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## THE SHADOW OF SELF-DEFENCE: ISRAEL'S UNJUST WAR IN LEBANON

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**JCSP 37**

**Master of Defence Studies**

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**The Shadow of Self-Defence: Israel's Unjust War in Lebanon**

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## ABSTRACT

In 2006, Hezbollah forces from the sovereign state of Lebanon attacked the State of Israel. Israel did not take the attack lightly and under their inherent right of self-defence they launched a campaign against Hezbollah. The 34-day War was seen throughout the international community as two sides acting without any regard for humanity. Their lack of moral reasoning was evident throughout the war and each failed to fight justly.

Israel, under the right of self-defence, was just in defending their citizens from further attack. The Israeli government launched their attack with two main objectives; Stop the immediate threat of attacks while regaining their kidnapped soldier, and to deny Hezbollah the ability to attack in the future. Under *jus ad bellum* Israel is moral right to act with aggression if they meet the spirit of the tenets of just cause.

*Jus in bello* is where Israel failed to meet the spirit of just conduct during the war. Israel indiscriminately targeted civilians. Their liberal use of precision munitions within urban areas as well as cluster munitions throughout the war exemplified the fact that Israel was wrong in their actions.

Israel was also wrong in the way they terminated their campaign. They did not accept responsibility for their role in the conflict. Amid pressure from both the international and domestic community Israel stood up a committee charged with determining what really went wrong during the 2006 Lebanon War. The report, named

after the committee's chair Eliyahu Winograd, proved costly for the Israeli government and the military, essentially highlighting their unjust conduct.

The final outcome of the 2006 Lebanon war was not positive for Israel. They not only failed to meet their objectives, they were unjust in their conduct during and after the conflict. Indeed, having the right to self-defence is the starting point to moral reasoning but if the war is conducted and terminated unjustly, then it begs to question did Israel continue to have the right to self-defence.

## INTRODUCTION

War has always been a part of society. Although the scale of fighting has varied from guerrilla warfare to world war, man has seen and felt the pain associated with death and destruction all along the spectrum of warfare. Weapons too have evolved from primitive spears and swords to precision guided munitions. The advancement of weapons has often been thought of as a deterrent. By having a greater weapon than their enemy a state could force the other to second guess resorting to violence. This has historically hardly proven true. The fact remains that the world must realize that war will continue to be part of society.

Since the Treaty of Westphalia, states have been the form that has represented people in the international community. The political leadership of states has varied from democratic to communist, and though the rights of the citizens of many countries vary, their leadership is what controls many facets within the country. It is this authority that gives the state leadership that ability to decide to go to war with another state. Through moral reasoning, a state will decide what actions it will take. Throughout history not all decisions made by states have been justified.

One conflict that challenged the moral reasoning of the authorities vested with protecting their citizens was the 2006 Lebanon War. Israel, in response to the attacks by Hezbollah, approved a military campaign against Hezbollah fighters and those targets that would ensure that future attacks against Israel would cease. Israel's decision to act militarily was founded on Israel's right to self-defence. Israel also targeted several

Lebanese targets due to the Lebanese government's supposed unwillingness or ability to control the militant elements of Hezbollah operating within their country.

Utilizing their far superior military capability and advanced weaponry the Israelis focused their initial efforts on punishing strikes from land and air on their enemy. The strikes, which drew heavy criticism from the international community, were designed to restore the safety and security of the people of Israel. Indeed they had the right to self-defence however; their targets and type of weapons that they used were of serious concern.

Although not the instigator in the conflict, Israel's conduct in the 2006 Lebanon campaign was unjustified. Their position, as the innocent party to the conflict, quickly swung to the other end of the spectrum as their conduct and application of force continually began to be questioned. What once started as the right to self-defence under the just war theory, their actions began to shift to those that were unjust.

The 2006 war against Lebanon provides a difficult test for the just war theory. The theory stems from the original tradition that encompasses a series of different views that bind to form the theory. Furthermore, the theory is commonly used during state versus state conflicts, where there is a known enemy that has a definitive military force that can be targeted. This was not the case in Lebanon. In actuality, Lebanon was a complex and dynamic situation as there were two major players: the state of Lebanon, and the militant group Hezbollah that operates within the state as an independent force. No matter what the situation is whether it be state on state or an irregular conflict states must make the decision as to what solution to the problem they will use.

The decision to send one's own military force to defend and attack another can be morally justified. According to Reichberg "to protect and preserve values is the only justifying cause for the use of force that is admitted in Western moral tradition".<sup>1</sup> The theory was designed to guide the moral objectivity to determine when it was right to resort to war. Through a series of tenets, authorities reason whether they would be justified by turning to military force. Although there will always be the subjective component that includes the emotional and historical perspectives that come from years of dispute, the just war theory is a process designed to assist those reasoning the difficult decision to go to war.

Once decided that war is the option to be taken, the just war theory continually guides the moral reasoning throughout the conflict. Resorting to military force due to a just cause does not absolve the soldiers to act throughout the campaign in a moral manner.<sup>2</sup> They must conduct themselves in accordance with the laws of armed conflict. This would ensure that the actions taken in war would remain just throughout the conflict lending support the their actions.

The authority to decide who and when to resort to war is also of great importance. The leadership of the state or group should be the vested authority in determining when

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<sup>1</sup> Gregory M. Reichberg, Henrik Syse, and Endre Begby, *The Ethics of War: Classic and Contemporary Readings*, (Blackwell: Oxford, 1988), 663.

<sup>2</sup> Mark Evans, *Moral Theory and The Idea of a Just War, Just war theory: A Reappraisal*: (Edinburgh University Press: Edinburgh, 2005), 10.

to go to war<sup>3</sup>. In representing their people, the government would determine what they believe would be the proper decisions to regain the peace and stability even though they may have had to use military force to do so. The authority does possess several other tools that can be used in statesmanship to deal with other states, however when it comes to the application of military force, the exercise of moral reasoning should come from those with the vested authority of the people.

In order to apply the just war theory it must be established what the theory encompasses. Historically, the just war tradition has two major elements to it: *jus ad bellum* (the moral right to wage war) and *jus in bello* (to fight a war justly). A third element, *jus post bellum*, deals with “securing the justice sought in the resort to war”.<sup>4</sup> These three elements cannot be used solely in succession but they must all be considered throughout the process. They must be consulted all the way through the conflict in order to ensure the overall actions remain just. Additionally, the lines of where each element starts and where they end are considerably blurred lending to the idea that just war theory is not a rigid process.

Certainly, the theory of just war is not without its differences. There are several interpretations that have developed over the years and some critics are even suggesting that the theory is obsolete when applied to certain facets of war. Wim Smit argues “... just war tradition is discredited by the easy and free interpretation with which it is subject

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<sup>3</sup> Peter S. Temes, *The Just War* (Chicago: Ivan R. Dee Publishing, 2003), 167.

<sup>4</sup>Mark Evans, “Moral Theory and The Idea of A Just War,” in *Just War Theory: A Reappraisal* (Edinburg: Edinburgh University Press, 2005), 13.

and the ease it can be misused.”<sup>5</sup> Certainly the arguments that the theory can be widely applied have some ground, but that is one of the best qualities of the theory. As long as the spirit of the moral reasoning is followed, the theory can be applied to any warfare along the spectrum of conflict. The theory’s importance rests with how it is applied and its ability to remain flexible in all situations. It is not meant to be a template that is strictly applied, but to be followed as a series of questions or a guide to assist in the reasoning to go to and throughout war. As mentioned earlier, there are different versions and opinions about the theory and therefore a baseline must be established for what the theory is.

Starting with the origins of the just war theory and where it has evolved will help provide a clear picture on which version of the tradition will be utilized for this analysis. Additionally, a focus will be used to address some of the criticisms that have faced the theory when applied to twentieth-century conflicts. In doing so, this will highlight the foundations for the just war theory and why there needs to be greater importance on using this theory to ensure war if fought within the just intentions of the theory. Furthermore, it would prove essential to assess the formation of twenty-first century organizations as they sometimes do not follow the state system.

Globalization has changed the notion of a state, as individuals will also identify themselves with other groups formed from within a state or even within the international community. Organized groups such as Al Qaeda, a transnational organization, are an

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<sup>5</sup>Wim Smit, Beyond Paralyzing Fear and Blind Violence Terrorism, Counter-Terrorism and the Violation of Human and Civil Rights,” in *Just War and Terrorism: The End of the Just War Conflict?* (Leuven: Peters, 2005), 158.

example of an internationally formed community who have been able to seriously affect the international community. The 11 September 2001 attacks are proof that states are not the only ones with the ability to influence others. By including non-state communities into the application of just war theory, it provides a contemporary situation where the effects of globalization are being felt. The just war theory is ideally used for a state on state conflict however it is justifiably capable of being applied to non-state actors as well.

The second chapter will address the first category of the just war theory *jus ad bellum*. A simple question can be used to begin the moral reasoning? Did the proper authorities have the moral right to result to armed conflict? Using the separate elements within the *jus ad bellum* it becomes apparent that it is just to go to war. Although the elements do not need to be valid in their entirety they will act as a moral guide from determining the right to go to war. The elements are: just cause, comparative justice, legitimate authority, right intention, and the probability of success, last resort, and proportionality.<sup>6</sup> Each of the elements adds to a layer that builds the moral right to go to war.

Even though one has the moral right to go to war it does not give them the ability to resort to whatever means they so choose. The theory is designed to be a check and balance in order to avoid the unnecessary acts of war. Just war, simply stated, is the moral right to defend oneself from aggression from another. To start the tradition there needs to be a negative action to cause a reaction. As Carl Von Clausewitz put it “each

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<sup>6</sup>Gregory M. Reichberg, Henril Syse, and Endr Begby, *The Ethics of War*. (Oxford: Blackwell Publishing, 2006), 672.

side, therefore, compels its opponent to follow suit...’’<sup>7</sup> As one side is forced by another to defend themselves they will resort to the force necessary for defence. When addressing the 2006 Lebanon war, Israel was faced with the initial attacks of Hezbollah militants from the state of Lebanon. This forced the hand of the Israeli government to react and consequently resorting to war. By analyzing this situation from the perspective of Israel, one can make the case that Israel was just in their actions. Once this is established the second category of the theory, *jus in bello*, is considered.

*Jus in bello*, or to fight the war justly, is based on the moral application of the appropriate amount of force to be applied in response to the aggression from an adversary. Essentially, if a military uses an appropriate amount of force to defend oneself it is morally justified. If not, it is said the defender is unjust and therefore their actions are morally wrong. The elements of *jus in bello* are: distinction, proportionality, and military necessity. When assessing these elements they will provide the answers to whether or not the use of force is being conducted within the framework of the theory. In reference to the Israeli response to the kidnapping and killing of their soldiers by Hezbollah, the Israelis responded with a full military assault on Hezbollah targets within Lebanon.

The final category of the just war theory is *jus post bellum*, or the final justice after the conflict has ceased. This element of the tradition evaluates if the war was just based on the actions upon conflict termination. According to Reichberg it includes the

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<sup>7</sup>Howard M. Hensel, *The Legitimate Use of Military Force*. (Burlington: Ashgate Publishing, 2008), 77.

elements: just cause for termination, right intentions, a public declaration of their intentions by authorities, discrimination, and proportionality.<sup>8</sup> By ensuring these elements are considered and enforced it provides the defending nation a moral sense that they were just in the actions they had to take. Indeed, this is truly hard to measure but if you have entered a conflict and there is absolutely no change to the situation in the final outcome then the act could be seen as morally unjust.

This paper's analysis of the 2006 Lebanon campaign does have some restrictions. The first restriction is the war will be viewed without all of the prejudices of the historical wars in the region. Understandably, the region has some of the longest history of conflict but to be able to consider the entire history would be too expansive. There are some important factors that do need to be considered as they shed some insight into the situation. The first factor that will be considered is that there have been several attacks on the civilians of Israel by rockets fired from Lebanon especially the area which was consistent with the initial localities from the 2006 Lebanon war. Furthermore, Hezbollah was not the official state representation at the time of the conflict. Although they did have power and influence on the events in Lebanon at that time, they were not considered the state leadership in the eyes of the international community. Finally, the Israeli response in several prior conflicts within Gaza and other areas where similar to those events in Lebanon and this seemed to be the standard response to show of force.<sup>9</sup>

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<sup>8</sup>Gregory M. Reichberg, Henril Syse, and Endr Begby, *The Ethics of War*. (Oxford: Blackwell Publishing, 2006), 671.

<sup>9</sup>Greg Myre and Steven Erlanger, "Israelis Enter Lebanon After Attacks," *New York Times*, 13 July 2006.

The next limitation that will not be exhausted is the fact that Israel continually faces opposition from all directions. As allies in the region, Lebanon, Palestine, Egypt, Syria, and Iran prove a security risk to the state of Israel and their response to certain events may have other intentions implied. This is not an unimportant factor, but this would take a higher degree of analysis that cannot be fit into the constraints of this paper.

