



# LOOKING AHEAD REVISING ISRAEL'S NUCLEAR AMBIGUITY IN THE MIDDLE EAST

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## Working Paper

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Until now, Israel's nuclear policy of *deliberate ambiguity* has seemed to make perfect sense. After all, everyone already knows that Israel has *The Bomb*. So, why stir the pot?

Today, however, Israel's nuclear policy must adapt to a Middle East in constant turmoil. Such adaptation will need to consider assorted regional revolutions and insurrections that may result, incrementally, in expanding Islamist or *Jihadist* regimes. Taken together, these developments, singly, or in possible synergy with each other, could compel Israel to move purposefully and conspicuously beyond its longstanding "bomb in the basement" posture.

With such a substantial move, the Jewish State would opt for selective forms of nuclear disclosure. It would represent a recognizably major policy change. To better understand *why*, however, strategic thinkers must first acknowledge that the core military issues are not all that obvious or straightforward. In the esoteric and concurrently dialectical<sup>1</sup> world of nuclear strategy, a world that must necessarily rely on carefully elaborated and

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<sup>1</sup> Nuclear strategists should always approach their subject as a *dialectical* series of thoughts, where each important idea presents a complication that moves onward to the next pertinent thought or idea. Contained in this *dialectic* is the obligation to continue thinking, an obligation that can never be fulfilled altogether because of what the philosophers call an *infinite regress* problem. Still, it is an obligation that must be undertaken as fully and as competently as possible. The actual term, "*dialectic*," originates from an early Greek

ascertainable deductive logic, it can never be sufficient for Israeli security that prospective enemy states simply affirm Israel's nuclear status.

Rather, it will be important that these hostile or potentially hostile states believe that Israel controls distinctly *usable* nuclear weapons, and that Israel would also be *willing* to employ these mega-weapons in certain readily identifiable circumstances.

There are very sound reasons to doubt the conventional wisdom that Israel would clearly benefit from a rigid constancy of its historic commitment to *nuclear ambiguity*.

Israel needs its nuclear weapons.<sup>2</sup> This basic fact is unassailable.<sup>3</sup> Without these weapons, Israel would literally be unable to survive in a persistently anarchic<sup>4</sup> world, in a "*Westphalian*"<sup>5</sup> system of international relations, to use the preferred imagery of formal international law.

At the same time, however ironic, Israel's nuclear weapons can only be successful to the extent that they are

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expression for the art of conversation. A currently more common meaning is that *dialectic* is a method of seeking truth by correct reasoning. More precisely, it offers a *method of refutation* by examining logical consequences, and also the logical development of thought via *thesis* and *antithesis* to an eventual *synthesis of opposites*. In the middle dialogues of *Plato*, *dialectic* emerges as the quintessential form of proper philosophical/analytical method. Here, Plato describes the dialectician as *one who knows how to ask, and then answer, questions*. In the particular matter of Israeli nuclear strategy, this kind of knowledge must *precede* all other compilations and inventories of military facts, figures, force structures and power balances.

<sup>2</sup> See, for example, by this author: Louis René Beres, "Still Facing Existential Threats: Nuclear War and Genocide in the Middle East," *Nativ* (Israel), Vol. 21, No. 2., 2008 (Hebrew only); Louis René Beres, "Israel and Samson: Biblical Lessons for Israeli Strategy in the Nuclear Age," *Israel Affairs*, Vol. 11., No. 3., July 2005, pp. 491-503; Louis René Beres, "Nuclear Deterrence in Israel: Special Memorandum to the Prime Minister," *Nativ* (Israel), Vol. 15, No. 1., January 2002, pp. 72-80 (Hebrew only); Louis René Beres, "Strategic Balance in the Middle East: An Injurious Concept," *Midstream*, Vol. XXXVII., No. 5., pp. 4-6; Louis René Beres, "Israeli Nuclear Deterrence," *Midstream*, February/March 2001, Vol. XXXVII., No. 2., pp. 10-12; Louis René Beres, "Israeli Nuclear Weapons After Indian and Pakistani Nuclear Tests," *Security Dialogue*, Vol. 29., No. 3., pp. 377-384; Louis René Beres, "Israel's Nuclear Strategy: Ambiguity, Disclosure, Doctrine," *Denver Journal of International Law and Policy*, Vol. 26, No. 2., Winter 1998, pp. 209-233; 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. ½, 1997, pp. 143-157; Louis René Beres, "Where the Shadow Really Falls: Why Israel Must Have Nuclear Weapons," *The Brown Journal of World Affairs*, Winter/Spring 1997., Vol. IV., Issue 1., pp. 127-138; and Louis René Beres, "The Iranian Threat to Israel: Capabilities and Intentions," *International Journal of Intelligence and Counterintelligence*, Vol. 9., No. 1., Spring 1996, pp. 51-62.

