



PERSPECTIVES

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[The Iranian Nuclear Threat to Israel: Legal Remedies and Remaining Options](#)

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EXECUTIVE SUMMARY: Israel should not expect stable coexistence with a nuclear Iran. Instead, it must enhance active defense, improve nuclear deterrence and prepare to target selected Iranian infrastructures. As Tehran edges closer to gaining nuclear capabilities, however, Israeli preemption tactics are becoming far more limited.

On January 16, 2003, the "Project Daniel" Group advised then Israeli Prime Minister Ariel Sharon on the threat of Iranian nuclear weapons.¹ This report, which contained substantial legal and strategic recommendations, urged the prime minister to suitably enhance Israel's deterrence and defense postures; to consider a prompt end to deliberate nuclear ambiguity (if Iran should be permitted to become nuclear); and to appropriately refine pertinent preemption options. It also concluded that Israel should not expect stable coexistence with a nuclear Iran and that active national defense should be increased and strengthened accordingly.

Israel's active defense strategy involves mutually reinforcing the *Arrow*, *Iron Dome*, and, in the future, *Magic Wand* systems. To adequately protect against a potential WMD attack from Iran, however, these advanced elements of ballistic missile defense are not enough. They must be optimally complemented by improved Israeli nuclear deterrence and by a capacity for viable conventional first strikes against selected Iranian military and industrial targets. Under no circumstances, advised Project Daniel, should Israel assume that a safe and durable "balance of terror" could ever be created with Tehran.

Generally, in strategic thinking, deterrence logic must be based on an

assumption of enemy rationality. This assumption might not always be warranted in the case of Iran. Any purported analogy between Iran and the US deterrence relationship with the former Soviet Union would be facile, or simply misguided.

If Iran's current leadership could somehow meet the core test of rationality, always valuing national survival over other preferences or combination of preferences, there could still remain intolerable security risks to Israel. In part, these risks would be associated with Tehran's expectedly problematic command and control of any future nuclear capabilities. For example, even a determinedly rational Iranian leadership could base critical nuclear decisions upon erroneous information, assorted computer errors, or fragile pre-delegations of launch authority.

The related vulnerability of command and control to violent regime overthrow in Tehran must also be taken into close account by decision makers in Jerusalem. Ironically, there can be no assurances that any new or "improved" regime in Iran would necessarily pose a diminished security threat to Israel.

If Israel's active defense systems were accurately presumed 100 percent effective, even an irrational Iranian adversary armed with nuclear or biological weapons could be kept at bay without defensive first strikes or any threats of retaliation. But no ballistic missile defense system can ever be "leak proof."

Terrorist proxies in ships or trucks, not missiles, could deliver Iranian nuclear attacks upon Israel. In such low-tech, but distinctly high consequence assaults, there would be no security benefit to Israel from its deployed anti-missile defenses.

Israel can never depend entirely upon its anti-ballistic missiles to defend against future WMD attacks from Iran any more than it can rely entirely on nuclear deterrence. This does not mean that active defense is a less than vital part of Israel's larger security apparatus. It is vital, but it is not sufficient.

Every state has a right under international law to act preemptively when facing potentially existential aggression. The 1996 Advisory Opinion of the International Court of Justice even extends such lawful authority to the preemptive use of nuclear weapons in certain residual or last-resort circumstances. For now, however, any purposeful Israeli resort to "anticipatory self-defense" would surely be non-nuclear.

Nonetheless, it is quite likely that the operational window for any such cost effective conventional tactic has already closed and that Israel would decline

any remaining nuclear preemption option, albeit lawful. For now it seems that any Israeli "preemption" would necessarily be far more limited, perhaps involving the targeted killing of selected enemy scientists or military figures and substantially expanded cyber-warfare.

If Iran should be allowed to become nuclear, in plain contravention of its Non-Proliferation Treaty obligations, Israel would immediately need to enhance the credibility of its (presumed) nuclear deterrent. This robust second-strike strategic force, hardened, multiplied, and dispersed, would have to be fashioned, observably, to inflict a decisive retaliatory blow against selected enemy cities. In military terms, this means for Israel a more openly counter value-targeted nuclear force.

Significantly, the dangers of a nuclear Iran could directly impact the US. While it might still be several years before any Iranian missiles could strike American territory, the US could still become as vulnerable as Israel to certain nuclear-armed terrorist surrogates. In this connection, any American plan for a "rogue state" anti-ballistic missile shield, for us, and for our NATO allies, would have precisely the same limited protection benefits as Israel's already-deployed active defense systems.

As long as Iran proudly announces its literally genocidal intentions toward Israel, while simultaneously and illegally developing nuclear weapons and infrastructures, Jerusalem has no reasonable choice but to protect itself with the best means available.

Under longstanding international law, every government's most basic and incontestable obligation is the assurance of protection to its citizens.

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¹ See "Israel's Strategic Future: Project Daniel," *Ariel Center for Policy Research (ACPR)*, Policy Paper No. 155, May 2004, pp. 64.