The final restriction that will not be analyzed is the internal struggle of Hezbollah within the government of Lebanon. The complexities of the political situation within the inner political arena in Lebanon are again too grand for the scope of this paper. This issue is of great importance when looking at who does represent the people of Lebanon, however for the argument presented it is not a major factor. I do concede that there are certain issues that do relate to the situation when applying the just war tradition when deciding to go to war but since the borders of Lebanon and surrounding areas were the target there will be an avoidance of an in depth analysis of the internal power struggle between Hezbollah and the Lebanese ruling party.

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<http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel is Enter Lebanon After Attacks&st=cse>; Internet, accessed 25 January 2011.

## WHAT HAPPENED

On July 12, 2006, Hezbollah forces executed an attack into Israel. They attacked an Israeli patrol, killing three soldiers and kidnapping two soldiers, Udi Goldwasser and Eldad Regev. Sequentially, Hezbollah fired rockets into the northern area of Israel to distract Israeli forces from their main objective which was with the kidnapping. This seemingly low level attack set off a massive response which was not even expected from the leader of Hezbollah.<sup>10</sup>

Israel, in response to the attacks, launch airstrikes, enforced a naval blockade, and sent ground forces into Lebanon to meet three objectives. The three objectives of Israel were: to regain control of their kidnapped soldiers, stop the rockets attacks, and reduce the capacity of Hezbollah to operate in the future.<sup>11</sup> The war lasted 34 days which took its toll on both sides and drew heavy criticism from the international community for the actions taken by both sides. In the end, Amnesty International reported 1200 people in Lebanon dead, forty-three Israeli civilians, and major destruction to infrastructure within Lebanon and Israel.<sup>12</sup>

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<sup>10</sup> United States, Congressional Research Service Report for Congress, *Lebanon: The Israel– Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006).

<sup>11</sup> Israel Prime Minister’s Office. “Address by PM Conference of Heads of Local Authorities.” <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>; Internet; accessed 25 January 2011.

<sup>12</sup> Amnesty International Report. “Israel and the Occupied Territories.” 2007 Report, 147-150; <http://archive.amnesty.org/report2007/>; Internet; accessed 25 January 2011.

The death and destruction resulting from the 2006 war draws one to question the moral reasoning of both Israel and Hezbollah. Indeed it is truly easier to look back at the conflict once it has ceased and reflect and study the actions and decisions taken. In doing do it is clear that the moral reasoning of both sides had failed.

The end of the 2006 Lebanon War was brokered by Security Council Resolution 1701.<sup>13</sup> This resolution was agreed to by both sides of the conflict. Although this was a band aid solution to the underlying issues, it was a starting point to bringing each side to the table to sort out the issues.

After pressure from the public and international community a report confirmed that there were lapses in the Israeli moral reasoning. The Winograd Commission was tasked with the unbiased task of looking into the actions taken by those charged with directing the Israeli response.<sup>14</sup> Indeed Hezbollah must bear some of the blame however a report on the Hezbollah forces is not to be expected. The Winograd Commission found several damning decisions taken by the Israeli government and military leaders which led to the unjust actions taken during and after the conflict.

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<sup>13</sup> United Nations Security Council Resolution. Resolution 1701, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/465/03/PDF/N0646503.pdf?OpenElement>; Internet ; accessed 1 May 2011.

<sup>14</sup> New York Times. “English Summary of the Winograd Commission Report.” 30 January 2008. <http://www.nytimes.com/2008/01/30/world/middleeast/31winograd-web.html?scp=1&sq=English%20summary%20of%20the%20winograd%20report&st=cse>; Internet; accessed 9 March 2011.

It is interesting to ponder how can a conflict which caused so many civilian casualties and major destruction to infrastructure can be seen as just. Essentially, humans killing humans is not in the best interest for peace; however there must be a just way to reason the use of force to protect oneself. One method that can be used to guide the moral reasoning in the use of force is just war theory.

## JUST WAR THEORY

How can war be morally justified? The very fact that humans fight and kill each other is completely contrary to the principles of living in a peaceful world. The development of the just war theory began as a theory to explain the reasoning and moral validity for going to war.

The just war theory came to being in the days of St. Augustine. Initially, just war theory was used to justify the use of force by Christian soldiers vice the refusal to resort to violence by Christian pacifists in order to protect their interests.<sup>15</sup> The theory has evolved somewhat from its original form however the basis for the theory has remained the same.<sup>16</sup> As much as the theory has evolved there are those governments who continually used the theory to justify their actions as just.<sup>17</sup> However, the theory remains a vital part of today's moral reasoning to go to war.

Not to be taken lightly, the just war theory provides a framework for those responsible for resorting to armed conflict. They do so in order to justly protect the collective rights of all citizens within their country. In fact, the very essence of using force to establish peace comes from that overarching goodness expected of humankind to restore the equilibrium of the world order. Unfortunately, the world's citizens are not all

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<sup>15</sup>Michael Walzer, *Arguing About War* (London: Yale University Press, 2004), 3.

<sup>16</sup>Michael Waltzer, *Arguing About War...*, 12.

<sup>17</sup>Michael Waltzer, *Arguing About War...*, 13.

focused in the greater good of all their neighbours and therefore a more realist approach to the modern world must be regarded.

Just war theory does provide many benefits. The theory can be used to enable countries to determine that they are just in resorting to armed conflict when protecting their inherent right to self-defence. This is echoed in the United Nations article 51, where states have “the inherent right of individual or collective self-defence if an armed attack occurs against a member of the United Nations...”<sup>18</sup> The United Nations (UN) is the current world standard of internationally recognized organization. Indeed not all countries agree with the oversight provided by the UN. The major argument is that there is no ability for the international body to enforce its rule. Additionally, the Security Council only entertains five permanent members which can be seen to be unfair.<sup>19</sup> In spite of these claims, the UN is the only international body that provides all members of the international community the same rights. Furthermore, the Security Council does have several other members that rotate to bring an unbiased opinion to the table. It is not perfect but the UN does bring more objectivity than it does not. If the UN did not exist then there would be less certainty on determining the just actions of states. Indeed there are further benefits to the just war theory.

Just war theory is also crucial in guiding the proportionality of a military force when trying to achieve their objectives. By following the moral reasoning of the theory

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<sup>18</sup>United Nations Charter, Chapter VII: Action with Respect to Threats to the Peace, Breaches of the peace, and Acts of Aggression. <http://www.un.org/en/documents/charter/chapter7.shtml>; Internet; accessed 1 May 2011.

<sup>19</sup> Michael W. Brough, John W. Lango, and Harry van der Linden. *Rethinking the Just War Tradition*. (New York: State University of New York Press, 2007), 196-197.

one is provided with a set of guidelines aimed at reducing the amount of damage done both physically and morally during the conflict.<sup>20</sup> By remaining within the lines of proportionality, it can greatly reduce the amount of unnecessary deaths during the conflict. Indeed it is certain that casualties will occur in conflict but this is a reality of war. The ultimate price for war is death but by following the theory of proportionality, the price can be kept to a minimum. This can lead to greater success on the strategic objectives and lend a hand to remaining a just cause.<sup>21</sup> The just war theory definitely has its counter arguments.

One of the major criticisms of the just war theory is that it is state focused. Nicholas Fotion believes that “non-nation groups face the prospect and the reality of war drastically from what nations have to face”.<sup>22</sup> He believes that the theory should be divided into two separate theories dependent on whether it is a state on state conflict or state versus non-state. Just war theory can be applied in both situations if it is not applied rigidly. However, it would be ignorant to underestimate the role of non-state actors. Globalization in the twenty-first century has shown that even though society is formed under a state system they also belong to other forms of cultural groups. The use of transnational groups spanning from country to country and beyond the continents shows

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<sup>20</sup>Nicholas Fotion, *War & Ethics: A New Just War Theory* (London: Continuum International Publishing Group, 2007), 38.

<sup>21</sup> Kateri Carmola, “The Concept of Proportionality: Old Questions and New Ambiguities,” in *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 102.

<sup>22</sup> Nicholas Fotion, *War & Ethics: A New Just War Theory*. (London: Continuum International Publishing Group, 2007), 156.

that the social interactions amongst people has developed and evolved. Evidence of this is that of Al Qaeda. Elements of the organization not only live within states, but they also identify as part of the global organization. If used as a guideline to moral reasoning it will be able to benefit all those who have to use it.

Just war theory is a moral reasoning tool that can be applied to all humans engaged in conflict. As discussed earlier the most consistent application of the theory is seen on the state versus state level but just war theory can also be applied to non-state actors as well. Indeed other groups can engage in conflict with a state and therefore the state should be able to apply the same theory to fighting against a non-state actor. Morality is not based on the state but on the people who encompass it as Lang argues “states matter morally in this regard only because the people that live in them matter morally”.<sup>23</sup> Since man does not always follow the laws or organizational structure of a state, such as the leader of a transnational organization, then they can essentially form the moral basis of an organization not necessarily the state. By focusing the theory on the collective rights of individuals, one will be able to apply the theory to all humanity and not to discern the difference between the state or an organization.<sup>24</sup> As Evans wrote “the theory of justice on which just war theory rests is drawn from humanitarian morality.”<sup>25</sup> Additionally, Patrick Hayden also believes in the equal protection of people where he

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<sup>23</sup> Howard M Hensel, *The Legitimate Use of Military Force*. (Burlington: Ashgate Publishing, 2008), 74.

<sup>24</sup> Mark Evans, *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 74-75

<sup>25</sup> Mark Evans, *Just War Theory: A Reappraisal...*, 77.

draws away from state security to human security.<sup>26</sup> The application of the just war theory can be applied to non-state wars but it may not be equally as easy to apply in all situations.

The war on terror, as proclaimed by George W. Bush former President of the United States, has proven how difficult applying the just war theory can be against a non-state organization. The United States' fight against terrorist regimes such as of Al Qaeda has shown how difficult it is to apply all parts of the theory to a non-state war. Indeed, Al Qaeda attacked the United States. One can quickly see that the US had the right to defend itself from further attacks. The difficult question is did the attacks constitute a continued attack where the United States felt threatened or was it a single event? Arguably, if the organization plans to continue the attacks therefore the application of the moral reasoning of *jus ad bellum* is confirmed. Obviously not all organizations in the world are planning to attack the U.S. and therefore the case of how do they apply proportionality and determine their end state? The answers to these questions are difficult ones. The answer is that you can determine the requirement to apply appropriate force or find a better solution to the problem such as diplomatic pressure or economic sanctions. If the theory would not be able to be applied, it would simply allow any amount of excessive force to be applied completely disregarding the rights of humanity.

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<sup>26</sup> Patrick Hayden, "Security Beyond the State: Cosmopolitanism, Peace and the Role of the Just War Theory," in *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 157.

The just war theory can be looked at three parts: *jus ad bellum*, *jus in bello*, and *jus post bello*. The three parts are not used in isolation but for the ease of the argument they will be broken down. There is no point at which one starts and the other stops. It is like a continuum, a sort of art that flows as the situation changes. These three parts are used to guide the reasoning of those with the authority to decide on the use of armed conflict. Indeed a war can only meet some of the parts of the theory but to assess whether someone was just or unjust is an argument in itself. As an example the 2003 war in Iraq shows how President Bush believed they were just when there are those who believe that the war was clearly unjust.<sup>27</sup> As seen there can be some debate on what is just and unjust. One way to ease the debate is to highlight the criteria used to measure what is just or unjust.

When analyzing *jus ad bellum* there are six general criteria that are assessed.<sup>28</sup> They are: just cause, legitimate authority, right intention, the probability of success, proportionality and use of force as a last resort.<sup>29</sup> In order to determine whether a country can use military force against another they must first analyze the *jus ad bellum* criteria. Once analyzed, the criteria will give the defending country a start point that will allow them to determine their next move. Yes the decision would come fast if the country has been attacked such as the United States after the attacks on Pearl Harbor on 7 December

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<sup>27</sup> Nicholas Fotion, *War & Ethics: A New Just War Theory*, (London: Continuum International Publishing Group, 2007), 69.

<sup>28</sup> The criteria for *jus ad bellum*, *jus in bello* and *jus post bellum* were taken out of three separate sources. It must be acknowledged that there are those who use fewer criteria and those who do not distinguish from *jus ad bellum* and *jus in bello*.

<sup>29</sup> Gregory M. Reichberg, Henril Syse, and Endr Begby. *The Ethics of War*. (Oxford: Blackwell Publishing, 2006), 671-674.

1941. There are also instances where a country must weigh their options whether or not they will respond with force. The attacks on Pearl Harbor were clearly one where a nation would respond with as much force as it can muster to defend itself if it is capable of doing so. If not it must capitulate in order to maintain their existing military capability and avoid any unnecessary losses. The difficulty in the just war theory comes from the inconclusive answers to the *jus ad bellum* criteria. In the end it is those with the authority to make the decision to go to war even though it may not be an easy one.

Eventually it is the decision of the proper authorities whether or not they are to go to war. By using the just war theory authorities can reason if they are morally right to go to war. The 2006 Lebanon war was a decision taken by the Israeli government demonstrating that a state is willing to do what it needs to do to protect its sovereignty. As mentioned earlier there are certain situations where it is clearly in a people's best interest to go to war. Israel believed it was right in resorting to violence. Prime Minister Olmert launched a military offensive in 2006 into Lebanon in order to provide the "safety and security to the state of Israel."<sup>30</sup> The actions of his government and the military come into question when evaluated with the just war theory.

