



Drawing lessons from the arguments

The war between Israel and Hezbollah illustrates some sharp strategic lessons for Australia and indeed all countries who seek to abide by international law in their resort to war and in their controlled prosecution of consequent military operations. Many of these lessons do not appear to be widely understood in the Australian community. Effective public debate has often been weakened by uninformed opinions and subjective claims being made, or broadcast, without due regard to their strategic or legal contexts. The opinions of many Australians would appear to be influenced more by their religious, ethnic or political affiliations than an objective study of the relevant international law as it applies to the facts — even where the latter are relatively undisputed.

The international architecture for conflict resolution and the Laws of Armed Conflict that seek to minimise the horrors of war are primarily designed for inter-State conflict. Warlike actions by non-State actors, such as terrorists or pirates, have normally been addressed as trans-national crime and have generally been of limited scale, intensity and duration.

Not since the eradication of large-scale piracy in the Western Atlantic in the eighteenth century has the international order faced a similar situation as that of the Israel-Hezbollah conflict in southern Lebanon. Hezbollah is frequently described as a state within a state but it is a more complex problem than this summary paints. Hezbollah is not a movement that is seriously considering secession from its parent nation-State, Lebanon, and in fact its “political wing” is represented in the Lebanese parliament and the current coalition government. Hezbollah is also generally much better armed, organised and resourced than non-State actors in other conflicts.

Hezbollah’s “military wing” is proscribed as a terrorist organisation by the UN. Following the withdrawal from Lebanon of Israeli and Syrian forces in 2000 and 2005 respectively, and as part of Lebanon’s transition to democracy after many years of civil war and foreign occupation, UN Security Council Resolution 1559 specifies that Hezbollah in total must disarm. Lebanon itself has proved unable and/or unwilling to disarm Hezbollah or prevent it from attacking Israel.

Finally, despite some posturing over the territory in dispute at Shebaa Farms (captured by Israel from Syria) the motivation for Hezbollah’s existence and actions is religiously-inspired ideology, not any territorial dispute with Israel as a state or other revanchist cause. This ideology is centred on denying Israel’s right to exist.

Since the UN Charter was signed in 1945 no UN member has been allowed to conquer and annex the entire territory of another UN member — thus snuffing out their independence as a country and threatening the subject population’s existence as a nation. Indeed this was what made Iraq’s invasion and purported annexation of Kuwait in 1990 so widely opposed and overwhelmingly reversed.

Highlights:

- Israel Vs Hezbollah: The moral and legal context
- Israel Vs Hezbollah: Discrimination and targeting
- The destruction of the UNTSO post at Kham
- Why a real Army contribution in Lebanon is impossible
- Irony Corner: Hezbollah, Allan Hawke and the ADA

Israel, a longstanding UN member, was created from the UN’s partition of Palestine under UNSCR 181 in November 1947. The responsibilities of all signatories to the UN Charter, and the principles of collective security and non-aggression the Charter embodies, mean that no UN member state can legitimately hold or support the position that Hezbollah maintains.

Hezbollah receives substantial financial backing from, and is mainly armed by, Iran (also in dispute with the UN) and Syria. Frequent public statements by Iran’s president advocating that Israel has no right to exist are, at the very least, a clear and fundamental contravention of the UN Charter. That these statements have included threats of nuclear annihilation against Israel, and strident advocacy of race hatred against all Jews, is also indefensible in any civilised society.

Critics of Israeli policy and operational methods are of course entitled to argue their position. But such criticism lacks moral integrity and logical consistency if it ignores or obfuscates the fundamental moral and legal differences between the war aims of Israel and its Hezbollah, Iranian and Syrian enemies.●

Discrimination and targeting

These differences carry over directly into any objective discussion of applying the Laws of Armed Conflict to the situation in northern Israel and southern Lebanon.

