapons could prove indispensable to the avoidance of catastrophic war in general.¹⁰ *Prima facie*, these “super” weapons would have to be associated with a nuclear doctrine and strategy.

This is not a blanket or frivolous across-the-board observation. Always, in seemingly subtle strategic matters, differentiation and nuance will be significant. It is plausible, for example, that any additional “horizontal” nuclear proliferation would be destabilizing, and that any further nuclear spread to non-nuclear states should be very strenuously opposed.

That said, there are recognizable states/countries in our decentralized or “Westphalian”¹¹ world system that could never survive in the global “state of nature”¹² without maintaining a credible nuclear deterrence posture.¹³ Israel is an obvious case in point.¹⁴ It is conceivably the only reasonable example, but that sort of exclusionary judgment is not “merely” intellectual. By its very nature, it is also politically sensitive. Ultimately, any such judgment must be made contingent upon the reciprocally subjective expectations of other beleaguered states.

“Everything is simple in war,” we learned long-ago from Carl von Clausewitz *On War*, “but even the simplest thing is very difficult.”

WHAT IF NUCLEAR DETERRENCE IS ALLOWED TO DETERIORATE?

What next? Should Israel ever have to face one or several enemies without credible nuclear deterrence, the uniformly intolerable prospect of existential defeat could become real.¹⁵ This is the case even in the absence of any specifically nuclear adversaries and regardless of whether Israeli nuclear deterrence would continue to be based upon policies of “deliberate ambiguity”¹⁶ - the so-called “bomb in the basement.”¹⁷ In all likelihood, Israel will already have begun to move toward certain limited and selectively defined forms of “nuclear disclosure.”¹⁸

These matters need not be hopelessly bewildering. If it should ever be left without its presumptive nuclear weapons, Israel might not long endure. More than any other state on earth, and perhaps more than any other state in history, Israel requires nuclear weapons just to remain “alive.” For anyone who has watched Middle Eastern security affairs evolve over the past seventy years (Israel became a modern state in May 1948), this sobering conclusion is meaningfully incontestable.

Periodically, within the United Nations, Israel’s assorted enemies introduce tactical resolutions calling, *inter alia*, for a Middle East “Nuclear Weapon Free Zone.” On multiple occasions, these states have demanded that Israel join the 1968 *Treaty on the Non-Proliferation of Nuclear Weapons* (NPT) and submitted resolutions of condemnation directed solely at Israel. Israel is a member of the International Atomic Energy Agency (IAEA), but it is not subject to IAEA inspections except for a single and minor research facility.¹⁹

Should Israel ever feel compelled to heed such one-sided resolutions, nothing of decisive military consequence might then stand in the way of Arab²⁰ or Iranian attacks. Ultimately, in all war, as Prussian military theorist Karl von Clausewitz comments, “*mass counts.*” But Israel lacks mass, irremediably. Without its nuclear weapons, appropriately configured and conspicuously recognizable, the tangible core of Israel’s ultimate capacity to deter major enemy assaults could quickly disappear.

In recent years, Iran has been increasingly focused on Israel's chemical weapons, urging, in the name of "fairness," that Jerusalem be deprived of both its nuclear and its chemical arsenal. Pointing to ongoing chemical disarmament efforts being directed at Syria, the Iranian Foreign Ministry also urged that Israel pledge to join the *Chemical Weapons Convention*.

Geopolitically,²¹ the Tehran regime's plan has been to displace pressure from its ally in Damascus and undermine Israel's non-nuclear deterrence posture. Israel did sign the *CWC* in 1982, but Jerusalem never formally ratified the agreement. In strict jurisprudential terms, non-ratification is not automatically exculpatory, because all states, whether or not they are formal parties to this particular agreement, remain bound by all pertinent and pre-existing customary international law.²²

No Israeli government would wittingly use chemical weapons against noncombatants. Its implicit deterrent threat of using such weapons against enemy military forces could concern only an existentially last-resort retaliation for the Islamic Republic's prior and unconventional aggression. In the final analysis, Israel's only true existential protection must lie with its presumptive nuclear forces. What is needed now, apropos of this basic requirement, is a comprehensive and systematic re-examination of the country's underlying nuclear doctrine and strategy.²³

By definition, core requirements don't change. Without proper doctrine and strategy, Israel's nuclear forces could sometime become little more than a disjointed *mélange* of high-tech military hardware, one without any recognizable and usable *Order of Battle*. But why does Israel actually need its presumptive nuclear weapons? At this point, a purposeful answer should be plausibly specific.

WHY ISRAEL NEEDS ITS NUCLEAR WEAPONS

The next time that Israel is forced to defend its multi-system deterrence posture from adversarial calls to join a regional "*nuclear weapons*

free-zone” or the *NPT*, the prime minister should have at hand more countervailing “ammunition” than just the polite syntax of diplomatic rejection. His Minister of Defense should also maintain a conceptual and strategic template for optimally coherent national security policy preparation. Most important, in this regard, will be persuasive understanding of why Israel should remain a nuclear power and whether the “bomb in the basement” should remain “ambiguous” or be more-or-less “disclosed.”

Any usefully correct answer should include at least the following coalescing arguments, some of which could be intersecting, interpenetrating or synergistic.

1. Israel needs nuclear weapons to *deter* large conventional attacks by enemy states. The effectiveness of any such Israeli nuclear deterrence will depend, among other things, upon: (a) perceived vulnerability of Israeli nuclear forces; (b) perceived destructiveness of Israeli nuclear forces; (c) perceived willingness of Israeli leadership to follow through on nuclear threats; (d) perceived capacities of prospective attacker’s active defenses; (e) perceptions of Israeli targeting doctrine; (f) perceptions of Israel’s probable retaliatory response when there is an expectation of non-nuclear but chemical and/or biological counter-retaliations; (g) disclosure or continued nondisclosure of Israel’s nuclear arsenal; and (h) creation or non-creation of a Palestinian state.

2. Israel needs nuclear weapons to *deter* all levels of unconventional (chemical/biological/nuclear) attacks. The effectiveness of these forms of Israeli nuclear deterrence will also depend, on (a) to (h) above. In this connection, Israel’s nuclear weapons are needed to deter enemy *escalation* of conventional warfare to unconventional warfare, and of one form of unconventional warfare to another (i.e., escalation of chemical warfare to biological warfare, biological warfare to chemical warfare, or biological/chemical warfare to nuclear warfare). This means, in military parlance, a capacity for “*escalation dominance*.”²⁴

3. Israel needs nuclear weapons to *preempt* enemy nuclear attacks.²⁵ This does *not* mean that Israeli preemptions of such attacks would necessarily be nuclear (on the contrary, they would almost certainly be non-nuclear), but only that they could conceivably be nuclear. Of course, should Israel ever need to use its nuclear forces for any such purpose, it would signify the consummate failure of these forces as a *deterrent* (per number 2, above). Significantly, such failure is increasingly plausible because of the problematic nature of nuclear deterrence in general, and because of the particular circumstances of the Middle East regarding possible decisional *irrationality*.

4. Israel needs nuclear weapons to support conventional preemptions against enemy nuclear assets. With such weapons, Israel could maintain, explicitly or implicitly, a threat of nuclear counter-retaliation. Without such weapons, Israel, having to rely entirely on non-nuclear forces, might not be able to deter enemy retaliations for the Israeli preemptive attack. This also relates to the above-mentioned need for “*escalation dominance*.”

5. Israel needs nuclear weapons to support conventional preemptions against enemy non-nuclear (conventional/chemical/biological) assets. With such weapons, Israel could maintain, explicitly or implicitly, a threat of nuclear counter-retaliation. Without such weapons, Israel, having to rely entirely on non-nuclear forces, might not be able to deter enemy retaliations for the Israeli preemptive attack. Again, this illustrates Israel's basic need to continuously dominate relevant escalatory processes.

