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Israel's War with Hizbullah

Preserving Humanitarian Principles While Combating Terrorism

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*Preserving Humanitarian Principles While Combating Terrorism:
Israel's Struggle with Hizbullah in the Lebanon War*

Contents

<i>I. Background</i>	2
<i>II. The outbreak of the recent conflict and hostilities initiated by Hizbullah</i>	4
<i>III. The Israeli Response</i>	7
<i>A) The Israeli Government's decision to respond incrementally</i>	7
<i>B) Guiding principles underlying IDF conduct</i>	9
<i>C) From theory to practice - Israel's operations in Lebanon</i>	12
<i>D) Operations against infrastructure used to support terrorist activity</i>	14
<i>E) Types of weaponry used</i>	17
<i>F) Humanitarian issues</i>	18
<i>IV Conclusion</i>	20

I. Background

Any analysis of the recent conflict in Lebanon must take into consideration broader events in that country over the preceding years. During the past 24 years, the Diplomatic Notes,

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Preserving Humanitarian Principles While Combating Terrorism Israel's War with Hizbullah Preserving Humanitarian Principles While Combating Terrorism
terrorist organization has created a veritable "state within a state" in Lebanon, amassing an enormous modern arsenal, tons of ammunition and thousands of highly trained fighters.

In 2000, Israel withdrew all its forces from southern Lebanon in full compliance with UN Security Council Resolution 425. However, this full withdrawal, confirmed by the United Nations, was not accompanied by the deployment of Lebanese armed forces throughout the country as required by the Resolution. Indeed, the entrenchment of Hizbullah continued apace.

Subsequent to Israel's withdrawal, Hizbullah took over all of southern Lebanon, using it as a base to perpetrate terrorist attacks against Israel. Hizbullah claimed responsibility for numerous raids targeting Israeli civilians, including children. Hizbullah also initiated cross-border shelling aimed at the Har Dov area. For example, during October 2000, just months after Israel's withdrawal to the UN sanctioned "Blue Line" border, Hizbullah terrorists crossed into Israel and kidnapped 3 IDF soldiers. They were taken to Lebanon and held captive without being allowed ICRC visits. They were subsequently killed and their bodies held

as bargaining chips.

Hizbullah continued to carry out attacks on Israel. On March 12, 2002, a Hizbullah shooting on the road from Shlomi to Metzoba claimed five Israeli civilian lives. From March 30 to April 13, 2002, mortar and Katyusha missile fire, unleashed by Hizbullah, wounded Israeli children and other civilians. On January 9, 2005 a Hizbullah roadside bomb attack killed one IDF soldier. On January 14 and 17, 2005 Hizbullah detonated explosives along the border. On June 29, 2005 a heavy exchange of fire between Hizbullah and Israeli forces resulted in the death of one IDF soldier and the wounding of four others. Two Hizbullah gunmen were also killed. These and other violations of the border, including by Palestinian forces, prompted the UN to call on Lebanon to "double its efforts in order to ensure an immediate halt to serious violations of the Blue Line."¹

By the summer of 2006, Hizbullah's armed strength in Lebanon was formidable, with approximately 15,000 men under arms deployed throughout the country. Most were concentrated in southern Lebanon and in southern Beirut, the latter becoming a restricted zone that was off limits to persons unaffiliated with Hizbullah. Tunnels and massive bunkers were carved out underground and reinforced with steel and concrete to resist air strikes. Ammunition was strategically stockpiled, missile batteries were placed in and around civilian centers and command posts were set up. Tons of weapons were brought in from Syria and Iran.

At the same time, Hizbullah prevented the Lebanese government from deploying its army and police in southern Lebanon to take control of this region of sovereign Lebanese territory, as required by UN Security Council Resolution 1559. The arming and entrenching of Hizbullah, as well as its efforts to prevent Lebanese forces from complying with their obligations, were repeatedly noted in the Secretary-General's reports on the implementation of UN Security

¹ Secretary General Kofi Annan, First semi-annual report of the Secretary-General to the Security Council on the implementation of Resolution 1559 (2004), S/2005/272, Apr. 26, 2005, at 9-10.

Council Resolution 1559.²

Hizbullah's belligerent preparations were accompanied by equally belligerent rhetoric and threats on the part of its leaders. Sheikh Hassan Nasrallah proudly declared his intentions towards Israel in the New York Times, stating, "If Jews all gather in Israel, it will save us the trouble of going after them worldwide."³

II. The outbreak of the recent conflict and hostilities initiated by Hizbullah

On July 12, 2006, Hizbullah fighters infiltrated Israel's internationally recognized northern border in an ambush which resulted in the deaths of eight IDF soldiers and the kidnapping of two. To provide cover for their fighters in this carefully orchestrated attack, a barrage of Hizbullah missiles was fired simultaneously at a number of civilian targets across northern Israel.