<sup>3</sup> For a *contra* view, however, see: Zeev Maoz, "The Mixed Blessing of Israel's Nuclear Policy," *International Security* (Harvard), Vol. 28, No. 2 (Fall 2003), pp. 44-77. For my response to Maoz in the same journal, see: Louis René Beres and Zeev Maoz, "Israel and the Bomb," A Dialogue, *International Security*, Vol. 29, No. 1., Summer 2004, pp. 1-4.

<sup>4</sup> Everywhere in this indispensable process of nuclear strategizing, Israeli planners must bear in mind the absolute primacy of continuing *anarchy* in world politics. The attendant obligation to remain ready to use force in a world of international anarchy forms the central philosophical argument of *Realpolitik*, from the *Melian Dialogues* of Thucydides and the Roman Stoic Cicero to Machiavelli, Locke, Spykman and Kissinger. "For what can be done against force without force," inquires Cicero in one of his *Letters*. Later, in the twentieth century, Nicholas Spykman replied: "In a world of international anarchy, foreign policy must aim above all at the improvement or at least the preservation of the relative power position of the state." In essence, moreover, the anarchy faced by Israel today is very different from an earlier form of authoritative worldwide decentralization. It is more far-reaching, extending not only between states, but also within them. It is almost primordial, it resembles the anarchy of William Golding's *Lord of the Flies*; it is effectively *sui generis*. What does this suggest about Israel's specific security options regarding strategic planning? How should Israel's leadership now plan productively in the face of this new and potentially more insidious kind of anarchy? How will Israel most likely be affected by anarchy amongst its many enemies? And how might it be affected by anarchy among its few "friends?"

<sup>5</sup> The reference, of course, is to the *Peace of Westphalia* (1648), which concluded the *Thirty Years War*, and created the now still-existing 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 *Peace of Westphalia*.

never actually fired.<sup>6</sup> The primary mission of these forces must always be understood as deterrence *ex ante*, not revenge *ex post*. Significantly, this overriding mission *can be* fully consistent with critical preemption options, and also with those particular war fighting options in which only Israel would have nuclear weapons.

For Israel, the considerable survival risks posed by expanding regional anarchy represent far more than distant generic threats. This is because, *inter alia*, Israel's existing regional adversaries will soon be joined by a newly-nuclear Iran.

Without its nuclear weapons, an admittedly improbable condition that could only result from implementation of a *Middle East Nuclear Weapon Free-Zone*, Israel would be unable to deter major enemy aggressions<sup>7</sup> with indispensably plausible threats of retaliation, and/or counter-retaliation.

In this connection, Israel must also continue to make progress in its active defenses, especially *Iron Dome* (which plainly distinguished itself in Israel's recent Operation *Pillar of Defense*), *Arrow* (most critical *vis-a-vis* a prospectively nuclear Iran), and *David's Sling* (aka *Magic Wand*). Although no system of missile defense could ever achieve the necessary 100% reliability of intercept regarding population protection from incoming nuclear missiles, a very reliable BMD system could nonetheless enhance Israel's nuclear deterrence posture. This is because the presence of such a system would cause any rational would-be nuclear attacker to recalculate probabilities of achieving "assured destruction."

Where the prospective aggressor might not be rational - that is, where it might not value its continued physical survival more highly than any other preference or combination of preferences - the deterrence benefits of reliable ballistic missile defense could disappear.

In essence, facing such a system, the prospective still-rational aggressor, would need to deploy ever-larger numbers of first-strike weapons, simply to ensure that it could sufficiently destroy and nullify Israel's nuclear retaliatory forces.

As the Middle East and North Africa become more uncertain and more unstable, an appropriately selective and nuanced end to *deliberate ambiguity* could improve and sustain Israel's otherwise imperiled nuclear deterrence posture. More precisely, the probability of assorted enemy attacks in the future could likely be reduced by making public certain additional information concerning Israel's nuclear weapons, and its corollary strategic postures. This information would center, *inter alia*, on the core issues of *nuclear capability* and *decisional willingness*.

Some skeptics will disagree. It is, after all, not unreasonable to assert that nuclear opacity has "worked" thus far. While Israel's *nuclear ambiguity* has evidently done little to deter "ordinary" conventional enemy aggressions, or, for that matter, multiple acts of terror, it *has succeeded* in keeping the country's enemies from mounting authentically existential aggressions.