6. As a distinctly last resort,²⁶ Israel could require nuclear weapons for nuclear war fighting. Although, in the best of all possible worlds, this residual need would never have to arise, and although Israel should always do *everything possible* to avoid any such use (*Project Daniel* made this avoidance a major point in its final report, *Israel's Strategic Future*, presented by hand to former PM Sharon in 2003²⁷ by this writer), it cannot be ruled out altogether. Rather, Israeli planners and decision-makers who could possibly find themselves in a dire situation of “no alternative” (*Ein Breira*)

must still take it seriously. Among the possible and more-or-less probable paths to nuclear war fighting are the following: enemy nuclear first-strikes against Israel; enemy non-nuclear first-strikes against Israel that elicit Israeli nuclear reprisals, either immediately or via incremental escalation processes; Israeli nuclear preemptions against enemy states with nuclear assets; Israeli non-nuclear preemptions against enemy states with nuclear assets that elicit enemy nuclear reprisals, either immediately or via incremental escalation processes. Other paths to nuclear war fighting might include accidental/unintentional/inadvertent nuclear attacks between Israel and regional enemy states, and even the escalatory consequences of nuclear terrorism against the nation. As long as it can be assumed that Israel is determined to endure, there remain conditions wherein Jerusalem/Tel Aviv could resort to nuclear war fighting. This holds true if: (a) enemy first-strikes against Israel would not destroy Israel's second-strike nuclear capability; (b) enemy retaliations for Israeli conventional preemption would not destroy Israel's nuclear counter-retaliatory 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 counter-retaliatory capabilities. It follows, from the standpoint of Israel's nuclear requirements, that Jerusalem/Tel Aviv should prepare to do what is needed to ensure the likelihood of (a) and (b) above, and the unlikelihood of (c) and (d).

7. Israel also needs nuclear weapons for a residual "*Samson Option*." Although any such use of nuclear weapons would be profoundly catastrophic *by definition*, Israel could still reason that it would be better to "die with the Philistines" than to die alone. This sort of last-resort understanding is more than a matter of Jewish honor, and is also more than a refutation of the so-called "*Masada complex*" (suicide without punishment of the aggressor). It could (depending upon level of awareness by an enemy state) represent an integral and indispensable element of Israel's overall nuclear deterrent. The biblical analogy is somewhat misleading.

Samson chose suicide by pushing apart the temple pillars, whereas Israel, using nuclear weapons as a last resort, would not be *choosing* “suicide” or even *committing suicide*. For nation-states, the criteria of “life” and “death” are hardly as clear-cut as they are for individual persons. *Inter alia*, it is essential that Israel’s leaders, in considering possible uses of nuclear weapons, regard the *Samson Option* as one to be precluded by correct resort to all other nuclear options. Stated differently, any resort to the Samson Option by Israel would imply the complete failure of all other options and therefore the failure of its nuclear weapons to provide essential national security.

ISRAEL’S DETERRENCE OPTIONS

Scholars may observe (numbers 1 - 2, above) that Israel needs nuclear weapons, among other purposes, to deter large conventional attacks and all levels of unconventional attack by enemy states. And yet, the effectiveness of nuclear weapons in meeting these needs may be distinctly limited and sorely problematic. Even if the country should sometime move toward partial or full disclosure of its presumptive nuclear weapons, Israel could not reasonably rely entirely upon nuclear deterrence for its survival.

Aware of these limitations, Israel must nonetheless seek to strengthen nuclear deterrence such that an enemy state will always calculate that a first-strike upon the Jewish State would be irrational. This means taking steps to convince the enemy state that the costs of such a strike will always exceed the benefits. To accomplish this singularly important objective, Israel must always be able to convince prospective attackers that it maintains both the *willingness* and the *capacity* to retaliate with nuclear weapons.

Where a rational enemy state considering an attack upon Israel would be unconvinced about either one or both of these essential components of nuclear deterrence, it might then choose to strike first, depending upon the particular value or utility it places on the expected outcomes of such an attack.

Regarding *willingness*, even if Jerusalem were prepared to respond to certain attacks with nuclear reprisals, any enemy failure to recognize such preparedness could still provoke an attack upon Israel. Here, misperception and/or errors in information could immobilize Israeli nuclear deterrence. It is also conceivable that Jerusalem would sometime lack the willingness to retaliate, and that enemy decision-makers would then perceive this witting lack correctly. In this notably perilous case, Israeli nuclear deterrence would be immobilized not because of any “confused signals,” but because of specific Israeli intelligence and/or policy failures.

Regarding *capacity*, even if Israel is known to maintain a substantial arsenal of nuclear weapons, it is vital that an enemy state such as Iran always believe these weapons to be *usable*. This means that if a first-strike attack were believed capable of destroying Israel’s arsenal, the Jewish State’s nuclear deterrent could still be immobilized. Even if Israel’s nuclear weapons were configured such that they could not be destroyed by an enemy first-strike, enemy misperceptions or misjudgments about Israeli vulnerability could occasion the catastrophic failure of nuclear deterrence.

A further complication here might concern enemy state deployment of anti-tactical ballistic missile defenses, which could contribute to an attack decision against Israel by lowering, more-or-less, the intended aggressor’s expected costs.²⁸

The importance of “usable” nuclear weapons must also be examined from the standpoint of probable harms. Should Israel’s nuclear weapons be perceived by any would-be attacker as “too destructive,” they might not deter. Here, to some extent at least, successful nuclear deterrence may actually (and ironically) vary inversely with perceived destructiveness. At the same time, per earlier recommendations by *Project Daniel*, it is essential that Israel always base its central deterrence position on appropriate levels of “*counter value*” (counter-city) targeting; never on “*counterforce*.”²⁹

No examination of Israeli nuclear deterrence options would be complete without further consideration of the “*Bomb in the Basement*.” From the beginning, Israel’s “bomb” has remained *deliberately*

ambiguous. For the future, however, it is by no means certain that an undeclared nuclear deterrent will be capable of meeting the nation's security goals or that it would even be equal in effectiveness to a more or less openly-declared nuclear deterrent.

Disclosure would not be intended to reveal the obvious, i.e., that Israel has the bomb, but instead to heighten enemy perceptions of Jerusalem's *capable* nuclear forces and/or Israel's *willingness* to use these forces in reprisal for certain specific first strike attacks.

What, exactly, are the plausible connections between an openly declared nuclear weapons capacity and enemy perceptions of Israeli nuclear deterrence? One such connection concerns the relation between disclosure and *perceived vulnerability* of Israel's nuclear forces to preemptive destruction. Another concerns the relation between disclosure and *perceived capacity* of Israel's nuclear forces to *penetrate* the attacking state's active defenses.

To the extent that removing the bomb from the basement or disclosure, would encourage enemy views of an Israeli force that is sufficiently invulnerable to first-strike attacks and/or is capable of piercing enemy active defenses, disclosure could soon represent a rational and prudent option for Israel.³⁰ Here, the operational benefits of disclosure would stem from variously deliberate flows of information about dispersion, multiplication, hardening, speed and evasiveness of nuclear weapons systems, and about certain other pertinent technical features of relevant nuclear weapons. Most importantly, such flows, which could also refer to command/control invulnerability and possible pre-delegations of launch authority, could serve to remove any lingering enemy doubts about Israel's nuclear force capabilities.

Left unchallenged, however, such doubts could undermine Israeli nuclear deterrence.

There is more. Removing the bomb from Israel's "basement" could heighten enemy perceptions of Israel's willingness to make good on retaliatory threats. For example, by releasing information about its nuclear forces that identifies distinctly *usable* weapons, Israel

could successfully remove any remaining doubts about the country's nuclear resolve. A prospective attacker, newly aware that Israel could retaliate across the entire spectrum of possible yield scenarios without generating intolerably high levels of civilian harms, could then be more likely (because of Israeli disclosure) to believe Jerusalem's nuclear deterrent threat.

What about systemic factors? Should Russia's war of aggression against Ukraine ever lead Vladimir Putin to cross the nuclear threshold, Israeli planners might feel less constrained about an eventual use of nuclear weapons against Iran. Though the military theatres involved would be very different, the fact that a long-standing nuclear taboo had been broken could have substantial impact on Israel's nuclear strategy. Reciprocally, this same fact could have "anticipatory" effects upon Iran, a prospect that underscores the inherently complex dynamics of world system deterrence.

Another "systemic variable" ought immediately to come to mind. On account of the Russian war on Ukraine - a war with increasingly unpredictable contours and expectations - there are apt to be more frequent and risky crisis confrontations between the superpowers. Among other things, this means a higher likelihood of actual nuclear war between Russia and the United States (an outcome that could produce wide-ranging world system chaos) or a generally heightened condition of world system "decisional anxiety." In this second outcome, Israel and Iran could find themselves derivatively "anxious" - each one about the other - and hence more likely to escalate from political crises to tangible warfare. Here, too, Israel and Iran could relate to each other as "reciprocals," that is, where one or the other adversary would find it rational to act in a preemptive or anticipatory fashion.

There is at least one additional element of foreseeable complexity. In a world system rendered less and less stable by Russia's war against Ukraine, the prospect of catastrophic war between Israel and Iran would involve each state's particular configuration of alliance ties and alignments. In this connection, substantial existential risks could accrue to Israel and/or Iran, risks that could intersect with one another in assorted ways

and could prove irremediably synergistic. For example, any escalating crisis between Moscow and Washington could “spill over” into Tehran and Jerusalem and create new points of belligerent contention. Where such an intersection was authentically synergistic and not “merely” interactive, the “whole” of any consequent war would be greater than the sum of its decisional parts.