In the course of the conflict that it had initiated, Hizbullah's operations entailed fundamental violations of international humanitarian law. Most specifically, it willfully violated the principle of distinction, which obliges parties to a conflict to direct their attacks only against military objectives and prohibits the use of civilians as "human shields" in the arena of combat. Throughout the conflict, Hizbullah demonstrated cynical disregard for the lives of civilians, both on the Israeli side, where it targeted them, and on the Lebanese side, where it used them as "cover".

2 Secretary General Kofi Annan, First semi-annual report of the Secretary-General to the Security Council on the implementation of Resolution 1559 (2004), S/2005/272, Apr. 26, 2005, at 3; Second semi-annual report of the Secretary-General to the Security Council on the implementation of Resolution 1559 (2004), S/2005/673, Oct. 26, 2005, at 8-9; Third semi-annual report of the Secretary-General to the Security Council on the implementation of Resolution 1559 (2004), S/2006/26, Apr. 19, 2006, at 10-12.

3 Hassan Nasrallah, NY Times, May 23, 2004, at 15, sec. 2, col. 1.

Deliberate attacks on civilian targets

Hizbullah, as a deliberate strategy, carried out missile attacks against Israeli population centers.

In the course of 34 days of fighting (July 12 – August 14, 2006) approximately one third of the population of the State of Israel – about two million people – were placed within striking range of the thousands of missiles launched indiscriminately by Hizbullah. Missile attacks were launched against large cities such as Haifa, historic towns containing religious sites and archeological sites, such as Safed, Nazareth and Tiberias, farming communities such as Meron and villages such as Majdal Krum.

Some 4,000 missiles landed in Israeli territory, all over northern Israel, many in urban areas. In the course of the conflict, 43 Israeli civilians – Arabs and Jews alike – were killed, including seven children. Thousands of civilians required medical attention: 604 civilians were wounded (with various degrees of severity) and an additional 1,210 were treated for shock. The number of displaced people was estimated at between 350,000 to 500,000 while about 1,000,000 people were confined to bomb shelters.

Tables showing the number of missiles fired by Hizbullah into Israel on a daily basis throughout the conflict and the number of Israeli fatalities and casualties are attached as Appendices A and B.

Damage to property was also heavy: in total, some 12,000 civilian buildings were damaged, among them about 400 public buildings, while about 2,000 private homes and apartments were completely destroyed. In addition, 23 schools, four kindergartens and two community centers were damaged. During the conflict, hospitals were damaged in Nahariya, Haifa, Safed and Mizra. One of them – a psychiatric hospital – had to be evacuated.

Significant damage was also inflicted on infrastructure: sewage plants were damaged and, in some cases, sewage had to be released into the sea and

atmosphere (by burning). Over 50 km of roads were damaged and 2 km² of cultivated forest, as well as 40 km² of natural woodland, were destroyed by fires caused by the missiles. All these clearly constitute civilian objects, which are protected from attack by international law, and whose destruction served no military purpose whatsoever.

Hizbullah not only violated humanitarian principles by deliberately targeting civilian areas, but also by using Katyusha missiles loaded with lethal anti-personnel ball bearings, intended to maximize civilian casualties.

It should be stressed that Hizbullah made no attempt to hide its intention to target civilians as a matter of policy. Indeed, the only concern expressed in the course of the conflict was that Arab Israelis should leave targeted areas so that only Jewish civilians would be killed and wounded. Thus, when Nasrallah learned that some of the Hizbullah missiles fired into Haifa landed in an Arab-Israeli neighborhood and killed some non-Jewish inhabitants, his response in a televised address was, "I have a special message to the Arabs of Haifa, to our martyrs and to your wounded. . . . I call on you to leave this city. I hope you do this. . . Please leave so we don't shed your blood, which is our blood."⁴

Failure to distinguish combatants from civilians

Hizbullah fighters made no attempt to comply with the legal and moral humanitarian obligation to distinguish themselves from civilians. To the contrary, Hizbullah fighters wore civilian clothes to render themselves indistinguishable from Lebanese civilians and deliberately hid weapons and ammunition in the heart of populated civilian areas in a cynical attempt to exploit the protections associated with civilian status under international law and in reckless disregard for the safety of those civilians and civilian objects.

⁴ Hassan Nasrallah, Times Online, United Kingdom, Aug. 12, 2006, available at: <http://www.timesonline.co.uk/article/0,,251-2308998,00.html>, (last visited Aug. 27, 2006).