These larger aggressions could have been mounted without nuclear or biological weapons. As the nineteenth-century Prussian strategic theorist, Karl von Clausewitz (1780-1831) observed, in his classic essay, *On War*, there

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<sup>6</sup> Interestingly, this reasoning has well-known and compelling pre-nuclear antecedents. Both *Sun-Tzu* and *Karl von Clausewitz* wrote that it is best (optimal) to achieve "victory" without ever having to engage in actual hostilities.

<sup>7</sup> For the crime of *aggression* under international law, see: *Resolution on the Definition of Aggression*., adopted by the U.N. General Assembly, 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).

does come a foreseeable military tipping point, a time when “*mass counts.*”

Israel is half the size of Lake Michigan. Israel’s enemies have always had an obvious advantage in “mass.” Now, excluding non-Arab Pakistan, which remains decidedly coup-vulnerable, none of Israel’s present *Jihadist* enemies has “The Bomb.” Nonetheless, together, in a determined collaboration, they could still have acquired the capacity to carry out *intolerably* lethal assaults. Acting collectively, these states and their insurgent proxies, even without nuclear weapons, could *already* have inflicted unacceptable harms upon the Jewish State.

*The Israeli policy of an undeclared nuclear capacity will not work indefinitely. Left unrevised, this policy will ultimately fail. The most obvious locus of failure would be Iran.*

To be deterred, a newly-nuclear Iran would need convincing assurance that Israel’s atomic weapons were both *invulnerable* and *penetration-capable*. Any Iranian judgments about Israel’s capability and willingness to retaliate with nuclear weapons would therefore depend largely upon some prior Iranian knowledge of these weapons, including their degree of protection from surprise attack, and also their capacity to “punch-through” Iranian active and passive defenses.

Ironically, the appearance of *all* Israeli nuclear weapons as “too large” and “powerful” could actually *weaken* Israel’s nuclear posture. For example, Iranian perceptions of *only* mega-destructive Israeli nuclear weapons could effectively undermine the credibility of Israel’s indispensable nuclear deterrent. Here, Israel’s deterrent credibility could actually vary *inversely* with the perceived destructiveness of its nuclear arms. It is precisely because this conclusion is utterly counter-intuitive that it warrants very careful study in Jerusalem and Tel-Aviv.

In the world of nuclear strategy, some essential truths are always counterintuitive. Coexisting with an already-nuclear Iran, Israel would likely benefit not from any *increased* nuclear secrecy (the orthodox and ordinary expectation), but rather from certain forms of *expanded nuclear disclosure*. In essence, this could mean a full or partial end to Israel’s *bomb in the basement*.

However regrettable and once-preventable, a fully nuclear Iran now appears to be a *fait accompli*. Neither the “international community” in general, nor Israel in particular, has thus far displayed a sufficient willingness to support pertinent preemptions.<sup>8</sup> Jurisprudentially, such preemptions could have been entirely consistent with the criteria of *anticipatory self-defense*<sup>9</sup> under international law. The so-called economic “sanctions” sequentially leveled at Tehran by elements of the “international community” have had no meaningful effect.

A nuclear Iran might decide to share some of its nuclear components and materials with Hezbollah, or with

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<sup>8</sup> This is the case, of course, only so long as we don’t include certain specific and non-explosive forms of cyber defense/cyber war (e.g., Stuxnet virus) as correct examples of preemption.

<sup>9</sup> *Anticipatory self-defense* has its modern origins in the *Caroline* case, which concerned the unsuccessful rebellion of 1837 in Upper Canada against British rule. Following this particular case, the serious threat of an armed attack has generally justified certain militarily defense action. In an exchange of diplomatic 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 an antecedent attack. Here, the framework permitted a military response to a threat so long as the danger posed was “instant, overwhelming, leaving no choice of means and no moment for deliberation.” See: Beth M. Polebaum, “National Self-defense in International law: An Emerging Standard for a Nuclear Age,” 59 N.Y.U.L. Rev. 187, 190-91(1984)(noting that the *Caroline* case transformed the right to self-defense from an excuse for armed intervention into a legal doctrine). Earlier, see also: Hugo Grotius, *Of the Causes of War, and First of Self-Defense, and Defense of Our Property*, reprinted in 2 **Classics of International Law**, 168-75 (Carnegie Endowment Trust, 1925 (1625)); and Emmerich de Vattel, *The Right of Self-Protection and the Effects of the Sovereignty and Independence of Nations*, reprinted in 3 **Classics of International Law**, 130 (Carnegie Endowment Trust, 1916)(1758). We may also consider here the corroborating arguments of Samuel Pufendorf at **The Two Books on the Duty of Man and Citizen According to Natural Law**, 32 (Frank Gardner Moore., tr., 1927 (1682)).

another kindred terrorist group. To prevent this, Jerusalem would need to convince Iran (and, perhaps, others) that Israel possesses a *range* of distinctly *usable* nuclear options. Here, Israeli *nuclear ambiguity* could be loosened by releasing certain general information regarding the availability of appropriately low-yield weapons. A policy of continued *nuclear ambiguity*, on the other hand, might not be sufficiently persuasive.

