

International Humanitarian Law and Possible Models of Intervention in Lebanon

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International Humanitarian Law Vidal Martín.

The conflict in Lebanon is undermining a part of the State and seriously affecting civil society, which, at the start of the conflict, was already in a fragile long post-war situation. This conflict is simultaneously linked to tensions in the Middle East, a region that will undergo great change following this crisis and the one in Gaza.

After two Israeli soldiers were captured and three more were killed by the military wing of Hezbollah – an Islamist group based in Lebanon – the Israeli State responded with a military attack against Lebanon on 12 July.

Hezbollah has presented a list of names to the Israeli authorities – people of different nationalities held in Israeli prisons -, demanding their release as a non-negotiable condition for a ceasefire.

At this stage, and following three weeks of reciprocal hostilities, Israel continues to advance into Lebanese territory and has started to set up a “security zone” in the South of the country, having declared that their intention is to destroy Hezbollah’s military infrastructure and to push their borders further northwards. The guerrilla continues to target territories in northern Israel.

The fighting continues whilst the international community is divided among those who prefer to give Israel time to achieve its objectives (the United States and the UK), those who put the blame on Israel (Iran), and those who criticise both Israel and Hezbollah and call for an immediate ceasefire (the UN and some European governments, including Spain), along with a series of passive States. Since 22 July, the United Nations, through its Humanitarian Relief Co-ordinator, Jan Egeland, has denounced the situation and called for International Humanitarian Law (IHL) to be respected.

Egeland has accused Israel of having a disproportionate military response and of violating IHL. The Israeli government denied this. Relations with the UN have been made more tense by the killing of four of its observers in the South of the country in an Israeli attack by land and air. United Nations Secretary General, Kofi Annan, initially accused Israel of premeditation. Also, the Israeli air strike on Qana that killed more than 60 civilians, on Sunday 30 July, generated strong critiques from governments, international organisations and NGOs. Human Rights Watch says this strike is “a war crime”.

In this climate of violence, in which most arguments are military or political, the issue of IHL is key.

A series of questions

International Humanitarian Law is based upon a heterogeneous set of rules, comprising conventional law and customary law.

Conventional law deals with international treaties – the written and primary sources of IHL – which are only binding to the States that have ratified them. Customary law, however, is the unwritten source of law, based upon custom and on the obligation of all States.

Likewise, the different legal status of the players involved must be respected, as well as the different duties and obligations underlying the accords signed: Israel is an active State agent in the conflict. Lebanon is another State agent, not participating actively in the violence, but hosting - or suffering - the fighting in its territory.

Hezbollah, on the other hand, is a group with both a political and a military wing. The latter is the most active one in the hostilities. It has, in turn, representatives in the Lebanese government through the political wing. That is to say, it is a non-governmental agent availing of political representation.

Hezbollah is backed by Syria and Iran, which raises questions about the stance of these countries; according to numerous reports, they support both the political representation and military actions of Hezbollah.

Other important considerations involve the analysis of the concept of sovereignty and the effects thereof, the right to self-defence contained in Article 51 of the UN Charter, the possible need to formally declare war or questions dealing with the legitimacy of these mutual attacks. To what extent is it an attack to civil society that half a million people are displaced or become refugees?

What is established by Law

The four Geneva Conventions of 1949 and the two Additional Protocols, of 1977, constitute the cornerstone of IHL, and were then ratified by both Israel and Lebanon. At this stage of the crisis, it is fundamental to remember the obligations of both parties in conflict. The Law must be complied with, not ignored when it is most needed.

Both Israel and Hezbollah are systematically violating these international rules. Both parties are repeatedly contravening Article 3 of the Convention and Article 51 of Protocol I which forbids indiscriminate attacks against non-combatants and against civil targets, unless these are being used for military purposes. The death toll is currently estimated at around 400 Lebanese and 50 Israelis dead, with an alarming percentage of civil casualties. The recent killing of four United Nations observers is another example of these violations.