The approach to just war theory is not only from the theocentric natural law but that of anthropologic natural law. The two main proponents of this form of natural law

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<sup>30</sup> Israel Prime Minister's Office, "PM Olmert's Speech at the Knesset Regarding the War in the North." <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/08/speechknes140806.htm>; Internet; accessed 25 January 2011.

are Thomas Hobbes and John Locke. Both theorists believed that man forms the state of nature and therefore the basis of humanity rests with the self right of the individual to have access to defence, liberty and the goods required to sustain themselves. Locke's version focused on the "state of nature". The state of nature is every man's ability to fulfil their rights and not have them taken or denied from them. The state, made out of communities, are just humans signing a contract with a community of people essentially giving them the responsibility to look out for the collective good of all those who subscribe to the community. The community then belongs to a group of other communities, which forms the state, and therefore the ultimate responsibility to enforce the rights of its members is the state's responsibility. This fits into the just war theory in that the collective good of all the states citizens can be enforced by military force in order to create a peaceful balance. Locke differs from Hobbes in that Locke believes human nature is not without reasoning and that the human has the ability to negotiate the terms of a favourable situation here as Hobbes believes that man has no moral reasoning and that they will result to war in order to maintain their utility.

When analyzing the approach of Locke to *jus ad bellum* and *jus in bello*, one will see that his version is complimentary to the western thoughts on just war theory. In the case of *jus ad bellum*, there are two conditions where a state will be able to result to use of military force. First, if an aggressor attacks the state or any of its interests, the state has the right to self-defence. The defending force would be just in their action but if a means of non-military action can be met then this is the desired procedure. Often, this is not the case. Once the just reasoning of military force has been determined the defender has the right to begin its military campaign to restore the peace. Although it is thought

that war cannot possibly bring peace, the concept described by Locke is that war is used to bring peace by establishing the previous status of the rights of the denied country. Locke not only believed that a state has an inherent right to self defence once an attack has occurred but also a state may use preventative and pre-emptive strikes to defend themselves. Although this is not seen as an appropriate use of force under theocentric law, Locke believed that it is the right of the state to be able to defend against an attack that is about to occur. The one area that is of some serious debate is that of pre-emptive strike. In executing a pre-emptive strike, the attacker must have unambiguous reason to attack. As an example, the 2003 U.S. invasion into Iraq was based on modified intelligence, which led the U.S. to invading Iraq in conjunction with a coalition of the willing, as the UN Security Council would not approve the campaign. Although there is still debate on the validity of the actions taken by the US, this shows that this element is controversial.

Upon commencement of the military campaign, the military is then subject to *jus in bello*. The proportionality used by the attacking force must be that which is going to create less peace than originally intended. The Lockean school of thought does allow for all out war since this level of warfare may be what is needed in order to re-establish the safety of the wronged nation. As an example, the Pacific war that the U.S. fought against the Japanese leading into the U.S.'s entry into the Second World War, the U.S. dropped two atomic bombs on the islands of Hiroshima and Nagasaki which were aimed to deter further Japanese aggression and destroy their capability to produce military materiel. This shows that the defending country can raise the proportionality level in order to defend the inherent right of self-defence of its people.

Establishing the grounds for self defence can take many forms. It can come as fast as an attack or as slow as developing the intelligence required to strike an imminent threat. This decision to use military force should be reasoned through the guidance of just war theory. This will provide those authorities that ability to be morally just for their actions. But first it has to start with an attack.

## JUS AD BELLUM

The decision to go to war is not an easy decision to make. The authority of political leaders to send their military forces into conflict should not be taken lightly. It is certainly understood that the soldiers of the state may end up paying the ultimate price, their life. Carl Von Clausewitz said it best when he stated, “the element in which war exists is danger.”<sup>31</sup> The possibility of death on either side of the conflict is certain and therefore deciding to go to war demands sound reasoning. *Jus ad bellum*, the just cause to go to war, is a series of criteria that are designed to guide authorities in deciding whether to engage in military conflict. Addressing these criteria can provide a moral guide to making the right decisions when deciding how to deal with the conflict, however as any other method it may not provide the absolute answers ideally sought.

The application of the *jus ad bellum* within the just war theory framework cannot be applied as a rigid set of criteria. It is not a checklist that once completed it provides an outcome that determines whether the decision is just. As Evans noted “it is better thought as a ‘heuristic’ tool, providing the set of moral criteria which should inform decisions as to whether to go to war and, if so, how it should be fought.”<sup>32</sup> The intent of the tradition is to guide the reasoning of political leaders and those who contribute to the application of force. Ideally this process would provide clarity to whether the act is just or not.

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<sup>31</sup> Carl Von Clausewitz, *On War*. ed. and trans. Michael Howard and Peter Paret. (Princeton: Princeton University Press, 1976), 85.

<sup>32</sup> Mark Evans, *Just War Theory: A Reappraisal*. (Edinburgh: Edinburgh University Press, 2005), 11.

However, the complexity of the situation can provide a challenge to the theory. This is not saying the theory does not work in dynamic situations, but that it will not always produce a definitive outcome.

The 2006 Lebanon war was an example where not all criteria could be assessed before the Israeli government sent military forces to counter the Hezbollah threat. Israel had little time to waste in trying to get back their kidnapped soldiers. Looking back on the conflict using the elements of *jus ad bellum*, the Israeli government were just in using military force to deal with the hostile actions of Hezbollah.

The first step in having the moral right to go to war is the first factor that enables the just war theory to be used. If one did not have the moral right to resort to violence, they were said to be unjust. Had Israel not had the right to self-defence they would not be just in their military campaign. Based on the fact that Israel was being attacked by rockets and their soldiers were kidnapped Israel was executing self-defence and therefore they were just in their decision to go to war with Hezbollah.<sup>33</sup> Indeed they had other options open to them, but in the end they chose the military one.

Having the just cause to go to war does not necessarily mean that one should not use restraint and explore all other options when choosing the military as their course of action. The other options available to the leadership of the state are diplomacy, information influence, economic restrictions and finally military force. Evidently the Israeli government was under some time restrictions and they chose one the military

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<sup>33</sup> Gregory M. Reichberg, Henril Syse, and Endr Begby. *The Ethics of War*. (Oxford: Blackwell Publishing, 2006), 672.

options. If time presented itself there were several other options that could have led to potentially positive outcome. They could have shown restraint depending on the international system to force a favourable outcome. This would have been a lengthy process and it would not have ensured a positive outcome. Instead, Israel believed that they had the right solution to protect themselves, military force. Prime Minister Olmert, the Israeli Prime Minister echoed this sentiment “On both fronts we are exercising self-defense [sic] in the most basic and essential sense.”<sup>34</sup> He also stated that “this morning’s events were not a terrorist attack, but the action of a sovereign state that attacked Israel for no reason and without provocation.”<sup>35</sup> This statement of self-defence provides the grounds that Israel used to resort to war.

In 2006, Israel decided that military force was its best response and they were justified to do so. Israel’s right to act was based on two reasons. The two reasons that entitled the government of Israel to at were self-defence and pre-emptive force.<sup>36</sup> These two reasons match correlate with the Israeli militaries two main objectives highlighted by the Israeli PM during his conference of heads of local authorities. He stated that “we will

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<sup>34</sup> Israel Prime Minister’s Office, “Address by Prime Minister Ehud Olmert – The Knesset”  
<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechknesset170706.htm>;  
Internet; accessed 25 January 2011.

<sup>35</sup> Israel Ministry of Foreign Affairs, “PM Olmert: Lebanon is responsible and will bear the consequences.”  
<http://www.mfa.gov.il/MFA/Government/Communiques/2006/PM%20Olmert%20-%20Lebanon%20is%20responsible%20and%20will%20bear%20the%20consequences%2012-Jul-2006>; Internet: accessed 3 February 2011.

<sup>36</sup> Howard M Hensel, *The Legitimate Use of Military Force*. (Burlington: Ashgate Publishing, 2008), 100.

finish this war when the threat is removed, when our kidnapped soldiers...and their fellow fighters return home in peace and when you can live safely in your homes...”<sup>37</sup>

The first objective of the IDF was to retrieve their kidnapped soldiers from Hezbollah control and additionally destroy the imminent threat of the Katyusha rockets. The second objective was to destroy the ability of Hezbollah to prevent further attacks on the state of Israel.<sup>38</sup> Each of the objectives forged the campaign plan that the IDF implemented in their fight against Hezbollah. How did the state of Israel get in this position where they had to resort to armed conflict?

Israel’s right of self-defence stems from the initial attacks they experienced at the hand of Hezbollah. Hezbollah militants fired a barrage of Katyusha rockets at the civilian population in northern Israel forcing the hand of the Israeli to resort to self-defence. According to Hezbollah their intentions were to cause a distraction in the north while they conducted the operation that eventually led to the killing of seven Israeli soldiers. The unjustified act, according to international law, was an attack against the sovereign state of Israel.<sup>39</sup> It was Israel’s inherent right to defend against the attacks.

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<sup>37</sup> Israel Prime Minister’s Office, “Address by PM Conference of Heads of Local Authorities.”  
<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>;  
Internet; accessed 25 January 2011.

<sup>38</sup> Israel Prime Minister’s Office, “PM Olmert’s Speech at the Knesset Regarding the War in the North.”  
<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/08/speechknes140806.htm>;  
Internet; accessed 25 January 2011

<sup>39</sup> Greg Myre, and Steven Erlanger, “Israeli Forces Enter Lebanon After 2 Soldiers Are Seized.” *New York Times*, 12 July 2006.  
<http://www.nytimes.com/2006/07/12/world/middleeast/12cnd->

Arguably, the attacks in northern Israel are no where near the catastrophic levels, in fact only forty-three Israeli civilians died in total during the war, but the attack did infringe upon the sovereign state of Israel and more importantly caused several casualties both to the Israeli Defence Force and civilian populations of northern Israel.<sup>40</sup> The Chief of General Staff, the head of the Israeli Defense Force (IDF) indicated that they were prepared to defend themselves when he stated “We will do everything we must until safety and security return to the State of Israel.”<sup>41</sup> Since it was the right of Israel to defend itself against both armed attack and future attacks, they had the inherent right to protect their people. Not only did Israel have to defend against the occurring attacks, they also had to look into the near future of the capability of Hezbollah to attack again.

The second justification for the Israeli attacks into Lebanon was the use of pre-emptive force on the capability of Hezbollah to attack Israel in the future. As one of Israel’s major objectives, the pre-emptive attacks are an area of some dispute within the just war theory. A pre-emptive attack is a response to the indications that an attack on one’s sovereign territory is imminent or just about to take place. The indications are mostly of intelligence indications and cannot always be confirmed as about to happen.

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[mideast.html?scp=1&sq=Israeli Forces Enter Lebanon After 2 soldiers are seized&st=cse](#); Internet, accessed 25 January 2011.

<sup>40</sup> Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebsco/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 281.

<sup>41</sup> Israeli Defense Forces, “Chief of General Staff: We will continue to operate in all necessary ways until we achieve our goal.” [http://dover.idf.il/IDF/console/article\\_page.aspx?doc\\_id=54310&lang=english](http://dover.idf.il/IDF/console/article_page.aspx?doc_id=54310&lang=english); Internet; accessed 25 January 2011.

There is precedence set of the validity of pre-emptive attacks. The act of pre-emptive attack goes back to the 1837 Caroline incident.<sup>42</sup> According to customary international law, the defender was permitted to stop the attack “rather than the requiring defender to absorb the first blow before responding.”<sup>43</sup> According to Evans in order to include pre-emption in self-defence one must have “strong evidence that war was inevitable and likely in the immediate future.”<sup>44</sup> The Israeli military believed they would have been facing constant attack from Hezbollah. The suspicion was true. In fact, Hezbollah fired nearly four thousand rockets at Israel during the campaign adding to the justification that Israel had the right to try and remove the threat.<sup>45</sup> If Israel had not targeted the capability of Hezbollah to attack, future strikes on Israel would have been able to be carried out by Hezbollah. By eliminating the threat of the rockets and their capability to employ them, Israel was following the pre-emptive attack principle. One major flaw in the just war theory with regards to pre-emptive strikes is what timeframe constitutes the right to

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<sup>42</sup> The Caroline incident occurred with the Canadians attacking a ship that was stationed in the United States that was planning to attack Canada. The Canadians attacked the ship setting it a blaze and pushing it over Niagara Falls. The argument stood ground and led the way for the legal use of pre-emptive attacks.

<sup>43</sup> Howard M Hensel, *The Legitimate Use of Military Force* (Burlington: Ashgate Publishing, 2008), 101.

<sup>44</sup> Mark Evans, *Just War Theory: A Reappraisal* (Edinburgh: Edinburgh University Press, 2005), 32.

<sup>45</sup> Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebSCO/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 281.

attack.<sup>46</sup> If the attack had happened but there was not imminent threat available, then the attack would have been preventative.