In Tel-Aviv and Jerusalem, what will soon need to be calculated vis-à-vis a prospectively nuclear Iran is the exact extent of subtlety with which Israel should communicate key portions of its nuclear positions, intentions, and capabilities. To ensure that its nuclear forces appear sufficiently *usable*, *invulnerable*, and *penetration-capable* to this particular prospective attacker, Israel may soon benefit from selectively but generally releasing certain broad information concerning the *hardening*, *dispersion*, *multiplication* and *obfuscation* of these strategic forces.

Once it is faced with a plainly nuclear adversary in Tehran, Israel would need to convince its now principal enemy that it possessed both the *will* and the *capacity* to make *any* intended Iranian nuclear aggression more costly than gainful. Still, *no Israeli move from ambiguity to disclosure would likely help in the case of an irrational nuclear enemy*. For dealing with irrational enemies – those enemies who would not, by definition, value their own continued national survival more highly than any other preference or combination of preferences - even preemption could already be too late.

To the extent that an Iranian leadership might subscribe to certain end-times visions of a Shiite apocalypse, Iran could even choose to cast aside *all* rational behavior. *Were this to happen, Iran could effectively become a nuclear suicide-bomber in macrocosm*. Such a destabilizing prospect is certainly very improbable, but it is also not inconceivable. Moreover, a similarly *serious prospect exists in already-nuclear and increasingly coup-vulnerable Pakistan*.

To protect itself against military strikes from *rational* enemies,<sup>10</sup> particularly those attacks that could carry existential costs, Israel will need to better exploit every aspect and function of its nuclear arsenal and doctrine. The success of Israel's efforts here would depend not only upon its selected nuclear targeting doctrine (enemy cities or *counter value* and/or enemy military forces or *counterforce*), but also upon the extent to which this particular targeting choice is made known in advance. Before any rational enemies can be deterred from launching first strikes against Israel, and before they can be deterred from launching retaliatory attacks following any Israeli non-nuclear preemptions, it will not be enough for them to know merely that Israel *has* The Bomb.

*These enemies would also need to recognize that usable Israeli nuclear weapons are sufficiently invulnerable to enemy attacks, and that at least a determinable number are capable of penetrating high-value population targets.*

Removing the bomb from Israel's "basement" could enhance Israel's strategic deterrence to the extent that it would heighten rational enemy perceptions of both *secure* and *capable* Israeli nuclear forces. Such a calculated end to deliberate ambiguity could also underscore Israel's *willingness* to use these nuclear forces in response to certain enemy first-strike and retaliatory attacks. This brings to mind the so-called *Samson Option*, which could allow various enemy decision-makers to note and underscore that Israel is prepared to do whatever is needed to

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<sup>10</sup> Even if Israel's pertinent enemies were indeed *rational*, this would say nothing about the *accuracy of information* used in their rational strategic calculations. Rationality refers only to the *intent* to maximize specific values or preferences, namely national self-preservation. It says nothing, however, about whether the actual information used in these calculations is actually correct or incorrect. Hence, perfectly rational enemy states could still make errors in calculation that would lead them to acts of aggression against Israel.

survive.<sup>11</sup>

By definition, only a selective end to its *nuclear ambiguity* could ever allow Israel to exploit the potentially considerable benefits of a *Samson Option*. Should Israel choose to keep its Bomb in the “basement,” therefore, it would not be able to make any constructive use of the *Samson Option*.

Irrespective of its preferred level of ambiguity, Israel’s nuclear strategy is plainly and correctly oriented toward *deterrence*, not war-fighting.<sup>12</sup> The *Samson Option* refers to a policy that would be based in part upon a more-or-less implicit threat of *massive nuclear retaliation* for certain specific enemy aggressions. Such a policy could be invoked credibly only in cases where such aggressions would threaten Israel’s very existence, and would involve far more destructive and high-yield nuclear weapons than what might otherwise be thought “usable.” This means that a *Samson Option* could make strategic sense only in presumably “last-resort” or “near last-resort” circumstances.