There is more. There are substantially vital connections between *disclosure*, *doctrine* and *deterrence*. To the extent that Israel's strategic doctrine identifies certain nuanced and graduated forms of reprisal - forms calibrating Israeli retaliations, to particular levels of provocation - any disclosure of such doctrine (at least in its broadest and most unspecific contours) could contribute to Israel's nuclear deterrence. Without such disclosure, Israel's enemies could be kept guessing about Jerusalem's probable responses, a condition of protracted uncertainty that could conceivably serve Israel's national security for a while longer, but could also fail altogether.

THE PROBLEM OF ENEMY RATIONALITY

For more than fifty years, I have studied the complex problems of enemy *rationality*, including certain earlier published writings concerning the nuclear threat from Iran. By definition, strategic assessments of nuclear deterrence always assume a rational state enemy; that is, an enemy that values its own continued survival more highly than any other preference or combination of preferences. But for actual operational reasons, this assumption could sometimes become problematic.

There is no plausible reason to assume that all prospective attackers of Israel would consistently rank physical survival above all other possible options or even that such attackers would hew perfectly to careful, systematic and transitive comparisons of all expected costs and benefits. As long as such enemies are capable of missile attacks upon Israel, and as long as Israel is unable to intercept these attacks with a near-perfect or even perfect reliability (*no system of ballistic missile defense, including Israel's Arrow, can ever be leak-proof*),³¹ any too-great an Israeli dependence upon nuclear deterrence could have existential consequences.

Where should Israel go from here? Recognizing the substantial limitations of any “Middle East Peace Process,” Israel must seek its security, at least in part, beyond the tactical protections offered by nuclear deterrence. Also, it must, as earlier recommended by *Project Daniel* (2003), stay prepared for possible preemptions against pertinent military targets. Although many will find any such preparations to be “aggressive,” “disproportionate”³² or “uncivilized,” and while it may already be very late in the game for considering all relevant attack scenarios, accepting alternatives could amount to national suicide. Significantly, the right of preemption³³ is well established under customary international law,³⁴ where it is known formally as “anticipatory self-defense.”³⁵

There is more. Even if it could be assumed, by Israel, that Iranian leaders will always seek to act rationally, this would ignore the accuracy of information used to make rational decisions. Rationality, in all strategic calculations, refers only to the *intention* of maximizing preferences. It says nothing about whether or not the information used is correct or incorrect.

This means that perfectly rational Iranian leaders could sometime make errors in calculation³⁶ that would lead them to launch an aggressive war against Israel.³⁷

Iranian leaders could sometime *be irrational*, but this would not mean that they were also mad or “crazy.” Rather, in all pertinent matters, an irrational national decision is “merely” one which does not place the very highest possible value upon national survival. For a relevant example, Iranian decision-makers could choose to act upon a preference-ordering that values destruction of the Jewish State and corollary fulfillments of presumed religious expectations more highly than the Shiite republic’s actual physical existence. In principle, at least, faced with just such an irrational adversary, Israel might still manage to forge a successful plan for deterrence. Here, however, Jerusalem would first need to base its discernibly calculable threats upon those particular and identifiable religious institutions or infrastructures held most sacred in Tehran.

ISRAEL'S PREEMPTION OPTIONS

Among other purposes, Israel needs nuclear weapons to undertake and/or support various forms of conventional preemption. In making its preemption decisions, Israel must determine whether anticipatory self-defense strikes would be cost-effective.³⁸ This would depend upon a number of critical variables, including: (a) expected probability of enemy first-strikes; (b) expected cost of enemy first-strikes; (c) expected schedule of enemy unconventional weapons deployment; (d) expected efficiency of enemy active defenses over time; (e) expected efficiency of Israeli active defenses over time; (f) expected efficiency of Israeli hard-target counterforce operations over time; (g) expected reactions of unaffected regional enemies; and (h) expected U.S. and world community reactions to Israeli preemptions.

Regarding its rational preemption options, Israel's overriding question should be as follows: Because Jerusalem must plan for such forms of anticipatory self-defense, against *which* particular configurations of hard targets should they be directed and *when* should they be mounted? If it is assumed that enemy states will only add to their chemical/biological/nuclear arsenals, and that these additions (together with variable air defenses) will make any effective Israeli preemptions more and more difficult, if not impossible, rational Israeli strategy could compel Jerusalem to strike defensively as soon as possible. If, however, it was assumed that there will be no significant enlargement/deployment of enemy unconventional weapons or air defenses over time, this may suggest a diminished strategic rationale for Israel to strike first.

Israel's inclinations to strike preemptively in certain circumstances could also be affected by the steps taken by a prospective target state to guard against an Israeli preemption. Should Israel refrain too long from striking first, Iran could then implement protective measures that would pose additional hazards to Israel. These measures could include the attachment of certain launch mechanisms to nuclear weapon systems and/or the adoption of "launch-on-warning" policies. Such policies would call for the retaliatory launch of bombers and/or missiles on mere receipt of warning that a missile attack is underway.

By requiring launch before the attacking warheads actually reached their intended targets, *launch-on-warning* could carry grave risks of irremediable error.

Ideally, Israel would do everything possible to prevent such enemy measures from being installed in the first place, especially because of the expanded risks of accidental or unauthorized attacks against its armaments and population centers. Nonetheless, if such measures should become fact, Jerusalem might still reasonably calculate that a preemptive strike would be cost-effective. This is because an expected enemy retaliation, however damaging, might still appear “less unacceptable” than the expected consequences of enemy first strikes.

Perhaps the single most important factor in Israeli judgments on the preemption option will be the *expected rationality* of enemy decision-makers. If these leaders could be expected to strike at Israel with unconventional forces, irrespective of anticipated Israeli counterstrikes, deterrence, as we have already suggested, might not work. This means that certain enemy strikes could be expected even if enemy leaders understood that Israel had “successfully” deployed its own nuclear weapons in survivable modes, that Israel’s weapons were entirely capable of penetrating enemy active defenses and that Israel’s leaders were willing to retaliate.

Faced with an irrational enemy actually bent upon unconventional aggression,³⁹ Israel could at some point have no effective choice but to abandon all reliance on traditional modes of nuclear deterrence. At the same time, even an irrational enemy - that is, one that does not value national survival more highly than every other preference, or combination of preferences⁴⁰ - could still maintain a recognizable and “transitive” hierarchy of wants. For Iran, such a hierarchy would likely place certain Shiite religious values and institutions at the very top. Hence, directing retaliatory threats toward precisely such values and/or institutions could conceivably still “work.”

Even if it is not faced with an irrational enemy,⁴¹ Israel will still have to plan carefully for certain preemption options, planning that must take into account Jerusalem’s own presumptive nuclear weapons. In the course of such planning, it will be important to recognize that

enemy capabilities and intentions are not separate and discrete, but rather interpenetrating, interdependent, and interactive. This means: (1) capabilities affect intentions, and vice-versa; and (2) the combined effects of capabilities and intentions may produce certain policy outcomes that are greatly accelerated and/or more than the simple sum of these individual effects.

THE ONGOING PROBLEM OF IRANIAN NUCLEARIZATION

What are the particular dangers issuing from Iran? For the moment, those who would still downplay the Iranian threat to Israel sometimes argue that Teheran's unconventional capabilities remain problematic, and/or that its willingness to attack Israel - *jihadist* ideologies/motivations notwithstanding ⁴²- is still tolerable. Yet, over the next year, that country's further development of nuclear weapons could effectively become irreversible, thereby creating conditions whereby a first-strike against Israel might sometime be construed as rational.

Whether correct or incorrect in such calculations, any Iranian leadership that *believed* it could strike Israel with impunity, near-impunity or without incurring *what it defined* as unacceptable costs, could be strongly motivated to undertake such a strike. Belligerent motivation could be further heightened to the extent that Iran remained uncertain about Israel's own preemption plans. Here, Iranian capabilities could affect and possibly determine Iranian intentions.

The Iranian threat to Israel could originate from a different direction. In this scenario, Iran's intentions toward the Jewish State, irremediably hostile and perhaps even potentially genocidal, could animate Teheran's accelerated development of nuclear military capabilities. Representing genuinely far-reaching hatreds rather than belligerent bluster and propagandistic bravado, Iranian diatribes against Israel could ensure the continuing production/deployment of increasingly destructive forces, weapons and postures that would threaten Israel's physical survival.