During his visit to Beirut, UN Under-Secretary General for Humanitarian Affairs Jan Egeland, publicly condemned Hizbullah for causing the deaths of hundreds of Lebanese civilians: "Hizbullah must stop this cowardly blending among women and children." When Hizbullah boasted to the international press that they had lost very few fighters and that it was the civilians bearing the brunt of the hostilities, Egeland stated: "I don't think anyone should be proud of having many more children and women dead than armed men."⁵ Likewise the Special Rapporteurs sent by the UN Human Rights Council to examine the conflict in Lebanon, although understating the phenomenon, stated in their report, "It is clear that Hizbullah made at least some use of houses and other civilian sites to hide or conceal military activities"⁶ and confirmed that they had seen "video material unmistakably showing rockets being launched from civilian residential buildings in South Lebanon. This conduct was a clear violation of international humanitarian law obligations."⁷

The deliberate targeting of civilians by Hizbullah and its use of civilians to shield its terrorist operations has been extensively documented in a study published by The Intelligence and Terrorism Information Center of Israel entitled, "The use of Lebanese civilians as human shields: the extensive military infrastructure positioned and hidden by Hizbullah in populated areas"⁸, available on the web.

III. The Israeli Response

5 Associated Press (July 25, 2006). UN humanitarian chief blasts Hizbullah. The Jerusalem Post. Retrieved on 2006-08-07.

6 UN Human Rights Council mission by the Special Rapporteur, Mission to Lebanon and Israel, Report of investigation sent to UN General Assembly on Oct. 2, 2006, at 14.

7 Ibid.

8 Available at http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/pdf/human_shields.pdf

A) The Israeli Government's decision to respond incrementally

Although aware of the serious threat posed by the Hizbullah build-up and entrenchment in south Lebanon in the years prior to the attack, which initiated the recent conflict, Israel sought to exercise restraint and to use diplomatic means to check the Hizbullah activities directed against it. Israel called repeatedly, in the UN and elsewhere, for Hizbullah attacks to be halted and for the government of Lebanon to assume its responsibilities and duty to establish control over south Lebanon.⁹

Even following the Hizbullah attack of July 12, 2006, Israel sought to avoid an escalation of the conflict. The Israeli government gave Syria and Hizbullah a 72 hour ultimatum to stop Hizbullah's activity along the Lebanon-Israel border and to release the two kidnapped IDF soldiers, and so avert the conflict. The ultimatum went unanswered and the missile attacks on Israel intensified.

⁹ In this regard, see the relevant UN Security Council Resolutions (UNSCR), including UNSCR 1559 (2004) and UNSCR 1583 (2005).

B) Guiding principles underlying IDF conduct

In responding to the threat posed by Hizbullah's terrorist attacks, and notwithstanding the fact that Hizbullah made no effort to comply with the principles of humanitarian law, the IDF regarded itself as bound to comply with the established principles of the law of armed conflict.

Indeed, IDF orders, doctrine and education make clear that soldiers are obligated to act in accordance with international law and custom, including the Geneva Conventions. For example, the Chief of Staff's Order No. 33.0133 obligates every IDF soldier to conduct him/herself in accordance with the Geneva Conventions. See also a recent IDF educational publication on the Law of Armed Conflict entitled, "The Law of War on the Battlefield" which also makes clear the obligation of IDF forces to abide by the laws and rules of international law.¹⁰

In seeking to implement these principles of international humanitarian law, a number of key questions arise in relation to any operation under consideration, including: 1) Is the target itself a legitimate military objective? and 2) Even if the target is, in itself, legitimate, is there likely to be disproportionate injury and damage to the civilian population and civilian property?

Legitimate military objectives

The generally accepted definition of "military objective" is that set out in Article 52(2) Additional Protocol I of the Geneva Conventions, which provides:

Insofar as objects are concerned, military objectives are limited to those objects which, by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a

¹⁰ IDF "Law of War on the Battlefield" 2006 at 11 (translation from the Hebrew).

definite military advantage.¹¹

Regarding military targets, the IDF's "Law of War on the Battlefield" provides, "A military target subject to attack is a target that by its nature, location, purpose or use effectively contributes to the military campaign of the other side, and its neutralization will offer a clear military advantage to the attacking side."¹² It goes on to explain that there are certain objects that are normally immune from attack such as medical facilities and staff, religious sites and cultural assets, the basic needs of the civilian population (such as food products, agricultural areas and sanitation facilities, etc.), locations that would pose an environmental risk if they were attacked, and civil defense personnel.¹³

It should be stressed that if a location is a legitimate military objective, it does not cease to be so because civilians are in the vicinity. Furthermore, Article 28 of the IVth Geneva Convention provides:

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Clearly, the deliberate placing of military targets in the heart of civilian areas is a serious violation of humanitarian law, and those who choose to locate such targets in these areas must bear responsibility for the injury to civilians which this decision engenders. As international law expert Professor Yoram Dinstein notes:

Should civilian casualties ensue from an attempt to shield combatants or a military objective, the ultimate responsibility lies with the belligerent

¹¹ This definition has been criticized by some for being too narrow and failing to pay sufficient attention to war sustaining capability, including economic targets. See, e.g., W. Hays Parks, *Air War and the Law of War*, 32 A.F.L. Rev. 1, at 135-45 (1990).