It also means that where *Samson* is involved, an end to *deliberate ambiguity* could help Israel by emphasizing that particular portion of its nuclear arsenal that might first appear distinctly *less usable*. This seemingly ironic observation is not a contradiction of the argument (above) that Israel will need to take *The Bomb* out of the “basement” in order to enhance its deterrent credibility. Rather, it indicates that the credibility of Israel’s nuclear deterrent will ultimately require prospective enemy perceptions of retaliatory destructiveness at *both* the low and high ends of the nuclear yield spectrum. In those circumstances that are genuinely *in extremis* for Israel, *Samson* weapons could, in fact, appear *altogether usable*.

Ending *nuclear ambiguity* at the proper time could best permit Israel to foster such indispensable perceptions. Without a calculated end to *ambiguity*, Iran could come to believe either that *all* of Israel’s nuclear weapons are *Samson-type* forces (thus, *too large to deter*), or that *none* of Israel’s weapons are *Samson-type* forces (thus, *too small to deter*). In principle, either extreme form of Iranian belief could significantly undermine Israel’s nuclear deterrence.

An absolutely primary objective of ending *ambiguity*, therefore, must be to readily reveal the availability of Israel’s nuclear weapons at *all* spectral levels of possible conflict.

The main objective of any *Samson Option* would *not be* to communicate the availability of a graduated Israeli nuclear deterrent. Rather, it would intend to signal the more-or-less unstated “promise” of a *counter-city* or

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<sup>11</sup> For general assessments of the probable consequences of nuclear war by this author, see: Louis René Beres, *APOCALYPSE: NUCLEAR CATASTROPHE IN WORLD POLITICS* (Chicago: The University of Chicago Press, 1980); Louis René Beres, *MIMICKING SISYPHUS: AMERICA’S COUNTERVAILING NUCLEAR STRATEGY* (Lexington, MA: Lexington Books, 1983); Louis René Beres, *REASON AND REALPOLITIK: US FOREIGN POLICY AND WORLD ORDER* (Lexington MA: Lexington Books, 1984); and Louis René Beres, ed., *SECURITY OR ARMAGEDDON: ISRAEL’S NUCLEAR STRATEGY* (Lexington MA: Lexington Books, 1986).

<sup>12</sup> Nonetheless, there are still-plausible and even more-or-less probable paths to nuclear war-fighting in the Middle East: (1) enemy nuclear first-strikes against Israel (not yet a possibility, so long as we don’t include non-Arab Pakistan as an enemy state); (2) enemy non-nuclear *WMD* (weapons of mass destruction) first-strikes against Israel that elicit Israeli nuclear reprisals, either promptly, or as a consequence of incremental escalatory processes; (3) Israeli nuclear preemptions against hard targets in enemy states with nuclear assets (excluding Pakistan, not a present possibility); (4) Israeli non-nuclear preemptions against hard targets in enemy states with nuclear assets that elicit enemy nuclear reprisals, either promptly, or via incremental escalation processes (not yet a possibility); and (5) Israeli non-nuclear preemptions against hard targets in enemy states without nuclear assets, that elicit substantial enemy biological warfare reprisals, and, reciprocally, Israeli nuclear counter-retaliations. Other paths to nuclear war fighting in the region could include accidental/unintentional/inadvertent/unauthorized nuclear attacks between Israel and pertinent enemy states. Here, we would also have to consider the very real prospect of escalation arising from *WMD* terrorism against Israel.

“counter-value” response. Made plausible only by an end to Israel’s absolute *nuclear ambiguity*, the *Samson Option* would be unlikely to deter any aggressions short of “high end” nuclear, and/or (certain) biological first strikes upon the Jewish State.

*Samson* would “say” the following to all potential nuclear attackers: “*We (Israel) may have to “die,” but (this time) we won’t die alone.*” The *Samson Option*, made possible only after a calculated end to Israeli *nuclear ambiguity*, could serve Israel as an effective adjunct to deterrence, and also to certain preemption options, but *not as* a core nuclear strategy. The *Samson Option* should never be confused with Israel’s overriding security objective, which is *always to seek stable deterrence at the lowest possible levels of possible military conflict.*

In broad outline, “Samson” could support Israel’s nuclear deterrence by demonstrating an Israeli willingness to take strategic risks, including even certain existential risks. Earlier, Moshe Dayan had understood and embraced this particular form of compelling logic: “*Israel must be like a mad dog, said Dayan, too dangerous to bother.*”

In “real life,” Israel’s principal enemies have always known with confidence that IDF operations and war-planning will regularly be entirely rational, and largely predictable – thus, *hardly a “mad dog.”* To date, this enemy knowledge likely has not had any truly catastrophic impact on Israel’s security, but this could certainly change at any time in the next war.