Israel has been accused of a disproportionate response when targeting Hezbollah military units and facilities in Lebanon. More Lebanese than Israeli civilians have died thus far, but a key reason is the longstanding and universal need for bomb shelters in northern Israel. But as a UN member Israel is naturally expected to hold to higher moral and legal standards than Hezbollah (an internationally proscribed terrorist organisation).

Much commentary, however, appears to lack an adequate appreciation of the context and key facts. All the Hezbollah rockets fired at Israel thus far (up to 150 daily) have been unguided weapons with a potentially large impact area. Even with optimal launch conditions and a well-trained crew, each rocket could land anywhere within at least a one kilometre radius from its nominal target. On a conventional battlefield these rockets are area suppression weapons intended to target one kilometre by one kilometre grid squares when fired in 20-round salvos. Moreover, the Hezbollah rockets have been deliberately targeted at civilian areas despite all major Israeli military installations being located away from such targets. Hezbollah’s targeting policy and methods are a clear and serious violation of the Laws of Armed Conflict (especially the Hague Convention) with no mitigating factors or circumstances being apparent.

Israel claims to use unguided weapons only on Hezbollah targets located away from civilian concentrations. When targeting Hezbollah units and facilities that are deliberately (and illegally) located in civilian areas, Israel has generally used precision-guided weapons with an accuracy measured to within a few metres. That such attacks have unfortunately also resulted in civilian casualties in many cases would be a contravention of the Laws of Armed Conflict only if no mitigating factors are present.

Israel has issued general and specific warnings for Lebanese civilians to move away from Hezbollah weapons, weapon platforms, munitions stores, command and control facilities and similar targets. Unfortunately, some have nowhere to go or no means of getting there easily. Hezbollah has also prevented

civilians from leaving in some cases in order to try and shield its military capacities from Israeli attack. In other cases Hezbollah has not allowed Lebanese civilians to discover that military facilities have been illegally located among them. In some cases, for a variety of motivations, Lebanese civilians have willingly allowed Hezbollah to use their property to wage war on Israel. It is likely that in many cases such ostensible co-operation has been directly or indirectly coerced by Hezbollah.

Assessing proportionality is not simply a case of comparing respective body counts, especially where it is not clear how many Lebanese casualties claimed as civilian were actually members of Hezbollah or actively supported its activities to the extent they became belligerents. In law, while Hezbollah continues to fire rockets at Israeli targets — and as long as Israel has made all reasonable attempts to minimise civilian casualties and can prove military necessity (including a lack of viable alternatives) — Israel is entitled to appropriately engage Hezbollah military facilities illegally hidden among the civilian population of southern Lebanon. In such circumstances, predominant legal and moral responsibility for Lebanese civilian casualties lies with Hezbollah.

This is not to say that there should not be a ceasefire observed by both sides as soon as possible. But such a temporary cessation of hostilities must lead to genuine and permanent peace along the Israel-Lebanon border and between the two countries overall. Israel cannot reasonably be expected to face perpetual attack from non-State enemies ensconced in territorial sanctuaries within a neighbouring State, especially where Lebanon is unable or unwilling to exercise its national sovereignty responsibilities under international law to resolve the situation.●

Israel's own goals

The death of numerous civilian Lebanese resulting from Israeli destruction of a building in the village of Qana, and the destruction of the UN Truce Supervision Organisation Observation Post (OP) at Khiam with the death of four UN Military Observers, does not assist Israel's case for military necessity. The former was destroyed by the Israeli air force in circumstances that as yet remain unclear. The latter was destroyed by an air strike after a long artillery bombardment by the Israeli Army in circumstances that are much more verifiable.

The location and neutral status of the Khiam OP is well-known by all belligerent parties and the OP itself is prominent, clearly marked as a UN facility and easily distinguishable from the surrounding area at considerable distances. UNTSO headquarters in Jerusalem had requested cessation of the artillery bombardment numerous times over a period of many hours before the final fatal airstrike on its unarmed personnel at Khiam.