Moreover, all international regulation is based on Proportionality and Necessity, the guiding principles of IHL and the common sense underlying laws, with explicit reference to Articles 51 and 52 of Protocol I, which are being violated day after day on both sides of the border.¹

¹ See the article 'Proportionality and the Use of Force in the Middle East Conflict', Mary Ellen O'Connell, Notre Dame Law School. <http://jurist.law.pitt.edu/forumy/2006/07/proportionality-and-use-of-force-in.php>

Article 3, as pointed out by the organisation Human Rights Watch in its 17 July report, denounces the launching of missiles by Hezbollah into Israeli territory, highlighting the fact that these could easily cause civilian casualties.

There can be no justification for the Israeli bombing of civilian targets – residential areas and infrastructures such as the airport, roads, bridges and electrical power stations – because the possibility of these being used for military purposes cannot justify the extreme hardships caused to the civilian population fighting for its survival, or the devastating effects of the bombings.

These irregularities should be halted immediately by both sides and with the necessary international support, in order to bring about an effective ceasefire and to initiate a negotiating process aimed at guaranteeing the security of all involved.

It is also important that one crisis should not eclipse another: Palestinian citizens have been subjected to a cruel siege for the last few weeks and have been deprived of electricity and all basic commodities. The harsh Mediterranean summer exacerbates the situation of the civil population, causing additional deaths that are not considered to be the direct result of the conflict.

Herein FRIDE presents a series of useful sources relating to International Humanitarian Law. These principles should serve as guidelines for all the agents in the conflict, and should be considered by any actors who may wish to provide solutions, from outside, to the savage war in the Middle East.

Models of intervention in Lebanon **Mariano Aguirre.**

At the Rome meeting on 26 July, the possibility was discussed of deploying international security forces in Lebanon, with both European and Arab contingents. Even NATO has been mentioned in this sense, as a reference framework. But the meeting of European States, the United States, some Arab countries and Israel showed that there will be no peacekeeping force and that the hostilities will continue indefinitely.

No interventions aimed at bringing peace to Lebanon can be feasible in the short or medium term. Moreover, nobody makes any mention of an eventual peacekeeping mission in Gaza, in spite of the grave humanitarian situation there.

There are three types of possible missions in Lebanon. The first would attempt to halt the violence immediately and prevent further casualties. This would involve a peacekeeping mission. To this end, both parties would need to agree to a ceasefire and to the deployment of forces in Lebanon and in northern Israel in order to prevent attacks, to verify violations of the ceasefire and to work towards more long-term negotiation.

This model is unviable because Israel, with the support of the United States and Great Britain, has made it quite clear that it intends to defeat or weaken Hezbollah and to keep this group's infrastructure far from the border. Furthermore, Israel also wants to get its kidnapped soldiers back. The formula was expressed by US Secretary of State Condoleezza Rice in Rome: there will be no ceasefire until conditions have been established for a lasting agreement. And this type of accord depends on Israel reaching its objectives.

The second type of operation would involve the deployment of international forces in southern Lebanon, probably working together with the Lebanese army, once Israel has terminated its mission. These forces would occupy the area to prevent the return of Hezbollah and to safeguard Israel's security.

This is the model most likely to work in the middle term, if Israel achieves its objectives and Hezbollah is defeated, the Lebanese government, having survived the war, accepts the presence of these forces and other regional powers such as Iran or Syria refrain from backing this armed group.

The third model would be based upon peacekeeping forces in southern Lebanon that would combat Hezbollah and guarantee security in the region. This is termed peace enforcement. This would be if Israel did not reach its objectives and left the job to international security forces.

This model is also unfeasible. It is hard to imagine Spain, Italy or Germany sending their troops to Lebanon to fight a highly sophisticated armed group with strong support among the population. It is possible that not even the United States or NATO would send troops on such a mission. It is also hard to believe that Israel would make a withdrawal and call for the intervention of international forces: this is against Israel's policy because they do not want any type of foreign intervention as this would limit their capacity to act. Likewise, Hezbollah would turn and wage a war against the foreign invaders.

In short, none of the models can be applied in the middle term. This is because they are unrelated to the current and pressing need to halt the killings. To talk more of peacekeeping forces is to create false expectations and to delay a ceasefire through negotiation, a solution repeatedly insisted upon by the United Nations.