Curiously, perhaps, in our often counter-intuitive strategic world, it can sometimes be perfectly rational to *pretend irrationality*. Always, the nuclear deterrence benefits of any *pretended irrationality* would depend, in part, upon an enemy state’s awareness of Israel’s *disclosed* counter-value targeting posture, and of Israel’s associated strategic weapons. In the final analysis, there are specific and valuable critical security benefits that would likely accrue to Israel as the result of any purposefully selective and incremental end to its longstanding policy of *deliberate nuclear ambiguity*.

Arguably, the time to begin such an “end” has not yet arrived. It is, instead, at the precise moment that Iran verifiably crosses the nuclear threshold, that Israel should begin to remove *The Bomb* from its “basement.” When this critical point is reached, Israel should already have: (1) reconfigured, to whatever extent presumed necessary, its preferred allocation of *pertinent nuclear assets*, and (2) determined, with particular reference to correlative questions of *perceived willingness*, the precise extent to which this selected allocation should now be disclosed.

A *contra* strategic assessment, however, suggests that a partial and selective end to Israel’s *nuclear ambiguity* be considered *before* Iran becomes fully nuclear. This alternative dialectical argument is based on the assumption that any Israeli preemption against Iran, which would certainly be non-nuclear, would have to be accompanied by explicit Israeli threats of deterrence. More precisely, following any such preemption, Israel, in order to prevent a damaging response, would have to make clear to Iran that any significant conventional missile retaliatory attack(s) upon Israel would *certainly* be met with an unacceptably destructive Israeli nuclear counter-retaliation.

For any such counter-retaliatory threat to be compelling, Iran’s leadership would first have to believe, *inter alia*, that Israel’s pertinent nuclear weapons were *operationally usable* – a belief that could be critically enhanced by bringing Israel’s “*bomb out of the basement.*”

The actual security results of any Israeli changes in *nuclear ambiguity* will remain dependent, to a greater or lesser extent, upon Clausewitzian “friction,” that is, on the inherently unpredictable effects of errors in knowledge and information; on inevitable intra-Israeli (IDF/MOD) strategic uncertainties; on both Israeli and enemy

underestimations and overestimations of relative power position; and on the unalterably vast and largely irremediable differences between all theories of deterrence, and enemy intent “as it actually is” (*eigentliche Krieg*).<sup>13</sup>

There is also an important *legal* point to be made here. Threats of nuclear deterrence may be fully consistent with authoritative international law. 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 concludes, *inter alia*:

*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 a State would be at stake.*

More than any other state on earth, Israel understands that its basic physical survival is problematic.

So, jurisprudentially, Israel could be on very solid ground with any national moves toward a more overt or unambiguous policy of nuclear deterrence. Still, for Israel, there would be many complex problems to identify and solve if an enemy state or states were ever allowed to “go nuclear.” These problems could quickly undermine the agreeable but plainly unrealistic future notion of *balanced nuclear deterrence* in the region. As was made plain earlier by the *Project Daniel Group*, the unstable Middle East would not allow the sort of comforting equilibrium that had once characterized U.S.-Soviet relations during the Cold War.<sup>14</sup>

Whether for reasons of miscalculation, accident, unauthorized capacity to fire, outright irrationality, or the presumed imperatives of “*Jihad*,” an enemy state in this region could opt to launch a nuclear first-strike against Israel despite that country's own obvious and secure nuclear capability. Any Iranian nuclear assets in particular could also pose a grave hazard to the United States homeland, essentially through Tehran’s likely sharing of these materials with Hezbollah, and possibly even with other kindred terror organizations.

If attacked with *any* Iranian nuclear weapons, Israel would certainly respond with a nuclear retaliatory strike. Such an expression of self-defense, technically not a reprisal,<sup>15</sup> would likely be launched against the aggressor's capital

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<sup>13</sup> See: Carl von Clausewitz, “*Über das Leben und den Charakter von Scharnhorst*,” *Historisch-politische Zeitschrift*, I (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. See also: Carl von Clausewitz, *Historical and Political Writings*, 90.