¹² IDF "Law of War on the Battlefield" 2006, at 23 (translation from the Hebrew).

¹³ *Ibid.* at 24-26 (translation from the Hebrew).

placing innocent civilians at risk.¹⁴

However, it is the IDF's position that the callous disregard of those who hide behind civilians does not absolve the state seeking to respond to such attacks of the responsibility to avoid or at least minimize injury to civilians and their property in the course of its operations. In particular this raises the complex issue of proportionality.

Proportionality

A further legal requirement is that the potential harm to civilians and civilian objects expected in any attack must be proportionate to the military advantage anticipated.

Major General A.P.V. Rogers, a former Director of British Army Legal Services, explains the rationale behind this principle:

Although they are not military objectives, civilians and civilian objects are subject to the general dangers of War in the sense that attacks on military personnel and military objectives may cause incidental damage. It may not be possible to limit the radius of effect entirely to the objective to be attacked... Members of the armed forces are not liable for such incidental damage, provided it is proportionate to the military gain expected of the attack.¹⁵

While the principle is clear, in practice weighing the expected military advantage against possible collateral damage can be an extremely complex, especially in the heat of an armed conflict. In their report to the Prosecutor of the International Criminal Tribunal for the former Yugoslavia, the Committee established to review NATO bombings in Yugoslavia highlighted the particular difficulties which arise when military objectives are located in densely populated areas:

¹⁴ Dinstein, *Conduct of Hostilities under the Law of International Armed Conflict*, 2004 at 130.

¹⁵ Rogers, *Command Responsibility under the Law of War*, at 3.

The answers to these questions are not simple. It may be necessary to resolve them on a case by case basis, and the answers may differ depending on the background and values of the decision maker. It is unlikely that a human rights lawyer and an experienced combat commander would assign the same relative values to military advantage and to injury to noncombatants... It is suggested that the determination of relative values must be that of the "reasonable military commander."¹⁶

The test of proportionality to be applied in a case of armed conflict (*jus in bellum*) is broader than that applied under the principles of self-defense outside the context of actual warfare (*jus ad bellum*). But it should be noted that the policies applied in practice by the IDF conformed even with this stricter test of proportionality. In relation to the self-defense standard, it should be recalled that international law provides that the proportionality of a response to an attack is to be measured, not in regard to the specific attack suffered by a state, but in regard to what is necessary to remove the overall threat. As Rosalyn Higgins, currently President of the International Court of Justice, has written, proportionality:

cannot be in relation to any specific prior injury – it has to be in relation to the overall legitimate objective of ending the aggression¹⁷

Accordingly, the right of self-defense includes not only acts implemented to prevent the immediate threat, but also to prevent subsequent attacks". In Israel's case this means that its response had to be measured not only in respect to the initial Hizbullah cross-border attack, or even the 4,000 missiles fired at Israel's northern towns and villages, but also against the threat of the tens of thousands of missiles which Hizbullah had amassed and continued to receive from Iran and

¹⁶ Final Report to the Prosecutor by the committee established to review NATO bombings in Yugoslavia, para. 50-1.

¹⁷ R. Higgins, *Problems and Process* (Clarendon 1994) 232. See also the 1978 report of the International Law Commission which determined that proportionality in self-defense is measured in relation to the action required to bring the armed attack to an end.

Syria.

C) From theory to practice – Israel's operations in Lebanon

Israel has adopted the principles of international humanitarian law outlined above and the IDF has entrenched them in its orders, doctrine and education. With regard to the selection of targets, for example, the IDF's "Law of War on the Battlefield" not only emphasizes that a distinction must be made between military objectives and civilian objects but also that "in cases where there is doubt as to whether a civilian object has turned into a military objective... it must be assumed that it is not a military objective unless proven otherwise."¹⁸

Similarly, in relation to the question of proportionality, the IDF position is clear:

Even when it is not possible to isolate the civilians from an assault and there is no other recourse but to attack, the commander is required to refrain from an attack that is expected to inflict harm on the civilian population, which is disproportionate to the expected military gain.¹⁹

In practice, this requires that the IDF and the commander in the field assess both the expected military gain, and the potential of collateral injury to Lebanese civilians. With regard to the expected military gain, it should be noted that the relevant advantage is not that of that specific attack but of the military operation as a whole. As the German Military Manual points out:

The term "military advantage" refers to the advantage which can be expected of an attack as a whole and not only of isolated or specific

¹⁸ IDF "Law of War on the Battlefield" 2006, at 27 (translation from the Hebrew).