Preventative attacks are the most disputed area of the *jus ad bellum*. However, in this specific case Israel arguably knew that the threat from Hezbollah would continue and based on the Hezbollah capability they could continue to pose a major threat to the sovereignty of Israel. As Israeli Prime Minister at the time Ehud Olmert stated, “We could not let them amass more missiles, more rockets, and more deadly weapons.”<sup>47</sup> Evidently, Israel’s position was to destroy the capability of further attack from Hezbollah. It is just for Israel to defend its state and people with the necessary means. Olmert further believed that “had we gritted our teeth and shown restraint, the day would come – and it would not be far – when a barrage of rockets and missiles would cause you, primarily the residents of the north, irreparable damage.”<sup>48</sup> Although an area of dispute, the Israeli leadership were justified in the use of force required to reduce the imminent threat from Hezbollah’s capability to continue to fire rockets at Israel. This does not give Israel the right to use whatever force they desire. Simply it shows that they have that option. In order to use that option it must come from the right authority.

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<sup>46</sup> Nicholas Fotion, *War & Ethics: A New Just War Theory*. (London: Continuum International Publishing Group, 2007), 13.

<sup>47</sup> Israel Prime Minister’s Office. “Address by PM Conference of Heads of Local Authorities.” <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>; Internet; accessed 25 January 2011.

<sup>48</sup> Israel Prime Minister’s Office, Address by PM Conference of Heads of Local Authorities...

Israel's military was given the green light to execute the campaign plan by the right authorities. Israel, a democratic state, was given the authority by its people to decide when and where military force could be used. In the case of the 2006 Lebanon war, there is no doubt that the Israeli government was prepared to use the military to protect its interests. Prime Minister Olmert, the highest authority in Israel, made the following comments that highlight his capacity to employ the military

“The overall responsibility for this operation rested on me as the Prime Minister. I have no intention of sharing, nor do I ask to share this responsibility with anyone. This responsibility derives from my position as Prime Minister.”<sup>49</sup>

Not only did Prime Minister Olmert have the authority to initially deploy the IDF, his decision was supported by the other political parties. Olmert's intention was to continue the campaign as necessary to stop the continuous threat of Hezbollah.<sup>50</sup> His requests were met within cabinet as they decided it would continue the mission as Olmert emphasized “the government of Israel, on all its branches – ministers, directors and officials – is with you and behind you...”<sup>51</sup> Evidently, the government of Israel had the

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<sup>49</sup> Israel Prime Minister's Office. “PM Olmert's Speech at the Knesset Regarding the War in the North.” <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/08/speechknes140806.htm>; Internet; accessed 25 January 2011.

<sup>50</sup> Israel Prime Minister's Office. “At the Weekly Cabinet Meeting 17.7.06.” <http://www.pmo.gov.il/PMOEng/Archive/Cabinet/2006/07/govmes160706.htm>; Internet; accessed 3 February 2011.

<sup>51</sup> Israel Prime Minister's Office, “Address by PM Conference of Heads of Local Authorities.”

national authority to take the required measures to defend the state against the current and future attacks from Hezbollah.

The next area where Israel was justified in their cause to use force is comparative justice. Comparative justice is essentially the ability to punish those who have been determined to commit the initial unjust act. The reason that there is a dispute on whether this criteria should be included in the just war theory is that how can one be truly certain that one side is wrong and the other is right.<sup>52</sup> As Evans argues, the development of the international court would be a case where punitive action could be taken against a state if they had violated international law. There are several works written on the advantages and disadvantages of the international court of law but once again this paper's focus is on the actual events of the 2006 war and not on the effectiveness or benefits of the international criminal court of law. However, as events such as the 2006 Lebanon war and the development of the international criminal court do occur, the idea of re-thinking this criteria as part of the just war theory should be looked into. In the case of this argument comparative justice will not be evaluated.

The assignment of who was wrong in the events initiating the start of the second Lebanon war was on the part of Hezbollah. Hezbollah had planned the operation for months according to Shiek Hassan Nasrallah, the Hezbollah leader.<sup>53</sup> This unprovoked

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<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>; Internet; accessed 25 January 2011.

<sup>52</sup> Mark Evans, *Just War Theory: A Reappraisal*, (Edinburgh: Edinburgh University Press,), 64.

attack led to the immediate reaction by Israeli forces. Indeed there are historical incidents, which lead to the tensions and conflicts experienced by both sides as just some.<sup>54</sup> The historical events truly make it difficult to assess what the true intentions are of the Israeli government in their intent to use their military force against Hezbollah forces but their stated objectives were in line of the comparative justice aspect. Considering the stated objectives given by the leadership of Israel it appears that their intentions were not of a punitive nature. If the Israelis would have entered Lebanon and captured several members and would have targeted random but damaging targets, then the argument could be made as to whether or not they were punishing Lebanon and Hezbollah. Certain questions needed to be asked about the validity of their targets and whether the proper use of force was used to secure their objectives. This question will be further clarified in the next chapter that deals with *jus in bello*. For comparative justice, Israel's objectives were not openly intended to be of punitive nature. Their clearly stated objectives were in line with their right to defend their people from future attacks and for their ability to rescue their abducted soldiers. Conversely, the Winograd commission report provided some insight into the possible real intentions of the Israeli leadership. In the report, Prime Minister Olmert did convey his intentions to have a war against Lebanon before the events of July 2006. Although there is certain truth to this statement, the events of July 2006 did show that Hezbollah had the hasty intentions to cause a

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<sup>53</sup> Greg Myre, and Steven Erlanger, "Israeli Forces Enter Lebanon After 2 Soldiers Are Seized." *New York Times*, 12 July 2006. <http://www.nytimes.com/2006/07/12/world/middleeast/12cnd-mideast.html?scp=1&sq=Israeli Forces Enter Lebanon After 2 soldiers are seized&st=cse>; Internet, accessed 25 January 2011.

<sup>54</sup> Ibid.

reaction by Israel. Nasser Nasrallah had confirmed this that had they known the full-scale reaction of Israel he would not have approved the attacks that took place.<sup>55</sup> From the start, Hezbollah has proven that they incited the start of the war in 2006 and based on comparative justice, Israel was just in their ability to apply military force to the situation.

Having just cause to go to war also includes having the right intentions. Israel's stated cause for their offensive actions within Lebanon were justifiable. Israel had two main objectives for their campaign: regain their kidnapped troops along with stopping the barrage of rocket attacks, and destroying Hezbollah's capability to continue the attacks on Israel. The Israeli military used artillery fire and launch several airstrikes to try and stop the Hezbollah kidnapers from escaping with the two Israeli soldiers.<sup>56</sup> They targeted the bridges and roads along the escape routes of Hezbollah forces from the area of the abduction. The intent of their actions was justified as they intended to stop the ability of the kidnapers to get away. Indeed those who did kidnap the soldiers did get away but they had not, the war may have lasted less than the 32 days. The second part of the first objective of the government of Israel was to stop the rocket attacks against the civilians of Israel. The IDF attacked those Hezbollah positions that were firing rockets on the civilian population of Israel. By putting emphasis on targeting the rocket positions

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<sup>55</sup> Joseph Alagha, "The Israeli-Hizbullah 34-Day War: Causes and Consequences." *Arab Studies Quarterly* 30, no.2 (Spring 2008). <http://proquest.com>; accessed 7 March 2011, 2.

<sup>56</sup> Greg Myre, and Steven Erlanger, "Israelis Enter Lebanon After Attacks." *New York Times*, 13 July 2006. <http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel is Enter Lebanon After Attacks&st=cse>; Internet, accessed 25 January 2011.

and the escape routes of the Hezbollah aggressors, the intentions of Israel was seen to be that of defeating the immediate risks. Not all within the international community believed that the Israeli's intentions were focused on self-defence rather than retribution.<sup>57</sup> However, Israel's stated objectives provided a guideline to ending the strikes and retrieving their kidnapped soldiers; both clearly aligned with their right to defend themselves. These objections were designed to lead to an end state with the recognized international borders and status prior to the conflict.

One of the criteria that Israel did not fulfil was their assessment of probability of success. Although the objectives selected by the Israeli government were within the scope of right intentions their ability to reach those objectives were destined for failure. The initial reason Israel did not have a probability of success was that their changing doctrine on fighting irregular warfare was not solidified.<sup>58</sup> This was evident in the IDF's belief that the use of air power would set the conditions for an easy defeat of the enemy. However, their campaign did not have a sound operational or strategic plan to support and therefore their actions were isolated. Their strikes, consisting of vast precision munitions, focused on isolating the supply lines to the Hezbollah force with no link to a

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<sup>57</sup>John Kifner, and Greg Myre, "The Mideast Crisis: Aftermath.; Human Rights Group Accuses Israel of War Crimes in Lebanon." New York Times, 24 August 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A05E6DC133EF937A1575BC0A9609C8B63&scp=1&sq=the%20mideast%20crisis:%20aftermath:%20human%20rights%20group%20accuses%20israel%20of%20war%20crimes%20in%20lebanon&st=cse>; Internet; accessed 8 April 2011.

<sup>58</sup>New York Times. "English Summary of the Winograd Commission Report." 30 January 2008. <http://www.nytimes.com/2008/01/30/world/middleeast/31winograd-web.html?scp=1&sq=English%20summary%20of%20the%20winograd%20report&st=cse>; Internet; accessed 9 March 2011. See points 17, 18, 19.

higher plan. Unfortunately, the capability and placement of the Hezbollah forces ensured the IDF had very little chance of success. What was seen as the battle of David versus Goliath, the Israeli forces were not able to succeed in securing their objectives.

Kinetic operations were not the only failure that the Israeli military should have seen at the outset of hostilities. Israel's lack of ability to master the use of psychological warfare would make them inferior to the capability of Hezbollah. Dr Pahlavi echoed this outcome in his work that highlighted the superior information operations skills of Hezbollah. According to Dr. Pahlavi, "since it lacks weapons of mass destruction, Hezbollah masters the use of weapons of mass persuasion."<sup>59</sup> Al-Manar, Hezbollah's primary media outlet was targeted by the Israeli psychological operations teams but with little effect. The superior information distribution of Hezbollah should have been respected and if the Israeli forces were serious about targeting the information operations of Hezbollah they would have contributed more focus to it<sup>60</sup>. Yes the Israelis were able to somewhat affect the information distribution during the war but realistically they were the inferior force entering the war. Had the Israeli's been able to successfully compete with Hezbollah on the information operations capability the war may have taken a different turn.

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<sup>59</sup> Pierre C. Pahlavi, "The 33-Day War: An Example of Psychological Warfare in The Information Age." *Canadian Army Journal* 10, no.2 (Summer 2007),17.

<sup>60</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel-Hamas-Hezbollah Conflict* (Washington, DC: US Government Printing Office, September 15, 2006), 25.

The next criterion, proportion, is closely linked to likelihood of success. Proportion in *jus ad bellum* refers to the costs of the war versus the likelihood of success. As with their belief they were likely to succeed, Israel also believed that their eventual costs would pay off in the end leading them to believe they were just. As Prime Minister Olmert put it on 31 July, 2006

“...we will finish this war when the threat is removed, when our kidnapped soldiers...and when you can live safely in your homes, on the streets of your cities and towns in your workplace.”<sup>61</sup>

This shows that the government believed it was worth all the losses that were to come. If the Israeli government would have known the actual losses that they were going to use they would not have engaged Hezbollah forces as they did. Some of the financial losses were four billion Euros for the 32-day war, additionally 1.2 billion related to industry and tourism.<sup>62</sup> Apart from the financial losses there was also a considerable loss of life.

Although the numbers will always be disputed there more innocent people died that did not have to. It is truly difficult to assess whether military actions and the decision to go to war would cost so much but indeed there was little time for the Israelis to rescue their soldiers. Had they not, they began the greater challenge of getting them back as was

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<sup>61</sup> Israel Prime Minister’s Office, “Address by PM Conference of Heads of Local Authorities.” <http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>; Internet; accessed 25 January 2011.

<sup>62</sup> Pierre C. Pahlavi, “The 33-Day War: An Example of Psychological Warfare in The Information Age.” *Canadian Army Journal* 10, no.2 (Summer 2007), 13.

evident when it took approximately two years to get the bodies of the soldiers back to Israel.<sup>63</sup> As warfare is a creation of human beings, emotions will play a major role in the reasoning process and could possibly blur the actual capability to assess the final outcome.

The final criterion evaluated is the use of force as a last resort. In the 2006 war Israel had several options once Hezbollah forces attacked them. Israel chose to use force in order to protect its civilians and try to rescue their kidnapped soldiers rather than trying to negotiate for their release. The history of prisoner swaps evidently played an important role in this decision as Israel did not want to have a repeat of past experiences.<sup>64</sup> The Hezbollah offensive conducted on the two targets in the north forced the hand of the Israeli military to attack the escape routes of the Hezbollah forces in order to protect their soldiers. Accordingly, their primary option was to use force to cut off the retreating Hezbollah forces back into Lebanon. This is not a justification for the amount of force used, but evidently they believed that force had to be used to free their comrades. If the Israeli government had not authorized the military actions, Israel believed that there not only would have been less chance of getting their soldiers back, but they also believe the situation would repeat itself in the future. It was the objective of the Hezbollah forces

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<sup>63</sup> Ethan Bronner, "Israel Agrees to Exchange Prisoners for Dead Soldiers." *The New York Times* (30 June 2008). <http://www.nytimes.com/2008/06/30/world/middleeast/30mideast.html?scp=13&sq=Return+of+the+bodies+of+2+Israeli+Soldiers&st=nyt>; accessed 25 January 2011.