<sup>14</sup> See: *Israel's Strategic Future: Project Daniel*, Ariel Center for Policy Research (ACPR), ACPR Policy Paper No. 155, May 2004, 64 pp. This document was originally prepared only for confidential presentation to then Prime Minister Ariel Sharon, and was not intended for publication. See also, by this author: Louis René Beres, “*Looking Back at Project Daniel: A Six-Year Retrospective*,” *Nativ*, Ariel Center for Policy Research (ACPR), Israel, January 2009, 35 pp; Louis René Beres, “*Facing Iran's Ongoing Nuclearization: A Retrospective on Project Daniel*,” *International Journal of Intelligence and Counterintelligence*, Vol. 22., No. 3, Fall 2009, pp. 491-514; Louis René Beres, “*Israel, Iran and Project Daniel*,” Presented at **The Ninth Annual Herzliya Conference on the Balance of Israel's National Security and Resilience**,” Herzliya, Israel, February 2 – 4, 2009; and Louis René Beres, “*Israel's Uncertain Strategic Future*,” *Parameters: U.S. Army War College Quarterly*, Vol. XXXVII., No. 1., Spring 2007, pp. 37-54.

<sup>15</sup> The right of *self-defense* should not be confused with *reprisal*. Although both are commonly known as measures of self-help short of war, an essential legal difference lies in their respective purpose. Reprisals are punitive in character, and are not undertaken for

city of Tehran and/or against similarly high-value urban targets. *There would be no assurances, in response to this sort of unprecedented aggression, that Israel would limit itself to striking back against exclusively military targets.* To prevent such an Iranian attack in the first place, Israel must consider a variety of ways to enhance its nuclear deterrence. This should include questions of continued *nuclear ambiguity*.

What if enemy first-strikes were to involve "only" chemical and/or "minor" biological weapons? In this case, Israel might still launch a reasonably limited nuclear reprisal, but this would depend largely upon Israel's calculated expectations of follow-on aggression, and on its associated determinations of comparative damage-limitation. Here, too, in order to prevent such enemy aggressions in the first place, Israel should pay close attention to appropriate endings of *deliberate ambiguity*.

Should Israel absorb a massive conventional first-strike, a nuclear retaliation could not be ruled out. This is especially compelling if: (1) the aggressor were perceived to hold nuclear or other weapons of mass destruction in reserve; and/or (2) Israel's leaders were to believe that non-nuclear retaliations could not prevent devastating nuclear counter-retaliations. Recognizing Israel's relatively small and prospectively still diminishing size, the plausibly calculated threshold of existential harms would be far lower than the country's total physical devastation. Israel should soon take steps, including certain changes to *deliberate ambiguity*, to ensure that this particular set of calculations could also be brought to the attention of would-be aggressors

Facing imminent and possibly existential attacks, Israel could still decide to preempt enemy aggression with its conventional forces. The targeted state's response would then largely determine Israel's subsequent moves. If this response were in any way nuclear, Israel would assuredly undertake nuclear counter-retaliation.

If this enemy retaliation were to involve chemical and/or biological weapons, Israel might also plan to take a quantum escalatory initiative. This sort of initiative is known in military parlance as "*escalation dominance*." Assisted by appropriate forms of nuclear disclosure, it should be a part of both Israel's pre-war deterrence strategy, and also of Israel's *intra-war deterrence*.

If an enemy state's response to an Israeli preemption were limited to hard-target conventional strikes, it is improbable that Israel would resort to nuclear counter-retaliation. But if the enemy state's conventional retaliation were an all-out strike directed toward Israel's civilian populations, as well as to Israeli military targets, an Israeli nuclear counter-retaliation could still not be excluded. Such a counter-retaliation could be ruled out only if the enemy state's conventional retaliations were entirely proportionate<sup>16</sup> to Israel's preemption; confined

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protection. Self-defense, on the other hand, by its very nature, is intended to mitigate further harm. The problem of reprisal as a rationale for the permissible use of force by states is identified in the *U.N. DECLARATION OF PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES*: "States have a duty to refrain from acts of reprisal involving the use of force." See *DECLARATION ON PRINCIPLES OF INTERNATIONAL LAW CONCERNING FRIENDLY RELATIONS AND COOPERATION AMONG STATES IN ACCORDANCE WITH THE CHARTER OF THE UNITED NATIONS*. Adopted by the U.N. General Assembly, Oct. 24, 1970. U.N.G.A. Res. 2625 (XXV), 25 U.N. GAOR, Supp. (No. 28) 121, U.N. Doc. A/8028 (1971), reprinted in 9 I.L.M. 1292 (1970). For the most part, the prohibition of reprisal can be deduced from the broad regulation of force found at Article 2(4), the obligation to settle disputes peacefully at Article 2(3) and the general limiting of permissible force by states to self-defense.

