

# The Legal Position of UN Peacekeepers in Southern Lebanon

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by [Alexander Gilder](#) | Oct 18, 2024



The United Nations has reported several incidents over recent weeks involving the organization's peacekeepers in southern Lebanon. The UN Interim Force in Lebanon (UNIFIL) maintains numerous positions in its area of operations, stretching from the western coast of southern Lebanon to the border with Syria, including many posts along the "Blue Line" bordering Israel, the established boundary separating Lebanese and Israeli forces.

On 1 October 2024, Israel Defence Forces (IDF) entered Lebanon. On 4 October, the IDF contacted Ireland requesting the removal of its peacekeepers from UNIFIL post 6-52, located on the Blue Line. Ireland reportedly informed Israel that UNIFIL's troop movements are a matter for the UN and the mission's force commander. UNIFIL rejected Israel's request for UN peacekeepers to withdraw from the post and objected to the IDF positioning its forces in the immediate proximity of UN posts "thereby endangering the safety and security of UNIFIL personnel and premises." The Irish President, Michael Higgins, said the actions of the IDF were "outrageous" and that "Israel is demanding that the entire UNIFIL operating under UN mandates walk away."

In the week that followed, several UN peacekeepers were injured. On 9 October, the UN stated the IDF had “deliberately fired at and disabled the [UNIFIL] position’s perimeter-monitoring cameras.” Later, UNIFIL post 1-31 was fired upon and an IDF drone was observed flying inside the post at the entrance of the post’s bunker. On 10 October, the UN reported that UNIFIL’s HQ in Naquora and other nearby posts were hit repeatedly by fire from the IDF. The UN explained that an IDF Merkava tank fired its weapon toward a UNIFIL observation tower, directly hitting the tower, causing two UN peacekeepers to fall.

IDF interference in UNIFIL’s operations has continued with a UNIFIL logistical movement obstructed and denied passage by the IDF on 12 October. On 13 October, UNIFIL reported,

[T]wo IDF Merkava tanks destroyed the position’s main gate and forcibly entered the position. They requested multiple times that the base turn out its lights. The tanks left about 45 minutes later after UNIFIL protested through our liaison mechanism, saying that IDF presence was putting peacekeepers in danger.

In response to the incident, the IDF stated, “it appears that during the incident, and for the evacuation, two tanks reversed in a spot where they couldn’t have gone elsewhere because of the threat of fire, several meters into a UNIFIL position.” The same day, Israeli Prime Minister Benjamin Netanyahu made a televised statement where he called on the UN to withdraw UNIFIL from combat areas because Hezbollah is using the peacekeepers as “human shields.”

Several angles of analysis apply to this chain of events including: first, whether Israel can require UN peacekeepers to move or withdraw; second, the nature of UN peacekeepers under the law of armed conflict (LOAC) and whether Israel has committed any violations in this regard; lastly, the inviolability of UN premises and their protection under international law.

### **UNIFIL’s Mandate and Israel’s Removal Request**

Since 1978, UNIFIL has been mandated to confirm the withdrawal of Israeli forces from southern Lebanon, restore international peace and security, and provide assistance to the Lebanese government to restore State authority to the area. The UN expanded UNIFIL’s mandate in 2006 following a 34-day war between Israel and Hezbollah. UN Security Council Resolution 1701 authorises UNIFIL to “protect civilians under imminent threat of physical violence” as well as to assist humanitarian access to civilian populations, ensure its area of operations is not used for hostile activities of any kind, resist attempts by forceful means to prevent it from discharging its duties under the mandate, protect UN personnel, facilities, installations and equipment, and ensure the security and freedom of movement of UN personnel and humanitarian workers.

To deploy a UN peacekeeping mission, the UN must gain the consent of the host State for the entry of forces to its territory. This is a key principle laid out by the UN Secretary-General in the early development of UN peacekeeping as a means of maintaining international peace

and security in the 1950s. The host State can withdraw its consent at any time and the UN forces must then leave, as seen in the 2023 withdrawal of the UN mission in Mali.

The UN *Principles and Guidelines for UN Peacekeeping Operations* speaks of consent as “acceptance of a peacekeeping operation” and a “commitment by the parties to a political process.” But it is consent in a non-legal sense. For practical and safety reasons, it is desirable that all parties commit to accepting the presence of UN peacekeepers, but this is not a legal requirement. Under international law, to comply with customary law on non-interference and UN Charter obligations not to use force, the host State must consent to the presence of UN forces.

In the case of UNIFIL, UN forces are solely deployed to Lebanese territory and, therefore, only encroach on Lebanese sovereignty. Israel cannot require the UN to withdraw its forces. UNIFIL may remain in position as long as Lebanon continues to consent to the peacekeepers’ presence and the UN Security Council wishes for them to remain deployed. The UN Security Council voted unanimously in August this year to renew UNIFIL’s mandate demonstrating resolve that UN peacekeepers should continue to have a presence in the area.

Resolution 1701 expressly provides for UNIFIL’s freedom of movement within its area of operations. If the IDF has in fact restricted the movement of UN peacekeepers and their logistical operations, this would be a violation of Resolution 1701 by Israel who, as a member State of the UN, is obliged to comply with resolutions of the UN Security Council.

### **Protections Offered to UN Peacekeepers under the Law of Armed Conflict**

The 1949 Geneva Conventions and their Protocols do not expressly provide for special protection of UN peacekeepers. The only article that indirectly has the UN in mind is Article 37(1)(d) of Additional Protocol I which prohibits the unauthorized use of UN emblems or uniforms to receive protected status. Instead, the conventional interpretation of LOAC is that UN peacekeepers, both military and civilian, their buildings, vehicles and equipment are not military objectives and therefore targeting UN individuals or objects would be unlawful in an international armed conflict. Similarly, UN peacekeepers are regarded as “persons taking no active part in the hostilities” for the purposes of common Article 3. The International Committee of the Red Cross has offered this interpretation in Rule 33 of its *Customary Study on International Humanitarian Law*, arguing State practice supports the emergence of this norm with several States recognizing legal protection of peacekeepers in their military manuals.