¹⁹ Ibid. at 28 (translation from the Hebrew).

parts of the attack.²⁰

The possibility of collateral injury to civilians must be weighed in light of these considerations. Hizbullah's deliberate placing of missile launchers and stockpiles of weapons in the heart of civilian centers, frequently inside and beneath populated apartment blocks, meant that this risk was tragically high.

The presence of civilians in the area, however, does not stop a military objective from being a legitimate target. This is the law, as noted above, and reflected in state practice. Thus, for example, the Australian Defense Force Manual states:

The presence of non-combatants in or around a military objective does not change its nature as a military objective. Non-combatants in the vicinity of a military objective must share the danger to which the military objective is exposed.²¹

Notwithstanding the above, it should be noted that even when civilians were in the vicinity of military objectives, Israel made significant efforts to avoid, and in any event to minimize, civilian casualties. Every operation was considered on an individual basis to ensure that it met the requirements of international law, including the test of proportionality. Frequently, this meant the rejection of proposed military operations when the likelihood of collateral damage to civilians and their property was considered too high. On other occasions, it meant that operations were conducted in such a way as to reduce the likelihood of incidental damage, in terms of the timing or operational aspects of the attack. Finally, whenever possible without jeopardizing the operation,²² Israel issued advance notice to the local residents through various media, including dropping

²⁰ German Military Manual 1992, para. 444.

²¹ Australian Defence Force Manual 1994.

²² International humanitarian law recognizes that military necessity may require the attacking forces to attack without warning. Article 26 of the Hague Regulations of 1907 obligates attacking forces, where conditions permit, to grant advance warning of an anticipated assault in order to permit the evacuation of civilians from the target area; the development of state practice since 1907 indicates that derogation is permitted where "circumstances do not permit advanced warning." Oppenheim's International Law, at 420.

leaflets, radio broadcasts and contacts with local leaders, to distance themselves from areas in which Hizbullah was operating and from places in which its weaponry was being stored.

D) Operations against infrastructure used to support terrorist activity

The guiding principle adopted by the IDF was to target only infrastructure that was making a significant contribution to the operational capabilities of the Hizbullah terrorists. This meant that, for the most part, Israeli attacks were limited to the transportation infrastructure. Most of the other infrastructure (medical, cultural, railroad, tunnels, ports, banking, manufacturing, farming, tourism, sewage, financial, electricity, drainage, water and the like) was left almost completely untouched.

All IDF operations in Lebanon were directed against legitimate military objectives, and specifically in relation to infrastructure, included the following:

Bridges and roads - The activity of terrorist groups in Lebanon was dependent on major transportation arteries through which weaponry and ammunition, as well as missile launchers and terrorist reinforcements, were transported. Damage to key routes was intended to prevent or obstruct the planning and perpetrating of attacks by the terrorists. It was also intended to prevent the kidnapped Israeli soldiers from being smuggled out of the country.

Under international law there is widespread recognition that lines of transportation which can serve military purposes are a legitimate military target. In its Commentary on the Additional Protocols to the Geneva Conventions, the International Committee of the Red Cross (ICRC) includes in its list of military objectives considered to be of "generally recognized military importance": "Lines and means of communications (railway lines, roads, bridges, tunnels and canals) which are of fundamental military importance."²³

²³ Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (1987), at 632-633.

A useful practical test for gauging the military importance of lines of transportation is proposed in the US Air Force Pamphlet, which asks “whether they make an effective contribution to an adversary’s military action so that their capture, destruction or neutralization offers a definite military advantage in the circumstances ruling at the time.”²⁴

Notwithstanding the operational justifications for targeting major roads in Lebanon, the IDF took pains to ensure that sufficient routes remained open to enable civilians to leave combat zones and to permit access for humanitarian supplies. Efforts were also made to ensure that damage to civilian vehicles was minimized.

Runways at Beirut International Airport – In the view of the IDF, rendering the runways unusable constituted one of the most important and appropriate methods of preventing reinforcements and supplies of weaponry and military materiel reaching the terrorist organizations. It was also a response to reports that the Hizbullah terrorists intended to fly the kidnapped Israelis out of Lebanon.