RESOURCES:

- FRIDE Documents:
 - "De Gaza a Líbano, grave crisis regional". Mariano Aguirre.
 - "La violación del Derecho Internacional Humanitario en Oriente Medio". Mariano Aguirre.
 - "Europe and Palestinian Democracy". Richard Youngs, Democracy Backgrounder.
 - "Cambio de gobierno en Palestina, nuevo escenario regional". Mariano Aguirre.
- External Documents:
 - 'Questions and Answers on hostilities between Israel and Hezbollah'. HRW.
 - 'Proportionality and the use of force in the Middle East conflict'. Mary Ellen O'Connell.
 - 'Israël – Palestine – Liban: Le chemin le plus long vers la paix', Caroline Pailhe. GRIP, Bruxelles <http://www.grip.org/bdg/g1053.html>

LINKS:

- UN HIGH COMMISSIONER FOR HUMAN RIGHTS. <http://www.ohchr.org/spanish/law/>
 - UN HUMAN RIGHTS COUNCIL. Humanitarian Relief. <http://www.ohchr.org/spanish/bodies/hrcouncil/>
 - COUNCIL ON FOREIGN RELATIONS. www.cfr.org
 - CPI. <http://www.icc-cpi.int/home.html&l=en>
 - ICRC.
 - Texts IHL. http://www.icrc.org/web/spa/sitespa0.nsf/iwplList2/Info_resources:IHL_data_bases#listanchor2
 - News. <http://www.icrc.org/spa>
 - JURIST. <http://jurist.law.pitt.edu/index.php?edition=world>
 - COMMON DREAMS NEWS CENTER. <http://www.commondreams.org/>
 - OPEN DEMOCRACY. <http://www.opendemocracy.net/>
 - Chronicles by Paul Rogers http://www.opendemocracy.net/author/Paul_Rogers.jsp
 - INTERNATIONAL CRISIS GROUP. ("Israel/Palestine/Lebanon: Climbing out of the Abyss". Report n° 57) <http://www.crisisgroup.org/home/index.cfm?l=1&id=4282>
 - BITTER LEMONS. (opinions of Israeli and Arab analysts) www.bitterlemons.org
 - BBC. <http://news.bbc.co.uk/hi/spanish/news/>
 - BBC. Middle East Crisis. ("Future scenarios"). http://news.bbc.co.uk/go/em/fr/-/2/hi/middle_east/5217882.stm
 - HAARETZ. (Israeli liberal newspaper) www.haaretz.com
 - Radio Nederland (in Spanish). <http://www.informarn.nl/>
 - HUMAN RIGHTS WATCH. <http://www.hrw.org/spanish/>
 - BETSELEM. (Israeli human rights defence organisation) www.btselem.org
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Peacekeeping Operations

- Luis Peral, "Misión de la ONU en la República Democrática del Congo: Imponer y consolidar la paz más allá de las elecciones", FRIDE.
- United Nations. Department of Peace Keeping Operations. <http://www.un.org/Depts/dpko/dpko/index.asp>
- *Annual Review of Peace Operations*, Center for International Cooperation NYU. <http://www.cic.nyu.edu/internationalsecurity/globalpeace.html>
- A United Nations Emergency Peace Service. www.globalactionpw.org
- The Henry L. Stimson Center. The Future of Peace Operations Project. <http://www.stimson.org/fopo/?SN=F220050602838>
- International Association of Peace Keeping Centres. <http://www.iaptc.org/>
- Instituto sobre Conflictos y Acción Humanitaria. www.iecah.org
- Bruce Jones, "The Limits of Peacekeeping", *Los Angeles Times*. <http://www.latimes.com/news/opinion/commentary/la-oe-jones1mar01,0,6474643.story?coll=la-news-comment-opinions>
- "Observaciones sobre las misiones humanitarias", International Red Cross Comité. <http://www.icrc.org/Web/spa/sitespa0.nsf/iwplList367/6F3A0F4FFECA1FOAC1256DFE005C6897>

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