<sup>64</sup> Greg Myre and Steven Erlanger, "Israelis Enter Lebanon After Attacks." *New York Times*, 13 July 2006. <http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel+is+Enter+Lebanon+After+Attacks&st=cse>; Internet, accessed 25 January 2011

to enter into a negotiation for the release of their prisoners within the Israeli penal system. The Hezbollah leader suggested the possibility of a package deal to exchange prisoners.<sup>65</sup> Evidently there is an underlying issue with the exchange or return of prisoners between Hezbollah but this issue lends itself to the ability of Israel to protect their soldiers to avoid having to partake in prisoner swaps. In the specific case of the commencement of the 2006 Lebanon campaign the decision to try to interdict the Hezbollah forces was just.

The Israeli government was also just in the use of force to defend the civilian population in northern Israel. As the Hezbollah forces used a barrage of Katyusha rockets to cause a feint in the north, they targeted a completely innocent group of civilians who had no association to a military target except for the fact that they belonged to the state of Israel.<sup>66</sup> Israel could have been able to act without using military force but only in the case where they could be able to be certain that they could apply pressure for the release of their soldiers and the future use of missiles and rockets would cease. This would have been achievable through the use of international pressure and possibly negotiations amongst senior political leaders but at a slower price. However, not only were the soldiers taken by Hezbollah forces in the north but in southern Israel a similar

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<sup>65</sup> Greg Myre and Steven Erlanger, "Israeli Forces Enter Lebanon After 2 Soldiers Are Seized." *New York Times*, 12 July 2006. <http://www.nytimes.com/2006/07/12/world/middleeast/12cnd-mideast.html?scp=1&sq=Israeli Forces Enter Lebanon After 2 soldiers are seized&st=cse>; Internet, accessed 25 January 2011.

<sup>66</sup> Allan, Cowell, "Amnesty Says Hezbollah Committed War Crimes." *New York Times*, 14 September 2006. <http://www.nytimes.com/2006/09/14/world/middleeast/14amnesty.html?scp=1&sq=Amnesty%20Says%20Hezbollah%20Committed%20War%20Crimes&st=cse>; Internet, accessed 8 April 2011.

incident involving a kidnapped Israeli soldier by Hamas forces.<sup>67</sup> The second act provided a reality to Israel that they had but no option to act with force. Additionally, the pressure from the international community would have been slow stalling the efforts of the Israeli government to the initial release of their soldiers. The quick action was designed to avoid having to negotiate their releases. One aspect of the situation that needs to be assessed is whether or not the Israeli courts were actively prosecuting those Hezbollah leaders responsible or whether they were simply detaining them without providing them with the opportunity for justice. If the latter is the case then pressure from Hezbollah and possibly Lebanon along with their allies could have been sufficient to have Israel release the prisoners. However, Hezbollah decided to use the Israeli soldiers as bargaining chips and they faced a 34-day war because of it. Israel did have other options to deal with the situation but along with their history with Hezbollah, Israel had to use force to secure the release of their soldiers and protect their civilians from a future attack.

Just cause does not mean that in the end there was an overall just obtained. Israel had just cause to go to war based on the initiating actions of Hezbollah but Israel's own actions can eventually lead to an unjust campaign. Although it has been shown that Israel had the just cause to go to war it does not mean that the evaluation of just cause is ceased. Jus ad bellum should have been continually assessed to confirm whether or not the cause

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<sup>67</sup> Greg Myre, and Steven Erlanger, "Israelis Enter Lebanon After Attacks." *New York Times*, 13 July 2006.  
<http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel is Enter Lebanon After Attacks&st=cse>; Internet, accessed 25 January 2011.

was still justified. Had it not been, some sort of resolution should have been sought. This would occur if the enemy were at a point where they could not fight anymore or possibly when the damage to the state would be beyond that of what the state could handle. A case of this was the United States use of the atomic bomb on Hiroshima and Nagasaki. Once the bombs hit the Japanese lost the capability to continue the campaign. Israel never did reach this point during the second Lebanon War; however they should have continually assessed the jus ad bellum criteria to guide them in reasoning their use of force to the situation.

## JUST IN BELLO

The execution of a war campaign is truly complex. It takes great strategy to be able to defeat one's enemy and emerge victorious. Truly, winning is the desired result, however the eventual winner may be the side that did not win the engagements but managed to win the war. If the conduct of military forces during war were unjust, then the intended tactical or operational victory could indeed lead to a strategic failure.

The proper conduct of a military force during armed conflict is as important as having just cause to going to war. Even though a state has the right to defend itself from the aggressions of another, it does not give them the right to use excessive force to destroy their enemy. Simply put, it is like dropping a two thousand pound bomb on a lone soldier in a field. Yes, the bomb will destroy its intended target but it may not be the necessary means. Admittedly, this example is simple, unlike the complexities of pursuing a target within a populated area not to mention within proximity to civilians. This is a fine line and it takes human judgment and moral reasoning to determine what actions will be taken. If the action taken is not of sound reasoning they can be said to be unjust.

During the 2006 Lebanon War, Israel's moral reasoning was flawed as they were unjust in their conduct during the war. Although the state of Israel had the inherent and lawful right to defend themselves against the initial attacks by Hezbollah forces, this did

not mean they did not have to conduct themselves within the *jus in bello* tenets.<sup>68</sup> The three tenets that will be utilized to demonstrate that the Israelis were unjust are distinction, proportionality, and military necessity. Additionally, it was evident that Israel had emotional ties to the past conflict in the region. This is based on their history within the region and therefore this finding must be factored in the argument that Israel was unjust. Certainly there were several mitigating factors in the Israeli's decision; however it did not provide them justification for their actions.

One of the complex factors that existed in the Israeli's reasoning in their application of military force was the presence of emotions. The scars of previous conflicts and incidents were ever present throughout the conflict. Emotions do play an important part in the ability of the state to apply the proper amount of force in past conflicts. The ability of emotions to shape the application of military force can have undesired effects, which may lead to the eventual use of unjustified force. Having the weight of historical engagements affect the reasoning to apply force in a just manner. Hezbollah had been known for their attacks on innocent civilians and the actions they took in 2006 were no different than the others. The built up animosity removed the sensitivities of reasoning that led to the Israeli actions during the second Lebanon war.

In 2006, the Israeli defence force was burdened by the emotional attacks by Hezbollah forces. By allowing their emotions to influence their military decisions, Israel responded with an unjust military force. There were two factors that contributed to the

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<sup>68</sup> Mark Woods, "The Nature of War and Peace: Just War Thinking, Environment Ethics, and Environmental Justice" in *Rethinking the Just War Tradition* (New York: State University of New York Press, 2007), 26.

Israeli emotional stress. The first emotional that flawed Israel's decision-making process was the capture of two Israeli soldiers in July 2006. The Israeli soldiers were captured while three other soldiers were killed while on a routine patrol along the Lebanese border. This action by Hezbollah was not the first kidnapping of an Israeli soldier in prior weeks beforehand.<sup>69</sup> This event was executed while Israel was dealing with the same scenario in southern Israel. Hamas, a militant group out of Palestine, captured another Israeli soldier in a similar operation. These incidents drew a heated response from Prime Minister Olmert. Olmert passionately stated, "We will search every compound, target every terrorist who assists in attacking the citizens of Israel, and destroy every terrorist infrastructure, everywhere."<sup>70</sup> This shows the emotional connection where a head of government makes statements that cannot be fully fulfilled, as it would take several years to accomplish the said tasks. Indeed the reaction from the Israeli leadership had to be swift and strong, however this brought with those actions the emotional ties that affected their ability to sound reasoning. If the Israeli government did not have the emotional burden of the past, they would have been less likely to make unsound choices in their application of military force. Being affected by their emotions did not help Israel ensure it conducted its application of force justly.

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<sup>69</sup> Greg Myre, and Steven Erlanger, "Israelis Enter Lebanon After Attacks." *New York Times*, 13 July 2006.  
<http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel is Enter Lebanon After Attacks&st=cse>; Internet, accessed 25 January 2011.

<sup>70</sup> Israel Prime Minister's Office. "Address by Prime Minister Ehud Olmert – The Knesset."  
<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechknesset170706.htm>; Internet; accessed 25 January 2011.

Hezbollah targeting innocent civilians also predicated another event that affected the emotional reasoning use military force by Israel. Emotional stress was felt by Israel as the Hezbollah militants fired several Katyusha rockets into the northern civilian population of Israel. It sent many fleeing the area in fear for their safety, a sign that the government did not want to have happen.<sup>71</sup> By targeting innocent civilians, Hezbollah imparted emotional stress on the government of Israel. That stress led to some decisions that had unjust results. Had Hezbollah not targeted and killed forty-three civilians, Israel might have shown some restraint in resulting to heavy force.<sup>72</sup> However, Israel felt forced to protect the very civilians who have the right to live under the security of the country and therefore their actions were heavy. This emotional experience was not new for the State of Israel. Hezbollah had sporadically fired four thousand rockets into Israeli civilian neighbourhoods targeting the innocent population, a tactic that has historically caused Israeli aggression towards Hezbollah and Lebanon.<sup>73</sup> The fact that homes are equipped with bomb shelters and their use is “as common place as bracing for a hurricane

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<sup>71</sup> Greg Myre, and Steven Erlanger, “Israelis Enter Lebanon After Attacks.” *New York Times*, 13 July 2006.  
<http://www.nytimes.com/2006/07/13/world/middleeast/13mideast.html?scp=1&sq=Israel is Enter Lebanon After Attacks&st=cse>; Internet, accessed 25 January 2011.

<sup>72</sup> Israel Prime Minister’s Office. “Address by PM Conference of Heads of Local Authorities.”  
<http://www.pmo.gov.il/PMOEng/Archive/Speeches/2006/07/speechcity310706.htm>;  
Internet; accessed 25 January 2011.

<sup>73</sup> Greg Myre, “TURMOIL IN THE MIDDLE EAST: SHELTER; In Israel’s North, Waiting Out Rocket Attacks.” *New York Times*, 18 July 2006.  
<http://query.nytimes.com/gst/fullpage.html?res=9B00EFDF163FF93BA25754C0A9609C8B63&scp=1&sq=turmoil in the middle east: Shelter&st=cse>; Internet; accessed 8 April 2011.

in Florida.”<sup>74</sup> The cowardice action of firing rockets at civilians was in complete disregard for international law and as a result it led to an imbedded emotional grudge that the Israeli population and government had not forgotten.

As presented, emotions played an important role in the decisions and reasoning of Israel’s response to Hezbollah’s actions. Although the emotional scars felt fresh during Hezbollah’s attack in July 2006, it was not an excuse for the unjust actions by Israel. Marred by the emotions, Israel’s reasoning was flawed through all three criteria of *jus in bello* which is not an excuse for their acting unjust.

The first area where Israel was unjust in their application of force during the 2006 Lebanon War was distinction. Distinction is the inability to distinguish between lawful combatants and non-combatants. In most conventional conflicts it is often easier to distinguish between the two as one will wear a uniform and the other will not. Certainly, not all conflicts are equal. In the unconventional environment, which was the case in Lebanon, it was harder to tell who the enemy was as some fighters concealed themselves within the population.<sup>75</sup> This provided Israel with some difficulties in attacking Hezbollah forces. However, if Israel was unable to distinct between the enemy and the

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<sup>74</sup> Greg Myre, “TURMOIL IN THE MIDDLE EAST: SHELTER; In Israel’s North, Waiting Out Rocket Attacks.” *New York Times*, 18 July 2006. [http://query.nytimes.com/gst/fullpage.html?res=9B00EFDF163FF93BA25754C0A9609C8B63&scp=1&sq=turmoil in the middle east: Shelter&st=cse](http://query.nytimes.com/gst/fullpage.html?res=9B00EFDF163FF93BA25754C0A9609C8B63&scp=1&sq=turmoil%20in%20the%20middle%20east%20Shelter&st=cse); Internet; accessed 8 April 2011.

<sup>75</sup> Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebsco/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 292.

innocent civilians they should have been selective on the targets they chose to pursue. This was evident when they began bombing the sites where Hezbollah was operating. Mark Regev, the spokesman for Israel's Foreign Ministry pointed out that they had difficulties only targeting Hezbollah forces as they used civilian facilities to operate out of. Regev stated, "Under the rules of war you are legally entitled to target infrastructure that your enemy is exploiting for its military campaign."<sup>76</sup> Certainly using civilian infrastructure when occupied by innocent civilians is not considered lawful under the Geneva Conventions; however it does not mean that the infrastructure can or should be targeted.<sup>77</sup> There is a distinct caution that needs to be used once in this type of environment. A tactical strike on a civilian target may indeed achieve the aim destroying Hezbollah's capabilities but if looked at from the strategic level, it may be a failure. The pictures and reports of dead civilians did not help the overall plan of the government of Israel. It is truly hard to believe that the tactical units would have the green light to strike any civilian target if Hezbollah was using it for their operations. Had Israel showed some restraint in hitting these critical targets they could have potentially gained the support of the international community. Indeed Hezbollah was targeting Israeli civilians; however Israel did not need to gain further hatred within the international community and more importantly in the region.

