**Synopsis**

Since the Second World War, the nature of war has been gradually yet constantly changing, as comprehensive, conventional wars between sovereign nations are replaced by asymmetrical armed conflicts between countries and terror and guerrilla organizations.

The type of acts committed by these organizations and the kind of wars they wage present a challenge to the states that fight them.

Such organizations are completely focused on achieving their goals and have no consideration for the lives of their members or the lives of the people in whose name they are fighting. Needless to say, they have no regard for the lives of their enemies, and their values are entirely different from democratic values.

As time passes, these terror and guerrilla organizations are growing into paramilitary, heavily armed and organized forces and employing sophisticated combat tactics and strategies.

Despite their military might and their similarity to conventional armies, they do not adhere to international law.

On the other side are democratic states committed to protecting their citizens and enabling them to enjoy their civil rights.

In low-intensity conflict, democratic states face a dilemma. On the one hand, their role is to defend their citizens. On the other hand, the moral and legal justifications for declaring and waging war and the way in which wars are fought were developed during the twentieth century. As a result, they are suitable for wars between sovereign states but are not appropriate in wars against terror and guerrilla organizations.

The purpose of this study is to discuss the appropriate way to fight in low-intensity conflict with terror and guerrilla organizations in light of the need to maintain human dignity, on the one hand, but to protect the state and its citizens, on the other. This is in addition to the need to develop normative and universal rules of confrontation with these organizations.

The core question of this study is whether normative, operative, universal rules of engagement can be defined and integrated into a comprehensive moral-ethical doctrine that will enable democratic states to handle conflicts with terror and guerrilla organizations in a variety of circumstances. If they can, what will these rules be?

In order to answer the core question in the most coherent way and universalize the study as much as possible, it will be divided into three sectional layers: theoretical, comparative, and doctrinal.

The theoretical section will examine and address the issue of low-intensity conflict, its nature, and how it differs from classic wars. Also to be examined in this section are the legal, ethical, and academic theories on which the study is based:

Just War Theory: This theory functions as an important moral framework, restraining and regulating the use of force by governments and militaries. It is composed of three parts which together, build a moral system of principles, understandings, and ideas that serve as the infrastructure for the moral debates regarding waging and fighting wars. The study focuses on the moral behavior of soldiers during wars (*jus in bello*), including the principles of distinction and proportionality.

International Law: Like just war theory, international law restrains violence by states and prevents them from waging and fighting wars. The study focuses on international humanitarian law (including the Hague and Geneva Conventions), which builds a structure for legal ways to manage war so as to protect basic human rights during the fighting.

The Ethical Doctrine for Fighting Terror: The purpose of the study is to present the principles of the military ethics doctrine developed at the National Defense College of the Israel Defense Forces (IDF) in 2005. This doctrine, written by a team headed by Professor Asa Kasher and General Amos Yadlin, was intended to guide IDF soldiers engaged in fighting against Palestinian terror organizations. The study discusses and analyzes the principles in the doctrine that deal with military actions during war and in particular, actions involving civilian populations: military necessity, distinction, military proportionality, low probabilities, time-span considerations, professional understanding, permanent notice, and compensation.

The case-study analysis in the comparative portion of this dissertation is based on that doctrine.

In addition, the theoretical portion will address the difficulty of defining the terms "terror" and "guerrilla," given the lack of a universally accepted definition. It will review numerous existing definitions (from academic research, governments, and other government entities). This dissertation will propose a working definition for each of these terms, and in the comparative portion, will discuss those groups that should be categorized as terror and/or guerrilla organizations according to these definitions.

The study defines terror as “a type of struggle carried out by individuals or organizations that is not on behalf of the state, that differs from the usual military actions of regular armed forces, and that is characterized by the deliberate use of violence or the threat of violence against civilians or soldiers not on the battlefield as they belong to a certain population, in order to sow fear, confusion, and uncertainty for the sake of achieving political goals (nationalistic, socioeconomic, ideological, religious, and the like).”[[1]](#footnote-1)\*

The dissertation’s definition of guerrilla warfare is “the deliberate use of violence against military and security personnel for the sake of achieving political goals, involving military combat units composed of civilians and/or soldiers who engage in military tactics.”

The comparative section examines four case studies involving democracies fighting a war against terror and guerrilla organizations: Sri Lanka’s fight against the Tamil Tigers in the fourth Tamil-Eelam war; the U.S. battle against the Taliban and Al-Qaeda in the first stage of Operation Enduring Freedom; Israel’s combat against Hezbollah in the Second Lebanon War; and Israel’s fight against Hamas in Operation Cast Lead. None of the states analyzed had effective control of the territory in which the war was fought, so in essence, none had moral responsibility for the local population. Furthermore, each state has a different democratic profile. This is reflected in the 2010 Economist Intelligence Unit’s Democracy Index, which ranks 163 countries by internal democratic structure and places the United States 17th, Israel 37th, and Sri Lanka 55th. The terror and guerrilla organizations examined fight from a different type of territory. Hamas is a political entity with a governing body. Hezbollah operates from within a sovereign state. The Tamil Tigers is a separatist organization that enjoys full control and operating leverage in the northeast of Sri Lanka. The Taliban has control of the majority of Afghanistan, where it has imposed its own set of rules. Al-Qaeda is a global organization with cells operating throughout the world.