What has been described here are circumstances wherein Iranian intentions could affect and possibly determine, Iranian capabilities. Such circumstances now warrant very careful strategic attention in Jerusalem.

What if Iran's intentions toward Israel were not irremediably hostile or genocidal? What if its public bombast were not an expression of genuinely war-making motivations, but rather a concocted position designed entirely for *intranational*, and/or *international* political consumption? The short and most obvious answer to these questions is that such shallow and contrived intentions would not impact Iranian capabilities vis-à-vis Israel. Upon reflection, however, it is likely that even inauthentic expressions of intent could, over time, *become* authentic, that repeated again and again, such expressions could even become self-fulfilling.

It would be unreasonable for Israel to draw any substantial comfort from an argument that Iranian intentions are effectively harmless. Over time, such falsely reassuring intentions could impact capabilities, perhaps even decisively. Backed by appropriate nuclear weapons, certain preemption options must remain open and viable to Israel, augmented, of course, by appropriate and complementary plans for comprehensive cyber-defense and cyber-warfare.

AN IRAN- "PALESTINE" SYNERGY?

If one or another "peace process" should eventually produce a Palestinian State, the effects on enemy capabilities and intentions and therefore on Israeli preemption options could become significant. Israel's substantial loss of strategic depth might be recognized here by enemy states as a distinct military liability for Jerusalem/Tel Aviv.⁴³ Such recognition, in turn, could then heat up enemy intentions against Israel, occasioning an accelerated search for capabilities and consequently a heightened risk of war.

Israel could foresee such enemy calculations, and then seek to compensate for the loss of territories in a number of very different ways. It could decide that it was time to take its bomb out of the "basement"

(nuclear disclosure) as a deterrence-enhancing measure, but this might not be enough of a productive strategy. It could, therefore, accept a heightened willingness to launch preemptive strikes against enemy hard targets, strikes backed up by Israeli nuclear weapons. Made aware of any such Israeli intentions, intentions that would derive from Israel's new territorial vulnerabilities, certain enemy states could respond in a more or less parallel fashion, preparing more openly and more quickly for their own nuclearization and/or for first-strike conventional attacks against the Jewish State.

Taken by itself, a Palestinian state, though non-nuclear itself, could still affect the cumulative capabilities and intentions of Israel and its enemies.⁴⁴ But if such a state were created at the same time that Israel had reduced or abandoned its nuclear weapons capabilities, the total impact could be much greater. This starkly complex "correlation of forces"⁴⁵ scenario should never be dismissed out of hand.

What would happen if Israel were ever to openly relinquish its nuclear options? Under such difficult to imagine circumstances, Israel would not only become more vulnerable to enemy first strikes, it would also be deprived of its essential preemption alternatives. Israeli counter-retaliatory deterrence could be immobilized by reduction or removal of its nuclear weapons potential; also, Israel's preemptions could not possibly be 100% effective against enemy unconventional forces. A less than 100% level of effectiveness could be tolerable if Israel had a "leak-proof" ATBM (anti-tactical ballistic missile) capability in the *Arrow* and its related multi-layered systems,⁴⁶ but no such capability is practically achievable.

NUCLEAR WAR-FIGHTING OPTIONS

In principle, at least, Israel could require nuclear weapons, among other essential purposes, for nuclear war fighting. Should nuclear deterrence and/or preemption options fail altogether, Israel's "hard target" capabilities could then become operationally necessary to national survival. These capabilities would depend, in part, upon nuclear weapons and tactics.

What, exactly, would be appropriate” in such dire circumstances, under conditions that Israel must continuously strive to prevent? Instead of “Armageddon”- type weapons (see “Samson Option,” below), Israel would need precision nuclear warheads that could reduce collateral damage to acceptable levels and hypervelocity nuclear warheads that could overcome enemy active defenses. Israel would also benefit from certain radio-frequency weapons. These are nuclear warheads tailored to produce as much electromagnetic pulse as possible, destroying electronics and communications over wide areas.

Regarding the nuclear weapons needed by Israel for any actual nuclear war fighting, Jerusalem would require an intermediate option between capitulation on the one hand and operational resort to multi-megaton nuclear weapons on the other. Any such discussion may seem objectionable to people of feeling and sensitivity. It would, after all, be more “peaceful” to speak of nuclear arms control, sustainable nuclear deterrence or even preemption than nuclear war fighting. Yet, the Middle East remains a particularly dangerous and potentially irrational neighborhood, and any strategic failure to confront the most catastrophic possibilities could quickly produce the most terrible harms. In this connection, what happens between Russia and Ukraine could involve various forms of Iranian assistance to Vladimir Putin and – reciprocally – various tangible forms of Russian “gratitude” to Iran.

The world of statecraft, strategy and doctrine is a world of systems. For several important and intersecting reasons, Russia’s ongoing criminal war against Ukraine could impact strategic thinking in other places. Accordingly, forward-looking Israeli planners will likely decide to “re-calibrate” certain key elements of national nuclear deterrence. In the final analysis, this expected re-calibration will represent a comprehensive and time-urgent intellectual task, one not automatically bounded by traditional constraints of Realpolitik or geopolitics.

NOTES

- 1 Military doctrine is not the same as military strategy. Doctrine “sets the stage” for strategy. It identifies various central beliefs that must subsequently animate any actual “order of battle.” Among other things, military doctrine describes underlying general principles on how a particular war ought to be waged. The reciprocal task for military strategy, always more specific than doctrine, is to adapt as required to support previously-fashioned military doctrine.
- 2 On Russia hastening Iranian nuclearization as *quid pro quo* or “suicide drones,” see: <https://www.haaretz.com/israel-news/2022-10-24/ty-article/.highlight/zelenskyy-warns-israel-putin-will-help-iran-go-nuclear-in-exchange-for-drones/00000184-0a18-d785-ad8f-0e79eccc0000>
- 3 See, by this author, Louis René Beres: <https://besacenter.org/israel-nuclear-ambiguity/>
See also, by Professor Beres: [https://www.inss.org.il/wp-content/uploads/systemfiles/adkan17_3ENG%20\(3\)_Beres.pdf](https://www.inss.org.il/wp-content/uploads/systemfiles/adkan17_3ENG%20(3)_Beres.pdf) The actual security benefits to Israel of any explicit reductions in nuclear ambiguity would remain dependent, more or less, upon Clausewitzian “friction.” This refers to the inherently unpredictable effect of errors in knowledge and information concerning intra-Israel (IDF/MOD) strategic uncertainties; on Israeli and Iranian under-estimations or over-estimations of relative power position; and on the unalterably vast and largely irremediable differences between theories of deterrence and enemy intent “as it actually is.” See: Carl von Clausewitz, “Über das Leben und den Charakter von Scharnhorst,” *Historisch-politische Zeitschrift*, 1 (1832); cited in Barry D. Watts, *Clausewitzian Friction and Future War*, McNair Paper No. 52, October, 1996, Institute for National Strategic Studies, National Defense University Washington, D.C. p. 9.
- 4 See, by present author: Louis René Beres, <https://www.jurist.org/commentary/2021/05/louis-rene-beres-israel-hamas-war/>
- 5 One may think here of the warning by the High Lama in James Hilton’s *Lost Horizon*: “The storm...this storm that you talk of... It will be such a one, my son, as the world has not seen before. There will be no safety by arms, no help from authority, no answer in science. It will rage until every flower of culture is trampled, and all human things are leveled in a vast chaos.... The Dark Ages that are to come will cover the whole world in a single pall; there will be neither escape nor sanctuary.”