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<sup>76</sup> John Kifner, and Greg Myre, "The Mideast Crisis: Aftermath; Human Rights Group Accuses Israel of War Crimes in Lebanon." New York Times, 24 August 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A05E6DC133EF937A1575BC0A9609C8B63&scp=1&sq=the%20mideast%20crisis;%20aftermath;%20human%20rights%20group%20accuses%20israel%20of%20war%20crimes%20in%20lebanon&st=cse>; Internet; accessed 8 April 2011.

<sup>77</sup> International Committee of The Red Cross. The Geneva Conventions of August 12 1949. ICRC Productions, 24.

Granted, Hezbollah was using civilians as shields in order to present a targeting problem to the Israelis.<sup>78</sup> This should have been mitigated by using restraint that would have aided the overall end state of getting the people of Lebanon to reject Hezbollah operating within their communities. Had Israel not targeted the areas where civilians resided there would have been fewer casualties. One way they could have solved the problem is through technology. Israel was far more advanced in their military equipment and therefore they could have utilized the capability to reduce the amount of deaths. Through the use of sensors, Israel could have tried to gain fidelity on the situation and only strike when they were certain civilian casualties would be held to a minimum. Although this would have been difficult, Israel could have used all available media to gain strength amongst the international audience. The civilian death toll as a result of the 2006 Lebanon war was nearly 1200 civilians and tens of thousands of homes destroyed and or damaged.<sup>79</sup> This staggering number shows how the Israelis were unable and unwilling to distinctly strike legitimate targets without causing civilian casualties.

The civilian casualties were not all caused due to Israeli negligence. Hezbollah were also negligent in their use of propaganda to serve their cause. Hezbollah exploited

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<sup>78</sup> Allan Cowell, "Amnesty Says Hezbollah Committed War Crimes." New York Times, 14 September 2006. <http://www.nytimes.com/2006/09/14/world/middleeast/14amnesty.html?scp=1&sq=Amnesty%20Says%20Hezbollah%20Committed%20War%20Crimes&st=cse>; Internet; accessed 8 April 2011.

<sup>79</sup> Amnesty International Report. "Israel and The Occupied Territories." 2007 Report, 147-150; <http://archive.amnesty.org/report2007/>; Internet; accessed 25 January 2011.

their media advantage by staging the bombsites. The staging would take place after an Israeli strike within a populated area. Al-Manar agents would bring in international journalists and show dead bodies where the strikes took place.<sup>80</sup> Using their media outlet Al-Manar, they were able to project their desired message. That message was that Israel was targeting civilians and they were the cause for the mass destruction. By staging the areas where bombs had impacted, Al-Manar was able to show the world the kind of targets Israel was hitting.<sup>81</sup> Indeed Israel was not solely targeting civilian targets throughout the campaign as projected by Al-Manar. Unfortunately, the perception was seen as though they were which did not serve them well for their fight for the international support they needed. Even if the Israelis had hit a civilian target it was going to be in the media in a flash. Hezbollah's influence of the international media outlets and the staging of bombing sites enabled them to show the world what they wanted them to see. The Israelis were unable to match the ability of Al-Manar to project their perceptions of the war.

The second aspect of distinguishing between civilians and lawful combatants is the effects of collateral damage. Collateral damage occurs when the intended target is hit yet the effects are felt elsewhere. The result can be simple damage to infrastructure or it can be as severe as loss of life. The collateral damage that Israel caused during the 2006 Lebanon campaign was unacceptable. Their indiscriminate bombing of targets that had

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<sup>80</sup> Pierre C. Pahlavi, "The 33-Day War: An Example of Psychological Warfare in the Information Age." *Canadian Army Journal* 10, no.2 (Summer 2007): 12-24.

<sup>81</sup> Pierre C. Pahlavi, "The 33-Day War: An Example of Psychological Warfare in the Information Age." *Canadian Army Journal* 10, no.2 (Summer 2007): 12-24.

posed a great threat of collateral damage to those living there was far too great. Even though Israel used a considerable amount of precision-guided munitions (PGM's), they were still unable to reduce the amount of civilian casualties. The reason for this is that they did not show restraint when bombing sites that could have potentially led to civilian casualties. By accepting the effects of the collateral damage within the urban environment, Israel proved their actions were unjustified. Had the Israeli Air Force been reluctant to accept major collateral damage they would not have contributed to so many civilian casualties. Indeed, Hezbollah had played this situation to their advantage. It forced Israel to try and be as precise as possible with their precision munitions.

However, Israel should have avoided some of the temptations to strike in order to enable success on a higher level. This would have possibly led to greater international support giving Israel the advantage it needed during the campaign. Precision weapons were not the only weapons employed in Lebanon. The use of cluster munitions also added to the Israeli's unjustified actions.

Another instance where Israeli was not discriminate in their attacks amongst the people of Lebanon was their use of cluster munitions. Cluster munitions are designed to hit multiple targets upon hitting the target. It is made up of many individual bomblets which are packaged together until its employment. These bomblets are designed to explode upon contact with the ground. However, there are many accounts of their employment where many of the bomblets did not explode and they remained imbedded in

the area proving difficult when they remain for some time and find their way into the hands of innocent civilians.<sup>82</sup>

Israel unjustly used cluster munitions to target Hezbollah forces operating in Lebanon. Their use added to the civilian death toll as civilians found themselves in the middle of scattered bomblets around several towns in Lebanon. Tekimiti Gilbert, the operations chief of a United Nations removal team, commented on the dangerous situation, “up to now there are 170 cluster bomb strikes in south Lebanon. It’s a huge problem. There are obvious dangers with people, children, and cars. People are tripping over these things.”<sup>83</sup> As a result, the international impression of the war against Hezbollah was adding to the unfavourable situation for the Israelis as they were openly criticized by the United Nations, non-governmental organisations, and other foreign governments for their employment of cluster munitions.<sup>84</sup> Israel had claimed that they were in accordance with international law and then pointed to the fact that they were only targeting Hezbollah launch sites for the Katyusha rockets. The Israelis may have used

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<sup>82</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006), 20.

<sup>83</sup> John Kifner, and Greg Myre, “The Mideast Crisis: Aftermath; Human Rights Group Accuses Israel of War Crimes in Lebanon.” *New York Times*, 24 August 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A05E6DC133EF937A1575BC0A9609C8B63&scp=1&sq=the%20mideast%20crisis;%20aftermath;%20human%20rights%20group%20accuses%20israel%20of%20war%20crimes%20in%20lebanon&st=cse>; Internet; accessed 8 April 2011.

<sup>84</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. Washington, DC: US Government Printing Office, September 15, 2006.

the cluster munitions in what they thought was within the law, but the fact remains that the littered Lebanon with cluster munitions which had not exploded. The unexploded ordinance was also tempting to children as the UN had at least five reports of children being killed due to the cluster munitions.<sup>85</sup> Due to their use of cluster munitions and the inability to specifically target Hezbollah fighters, Israel was unjustified in their distinction of targeting lawful combatants.

The next criterion where Israel was unjust in their war with Lebanon was their excessive use force. According to just war theory, there are two types of unjust force: excessive, and overwhelming. Overwhelming force is said to be just in that it is focused on bringing a quicker end to a conflict and ideally with less casualties. An example where overwhelming force was used to bring about a speedy end to a conflict was the 1991 Gulf War. The United States used their superior air power to strike the Iraqi forces who had invaded Kuwait. It was believed that Desert Storm<sup>86</sup> provided a clear example where

“...intense and focused air operations against the Iraqi armed forces created the preconditions for one of the more rapid and crushing combined arms ground campaign in modern history.”<sup>87</sup>

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<sup>85</sup>John Kifner, and Greg Myre, “The Mideast Crisis: Aftermath; Human Rights Group Accuses Israel of War Crimes in Lebanon.” New York Times, 24 August 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A05E6DC133EF937A1575BC0A9609C8B63&scp=1&sq=the%20mideast%20crisis;%20aftermath;%20human%20rights%20group%20accuses%20israel%20of%20war%20crimes%20in%20lebanon&st=cse>; Internet; accessed 8 April 2011.

<sup>86</sup>Operation Desert Storm was the name given to their mission to remove the Iraqi military from Kuwait.

Had the US not used overwhelming force they could have possibly faced a stalemate with the Iraqi ground forces.

Israel did use overwhelming force in the 2006 Lebanon War. They intended to strike as many and as much of the Hezbollah's capability in order to reduce the immediate and future threat. Through the use of a heavy air campaign, Israel was just in their goal to reduce the amount of casualties during the war by applying overwhelming force. However overwhelming force is not the only force that Israel resorted to.

Israel used excessive force in their 2006 campaign against Hezbollah. Excessive force, which "is the use of force that causes more damage in battle than necessary"<sup>88</sup> is unjustified in the sense of just war theory. Doctrinally, the Israeli military planned to use their superior military strength in their campaign to overwhelm Hezbollah as well as reducing their ability of to build weapons caches. Instead, Israel used their military force to excessively destroy much of the infrastructure and impose major damage to Lebanon. Based on their stated objectives there was no necessity to strike some of the targets they eventually struck. For example, the Israeli's struck the several civilian infrastructure namely main roads, bridges and petrol stations.<sup>89</sup> In the end neither of their overall

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<sup>87</sup> John Andreas Olsen, *A History of Air Warfare*. (Washington: Potomac Books Inc, 2010), 198.

<sup>88</sup>Nicholas Fotion, *War & Ethics: A New Just War Theory*. (London: Continuum International Publishing Group, 2007), 21.

<sup>89</sup> John Kifner and Greg Myre, "The Mideast Crisis: Aftermath.; Human Rights Group Accuses Israel of War Crimes in Lebanon." *New York Times*, 24 August 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A05E6DC133EF937A1575BC0A9609>

objectives were achieved with excessive force. The main area where Israel used excessive force was their use of aerial bombardment of Lebanese targets.

How much force is appropriate to be justified in achieving the effects required to support a military campaign? There is no standard international formula that can be applied. One cannot apply a simple mathematic formula that would indicate the forces and weaponry needed. For example, there is no formula where you add the amount of forces one country possesses and then multiply times three to get your required force ratio to ensure there is no threat of excessive force. The calculations are not solely scientific and cannot be approached in that manner. War is not as simple as that. It is an art form as much as it is a science. In order to determine what is needed it takes those in the military to provide that sound assessment to the government on the required force. In fact, applying forces to situation are more subjective which is where the issue with just or unjust comes into play. If the use of force is too strong, say dropping a nuclear bomb on Somalia pirates to interdict their operations then it would be seen as unjust as it is unnecessary to use such means. On the other hand, applying a minimal amount of force would ensure that the attacks would not stop and therefore it would lead to a drawn out war. Truly, applying the right amount of force is difficult to balance especially when there is emotion and frustration built into the factors. However, Israel was still responsible to use a respectable amount of force to meet their objectives.

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[C8B63&scp=1&sq=the%20mideast%20crisis:%20aftermath:%20human%20rights%20group%20accuses%20israel%20of%20war%20crimes%20in%20lebanon&st=cse](#); Internet; accessed 8 April 2011

Doctrinally, the Israeli military was not prepared to fight the 2006 Lebanon War. The cause for Israel's neglect was they failed to realize that their tactics were less than ideal. Brigadier General Itai Brun, a former Israeli military officer, highlighted this. General Brun believed that during the second Lebanon war there was a significant change with a clear deviation between air and ground forces.<sup>90</sup> This was a change in the Israeli doctrine that unfortunately only worked for certain targets. If they had managed to integrate their tactical plan with a sound operational and strategic plan they would have possibly been able to reduce the amount of force needed to achieve their objectives. Israel was not synchronized in their doctrine, which highlighted their belief that they could have won the war with air power alone. According to the Winograd committee's final report<sup>91</sup>, there was a disjointed plan from the very beginning of the campaign, and still throughout it was never corrected. This led to the massive use of force by both the air and land forces at the direction of the political and military leadership. It was stated in the Winograd report that "the responsibility for this basic failure in conducting the war lies at the doorstep of both the political and the military echelons."<sup>92</sup> If the tactical military plan would have been in synchronization with the operational and strategic plan

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<sup>90</sup>John Andreas Olsen, *A History of Air Warfare* (Washington: Potomac Books Inc, 2010), 4.

<sup>91</sup>New York Times. "English Summary of the Winograd Commission Report." 30 January 2008. <http://www.nytimes.com/2008/01/30/world/middleeast/31winograd-web.html?scp=1&sq=English%20summary%20of%20the%20winograd%20report&st=cse>; Internet; accessed 9 March 2011.

<sup>92</sup>New York Times. "English Summary of the Winograd Commission Report." 30 January 2008. <http://www.nytimes.com/2008/01/30/world/middleeast/31winograd-web.html?scp=1&sq=English%20summary%20of%20the%20winograd%20report&st=cse>; Internet; accessed 9 March 2011.

the outcome would have been different. General Brun argument lends credit to fact “that the challenge is to incorporate all of these elements into a comprehensive conceptual framework where operational and strategic excellence matches tactical proficiency”<sup>93</sup>.