Each case study will start with a general description of the organization in order to determine whether it is a terror organization, a guerrilla organization, or an organization with characteristics of both (“terroguerrilla”). This determination will be made using the working definition developed in the theoretical portion of the dissertation. The study will also discuss the international community’s ethical arguments against the actions of the fighting states. In addition, distinct parameters for moral behavior by the states will be compared to the Kasher-Yadlin behavior parameters. This portion of the study will list the organizations' behavior patterns on the vertical lines of a matrix. However, since the study aspires to develop a universal ethical doctrine for fighting terror and guerrilla organizations, an additional cross-board comparative analysis will be performed. The study will look at the implementation of each doctrinal principle: In which cases is the principle not implemented, in which cases is it partly implemented, in which cases is it fully implemented, in which cases is it impossible to analyze, and in which cases is there no need to look for the principle due to the nature of the operation tested?

The case studies show that different states, with different democratic profiles, deal differently with terror and guerrilla organizations. Of the three countries studied, the relatively undemocratic Sri Lanka implemented the fewest of Kasher and Yadlin’s ethical principles for fighting terror and guerrilla groups in its war against the Tamil Tigers, a terroguerrilla organization.

Israel, in its battles against Hamas and Hezbollah, both of which are terroguerrilla organizations, implemented a larger number of ethical principles than Sri Lanka.

The United States, which ranked higher than Sri Lanka and Israel in the Democracy Index, implemented the largest number of ethical principles when fighting the Taliban, a guerrilla organization, and Al-Qaeda, a terror organization.

Another finding of the study was the differences in the outcomes of the wars. The fourth Tamil-Eelam war ended with the full and comprehensive defeat of the Tamil Tigers. To this day, nothing remains of the organization. This is surprising, given that this terroguerrilla organization was one of the most brutal and organized groups in the world. The Sri Lankan government and military tried to adhere to the international laws of war, but during the fighting, violated many of the ethical doctrine principles: military proportionality, low probabilities, time-span considerations, and permanent notice.

Operation Cast Lead ended when the Israeli government decided that its goals had been achieved and agreed to a unilateral cease-fire. However, rocket and mortar shell fire from Gaza did not end with the cease-fire, leading to two more operations in the same territory.

The Second Lebanon War ended in the middle of the IDF's ground operation as a result of a UN Security Council resolution ordering an immediate cease-fire. The war enhanced Israel's deterrence of Hezbollah and Lebanon and their allies Syria and Iran. Since it ended in 2006, Hezbollah has made no significant attempts to attack Israel. However, the organization not only survived the war, but continues to arm and strengthen itself and to threaten Israel.

Enduring Freedom's first stage ended with the fall of the Taliban regime and the establishment of a new government in Afghanistan with U.S. government assistance. Nevertheless, the Taliban still exists and has executed numerous attacks against U.S. soldiers and Afghan civilians. Al-Qaeda was also weakened by the war, but like the Taliban, it still exists.

The various outcomes of the wars described above indicate that when a country is willing to sacrifice several of its democratic principles in favor of military effectiveness, it can vanquish the organization it is fighting, as in the case of Sri Lanka. On the other hand, when a country gives priority to its democratic values over military effectiveness, it can disable the organization it is fighting but not completely eliminate it.

In addition, both Israel and the United States, despite their diligence and the extreme caution they exercised to adhere to the laws of war, were reprimanded by the international community for their actions, especially Israel. This is testimony to the problematic nature of the rules and

In the doctrinal section, this study proposes a universal ethical doctrine for fighting terror and guerrilla organizations, developed on the basis of the comparative portion of the study. The doctrine is divided into two parts, one dealing with fighting terror organizations and the other with combatting guerrilla organizations. Both are based on Kasher and Yadlin's work and aspire to develop it into a more universal and implementable tool. Thus, the principles that countries found difficult to uphold are not included. In addition, principles partially implemented by the countries were mostly changed to make implementation easier, and new clauses were added to some of the principles. For example, the proportionality principles were hardened and a greater emphasis was placed on the operation's value, i.e., the proportionality of the planned operation, the size of the collateral damage, and more. In respect, reservations to the early-notice principle were added.

One of the major differences between this study’s universal ethical doctrine for fighting terror and the Kasher-Yadlin doctrine is in its treatment of the democratic country's soldiers and the other side's civilians. In discussing the country's obligation towards various populations, Kasher and Yadlin state that there is an obligation to protect and preserve the soldiers' lives before the lives of the other side's civilians. The new doctrine distinguishes between a professional military and a conscript military. When a soldier is fighting because he was drafted into the army, it is the obligation of the country that drafts him to protect his life before the lives of the other side's civilians, since he is not necessarily fighting by choice, but because the law requires him to. If the soldier fights by choice in a professional, voluntary military, it is the country's obligation to give priority to the lives of the other side's civilians, as the soldier volunteered to serve in the military knowing the risks and dangers involved.

From the theoretical point of view, this study will facilitate understanding of the sustained problem faced by democratic states wishing to properly and effectively address the threat from terror and/or guerrilla organizations, which is a result of current moral rules and justifications. From the operative point of view, this study intends to provide democratic states fighting these organizations with an operative instrument for doing so.

This instrument will assist democratic states fighting wars, determining the state's obligations and defining realistic requirements to help the state maintain its military effectiveness while increasing the legitimacy of its actions in the eyes of the international community both during and after the war.

1. \*This study deals with terror organizations that usually commit terrorist acts independently and not on behalf of a state. [↑](#footnote-ref-1)