Airports are widely recognized to be legitimate military targets. The Canadian Law of Armed Conflict Manual, for example, notes that “ports and airfields are generally accepted as being military objectives”²⁵ while the ICRC list of generally recognized military objectives includes: “airfields, rocket launching ramps and naval base installations.”²⁶

It should also be noted that, in its operation at Beirut Airport, the IDF was careful not to damage the central facilities of the airport, including the radar and control towers, allowing the airport to continue to control international flights over its airspace.

24 US Air Force Pamphlet 1976, para. 5-3(b)(2).

25 Canadian Law of Armed Conflict Manual 1999, at 4-2.

26 Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (1987), at 632-633.

Al Manar TV station – Operating as the Hizbullah television station, Al Manar was used to relay messages to terrorists and to incite acts of terrorism. The ICRC list of accepted military objectives includes “the installations of broadcasting and television stations.” Similarly, the Committee established to review NATO bombings in Yugoslavia noted in relation to NATO attacks on radio and television stations in Belgrade: “If the media is used to incite crimes then it is a legitimate target. . . . Insofar as the attack actually was aimed at disrupting the communications network it was legally acceptable.”²⁷

Fuel reserves - Terrorist activity is dependent, inter alia, on a regular supply of fuel without which the terrorists cannot operate. For this reason a number of fuel depots which primarily served the terrorist operations were targeted. From intelligence Israel has obtained, it appears that this step had a significant effect on reducing the capability of the terrorist organizations.

The legitimacy of directing attacks on fuel and power installations has been widely noted. The Canadian Law of Armed Conflict Manual, for example, lists “petroleum storage areas” as “generally accepted as being military objectives”²⁸, while the ICRC list of military objectives also includes “Installations providing energy mainly for national defense, e.g. coal, other fuels, or atomic energy, and plants producing gas or electricity mainly for military consumption.”²⁹

One of the claims that have been made against Israel concerns the oil spill that occurred off the shores of Lebanon during the war. Without making any comment regarding the factual validity of such claims, it should be emphasized that Israel ensured that sea and air access was allowed to any assistance offered with regard to the oil spill, even in the midst of a naval and aerial blockade which had to be imposed for operational and security reasons.”

27 Final Report to the Prosecutor by the Committee established to review NATO bombings in Yugoslavia, para. 75-6.

28 Canadian Law of Armed Conflict Manual 1999, at 4-2.

29 Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (1987), at 632-633.

Beyond such specific instances of infrastructure serving the Hizbullah terrorist organization, Israel took care to try to avoid damage to civilian structures and services. The effects were noted by Washington Post journalist William M. Arkin who visited Lebanon during the conflict. Regarding the destruction in Beirut he wrote:

Only a very short drive from the neighborhood of southern Beirut though, you are back to bustling boulevards; a few neighborhoods over and there are luxury stores and five star hotels. Beyond the Hizbullah neighborhoods, the city is normal. Electricity flows just as it did before the fighting. The Lebanese sophisticates are glued to their cell phones. Even an international airport that was bombed is reopened. An accurate reading of what happened and what south Beirut means might produce a different picture. Israel has the means to impart greater destruction, but that does not mean intrinsically that it is more brutal. If Hizbullah had bigger rockets or more accurate ones, it would have done not only the same, but undoubtedly more.³⁰

E) Types of weaponry used

In the course of the conflict in Lebanon Israel used a range of weapons and ammunition in its efforts to confront the terrorist threat. All the weapons, and the manner in which they were used by the IDF, were in conformity with international humanitarian law. Among the types of weaponry used were Cluster Munitions (CBUs). Such weapons are not prohibited by international law – neither under customary international law, nor under the Conventional Weapons Convention, to which Israel is party. They are possessed by several dozen states and have been used by many of them.

³⁰ William M. Arkin, Shock and Awe in Lebanon, washingtonpost.com, Sept. 18, 2006, also available: <http://www.cggl.org/scripts/opinion.asp?id=151>

Clearly, as in the case of all arms, the use of cluster munitions must be in accordance with the principles of the law of armed conflict. In the course of the conflict, CBUs were used as part of Israel's response to the unique threat posed by Hizbullah. In particular, the nature of the campaign, the massive scope of missile attacks – including CBU attacks - against Israeli population centers, and the fact that missile launchers were deliberately and expertly camouflaged in built-up areas and areas with dense vegetation, were all factors in the decision to use this type of weapon. The decision to use CBUs to neutralize the missile attacks was only made after other options had been examined and found to be less effective in ensuring maximal coverage of the missile-launching areas. In practice, the operational effectiveness of CBUs was clearly shown, resulting in a disruption of missile attacks against Israeli population centers.