The failed application of proper doctrine by the Israeli military led to a level of higher force than required for the circumstances. The death toll from their inability to coordinate their capabilities led to unjustified actions. According to General Uri Saguy, the former head of military intelligence, believed there was a lot that the Israeli government and military could take away from the war.<sup>94</sup> “This war, he hopes, should prompt our leaders to understand their limits of strength.”<sup>95</sup>

The use of air power as the sole force for the greater part of the conflict by the Israeli military was excessive. Doctrinally, they believed they could win alone with air power, however history has proven otherwise. Israel executed more than seven thousand airstrikes within Lebanon.<sup>96</sup> The thirty-four day war on average saw 205 airstrikes a day. Indeed, they were able to gain and control the air above their objectives, but they also

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<sup>93</sup>John Andreas Olsen, *A History of Air Warfare* (Washington: Potomac Books Inc, 2010), 4.

<sup>94</sup>Pierre C. Pahlavi, “The 33-Day War: An Example of Psychological Warfare in the Information Age.” *Canadian Army Journal* 10, no.2 (Summer 2007): 20.

<sup>95</sup>Pierre C. Pahlavi, “The 33-Day War: An Example of Psychological Warfare in the Information Age”..., 20.

<sup>96</sup>Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebsco/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 281.

destroyed much of the infrastructure around southern Lebanon while causing many civilian deaths. By focusing on the use of air power to bring about a favourable situation in Lebanon, the Israeli military disregarded the potential outcomes for their actions. Their actions, according to Amnesty International resulted in “1,183 killed, one-third of which were children, and 4,054 were injured”<sup>97</sup> and a staggering one-fourth of the Lebanese population were displaced<sup>98</sup>. Had the Israelis avoided hitting such areas there may have been less animosity towards them in the final outcome, however the larger part of the Lebanese population more than likely became enemies of Israel.

The Israelis argued that they had used precision munitions to reduce the amount of civilian casualties. However, the Israeli military intentionally hit civilian targets. Evidence from the Winograd committee’s report indicated that the targeting of civilian infrastructure by Israeli airstrikes was intentional.<sup>99</sup> In fact, Israeli doctrine has turned to precision munitions as the weapons of choice according to Israeli Air Force Brigadier General Itai Brun, “Israeli policy makers have discovered a new tool in the Israeli Air

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<sup>97</sup> Amnesty International Report. “Israel and The Occupied Territories.” 2007 Report, 147-150; <http://archive.amnesty.org/report2007/>; Internet; accessed 25 January 2011.

<sup>98</sup> Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebsco/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 282.

<sup>99</sup> Neta Oren, Daniel Rothbart, and Karina V. Korostelina. “Striking Civilian Targets During the Lebanon War – A Social Psychological Analysis of Israeli Decision Makers. <http://media.web.britannica.com/ebsco/pdf/296/42869296.pdf>; Internet; accessed 27 January 2011, 292.

Force and its precision-guided munitions.”<sup>100</sup> Although they primarily used precision munitions, Israel carried out thousands of airstrikes during the conflict of which many were targeted at civilian infrastructure. Had they had the proper doctrine, they would have been able to use their airstrikes as part of the operational and strategic plan which would have had them reduce the amount of damage to civilian infrastructure and a reduction in the amount of civilian casualties. Once again, Hezbollah was also to blame for a lot of the events that occurred during the conflict. However, Israel ended up in the end losing the war of public opinion that proved to be a major loss<sup>101</sup>.

Clearly, Israeli’s use of air power was fundamentally flawed which led to their unjustified use of force against targets in Lebanon. Instead of using overwhelming force to capitulate the enemy, they used excessive force which eventually caused international disapproval of their actions and eventually losing the war. Stemming from their doctrine, Israeli forces applied an excessive amount of force during the 2006 Lebanon campaign leading to strategic failure. Their failure also proved that they were unjust in their conduct during the war, even though that had clear just cause to act. The Winograd committee echoed the conduct of senior officials and their handling of the second Lebanon War. Had they had a strategic plan that would have enabled their tactical successes to support the outcome may have been different.

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<sup>100</sup> John Andreas Olsen,. *A History of Air Warfare*. (Washington: Potomac Books Inc, 2010), 5.

<sup>101</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006, 10-15.

There were two areas that Israel could have put more emphasis to better their chances of success. They are the use of international pressure and a robust information operations campaign. These two areas would have aided in drawing the campaign to a close in a much shorter timeframe. Had it not, Israel would have had the support of the international community which would have possibly changed the final outcome.

The use of international pressure from the United Nations is one way that Israeli could have forced Lebanon to take action against Hezbollah. With the backing of the international community a deal could have been brokered allowing for the return of the two soldiers. Additionally, it would have greatly reduced the fighting necessary further reducing the civilian casualties and the collateral damage. However, not all military actions should have been off the table. The requirement to stop the initial barrage of rockets on the Israeli population should have been the focus. Certainly, those missions that were going to strike sensitive areas where the loss of human life was going to be great should have been pursued by other means. In the international community, just the display of restraint would have bolstered the Israeli's image to be in the interest of peace. Once Israel did not have the ability to secure the return of their soldiers they should have turned to peaceful negotiations.

Israel ultimately was unjustified in their conduct during the 2006 Lebanon War. Their actions from decision to execution did not serve the better interest of humanity. They were unable to distinctly target Hezbollah fighters within urban areas which contributed to the growing number of civilian casualties. Israel did put a greater emphasis on PGM's which were designed to reduce the collateral damage. However

their targets within the civilian population did not allow for the precision aspect of the weapons to be utilized. The collateral damage caused by the IDF was unacceptable as they were portrayed in the media as attacking civilian targets. Furthermore, Israel's use of cluster munitions defied the international non-acceptance of the use of these indiscriminate killers. The unexploded bomblets left to kill and maim those who picked them up or touched them makes them as dangerous as land mines. Their use by the Israeli Air Force showed that they had little concern for those who would eventually be effected by their wrath. Had Israel engaged the UN and other international players to put pressure on Lebanon and Hezbollah to hand over the kidnapped soldiers. Hezbollah had indicated that they were not expecting the response that Israel used to get their soldiers back, however after decades of turmoil and similar incidents when did Hezbollah believe Israel would have had enough. Hezbollah's role in the 2006 conflict did force the hand of Israel. It cannot be forgotten how the incident started and what drew the Israeli government to have to resort to military force. As mentioned earlier, Israel had the option of using one of the other tools that DIME (Diplomacy, Information, Military, and Economics) provides. In the end, Israel was negligent in their actions during the war. As the war drew to a close, Israel had the opportunity to regain international respect and change their ways of executing military intervention.

## JUS POST BELLUM

Although warfare brings out the worst in humanity, the end of war should prove those involved are indeed searching for peace. As war draws closer to an end, both sides look to make concessions and agreements to ensure lasting peace. In just war theory *jus post bellum* deals with this area of warfare. *Jus post bellum*, or the just conduct upon completion of war, is gaining importance in the just war theory.<sup>102</sup> It was not included within the classic just war theory but its importance has shown to be growing with such terminations of conflict in the Gulf, Bosnia, Kosovo, Afghanistan and many more.<sup>103</sup> Starting from the cessation of hostilities to war repatriations, the coordination at the end of a conflict remains of vital importance. Sometimes war can be unjustified, however the ability to build upon peace to restore relationships and forgive injustices leads the way for a society looking for peace.

The acknowledgement of an injustice is one way that a country can try to amend the wrongful actions taken in war. To some extent this was accomplished by the state of Israel in its conflict termination with Hezbollah and Lebanon. Israel took very few steps to acknowledge their mistakes and accept some of the blame for their unjust actions. One example of this is the lack of financial support given to Lebanon to reconstruct their infrastructure. According to the CRS Report for Congress, Israel was not even

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<sup>102</sup> Brian Orend, *Michael Walzer on War and Justice* (Kingston, McGill-Queen's University Press, 2000),135.

<sup>103</sup> Brian Orend, *Michael Walzer on War and Justice* (Kingston, McGill-Queen's University Press, 2000),135.

mentioned in their U.S. State Department figures on contributions to Lebanon.<sup>104</sup> Their unjust actions at the end of the war did stand as the example not to follow.

The criteria for the confirmation of a *jus post bellum* stems from certain criteria that determine the net benefit of the overall campaign. The three major criteria that apply to the 2006 Lebanon War are: just cause for termination, the right intention, and finally discrimination.<sup>105</sup> These three criteria are based on Michael Walzer's view of post bellum principles. Using only these three criteria enable a final assessment of the actions of the defending nation. Ideally, they would have done the necessary actions to pave the way for lasting peace.

The starting point of conflict termination during the 2006 Lebanon War was the agreement to cease hostilities. The UN Security Council resolution 1701 signalled the end to the second Lebanon war. The agreement was agreed upon by all parties involved leading the way for a peaceful immediate future.<sup>106</sup> By establishing this agreement the resolution enabled the commencement building peace in the region. Several points in the resolution accomplished this. By allowing the Lebanese forces into southern Lebanon

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<sup>104</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006), 14.

<sup>105</sup> Brian Orend, *Michael Walzer on War and Justice* (Kingston, McGill-Queen's University Press, 2000), 151.

<sup>106</sup> United Nations Security Council Resolution. Resolution 1701. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/465/03/PDF/N0646503.pdf?OpenElement>; Internet ; accessed 1 May 2011.

alongside the UN security operation under the title UNIFIL, Israel has given its trust that the Lebanese government would do its part in enforcing the ceasefire agreement. This is not to say that Israel is not maintaining a close eye on southern Lebanon, but they have accepted the terms of the agreed UNSCR resolution.

The second indicator that Israel was not prepared to accept responsibility for their actions during the 2006 Lebanon campaign. Israel did not do their part in standing up of an independent panel to investigate the execution of the war to provide an unbiased assessment of their actions. Prime Minister Olmert on several occasions rejected the independent panel instead favouring the use of an internal investigation.<sup>107</sup> The appointees of this commission were intricately knowledgeable about the conduct of the Israeli forces during the war. The people of Israel overcame this decision. Reluctantly, Olmert stood up a committee that was charged to extensively examine the conflict. This shows that the government of Israel did not want to disclose their reasoning and actions to the international community.<sup>108</sup> Had the Israeli government become forthcoming and accept the independent investigation it would have showed a willingness to accept responsibility. Instead they were focused on trying to avoid responsibility for their unjust actions. The Winograd report finally highlighted the holes in the reasoning of the Israeli government along with the military.

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<sup>107</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006), 11.

<sup>108</sup> United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006), 16.

The final Winograd report did provide critical areas where the Israeli government and military were unjust. By publishing the results (except for the parts that were a threat to national security) the committee were able to highlight their perceived failure to be accountable for the actions taken by senior officials. Certainly, the actions taken were not an excuse for the unjust actions taken during the campaign however they provided a lesson learned for those to follow in future conflicts.

Another area where Israel was unjust in their cessation of war was their inability to achieve their objectives. In their declaration of their victory, Israel believed that they were able to reach their objectives set out at the onset of their military campaign. The bodies of Israeli soldiers Ehud Goldwasser and Eldad Regev were returned to Israel in 2008 as part of a prisoner swap. The deal included several concessions on the part of both sides most notably it was geared at creating some stability in the region.<sup>109</sup> This was indeed an important part of the mourning by their families and Israel did give into its stand on negotiating so they could be reunited with their families. However this objective only led to many civilian deaths since the outcome was a prisoner swap. Had Israel tried to negotiate from the start for their soldiers back they could have avoided all the conflict and therefore not having to deal with *jus post bellum*. In doing so, they would have been able to spare many lives and potentially hold onto political power. This

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<sup>109</sup> Ethan Bronner, "Israel Agrees to Exchange Prisoners for Dead Soldiers." The New York Times (30 June 2008). <http://www.nytimes.com/2008/06/30/world/middleeast/30mideast.html?scp=13&sq=Return+of+the+bodies+of+2+Israeli+Soldiers&st=nyt>; accessed 25 January 2011.

was not the case and soon after the conflict the party of Prime Minister Olmert began its decline in public support.<sup>110</sup>

Furthermore, Israel's objective to return to a stable environment in the area was not achieved. Although the UNSCR 1701 called for the disarmament of Hezbollah, their strength due to their ability to hold off the great Israel fostered strength for the Hezbollah cause. If the Israelis would have used international pressure against Hezbollah they would have had a better chance to gain the necessary support to meet their objectives. One way that would have assisted the Israelis was to urge the UN to increase the role of UNIFIL to help fill the gap between Israeli and Lebanese soldiers. Even though the land within the Shebaa Farms was disputed, it did not preclude the UN from supporting the establishment of peace. Another option available to Israel was to use international pressure on the Lebanese government to move their state troops south along the border with Israel. This would have made it harder for Lebanon to deny their involvement in any cross border operations and it would have also limited Hezbollah activities in the area. This was outlined finally in the UNSCR 1701 which was accepted by both parties.<sup>111</sup> However, Israel was not able to reach their intended goal and therefore the stability in the region remained low. The actions taken by Israel were intended to

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<sup>110</sup>United States. Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. Washington, DC: US Government Printing Office, September 15, 2006.