<sup>16</sup> 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' responses." 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 always be *proportionate* to the importance of the objective. In contrast, the political principle of proportionality states "a war cannot be just unless

entirely to Israeli military targets; circumscribed by the legal limits of "*military necessity*,"<sup>17</sup> and accompanied by explicit and verifiable assurances of no further escalation.

Nuclear strategy is a game than sane people may play, but it must be executed with a dutiful awareness of intellectual subtlety, geopolitical nuance, and dialectical thought. Over the next several years, Israeli decision-makers engaged in nuclear strategy will need to make very serious decisions concerning all aspects of the country's strategic forces and doctrine, especially about the core national security issue of *nuclear ambiguity*. In this connection, re-examining Israel's "*bomb in the basement*" would by no means be a matter of simply belaboring the obvious. Rather, it would represent a distinctly complex, difficult and altogether essential task, one oriented toward both improved nuclear deterrence, and facilitating still-possible preemption options.

All states have a fundamental and "inherent" right of *self-defense*. In the language of international law, this right is called "*peremptory*," as it can permit "*no derogation*." It is explicit in both codified and customary jurisprudence, and can be located, in large part, at Article 51 of the *U.N. Charter*, as well as in multiple authoritative clarifications of *anticipatory self-defense*.

The State of Israel has every *legal right*, and, referencing its own population, a distinct *moral and legal obligation*, to prevent an Iranian or, over time, another enemy nuclear attack. Although the lurking dangers of annihilation still lie sometime in the future, Jerusalem/Tel-Aviv must soon do whatever possible to safeguard and sustain Israel's long-term national survival. This will require systematically strengthening Israel's interrelated deterrence, defense, and preemption<sup>18</sup> policies. This strengthening can only succeed, however, if Israel's capable strategists and military planners were to acknowledge the primary and potentially existential policy implications of continued *nuclear ambiguity*.

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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).

<sup>17</sup> The principle of *military necessity* has been defined authoritatively as follows: "Only that degree and kind of force, not otherwise prohibited by the law of armed conflict, required for the partial or complete submission of the enemy with a minimum expenditure of time, life and physical resources may be applied." See: United States, Department of the Navy (jointly with Headquarters, U.S. Marine Corps; and Department of Transportation, US Coast Guard), *The Commander's Handbook on the Law of Naval Operations*, NWP 1-14M, Norfolk, Virginia, October 1995, p. 5-1. Reprinted in Adam Roberts and Richard Guelff, *DOCUMENTS ON THE LAWS OF WAR*, Third Edition, Oxford, UK: Oxford University Press, 2000, p. 10. The term "military necessity" is found, *inter alia*, in the 1946 Judgment of the International Military Tribunal at Nuremberg: Extracts on Crimes Against International Law, referring to Article 6(b) of the London Charter, August 8, 1945: "War Crimes: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment, or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder of hostages, plunder of public or private property, wanton destruction of cities, towns, or villages, or devastation not justified by *military necessity*. (See: Roberts and Guelff, *supra*, p. 177). Text reprinted from *TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL*, Nuremberg, Vo. XXII, IMT, Secretariat, Nuremberg, 1948, pp. 413-14 and 497.

<sup>18</sup> Regarding the always primary question of *preemption*, there are conceivable circumstances – both before and after a nuclear Iran would become a *fait accompli* – in which Israel could have no other rational alternative. This is the case, irrespective of the quality of Israel's active (*BMD*) ballistic missile defense system, because (1) even the most reliable *BMD* system can never be entirely "leak proof;" and (2) essentially 100% efficacy would be needed to protect civilian populations. To ascertain whether preemption "makes sense" in any particular circumstance, Israeli military planners and national decision-makers would need to carefully consider, *inter alia*, the following critical factors, both independently, and in *synergistic* relationships to one another: (1) expected *probability* of enemy first-strikes over time; (2) expected *disutility* (damage) of enemy first-strikes over time (itself dependent, *inter alia*, on the nature of enemy weaponry, projected enemy targeting doctrines, and multiplication/dispersion/hardening of Israeli unconventional forces); (3) expected collaborative prospects between enemy states (and possibly also between enemy state and non-state actors); (4) expected schedules of enemy unconventional weapons deployments; (5) expected *efficiency* of enemy active defenses over time; (6) expected *efficiency* of Israeli active defenses over time; (7) expected *efficiency* of Israeli hard-target counterforce operations over time; and (8) expected *world community reactions* to Israeli preemptions.

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