Despite the urgent need to prevent the continuous firing of missiles into Israel by Hizbullah, Israel recognized the need to take measures to avoid, and in any event to minimize, civilian casualties. Among the measures taken by Israel was the printing of millions of fliers, written in Arabic, which were dispersed over populated areas, explaining that due to Hizbullah activity, residents should evacuate these areas in order to avoid being hurt. These messages were also broadcast through PA systems and through radio broadcasts on the Al-Mashrek station, broadcasting out of Israel in Arabic. Additionally, Israeli officials contacted the mayors and local leaders of a number of villages in order to ensure the evacuation of residents.

All CBU fire was directed at legitimate military objectives and for humanitarian reasons most of the CBU fire was directed at open areas, keeping a safe distance from built up areas. In those cases where CBU fire was directed at military objectives which were in the vicinity of built up areas, it was **always** toward particular locations from which missiles were being launched against Israel, and after significant measures were taken to warn civilians to leave the area. Moreover, following the cessation of active hostilities, Israel handed over to UNIFIL maps of the areas suspected of containing unexploded ordnance, including from CBUs, in order to facilitate the ordnance clearing process.

F) Humanitarian issues

In the course of the conflict, numerous acute humanitarian issues arose. Despite the ongoing conflict, Israel sought to find practical and effective ways to address these issues and to alleviate suffering.

These efforts included steps taken to facilitate access of humanitarian assistance to civilians within Lebanon. An operations room was set up in northern Tel Aviv to coordinate international efforts to provide aid to Lebanon. This facility was headed by senior IDF staff and manned by representatives of the Israeli Foreign Ministry, the United Nations and the International Committee of the Red Cross.³¹

At the same time Israel established a “humanitarian corridor” to enable shipments of aid to reach Lebanon despite the ongoing hostilities. A sea-route to Lebanon was established through the port in Beirut, and a land route was designated from Beirut northward along the coast to the Syrian-Lebanese border. Throughout the hostilities, Israel coordinated humanitarian issues with the international community, even expanding the corridor to include other points of entry, and establishing a special ‘humanitarian headquarters’ to direct the coordination efforts. In addition, Israel made arrangements to permit the landing of aircraft at Beirut International Airport to unload humanitarian goods for residents of southern Lebanon.³²

Another issue of humanitarian concern was the evacuation of foreign nationals from Lebanon. From the very first day of the war, the IDF helped coordinate the evacuation of at least 70,000 foreign nationals from Lebanon. To the best of our knowledge, this effort was accomplished without any loss of life. A total of 213 passenger ships, 123 land convoys and 196 helicopters were allowed to

31 see at <http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Terrorism+from+Lebanon-+Hizbullah/Hizbullah+attack+in+northern+Israel+and+Israels+response+12-Jul-2006.htm>

32 Ibid.

dock in or travel through Lebanon to evacuate the expatriates and tourists.³³ The convoys were able to travel on approved routes, which were coordinated with IDF forces.³⁴

Israeli hospitals also offered free medical care to any Lebanese person who was wounded in the war. In the words of Professor Zev Rothstein, Director-General of the Sheba Medical Center at Tel Hashomer:

We are not to blame for this war. We don't ask who is to blame. We have an open Jewish heart. Our aim is to save lives and reduce misery. We don't hate like the terrorists... We have housing for Lebanese families and food at no cost... We will take all who need us, including adults... all the costs are paid by donors... if a child were brought here, we would not ask whether his father is a terrorist.³⁵

This offer was broadcast via a hospital representative in Cyprus due to the fact that many Lebanese fled there, and was also broadcast on Arabic radio stations in the region.

IV Conclusion

Israel's military operations in Lebanon took place in the context of a clear asymmetry with regard to the implementation of principles of international humanitarian law: Hizbullah, in clear violation of these principles, deliberately

³³ Ibid.

³⁴ Ibid.