- 6 Formal application of the law of war to insurgent forces dates to the four *Geneva Conventions* of 1949. As more than codified treaties and conventions comprise the law of war or humanitarian international law, it is also plain that obligations of *jus in bello* (justice in war) are part of “the general principles of law recognized by civilized nations” (Art. 38 of the *Statute of the International Court of Justice*) and thereby bind all categories of belligerents. (See *Statute of the International Court of Justice*, art. 38, June 29, 1945, 59 Stat. 1031, T.S. 993). *Hague Convention IV* of 1907 declares that even in the absence of a precisely published set of guidelines regarding “unforeseen cases,” the operative pre-conventional sources of humanitarian international law obtain and govern all belligerency. Moreover, the related *Martens Clause* is included in the *Preamble* of the 1899 *Hague Conventions, International Convention with Respect to the Laws and Customs of War by Land*, July 29, 1899, 187 Consol. T.S. 429, 430.
- 7 Recalling Blaise Pascal’s *Pensées*: “All our dignity consists in thought.... It is upon this that we must depend...Let us labor then to *think well*: this is the foundation of morality.”
- 8 See, by this author, at *Modern Diplomacy*: Louis René Beres, <https://modern diplomacy.eu/2021/03/20/a-stain-on-jewish-values-israels-misguided-obedience-to-donald-trump/>
- 9 See, by this author, at *The Jerusalem Post*: Louis René Beres, <https://www.jpost.com/Experts/Israeli-strategy-in-the-case-of-a-new-Cold-War-344372> and at *Harvard National Security Journal*, Harvard Law School: Louis René Beres: <https://harvardnsj.org/2014/06/staying-strong-enhancing-israels-essential-strategic-options-2/>
- 10 For early accounts by this author of nuclear war effects in particular, see: Louis René Beres, *Apocalypse: Nuclear Catastrophe in World Politics* (Chicago: University of Chicago Press, 1980); Louis René Beres, *Mimicking Sisyphus: America’s Countervailing Nuclear Strategy* (Lexington, Mass., Lexington Books, 1983); Louis René Beres, *Reason and Realpolitik: U.S. Foreign Policy and World Order* (Lexington, Mass., Lexington Books, 1984); and Louis René Beres, *Security or Armageddon: Israel’s Nuclear Strategy* (Lexington, Mass., Lexington Books, 1986). Most recently, by Professor Beres, see: *Surviving Amid Chaos: Israel’s Nuclear Strategy* (New York, Rowman & Littlefield, 2016; 2nd ed. 2018). <https://paw.princeton.edu/new-books/surviving-amid-chaos-israel%E2%80%99s-nuclear-strategy>

- 11 Reference here is to the *Peace of Westphalia* (1648), which concluded the Thirty Years War and created the still-existing and radically decentralized “state system.” See: *Treaty of Peace of Munster*, Oct. 1648, 1 Consol. T.S. 271; and *Treaty of Peace of Osnabruck*, Oct. 1648., 1, Consol. T.S. 119; together, these two treaties comprise the very important *Peace of Westphalia*.
- 12 The seventeenth-century English philosopher, Thomas Hobbes, instructs that although international relations are in a state of nature, it is nonetheless a more benign condition than that of individual men in nature. With individual human beings, Hobbes reflected, “the weakest has strength enough to kill the strongest.” Now, however, with the advent and spread of nuclear weapons, there is no longer any reason to believe that the state of nature remains more tolerable. Moreover, precisely because of this significant transformation of the state of nations into a true Hobbesian state of nature, certain individual states such as Israel even more desperately require a nuclear “equalizer.”
- 13 See: Louis René Beres and (Major-General/IDF/res.) Isaac Ben-Israel, “The Limits of Deterrence,” *Washington Times*, November 21, 2007; Professor Beres and General Ben-Israel, “Deterring Iran,” *Washington Times*, June 10, 2007; Professor Beres and General Ben-Israel, “Deterring Iranian Nuclear Attack,” *Washington Times*, January 27, 2009; Professor Beres and General Ben-Israel, “Defending Israel from Iranian Nuclear Attack,” *The Jewish Press*, March 13, 2013; Louis René Beres and (General/USAF/ret.) John T. Chain, “Could Israel Safely Deter a Nuclear Iran?” *The Atlantic*, August 9, 2012; and Professor Beres and General Chain, “Living with Iran,” BESA Center for Strategic Studies, Israel, May 2014. General Chain was Commander-in-Chief, U.S. Strategic Air Command (CINCSAC).
- 14 A different opinion, however, is offered by Israeli academic strategist, Professor Zeev Maoz. See his 2004 debate with this writer: Louis René Beres and Zeev Maoz, “Israel and the Bomb: A Dialogue,” *International Security* (Harvard), Vol. 29, No. 1, Summer 2004, pp. 175-180.
- 15 For a systematic assessment by this author of how a nuclear war might begin in the Middle East, see: Louis René Beres: <https://besacenter.org/israel-nuclear-war/>
- 16 See: Louis René Beres, *Surviving Amid Chaos: Israel's Nuclear Strategy* (New York and London: Roman & Littlefield, 2016); Louis René Beres, “Looking Ahead: Revising Israel's Nuclear Ambiguity in the Middle East,” Herzliya Conference *Working Paper*, March,

- 2013; and Louis René Beres, “Israel’s Strategic Doctrine: Updating Intelligence Community Responsibilities,” *International Journal of Intelligence and Counterintelligence*, Vol. 28, No. 1., Spring 2015, pp. 89-104.
- 17 For an early treatment of this issue/metaphor, see: Louis René Beres, *Security or Armageddon: Israel’s Nuclear Strategy* (Lexington, Mass: D.C. Heath/Lexington Books), 1986, 243 pp.
- 18 Two Prime Ministers had pertinent “slips of the tongue” about Israel possessing nuclear weapons. On December 22, 1995, then Prime Minister Shimon Peres declared to the press that Israel would be willing to “give up the atom” in exchange for peace. Years later, on December 11, 2006, Prime Minister Ehud Olmert made much the same statement. Of course, neither prime minister went so far as to make his particular disclosure more purposefully or strategically revealing.
- 19 No state, including Israel, is ever under any automatic legal obligation to renounce access to nuclear weapons. In certain distinctly residual or last-resort circumstances, even the actual use of nuclear weapons could be lawful (to the extent, of course, that such use was consistent with codified and customary expectations of distinction, proportionality, and military necessity). On July 8, 1996, the International Court of Justice at The Hague handed down its Advisory Opinion on “The Legality of the Threat or Use of Force of Nuclear Weapons.” The final paragraph of this Opinion concludes as follows: “The threat or use of nuclear weapons would generally be contrary to the rules of international law applicable in armed conflict, and in particular the principles and rules of humanitarian law. However, in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defense, in which the very survival of the state would be at stake.” Significantly, Iran, unlike Israel, is a party to the 1968 *Nonproliferation Treaty* (NPT), and has thereby lawfully *bound itself* never to build or use nuclear weapons.
- 20 Following former US President Donald J. Trump’s “Abraham Accords,” the likelihood of certain coordinated Sunni Arab attacks has perhaps been diminished, but the probability of such attacks from UAE or Bahrain had always been low or nonexistent. Moreover, a Shiite attack from Iran has likely become more plausible. The Trump era Abraham agreements and also the complementary accords signed by Israel with Sudan and Morocco will have the likely effect of masking Iran more insecure. See: <https://www.state.gov/the-abraham-accords/> For the

complementary agreements with Sudan and Morocco, see *Israel-Sudan Normalization Agreement* (October 23, 2020) and *Israel-Morocco Normalization Agreement* (December 10, 2020).

- 21 For philosophic origins of geopolitics (*Realpolitik*), see Plato 's *Republic*: "Right is the interest of the stronger," says Thrasymachus in Bk. I, Sec. 338 of *The Republic* (B. Jowett tr., 1875). "Justice is a contract neither to do nor to suffer wrong," says Glaucon, *id.*, Bk. II, Sec. 359. See also, Philus in Bk III, Sec. 5 of Cicero, *De Republica*.
- 22 Article 38(1)(b) of the STATUTE OF THE INTERNATIONAL COURT OF JUSTICE describes international custom as "evidence of a general practice accepted as law." The essential significance of a norm's customary character is that the norms bind even those states that are not parties to the pertinent codification. Even where a customary norm and a norm restated in treaty form are apparently identical, these norms are treated as jurisprudentially discrete. During the merits phase of MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA, the International Court of Justice (ICJ) stated: "Even if two norms belonging to two sources of international law appear identical in content, and even if the States in question are bound by these rules both on the level of treaty-law and on that of customary international law, these norms retain a separate existence." See: MILITARY AND PARAMILITARY ACTIVITIES IN AND AGAINST NICARAGUA, *Nicar. V. US.*, Merits, 1986 ICJ, Rep. 14 (Judgment of 27 June).
- 23 See, on this issue: Louis René Beres, *Surviving Amid Chaos: Israel's Nuclear Strategy*, *op. cit.*, Louis René Beres, "Staying Strong: Enhancing Israel's Essential Strategic Options," *Harvard National Security Journal*, Harvard Law School, June 13, 2014; Louis René Beres, "Changing Direction? Updating Israel's Nuclear Doctrine," *Strategic Assessment*, INSS, Israel, Vol. 17., No.3, October 2014, pp. 93-106; Louis René Beres, "Forging Israeli Strategic Doctrine to Deal with Iran," *The Jerusalem Post*, November 19, 2013; and Louis René Beres, "Facing Myriad Enemies: Core Elements of Israeli Nuclear Deterrence," *The Brown Journal of World Affairs*, Vol. XX, Issue 1, Fall/Winter 2013, pp. 17-30.
- 24 See, by this author at *Israel Defense* (Tel Aviv): Louis René Beres, <https://www.israeldefense.co.il/en/node/28931>
- 25 It is important, from the standpoint of international law, to distinguish preemptive attacks from *preventive* ones. Preemption is a military

strategy of striking an enemy first, in the expectation that the only alternative is to be struck first oneself. A preemptive attack is launched by a state that believes enemy forces are about to attack. A *preventive* attack, however, is launched not out of concern for imminent hostilities, but for fear of a longer-term deterioration in the pertinent military balance. Hence, in a preemptive attack, the length of time by which the enemy's action is anticipated is very short, while in a preventive strike the interval is considerably longer. A problem for Israel, in this regard, is not only the practical difficulty of determining imminence, but also the fact that delaying a defensive strike until imminence is plausible could be fatal.

