

Targeted killings in Counter-terrorism

Abstract

The dissertation deals with targeted killings as a means of combating terrorism. For the purposes of this work, targeted killings are defined as actions that meet five cumulative characteristics, namely: the use of violence of such intensity that it is capable of causing the death of a human being, attribution to the state, intent, namely direct intent, the person who is the subject of the targeted killing is not in the custody of those who carry out this operation, and the target of the operation is a specific person or group of persons.

The dissertation has two main goals. The first goal is to analyze the admissibility of targeted killings as a means of combating terrorism from the perspective of the legal regulation of human rights law, humanitarian law and international security law. The second goal is to synthesize the resulting findings of the analysis of the admissibility of targeted killings through a case study.

The central research question of the work is whether targeted killings as a means of combating terrorism represent an admissible method of combating terrorism, from the perspective of the legal rules of human rights law, international humanitarian law and international security law.

The dissertation is divided into six main chapters, which are called “Methodological Background,” “Definition of Key Terms,” “Targeted Killings through the prism of Human Rights Law,” “Targeted Killings through the Prism of International Humanitarian Law,” “Targeted Killings through the Prism of International Security Law,” and “Case Study.” The first chapter of the dissertation is divided into three subchapters called “Objectives of the Dissertation and Research Questions,” “Methodology,” and “Analysis of Sources.”

The purpose of the first chapter is to establish and clarify the research questions and objectives of the dissertation, clarify the methodology, and analyze the key sources from which the dissertation draws.

The second chapter of the dissertation consists of the subchapters “Definition of the Concept of Targeted Killings” and “Definition of the Concept of Terrorism”. The second chapter is devoted to the definition and clarification of the content of key concepts.

The third chapter discusses targeted killings in the context of human rights discourse and analyses the compliance of targeted killings, particularly from the perspective of the right to life, the right to a fair trial and the jurisdiction of states.

The fourth chapter examines targeted killings in the context of the principles of international security law and analyzes the permissibility of targeted killings in international and domestic armed conflicts.

The fifth chapter is dedicated to the analysis of targeted killings from the perspective of international security law.

The analysis of targeted killings as a means of combating terrorism within the context of the legal rules of international law is followed by a case study, which is the content of the sixth chapter of the dissertation.

From a methodological point of view, the dissertation uses a qualitative method. The first and second chapters are mainly written using the descriptive method, and the third to fifth chapters are written using the analytical method. The sixth chapter is a case study, which represents a synthesis of the findings found in the previous chapters of the thesis.

From the perspective of human rights law, the admissibility of targeted killings is viewed through the prism of the right to life, the right to a fair trial and the jurisdiction of states. At the universal level, the key document is the International Covenant on Civil and Political Rights. For the purposes of the dissertation, the regulation contained in the European Convention for the Protection of Human Rights and Fundamental Freedoms is also analyzed.

The decision-making practice of the Human Rights Committee, the Commission on Human Rights and the European Court of Human Rights shows that there are almost no substantial contradictions between the deprivation of life, which is contrary to Article 2, paragraph 2 of the Convention and Article 6 of the Covenant.

The use of violence of such intensity as to cause the death of a human being must, within the framework of human rights regulation, meet the requirements of absolute necessity, proportionality, prevention and a sufficient legal basis.

The realization of the right to life is closely linked to the application of the right to a fair trial. On the preventive level, States are obliged to ensure the existence of domestic legislation that will protect the right to life against deprivation of life caused by both State authorities and authorities assimilated to them, and by entities whose conduct is not attributable to the State, including the actions of other States or international organizations, when the threats are reasonably foreseeable.

States are also obliged to properly investigate deaths resulting from the actions of private individuals, namely due to the neglect of the general preventive duty of States. The method of investigation itself reflects the elements of the right to a fair trial, as it must be independent, impartial, prompt, thorough, effective, transparent and credible. States are obliged to ensure the application of the right to a fair trial even in situations of armed conflict and to properly investigate alleged violations of the right to life.

In the context of conducting operations within the framework of an armed conflict, states have specific obligations arising from the right to a fair trial. Targeted killings must not have the character of punishment or be exclusively preventive in nature. The aim of the operation must be exclusively to protect human life from an imminent attack on the life or safety of persons. If targeted killings were carried out as a means of retaliation for an act already committed in the past, they would constitute the execution of the death penalty. Perpetrators of terrorist acts who would be the target of targeted killings carried out on the basis of a decision by the executive authorities in retaliation for acts committed in the past would not enjoy the right to a fair trial.

Humanitarian law does not prohibit the method of targeted killings, but it places significant restrictions on its implementation. In order for a specific targeted killing to meet the requirements of international humanitarian law, it must cumulatively meet the rules set out in particular by the Geneva Conventions and their Additional Protocols, which are reflected in the planning and conduct of combat operations and other activities in the context of an armed conflict. These include in particular the principles of distinction, humanity and military

necessity, proportionality, prevention, the prohibition of declaring that no mercy will be granted, the prohibition of treachery and the prohibition or restriction of the use of certain types of weapons.

If targeted killings encroach on the sphere of sovereignty of another state, their application is subject to the rules on the use of force between states. Deprivation of life attributable to a State carried out within the territorial sovereignty of another State falls under the peremptory prohibition on the use of force, expressed in Article 2, paragraph 4, of the UN Charter. If a territorial sovereign consents to the use of force on behalf of another State on its territory, it will also bear responsibility for any violations of international law.

Two case studies provide a synthesis of the conclusions drawn from the analysis of the admissibility of targeted killings. The targeted killing of Reyaad Khan was presented by the United Kingdom as an operation carried out on the basis of the United Kingdom's inherent right to self-defence enshrined in Article 51 of the UN Charter. In the case of *Carter v Russia*, the 210 European Court of Human Rights considered the targeted killing of a Russian and a British citizen by the Russian Federation carried out on the territory of the United Kingdom.

In view of the analysis carried out in the dissertation, the question of whether the *lex lata* of human rights law, international humanitarian law and international security law provides clear and sufficient standards for determining the permissibility of targeted killings can be answered in the affirmative. Based on the analysis of the permissibility of targeted killings as a means of combating terrorism from the point of view of the legal rules of human rights law, international humanitarian law and international security law, and the synthesis presented by the case studies, it can be concluded that targeted killings are, albeit to a very limited extent and under strict compliance with the conditions of application, a permissible method of combating terrorism.

Key words: targeted killing, international law, terrorism