<sup>111</sup> United Nations Security Council Resolution. Resolution 1701. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/465/03/PDF/N0646503.pdf?OpenElement>; Internet ; accessed 1 May 2011.

stabilize the area and instead it bolstered the power of Hezbollah decreasing the security in the region.

Not only was the region unstable so was the infrastructure of Lebanon from the war. The race to aid those who were affected from the war was on and Hezbollah was right there willing to assist. Israel was not. Through all their bombing of infrastructure and targeting of urban areas Israel was not willing to provide for those who lost their homes and livelihood during the war. One example of this was Israel's unwillingness to provide Had Israel supported in the effort to rebuild the homes the easily destroyed it would have provided them with more support in the area. However, it took the international community to come to the aid of the innocent civilians of Lebanon. While Israel was not contributing to the effort to support of the people of Lebanon, Hezbollah was willing to fill the void. Hezbollah was offering 13,000 dollars per family for rent so that Hezbollah could build their homes. In doing so they gained the respect of the people who were handed their situation because of Israel. Other countries did come to their aid, most notably the US with 230 million dollars to help the people of Lebanon. Had Israel been more willing to help it would have given them more support in the region.

The final area where Israel did not support the end of hostilities was their heavy use of bombs towards the end of the mission. Israel continued to significantly bomb targets within Lebanon up to and after the supposed end of hostilities. For example Israel launched thousands of cluster bombs after the ceasefire had been agreed upon.<sup>112</sup> Even

worse was their use of cluster munitions at the tail end of the war that left unexploded ordinance within Lebanon for some time.<sup>113</sup> This action was not within the ideals of *jus post bellum*. Had Israel reduced their bombing sorties it would have provided them with support to the peace process. However through their continued bombing of targets in Lebanon, they drew more criticism for their actions. This action added to the hostilities in the region and added to the level of hatred amongst the people Lebanon. One of Israel's main objectives was to reduce Hezbollah's capability in the Lebanon, but by acting unjustly they bolstered Hezbollah's position amongst the people of Lebanon.

In the end Israel was unjust in the way they handled the end of hostilities during the 2006 Lebanon War. Israel was initially unwilling to support an independent panel to investigate their unjust actions during the conflict but finally agreed to it under the lead of Eliyahu Winograd.<sup>114</sup> Additionally, their inability to help repair the damage done to the civilian infrastructure within Lebanon only fostered a further hate amongst the people Israel was trying to gain support from. Finally, through their use of force towards the end of the conflict Israel was unjustified in their termination of the conflict. Their use of cluster munitions and willingness to litter the Lebanese countryside with the dangerous

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<sup>112</sup> Amnesty International Report, "Israel and the Occupied Territories." 2007 Report, 147-150; <http://archive.amnesty.org/report2007/>; Internet; accessed 25 January 2011.

<sup>113</sup>United States, Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006).

<sup>114</sup> Greg Myre, "Israel Forms Committee to Investigate Lebanon War." New York Times, 18 September 2006. <http://query.nytimes.com/gst/fullpage.html?res=9A02E1D71331F93BA2575AC0A9609C8B63&scp=2&sq=Winograd&st=nyt>; Internet, accessed 25 January 2011.

ammunition further lends evidence of their misuse of force. Overall, the 2006 war in Lebanon had no net benefit to the government of Israel. Their inability to build on the peace in the region furthers lends proof that they were unjust. Israel did not gain from all the lives lost, people injured and the large losses of economic factors.<sup>115</sup> Although the Israeli government proclaimed that they had met their objectives and had “put an end to Hizbullah’s [*sic*] state within state.”<sup>116</sup> their outcome was far from their objectives. Hezbollah at the end of the conflict actually gained support in Southern Lebanon which is contrary to the desires of Israel.<sup>117</sup> The Israeli leadership showed no intention of claiming their part for being irresponsible. By Israel not accepting responsibility for their unjustified actions during the 2006 Lebanon campaign they added to their global negative portrayal which further supported the cause of Hezbollah. If they would have accepted responsibility upfront for their actions against the destruction of civilian infrastructure they would have been able to gain some international support. In the end Israel was the net loser in the outcome of the war since Hezbollah had gained strength, Israel had not met its objectives, and Israel’s international reputation had decreased since the conflict.

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<sup>115</sup>Pierre C. Pahlavi, “The 33-Day War: An Example of Psychological Warfare in The Information Age.” *Canadian Army Journal* 10, no.2 (Summer 2007): 13.

<sup>116</sup>The Economist, “Nasrallah Wins The War.” 17 August 2006. <http://www.economist.com/node/7796790>; Internet; accessed 25 January 2011.

<sup>117</sup> United States, Congressional Research Service Report for Congress, *Lebanon: The Israel – Hamas-Hezbollah Conflict*. (Washington, DC: US Government Printing Office, September 15, 2006), 16.

## CONCLUSION

The 2006 Lebanon War was not one of Israel's finest moments. The Israeli's were unjust in their war with Hezbollah and Lebanon. There are several factors that lend to this argument based on the just war theory. Certainly, Israel had the right to defend themselves from attack. However this did not give the Israeli's the right to act the way they did. Israel's conducted themselves unjustly during and after the war which carries a heavier weight than their right to self-defence since they abandoned their moral obligation to conduct themselves just during the conflict. Israel was not the instigator in this fight but their past certainly carried with them into the 2006 conflict.

Emotions played an important role in the decisions during and leading up to and during the war. Historically, the region had seen many conflicts for decades amongst the neighbouring countries and evidently it had an impact on the actions taken by Israel. It is undeniable that emotions will not be part of the decision making process. Perhaps looking at a war from the perspective of one who does not live in the fear that the everyday civilians of Israel do may seem myopic. Additionally, there was some further emotional strain as the incident on 12 July 2006 was the second kidnapping of an Israeli soldier in the area within weeks. Still dealing with the events that saw a soldier kidnapped in the south of Israel by Hamas, the emotions of having one of their own still registered with the Israeli government and especially the military. As harsh as it is the government must try to mitigate the emotional feelings as much as possible to ensure effective reasoning of the situation.

The major element of the theory where Israel faltered was their just conduct in war, *jus in bello*. Israel's inability to distinguish between the Hezbollah militants and the civilians in the surrounding area when targeting was unjustly executed. Indeed there were incidents of the Hezbollah forces using humans as shields but there were many other incidents where the Israeli forces used indiscriminate force.<sup>118</sup> Israel's repeated use of cluster munitions, which led to countless civilian casualties, proved that they were willing to accept civilian deaths to gain their objectives. According to just war theory this was not justified. It must be noted that not all civilian deaths were unjust since it is unfortunately a fact of war that not all collateral damage can be avoided. However, the Israeli military and government officials decided that they were going to pursue civilian infrastructure as part of their targeting. The indiscriminate targeting of civilians either through direct targeting of civilian infrastructure or the use of cluster munitions verified that Israel's conduct during the war was inexcusable.

Israel was also unjustified in their excessive use of force that they applied to the war. The use of overwhelming force is not considered unjust, as the goal is to make a quick decision that would gain a net benefit rather than fighting a drawn out campaign. By avoiding a stalemate where the casualties and financial losses would grow rapidly one can say that a quick heavy-handed campaign would outweigh a long drawn out one. However, Israel did cross the line and used excessive force. With the use of the Israeli

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<sup>118</sup> Allan Cowell, "Amnesty Says Hezbollah Committed War Crimes." New York Times, 14 September 2006. <http://www.nytimes.com/2006/09/14/world/middleeast/14amnesty.html?scp=1&sq=Amnesty%20Says%20Hezbollah%20Committed%20War%20Crimes&st=cse>; Internet; accessed 8 April 2011.

Air Force, they were able to destroy large parts of infrastructure and massive casualties leading to the call of international pressure to end the violence. Israel did not stop there. In the closing days of the war Israel continued to use heavy force continuing to use many cluster munitions within the civilian population. Their inability to determine extensive versus overwhelming force only aided in the proof that Israel was unjust in their campaign.

The end of the campaign was not much better for Israel while their actions and decisions did not fulfil the just conduct after war part of the just war theory. The stability in the region and the bolstering of Hezbollah did not provide Israel their desired outcome. Israel may have met parts of their objectives but they indeed lost the war. With the strength of Hezbollah at an all time high amongst the people, Israel will certainly face new and improved challenges in the future. Furthermore, Israel's perception amongst the international community was severely damaged from their actions during the second Lebanon war. Their inability to accept the responsibility for their actions only helped to portray them as unjust. They should have been forthright and succumbed to an independent committee to investigate their actions throughout the campaign. However, through international and domestic pressure the truth was finally answered and as expected they were scorned.

There is no doubt that Israel was not the sole violator in this campaign. Hezbollah wears most of the burden since they were the ones who initiated the attacks on Israel. It is the inherent right of states to defend their civilians against any aggression. Hezbollah also was unjustified in their attacks on the Israeli population. They indiscriminately

targeted the civilian population of Israel causing numerous deaths, destruction and wide spread panic. As Katyusha rockets rained within Israel, Hezbollah had to be held accountable for their actions. As Amnesty international pointed out Hezbollah was just as wrong for their actions during the war.<sup>119</sup> It cannot be forgotten how this war started and Hezbollah must bear the weight of that.

The use of Israeli pre-emptive force was justified since their objective was to target those sites of future weapons caches and operational necessities for Hezbollah forces. Their objective was just and the reasoning for it made sense. Although some disagree that pre-emptive strikes gives a state just cause it must be based on the situation facing the defending nation. In the case of Israel it was not the first and it was not going to be the last time they had to deal with rockets being fired at their towns and cities. By targeting the ability of Hezbollah to continue to fire their rockets Israel was absolutely just in their cause.

Israel did have the right intention to stop the offensive capabilities of Hezbollah. The objectives of Israel were two fold: stop the capability of future Hezbollah attacks and retrieve the two kidnapped Israeli soldiers. Their intentions were just.

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<sup>119</sup> Allan Cowell, "Amnesty Says Hezbollah Committed War Crimes." New York Times, 14 September 2006.  
<http://www.nytimes.com/2006/09/14/world/middleeast/14amnesty.html?scp=1&sq=Amnesty%20Says%20Hezbollah%20Committed%20War%20Crimes&st=cse>; Internet; accessed 8 April 2011.

Israel was miscalculated their likelihood of success as they underestimated the capability of Hezbollah.<sup>120</sup> They were definitely the military superpower of the conflict however; they underestimated the capability of their enemy. Hezbollah had increased their capabilities to operate in southern Lebanon and were able to continue firing on Israel despite being under heavy bombardment. Israel had underestimated the Hezbollah capability but based on what they knew at the time they believed they would have had success. Truly, intelligence is key in understanding trying to understand the enemy. This criterion for *jus ad bellum* is truly difficult to assess. There will never be one hundred percent fidelity and countries intelligence is a guarded secret. The only way one can determine if the likelihood of success is if the state actually goes to war because who would go into it knowing they were going to lose.

The Israeli government along with their advisors had the authority to choose war as an option. Although the UN Security Council did not give their approval for the war, every state has the right to defend itself to protect their sovereignty. The backing of the UN Security Council would have helped bolster the Israeli position, however when it comes to self-defence it is not required. Although the UN Security Council has its own issues with voting it should still remain the central body to provide additional authority to international government. Their ability to add political support and international pressure has the interest of world peace at first had.

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<sup>120</sup> Pierre C Pahlavi, "The 33-Day War: An Example of Psychological Warfare in the Information Age." *Canadian Army Journal* 10, no.2 (Summer 2007): 12-24.

The best way for the Israeli government to move ahead is to accept responsibility for their unjust actions and learn from their lessons and the first step was the Winograd report highlighting the failures of the Israeli leadership. Israel is faced with one of the most difficult and diverse situations in the world. Sharing their state with the people of Palestine and being surrounded by countries of other religions provides a complex situation which requires delicate political dealings.

Militarily, Israel needs to better develop their ability to operate in the irregular warfare environment. They possess the technological and financial capabilities required that if paired with solid doctrine they can be world leaders in combating guerrilla warfare. Indeed there is a role for each service as shown during the war but the synchronization of assets in support of an operational and strategic plan would ensure that the fighting is for the higher cause.

The use of cluster munitions during the war proves that they should be banned all together. Israel's use of the weapons did not help in their fight against Hezbollah, instead it worked against them. The bomblets inability to be discrete in their targets makes them especially dangerous to civilians. Children are especially vulnerable to the munitions as they are more inclined to pick them up out of curiosity.

The history of just war theory dates back several hundred years but it remains a viable theory that when applied as a guide to moral reasoning it can be useful. If the theory is rigidly applied, then the theory will lack the ability to remain valid. However, if the theory is applied in a broad sense encompassing the original intentions it can prove beneficial. Like every theory, it has its negatives.

Just war theory is designed to work for the Westphalia State system. Had the 2006 Lebanon War been a state versus state conflict the theory would have been easily applied. In the case for the Second Lebanon War, the use of a non-state group acting from within a state provided some challenges. Accepting the fact that Hezbollah is a formed group with leadership and a political aim and accepting that this type of group can be seen as form of a state the just war theory can be applied.

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