- 26 By any measure of reasonableness, exercising a nuclear war fighting option must be regarded by Israel as the single most residual and reluctant choice. Nuclear weapons can succeed only via skillful non-use, that is, as a deterrent. Long prior to the nuclear age, ancient Chinese military theorist Sun-Tzu argued in *The Art of War*: "Subjugating the enemy's army without fighting is the true pinnacle of excellence" (see Chapter 3, "Planning Offensives"). See also, by this author: Louis René Beres, "Lessons for Israel from Ancient Chinese Military Thought: Facing Iranian Nuclearization with Sun-Tzu," *Harvard National Security Journal*, Harvard Law School,
- 27 This advice was a central recommendation of the *Project Daniel* Group's final report, *Israel's Strategic Future* (ACPR, Israel, May 2004: "The overriding priority of Israel's nuclear deterrent force must always be that it preserves the country's security without ever having to be fired against any target. The primary point of Israel's nuclear forces must always be deterrence *ex ante*, not revenge *ex post*." (p. 11). Conceptually, the core argument of optimizing military force by not resorting to any actual use pre-dates the nuclear age. Sun-Tzu, in his ancient classic, *The Art of War*, counsels: "Supreme excellence consists of breaking the enemy's resistance without fighting."
- 28 See: RESOLUTION ON THE DEFINITION OF AGGRESSION, Dec. 14, 1974, U.N.G.A. Res. 3314 (XXIX), 29 U.N. GAOR, Supp. (No. 31) 142, U.N. Doc. A/9631, 1975, *reprinted in* 13 I.L.M. 710, 1974; and CHARTER OF THE UNITED NATIONS, Art. 51. Done at San Francisco, June 26, 1945. Entered into force for the United States, Oct. 24, 1945, 59 Stat. 1031, T.S. No. 993, Bevans 1153, 1976, Y.B.U.N. 1043.
- 29 Israel, it would appear, has already rejected any doctrinal notions of battlefield or tactical nuclear weaponry. Interestingly, Pakistan, an already nuclear Islamic state and still in protracted nuclear standoff

with India, has expressly tilted toward theater nuclear weapons (TNW). Since Pakistan first announced its test of the 60-kilometer *Nasr* ballistic missile in 2011, that country's emphasis on TNW appears to have been intended to more effectively deter conventional war with India. In essence, by threatening, implicitly, to use relatively low-yield battlefield nuclear weapons in retaliation for any major Indian conventional attacks, Pakistan hopes to appear more credible and less provocative to Delhi. By such appearance, Islamabad could less likely elicit Indian nuclear reprisals. Implicitly or explicitly, Russia could apply similar reasoning to its escalating military operations against Ukraine.

- 30 In this connection, Israel has likely been moving toward further sea-basing for a portion of its strategic nuclear forces. On these submarine-basing measures, see: Louis René Beres and (Admiral/USN/ret.) Leon "Bud" Edney, "Israel's Nuclear Strategy: A Larger Role for Submarine-Basing," *The Jerusalem Post*, August 17, 2014; and Professor Beres and Admiral Edney, "A Sea-Based Nuclear Deterrent for Israel," *Washington Times*, September 5, 2014. Admiral Edney is former NATO Supreme Allied Commander/Atlantic.
- 31 On pertinent Israeli liabilities of ballistic missile defense, see: Louis René Beres and (Major General/IDF/ret.) Isaac Ben-Israel, "The Limits of Deterrence," *Washington Times*, November 21, 2007; Professor Louis René Beres and MG Isaac Ben-Israel, "Deterring Iran," *Washington Times*, June 10, 2007; and Professor Louis René Beres and MG Isaac Ben-Israel, "Deterring Iranian Nuclear Attack," *Washington Times*, January 27, 2009.
- 32 The law of armed conflict is largely concerned with the "principle of proportionality," a principle that has its jurisprudential and philosophic origins in the Biblical *Lex Talionis*, the "law of exact retaliation." Significantly for Israel, the "eye for eye, tooth for tooth" precept can be found in three separate passages of the Jewish Torah, or Biblical Pentateuch. These Torah rules are likely related to the Code of Hammurabi (c. 1728- expression 1686 BCE), the first written evidence of penalizing wrongdoing with exact retaliation. In matters concerning personal injury, the code prescribes an eye for an eye (#196), breaking bone for bone (#197), and extracting tooth for tooth (#199). Among the ancient Hebrews, we must speak not of *the Lex Talionis*, but of several. *Lex Talionis* appears in only three passages of the Torah. In their sequence of probable antiquity, they are: *Exodus* 21: 22-25; *Deuteronomy* 19: 19-21; and *Leviticus* 24: 17-21. All have similarities to various other Near Eastern legal codes. These three passages address specific concerns: hurting a pregnant woman, perjury,

and guarding Yahweh's altar against defilement. See Marvin Henberg, *Retribution: Evil for Evil in Ethics, Law and Literature*, 59-186 (1990). In contemporary international law, the principle of *proportionality* can be found in the traditional view that a state offended by another state's use of force, if the offending state refuses to make amends, "is then entitled to take 'proportionate' reprisals." See Ingrid Detter De Lupis, *The Law of War*, 75 (1987). Evidence for the rule of *proportionality* can also be found in the International Covenant on Civil and Political Rights (1966) at Art. 4. Similarly, the American Convention on Human Rights allows at Art. 27(1) such derogations "in time of war, public danger or other emergency which threaten the independence or security of a party" on "condition of proportionality." In essence, the military principle of *proportionality* requires that the amount of destruction permitted must be proportionate to the importance of the objective. In contrast, the political principle of proportionality states "a war cannot be just unless the evil that can reasonably be expected to ensue from the war is less than the evil that can reasonably be expected to ensue if the war is not fought." See Douglas P. Lackey, *THE ETHICS OF WAR AND PEACE*, 40 (1989).

- 33 This is a right previously and prominently exercised by Israel. The *Six Day War*, (1967); *Operation Opera* (1981); and *Operation Orchard* (2007) come immediately to mind.
- 34 The customary right of *anticipatory self-defense* has its modern origins in the *Caroline* incident, an event that concerned the unsuccessful rebellion of 1837 in Upper Canada, against British rule. Following this incident, the mere threat of a serious armed attack can now sometimes be taken as sufficient legal justification for preemptive military action. More precisely, in an exchange of notes between the governments of the United States and Great Britain, then U.S. Secretary of State Daniel Webster outlined a framework for self-defense that did not require a prior attack. Here, a proportionate and discriminate military response to military threat was judged permissible, as long as the danger posed was determinably "instant, overwhelming, leaving no choice of means, and no moment for deliberation."
- 35 Classically, Cicero's justification for *anticipatory self-defense*, as recalled by Hugo Grotius in his authoritative *Commentary on the Law of Prize and Booty*, is that it obtains "whenever he who chooses to hesitate will be obliged to pay an unjust penalty, before he can exact a just penalty...." Grotius, who wrote and published in the seventeenth century, is universally regarded as the "father of international law."