The application of this principle to UN peacekeepers is premised on the presumption that the UN and its troop-contributing countries are not parties to the conflict and, therefore, are able to rely on protections as non-combatants. The *2015 High-Level Panel on Peace Operations* reported that where UN operations stray into enforcement, such actions “may make the

United Nations forces, and the mission as a whole, a party to the conflict ... ." The UN has previously stated it cannot be party to a conflict under the Geneva Conventions. But putting aside arguments over the applicability of LOAC to the UN as an international organization, there is no doubt troop-contributing countries, as High-Contracting Parties, could become party to a conflict where their forces take active part in hostilities. I have argued elsewhere that there are situations where UN peacekeepers will lose their presumptive civilian status.

It is likely the UN will seek to further investigate the reported uses of force that have taken place against or in the vicinity of UN peacekeepers in southern Lebanon. At the time of publishing, there is no evidence that UNIFIL forces are taking an active part in hostilities that would make them, either through the UN or their troop-contributing countries, a party to the conflict.

Where UN peacekeepers, their buildings, or vehicles are found to have been *deliberately* targeted by any party to the conflict, this would be a straightforward violation of LOAC. The Rome Statute of the International Criminal Court, Article 8(2)(b)(iii) includes as a war crime, intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict.

Whilst not applicable to the conflict due to neither Lebanon nor Israel being parties to the Rome Statute, the article shows how the prohibition on intentionally targeting UN peacekeepers has developed as an important norm.

Returning to the events of 13 October, UNIFIL claims an IDF tank fired "toward an UNIFIL observation tower." This in and of itself is not necessarily a violation of LOAC. It must be shown that the IDF was, in fact, targeting the UN observation tower. The targeting decision is the key factor here due to the principle of distinction. Similarly, fire in the vicinity of peacekeepers that has led to injuries is not a violation of LOAC in the absence of evidence that UN personnel were targeted.

Israel can legitimately target another party to the conflict and cause proportionate collateral damage to civilians and civilian objects, including UN peacekeepers. However, many States and their leaders will argue symbolically and politically that every effort must be made to: (a) minimise avoidable collateral damage to UN personnel and premises; and (b) ensure that parties to the conflict take responsibility for unavoidable collateral damage that harms the UN in the course of hostilities.

### **The Inviolability of UN Premises**

Under Article II of the 1946 Convention on Privileges and Immunities of the United Nations (CPIUN), UN premises are inviolable and immune from any form of interference. The *travaux préparatoires* of the Convention do not provide much guidance on the meaning of inviolability. The model status of forces agreement for UN peacekeeping missions explains that a mission's premises are "subject to the exclusive control and authority of the United Nations." Professor Laurie Blank usefully examines the meaning of inviolability in greater depth concluding that inviolability "thus protects UN facilities from host State intrusion or unauthorized entry so as to ensure the UN's—or relevant subsidiary organs'—ability to operate free from interference." The concept is derived from that of diplomatic immunities and the rules subsequently codified in the 1961 Vienna Convention on Diplomatic Relations.

For these incidents we must consider the application of both the CPIUN and LOAC and deconflict any norms through the doctrine of *lex specialis*. First, the destruction of the UNIFIL main gate and forcible entry of a UN post presents no conflict of norms. This is a clear unauthorised entry that violates the CPIUN. If UN reports are correct and deliberate force has been used by Israel this would be a violation of LOAC because the UN premises are not a military objective in the absence of any evidence that the mission has become a party to the conflict. If we accept the IDF's claim that this was a necessity due to the tanks coming under fire, then there may be no violation of LOAC, but the violation of the CPIUN remains.

Turning to another of the incidents, UNIFIL claims the IDF "deliberately fired at and disabled" the mission's perimeter monitoring cameras but interestingly does not use the word "deliberate" when stating the IDF "fired on UN position 1-31 hitting the entrance to the bunker where UN peacekeepers were sheltering." This is important because, if proven, deliberately targeting the post and its equipment would constitute a war crime. We have no evidence that UNIFIL is no longer entitled to the protection given to civilians or civilian objects. The obligation rests with Israel to show that force was directed against a combatant or military objective as part of its targeting process; the fire on post 1-31 may not have been deliberate and Israel may have been targeting a military objective nearby.

For the use of the drone on the UN premises, the likely *lex specialis* is the CPIUN. In the absence of any use of force by the drone, there is no violation of LOAC as no UN personnel or objects have been targeted. Instead, the drone has breached the inviolability of the UN post.

The UN is correct to differentiate between these incidents when it states "any *deliberate* attack on peacekeepers is a grave violation of international humanitarian law and of Security Council resolution 1701." The deliberate destruction of the main gate to a UN post and encroachment on UN premises would be both a violation of LOAC and the CPIUN. The Security Council will now need to reiterate its resolve and demand that all parties to the conflict adhere to their international obligations by respecting the free movement of UNIFIL personnel, do not deliberately target UN peacekeepers or their positions, and denounce the use of force to enter a UN position.

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*Alexander Gilder is Associate Professor of International Law and Security at the University of Reading, UK. He is also an Academic Consultant at the NATO HQ Allied Rapid Reaction Corps. All views are his own and do not represent the views of NATO or the UK Ministry of Defence.*

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