Australians have served with UNTSO since 1956 and many have been posted to its subordinate unit, Observer Group Lebanon (OGL), since the mid 1970s. That no Australian military observer was among the four officers killed at Khiam was entirely dependent on the random luck of UNTSO deployment cycles.

Hezbollah elements (and before them the PLO) have often deliberately fired on Israel while illegally hiding in close proximity to UN installations. UNTSO (which deploys very small teams of unarmed personnel) is totally unable to prevent this. (UNIFIL, which deploys sub-units lightly-armed for their self-protection, has also been largely unable to stamp this out). Israel has legitimately long objected to the double standards involved. This does not, however, absolve Israel of responsibility for observing the neutrality of UNTSO and practising the highest standards possible in detecting, discriminating and engaging targets.

Israel believes, with some justification, that the UN observer missions, buffer forces and refugee agencies deployed on its borders and in the occupied territories are not always as neutral or effective as they should be. But the countries contributing

personnel to these UN elements recognise Israel's right to exist and have accepted a responsibility to help Israel and its enemies secure a lasting peace. As an acknowledged democracy and as a responsible signatory to the Hague and Geneva Conventions, and the UN Charter, Israel cannot afford any perception to arise that it has sunk to the level of its terrorist or totalitarian enemies.

Given that the Israelis acknowledge that it was their forces and not Hezbollah or the Syrians who destroyed the UN post at Khiam, there are only two real possibilities. The first is that the Israelis deliberately targeted the OP. The second is that it was an accident caused by serious professional incompetence in the Israeli Defence Force.

Israel's substantial problem is that either possibility does not bolster Israel's position that it is practising appropriate discrimination in its wider targeting — as is required by any genuine signatory to the Hague and Geneva Conventions.

So niche it would fit inside one

Several simple points need to be made when discussing possible ADF contributions to any new multinational buffer force in southern Lebanon.

First, there has been an armed UN peacekeeping force south of the Litani River since 1978. Even though it has suffered 257 fatalities it has been largely unable to prevent first the PLO, then Hezbollah, from dominating the area and attacking Israel.

Second, Hezbollah will probably not disarm peacefully even though it may temporarily withdraw north of the Litani as a compromise. When the multinational force eventually withdraws or weakens, Hezbollah would return and resume its attacks on Israel. Any new force deployed in this area would therefore need a robust mandate and it is highly likely it would have to fight to enforce real Hezbollah disarmament. The scale, intensity, duration and overall nature of such fighting would not be substantially different from that currently confronting Israel.

Third, this scenario can only be prevented by a peace agreement that leads to genuine and verifiable disarmament by Hezbollah and its legitimate conversion to a democratic political party within Lebanon. This complex task would take time.

Fourth, countries willing and able to provide sufficient troops to enforce such a difficult and protracted high-end warfighting task are few and far between. The most likely (and effective) contributors are already over-stretched elsewhere.

Fifth, due to numerous short-sighted and simply wrong decisions over the last 20 years the Australian Army does not yet have any modern tanks and has no infantry fighting vehicles or self-propelled and armoured artillery. Its ability to assist with a likely high-end, high-intensity, warfighting task is quite limited.

Sixth, the force is likely to want no contributions of manoeuvre elements below unit size. The Australian Army is unable to provide such a contribution and could not sustain one even if it could somehow be scraped together. We are also unlikely to contribute manoeuvre sub-units to the operational control of even allied units in such a scenario because this would unacceptably increase the tactical inter-operability risks involved.●

Irony corner

- Hezbollah Secretary-General Sayyed Hassan Nasrallah said he would “not accept any [peace] deal that compromised Lebanon's sovereignty”.●
- Dr Allan Hawke, former Secretary of the Department of Defence (when launching an SDSC Canberra Paper of essays by Professor Paul Dibb) referred to Senator Robert Hill's sojourn as Minister for Defence as the “dark days”.●
- In an item bemoaning poor media coverage of defence issues *Defender* spelled Private Jake Kovco's name wrong.●