- 36 Expressions of decisional irrationality could take various different and overlapping forms. These include a disorderly or inconsistent value system; computational errors in calculation; an incapacity to communicate efficiently; random or haphazard influences in the making or transmittal of particular decisions; and the internal dissonance generated by any structure of collective decision-making (i.e., assemblies of pertinent individuals who lack identical value systems and/or whose organizational arrangements impact their willing capacity to act as a single or unitary national decision maker).
- 37 For pertinent law, see: *Resolution on the Definition of Aggression*, Dec. 14, 1974, U.N.G.A. Res. 3314 (XXIX), 29 U.N. GAOR, Supp. (No. 31) 142, and U.N. Doc. A/9631, 1975, reprinted in 13 I.L.M. 710, 1974; and *Charter of the United Nations*, Art. 51., Done at San Francisco, June 26, 1945. Entered into force, for the United States, Oct. 24, 1945, 59 Stat., 1031, T.S. No. 993, Bevans, 1153, 1976, and Y.B.U.N. 1043.
- 38 For scholarly elucidation by this author of anticipatory self-defense under international law with special reference to Israel, see: Louis René Beres and (COL./IDF/Res.) Yoash Tsiddon Chatto, "Reconsidering Israel's Destruction of Iraq's Osiraq Nuclear Reactor," *TEMPLE INTERNATIONAL AND COMPARATIVE LAW JOURNAL*, Vol. 9., No. 2., 1995, pp. 437 - 449; Louis René Beres, "Preserving the Third Temple: Israel's Right of Anticipatory Self-Defense Under International Law," *VANDERBILT JOURNAL OF TRANSNATIONAL LAW*, Vol. 26, No. 1., April 1993, pp. 111- 148; Louis René Beres, "After the Gulf War: Israel, Preemption and Anticipatory Self-Defense," *HOUSTON JOURNAL OF INTERNATIONAL LAW*, Vol. 13, No. 2., Spring 1991, pp. 259 - 280; Louis René Beres, "Striking 'First': Israel's Post-Gulf War Options Under International Law," *LOYOLA OF LOS ANGELES INTERNATIONAL AND COMPARATIVE LAW JOURNAL*, Vol. 14, Nov. 1991, No. 1., pp. 1 - 24; Louis René Beres, "Israel and Anticipatory Self-Defense," *ARIZONA JOURNAL OF INTERNATIONAL AND COMPARATIVE LAW*, Vol. 8, 1991, pp. 89 - 99; and Louis René Beres, "After the SCUD Attacks: Israel, 'Palestine,' and Anticipatory Self-Defense," *EMORY INTERNATIONAL LAW REVIEW*, Vol. 6, No. 1., Spring 1992, pp. 71 - 104. For an examination of assassination as a permissible form of anticipatory self-defense by Israel, see Louis René Beres, "On Assassination as Anticipatory Self-Defense: The Case of Israel," *HOFSTRA LAW REVIEW*, Vol. 20, No. 2., Winter 1991, pp. 321 - 340. For more general assessments of assassination as anticipatory self-defense under international law by this author, see: Louis René Beres, "The Permissibility of State-Sponsored Assassination During Peace and War," *TEMPLE INTERNATIONAL*

AND COMPARATIVE LAW JOURNAL, Vol. 5, No. 2, 1991, pp. 231 - 249; and Louis René Beres, "Victims and Executioners: Atrocity, Assassination and International Law," CAMBRIDGE REVIEW OF INTERNATIONAL AFFAIRS, Winter/Spring, 1993.

- 39 Under international law, the crime of *aggression* - itself derivative from earlier criminalizing codifications at Nuremberg's 1945 *London Charter*, and the 1928 *Pact of Paris*, has nothing to do with the particular nature of weaponry employed (conventional or unconventional). See: *Resolution on the Definition of Aggression*, Dec. 14, 1974, U.N.G.A. Res. 3314 (XXIX), 29 U.N. GAOR, Supp. (No.31) 142, U.N. Doc. A/9631, 1975, reprinted in 13 I.L.M. 710, 1974.
- 40 Consider Oswald Spengler: "I believe," is the great word against metaphysical fear, and at the same time it is an avowal of love." See: *The Decline of the West*, his Chapter on "Pythagoras, Mohammed, Cromwell."
- 41 A worrisome variant of enemy irrationality would be any adversary that views death as a zero-sum commodity; i.e., believes its own life requires the death of certain designated "others." The underlying core idea here is captured generically by Ernest Becker's paraphrase of Elias Canetti: "Each organism raises its head over a field of corpses, smiles into the sun, and declares life good." (See Ernest Becker, *Escape from Evil 2* (1975). Similarly, according to Otto Rank: "The death fear of the ego is lessened by the killing, the Sacrifice, of the other; through the death of the other, one buys oneself free from the penalty of dying, of being killed." (See: Otto Rank, *Will Therapy and Reality* 130 (Knopf, 1945) (1936).
- 42 Such potentially apocalyptic motivations should not be dismissed too lightly. See, on this point: Andrew G. Bostom, *Iran's Final Solution for Israel: The Legacy of Jihad*, and *Shiite Islamic Jew Hatred in Iran*, Amazon, March 24, 2014, 350 pp. Dr. Bostom is also the author of *The Legacy of Jihad: The Legacy of Islamic Anti-Semitism; and Sharia Versus Freedom*. See also: Bernard Lewis, *The Political Language of Islam* (Chicago and London: The University of Chicago Press, 1988).
- 43 In this connection, Israel could take no comfort from any pre-independence agreements for Palestinian "demilitarization." On this point, see: Louis René Beres and Ambassador Zalman Shoval, "Why a Demilitarized Palestinian State Would Not Remain Demilitarized: A View Under International Law," *Temple International and Comparative Law Journal*, Winter, 1998, pp. 347-363. Zalman Shoval was a two-time Israeli Ambassador to the United States.

- 44 For Israel, the “nuclear problem” with a Palestinian state would not be that state’s own nuclearization, but its generally weakening effect on the country. For earliest original writings by this author on the prospective impact of a Palestinian state on Israeli nuclear deterrence and Israeli nuclear strategy, see: Louis René Beres, “Security Threats and Effective Remedies: Israel’s Strategic, Tactical and Legal Options,” Ariel Center for Policy Research (Israel), ACPR Policy Paper No. 102, April 2000, 110 pp; Louis René Beres, “After the ‘Peace Process:’ Israel, Palestine, and Regional Nuclear War,” *DICKINSON JOURNAL OF INTERNATIONAL LAW*, Vol. 15, No. 2., Winter 1997, pp. 301-335; Louis René Beres, “Limits of Nuclear Deterrence: The Strategic Risks and Dangers to Israel of False Hope,” *ARMED FORCES AND SOCIETY*, Vol. 23., No. 4., Summer 1997, pp. 539-568; Louis René Beres, “Getting Beyond Nuclear Deterrence: Israel, Intelligence and False Hope,” *INTERNATIONAL JOURNAL OF INTELLIGENCE AND COUNTERINTELLIGENCE*, Vol. 10., No. 1., Spring 1997, pp. 75-90; Louis René Beres, “On Living in a Bad Neighborhood: The Informed Argument for Israeli Nuclear Weapons,” *POLITICAL CROSSROADS*, Vol. 5., Nos. 1/2, 1997, pp. 143-157; Louis René Beres, “Facing the Apocalypse: Israel and the ‘Peace Process,’” *BTZEDEK: THE JOURNAL OF RESPONSIBLE JEWISH COMMENTARY* (Israel), Vol. 1., No. 3., Fall/Winter 1997, pp. 32-35; Louis René Beres and (Ambassador) Zalman Shoval, “Why Golan Demilitarization Would Not Work,” *STRATEGIC REVIEW*, Vol. XXIV, No. 1., Winter 1996, pp. 75-76; Louis René Beres, “Implications of a Palestinian State for Israeli Security and Nuclear War: A Jurisprudential Assessment,” *DICKINSON JOURNAL OF INTERNATIONAL LAW*, Vol. 17., No. 2., 1999, pp. 229-286; Louis René Beres, “A Palestinian State and Israel’s Nuclear Strategy,” *CROSSROADS: AN INTERNATIONAL SOCIO-POLITICAL JOURNAL*, No. 31, 1991, pp. 97-104; Louis René Beres, “The Question of Palestine and Israel’s Nuclear Strategy,” *THE POLITICAL QUARTERLY*, Vol. 62, No. 4., October-December 1991, pp. 451-460; Louis René Beres, “Israel, Palestine and Regional Nuclear War,” *BULLETIN OF PEACE PROPOSALS*, Vol. 22., No. 2., June 1991, pp. 227-234; Louis René Beres, “A Palestinian State: Implications for Israel’s Security and the Possibility of Nuclear War,” *BULLETIN OF THE JERUSALEM INSTITUTE FOR WESTERN DEFENCE* (Israel), Vol. 4., Bulletin No, 3., October 1991, pp. 3-10; Louis René Beres, *ISRAELI SECURITY AND NUCLEAR WEAPONS*, PSIS Occasional Papers, No. 1/1990, Graduate Institute of International Studies, Geneva, Switzerland, 40 pp; and Louis René Beres, “After the Gulf War: Israel, Palestine and the Risk of Nuclear War in the Middle East,” *STRATEGIC REVIEW*, Vol. XIX, No. 4., Fall 1991, pp. 48-55.