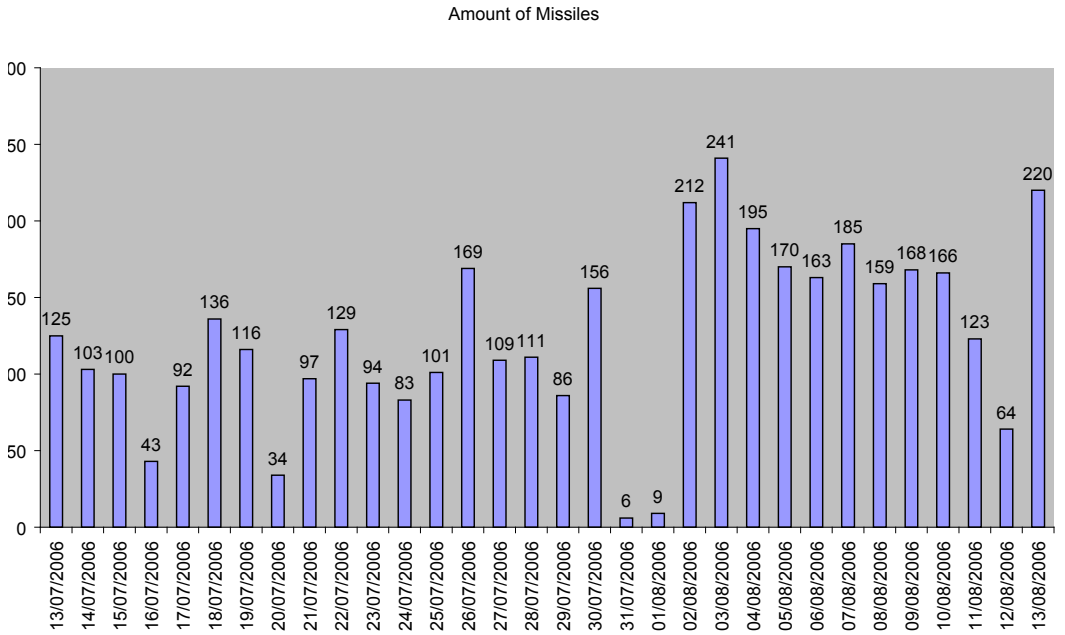
³⁵ Siegel, Judy. Sheba Medical Center Offers to Treat Lebanese for Free. The Jerusalem Post. July 24, 2006, at 3.

targeted Israeli civilians, while attempting to use the cover of civilians and civilian structures in order to stockpile its weapons, hide its fighters and fire missiles into Israel. Israel, on the other hand, held itself bound to apply the principles of humanitarian law, even while facing an opponent who deliberately flouted them.

In doing so, Israel took pains to ensure that its operations were directed against legitimate military targets and that in conducting its operations incidental damage to civilians was kept to a minimum, both by ruling out attacks which would cause disproportionate damage and by giving advance notice wherever possible. A survey of international practice suggests that the steps taken by Israel to address humanitarian considerations corresponded to, and often were more stringent than, those taken by many western democracies confronting similar or lesser threats.

The suffering of civilians was a tragic reality on both sides of the conflict. Israel made strenuous efforts to reduce this toll, both by protecting Israeli civilians and by seeking to minimize civilian suffering on the Lebanese side. Following the conflict, Israel has also undertaken numerous investigations and analyses with a view to learning lessons from the conflict and to enabling improvements to be made in the future. Israel's efforts in this regard should not, however, diminish the ultimate responsibility of those who callously and deliberately used the Lebanese civilian population as a shield, for the suffering that inevitably resulted from their actions.

Appendix A – Number of missiles fired into Israel by Hizbullah on a daily basis



Appendix B – Israeli casualties from Hizbullah attacks

Date	Civilians				Soldiers			
	Light	Medium	Severe	Dead	Light	Medium	Severe	Dead
12-15.7	87	14	3	4	32	1	1	12
16.7	68	11	5	8	2	1	0	0
17.7	16	3	1	0	0	0	0	0
18.7	19	1	0	1	1	0	0	0
19.7	18	0	0	2	11	2	1	2
20.7	13	0	0	0	4	2	2	6
21.7	8	2	0	0	0	2	2	1
22.7	14	4	2	0	3	0	0	0
23.7	18	4	4	2	0	1	0	0
24.7	17	6	1	0	3	7	2	4
25.7	25	3	2	2	3	0	0	0
26.7	25	5	1	0	16	4	5	9
27.7	7	0	0	0	2	0	0	0
28.7	8	3	0	0	6	1	1	0
29.7	4	0	0	0	1	0	0	0
30.7	4	0	1	0	7	2	0	0
31.7	0	0	0	0	3	0	0	0
1.8	0	0	0	0	6	3	0	3
2.8	7	3	0	1	5	0	4	1
3.8	17	1	2	8	1	0	1	4
4.8	5	1	4	3	1	0	1	3
5.8	30	0	0	4	6	4	2	2
6.8	19	4	2	3	11	5	3	12
7.8	9	1	0	0	14	4	6	4
8.8	7	1	0	0	22	5	3	4
9.8	36	0	0	0	34	11	5	15
10.8	4	1	1	2	9	5	10	2
11.8	4	1	0	0	15	1	1	1
12.8	4	0	0	0	47	12	14	23
13.8	9	2	2	1	18	17	11	9
14.8	0	0	0	0	2	0	0	0
Total	502	71	31	41	285	90	75	117
Sum	604			41	450			117