- 45 See: Louis René Beres, “Understanding the Correlation of Forces in the Middle East: Israel’s Urgent Strategic Imperative,” *The Israel Journal of Foreign Affairs*, Vol. IV, No. 1., (2010).
- 46 Israel’s anti-missile defense shield has four acknowledged layers: The *Iron Dome* system for intercepting short-range rockets; *David’s Sling* for medium-range rockets; *Arrow-2* against intermediate-range ballistic missiles; and *Arrow-3* for deployment against ICBM’s and (potentially) satellites.
- 47 Louis René Beres: <http://ssi.armywarcollege.edu/pubs/parameters/Articles/07spring/beres.htm>
- 48 Should Israel refrain from striking first until enemy states had acquired nuclear weapons, these new nuclear powers could then implement protective measures that would pose additional hazards to the Jewish State. Designed to guard against preemption, either by Israel or by other regional enemies, such measures could involve the attachment of “hair trigger” launch mechanisms to nuclear weapon systems, and/or the adoption of “launch on warning” policies, possibly coupled with pre-delegations of launch authority. This means, in essence, that Israel would be increasingly endangered, *inter alia*, by steps taken by its nuclear enemies to prevent preemption. Optimally, Israel would do everything possible to prevent such steps, especially because of the expanded risks of accidental or unauthorized attacks against its armaments and populations. Yet, if such steps become a *fait accompli*, Jerusalem might still calculate, correctly, that a preemptive strike would be both legal and cost-effective. This is because the expected enemy retaliation, however damaging, might still appear *more tolerable* than the expected consequences of enemy first-strikes - strikes most likely occasioned by the failure of “anti-preemption” steps.
- 49 Earlier, by this writer, see: Louis René Beres, “Israel and Samson: Biblical Lessons for Israel’s Strategy in the Nuclear Age,” *Israel Affairs*, Vol. 1. No.3, July 2005, pp. 491-503.
- 50 See, by this author, Louis René Beres: <https://modern diplomacy.eu/2021/04/17/a-provident-posture-for-israel-facing-nuclear-iran-as-an-intellectual-problem/> To answer all its most compelling nuclear concerns, Israel’s strategic planners will need to adhere to well-established scientific canons of systematic inquiry, logical analysis and dialectical reasoning. Four plausible and potentially intersecting narratives “cover the bases” of Israel’s nuclear war risk scenarios: 1) nuclear retaliation; 2) nuclear counter-retaliation; 3) nuclear preemption; and 4) nuclear warfighting.

- 51 Regarding legal origins of this Westphalian system, it was founded upon twin-principles of *sovereignty* and *self-determination*. See, by this author: Louis Rene Beres, "Self-Determination, International Law and Survival on Planet Earth," *Arizona Journal of International and Comparative Law*, Vol. 11., No. 1., 1994, pp. 1-26. See also: *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (The Principle of Equal Rights and Self-Determination of Peoples)*, G.A. Res. 2625, U.N. GAOR, 25th Sess., Supp. No. 28 at 121, U.N. Doc. A/8028 (1970), reprinted in 9 I.L.M. 1292; *Declaration on the Granting of Independence to Colonial Countries and Peoples*, G.A. Res. 1514, U.N. GAOR, 15th Sess., Supp. No. 16, at 66, U.N. Doc. A/4684 (1960); *Principles Which Should Guide Members in Determining Whether or Not an Obligation Exists to Transmit the Information Called for Under Article 73e of the Charter*, G.A. Res. 1541, U.N. GAOR, 15th Sess., Supp. No. 16, at 29, U.N. Doc. A/4684 (1960).
- 52 For an authoritative assessment of one element of these Accords, see: <https://www.airuniversity.af.edu/Wild-Blue-Yonder/Article-Display/Article/2635790/israel-and-the-selling-of-the-f-35-to-the-uae/>
- 53 Israeli planners must inquire whether accepting risks of a limited nuclear war would exacerbate enemy nuclear intentions, or whether it would enhance the nation's viable nuclear deterrent. Such conceptual questions have been raised by this author for many years, but usually in reference to more broadly theoretical or generic nuclear questions. See, for example, Louis René Beres, *The Management of World Power: A Theoretical Analysis* (1972); Louis René Beres, *Terrorism and Global Security: The Nuclear Threat* (1979; second edition, 1987); 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: US Foreign Policy and World Order* (1984); Louis René Beres, *Security or Armageddon: Israel's Nuclear Strategy* (1986); and Louis René Beres, *Surviving Amid Chaos: Israel's Nuclear Strategy* (2016).
- 54 Whether it is described in the Old Testament or in other discernible sources of ancient Western thought, chaos can also be viewed as a source of human betterment. Chaos is that which prepares the world for all things, both sacred and profane. Further, as its conspicuous etymology reveals, chaos represents the yawning gulf or gap wherein nothing is as yet, but where all civilizational opportunity must inevitably originate. Appropriately, the great German poet Friedrich

Hölderlin observed: “There is a desert sacred and chaotic which stands at the roots of the things and which prepares all things.” Even in the pagan ancient world, the Greeks thought of such a desert as *logos*, which indicates to us that it was presumed to be anything but starkly random or without conceivable merit.

- 55 Criminal responsibility of leaders under international law is never *limited to* direct personal action or *limited by* official position. On this peremptory principle of “command responsibility,” or *respondeat superior*, see: In re Yamashita, 327 U.S. 1 (1945); The High Command Case (The Trial of Wilhelm von Leeb), 12 Law Reports of Trials of War Criminals 1 (United Nations War Crimes Commission Comp., 1949); see Parks, Command Responsibility for War Crimes, 62 MIL.L. REV. 1 (1973); O’Brien, The Law of War, Command Responsibility and Vietnam, 60 GEO. L.J. 605 (1972); U.S. Dept. Of The Army, Army Subject Schedule No. 27 - 1 (Geneva Conventions of 1949 and Hague Convention No. IV of 1907), 10 (1970). The direct individual responsibility of leaders is also unambiguous in view of the London Agreement, which denies defendants the protection of the act of state defense. See AGREEMENT FOR THE PROSECUTION AND PUNISHMENT OF THE MAJOR WAR CRIMINALS OF THE EUROPEAN AXIS, Aug. 8, 1945, 59 Stat. 1544, E.A.S. No. 472, 82 U.N.T.S. 279, art. 7.
- 56 The term “world order” has its contemporary origins in a scholarly movement begun at the Yale Law School in the mid-and late 1960s, and subsequently expanded at the Politics Department at Princeton University in 1967-68. The present author, Louis René Beres, was an original member of the Princeton-based World Order Models Project, and wrote several early books in this scholarly genre.
- 57 Under international law, the generic question of whether or not a state of war actually exists between states may be somewhat ambiguous. Traditionally, it was held that a formal declaration of war was a necessary condition before “formal” war could be said to exist. Hugo Grotius, for example, divided wars into declared wars, which were legal, and undeclared wars, which were not. (See Grotius, THE LAW OF WAR AND PEACE, Bk. III, ch. iii, V and XI). By the beginning of the twentieth century, the position that war obtains only after a conclusive declaration of war by one of the parties, was codified by Hague Convention III. More precisely, this convention stipulated that hostilities must not commence without “previous and explicit warning” in the form of a declaration of war or an ultimatum. (See Hague Convention III Relative to the Opening of Hostilities, 1907, 3 NRG, 3

series, 437, article 1.) Currently, of course, declaration of war may be tantamount to declarations of international criminality (because of the criminalization of aggression by authoritative international law), and it could be a jurisprudential absurdity to tie a state of war to formal declarations of belligerency. It follows that a state of war may exist without formal declarations, but only if there is an armed conflict between two or more states and/or at least one of these states considers itself at war. On the argument that war need not be formally recognized, see J. Pictet, IV Commentary, Geneva Convention Relative to the Protection of Civilian Persons in Time of War 20-1 (1958) (“no need for formal declaration of war, or for recognition of the existence of a state of war”); U.S. Dept. of Army FM 27-10, The Law of Land Warfare 7-8, paras. 8-9 (1956) (instances of armed conflict without declaration of war; law of war applies); *The Prize Cases*, 67 U.S. (2 Black) at 668 (“war may exist without a declaration on either side”); see also M. McDougal & F. Feliciano, LAW AND MINIMUM WORLD PUBLIC ORDER (1961), pp. 97-113 (legal status of war may be brought about by use of armed force).

- 58 See <https://www.state.gov/the-abraham-accords/> Also to be considered as complementary in this connection is the *Israel-Sudan Normalization Agreement* (October 23, 2020) and *Israel-Morocco Normalization Agreement* (December 10, 2020).

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