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A BREACH OF INTERNATIONAL LAW: THE LEGAL CONSEQUENCES OF ISRAEL'S USE OF EXPLOSIVE PAGERS

Executive Summary

In September 2024, the conflict between Israel and Hezbollah escalated with a series of coordinated attacks in Lebanon, where explosive devices embedded in pagers and walkie-talkies were detonated across the country. These attacks resulted in 37 deaths, thousands of injuries, and widespread destruction. This tactic, targeting both civilians and military personnel, reflects a breach of international law. The use of explosive pagers constitutes a violation of International Humanitarian Law (IHL) and the Convention on Certain Conventional Weapons (CCW), to which Israel is a party. By failing to adhere to the principles of distinction, proportionality, and military necessity, Israel's actions have disregarded the fundamental protections granted to civilians in conflict.

Policy Recommendations

The United Nations Security Council should formally recognize the situation as a violation of international humanitarian law and draft a resolution demanding Israel's immediate cessation of booby trap use while also calling for sanctions, including arms embargoes and travel bans.

Concerned states, such as Lebanon, should engage with UN human rights bodies by filing formal complaints under international treaties like the ICCPR to highlight Israel's use of booby traps and its human rights violations. This action could stimulate international discourse, prompting other states to adopt diplomatic measures or resolutions condemning these practices. The human rights bodies include:

- Committee on Elimination of Racial Discrimination
- Committee on Economic Social and Cultural Rights
- Human Rights Committee

- Committee on the Elimination of Racial Discrimination Against Women
- Committee against Torture.
- Committee on the Rights of the Child.
- Committee on Migrant Workers
- Committee on Enforced Disappearances
- Human Rights Council

The international community should invoke the principle of universal jurisdiction to hold Israel accountable for using booby traps, which qualifies as a war crime. This approach provides a clear legal framework for prosecution, allowing states to gather evidence and demonstrate a systematic pattern of unlawful conduct against civilians.

The United Nations Human Rights Council should appoint a Special Rapporteur to investigate Israel's use of explosive devices in Lebanon. This Special Rapporteur should gather evidence and report findings, enabling the UN Security Council to draft and vote on a resolution calling for accountability.



Disclaimer

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Introduction

The escalating conflict between Israel and Hezbollah reached a new level of brutality in September 2024. On September 17 and 18, 2024, a series of devastating attacks unfolded in Lebanon. In these coordinated assaults, thousands of pagers and hundreds of walkie-talkies were detonated across the country, causing widespread destruction and loss of life. The attacks, which occurred amidst a months-long escalation in hostilities, resulted in at least 37 deaths and thousands of injuries¹.

Notably, these attacks exacerbate the already growing hostilities in Lebanon over the past year, with at least 492 people being killed and 1,645² being injured. Resultantly, the UN Interim Force in Lebanon (UNIFIL) has expressed “grave concern” for the wellbeing and safety of the residents of Southern Lebanon.

The UN High Commissioner for Human Rights, Volker Türk, has expressed³ deep concern over the widespread, simultaneous explosions and emphasized the urgent need for de-escalation. In his statement, Türk called for immediate international action, urging all states with influence in the Middle-East region and beyond, to intervene and prevent the further escalation of conflicts. Additionally, he called for an independent, thorough, and transparent investigation into the attacks, insisting that those responsible for ordering and carrying out these acts must be held accountable.

Methodology Behind Explosive Pagers

Booby traps, Improvised Explosive Devices (IEDs), designed to inflict harm when disturbed or triggered, have been employed in conflicts worldwide for centuries. While the use of explosive pagers as booby traps is a relatively recent phenomenon, it highlights the ingenuity and adaptability of those perpetuating violence.

There remains some speculations pertaining to the methodology that was employed to achieve this objective. However, the most probable explanation⁴ for this evidently coordinated attack is the insertion of 10 to 20 grams of explosive into the devices either at the time of or after the manufacturing. It is hypothesized that the devices were remotely activated by an alphanumeric text message signal. By transmitting the same message to all pagers equipped with explosive components, near-simultaneous detonations were likely achieved. The theory suggests that once armed, the explosive device would be triggered upon the next use of the pager.

The Illegality of Booby Traps under International Law

Convention on Certain Conventional Weapons

The use of booby traps in the form of explosive pagers by Israel in Lebanon would likely constitute a violation of international law, particularly under the provisions of Amended Protocol II of the Convention on Certain Conventional Weapons (CCW), to which Israel is a State Party.

Protocol II of CCW addresses the regulation of booby traps. The treaty defines a booby trap as “any device or material designed, constructed, or adapted to cause death or injury, which functions unexpectedly when a person disturbs or approaches an apparently innocuous object or engages in an apparently safe act⁵”. An explosive pager, designed to detonate upon being handled, meets this definition.

In December 2001, the scope of the CCW and its annexed Protocols was expanded to include Non-International Armed Conflicts (NIACs). While Israel has not ratified this extension, it is still a party to Amended Protocol II, which also regulates the use of booby traps and provides the same definition⁶. Hence, the legality of booby traps should be evaluated under the provisions of Amended Protocol II.

In this regard, the principal prohibitions concerning the use of booby traps are found in Article 7, paragraph 2, which encapsulates “The use of booby traps or other devices in the form of apparently harmless portable objects specifically designed and constructed to contain explosive material is prohibited.” Hence, pagers, designed to detonate unexpectedly upon activation, is a violation of international humanitarian law.

Additionally, Article 7(3) provides specific prohibitions on the use of weapons, including booby-traps, in civilian areas. This provision requires that such weapons be placed near military objectives or that effective measures be taken to protect civilians from their effects. The pagers deployment in civilian areas, without clear evidence of their proximity to military objectives or the implementation of adequate protective measures further strengthens the argument that Israel's use of explosive pagers constitutes a violation of international humanitarian law.

Principles of International Humanitarian Law (IHL)

Israel has also infringed some fundamental principles of IHL, such as the principle of distinction, proportionality,

and military necessity. The principle of distinction⁷ mandates that parties to a conflict must differentiate between combatants and civilians. Similarly, the principle of proportionality prohibits⁸ attacks that would cause excessive civilian harm in relation to the anticipated military advantage gained while the principle of military necessity⁹ allows for measures that are necessary to achieve a legitimate military objective. The use of explosive pagers in civilian contexts, without adequate safeguards, indicates a failure to uphold these fundamental tenets of IHL. Lama Fakih, Middle East and North Africa director at Human Rights Watch believes

*"an explosive device whose exact location could not be reliably known would be unlawfully indiscriminate, using a means of attack that could not be directed at a specific military target and as a result would strike military targets and civilians without distinction."*¹⁰

Recommendations on Options Available to the International Community

Imposition of Sanctions by the United Nations Security Council (UNSC)

UNSC should first formally acknowledge the situation as a clear violation of international humanitarian law, particularly given its direct contribution to civilian casualties and regional instability. Recognizing the severity of such actions, the Council must then prioritize the drafting of a resolution that demands Israel's immediate cessation of the use of booby traps. This resolution should also call for full cooperation with international investigative bodies to ensure transparency and accountability. In addition, the UNSC should impose sanctions, which may include an arms embargo to halt the supply of weapons, travel bans on individuals directly involved in these unlawful activities, and the freezing of assets belonging to those responsible. Furthermore, sector-specific economic sanctions could be applied to industries and entities linked to the deployment of these devices, with the aim of exerting economic and political pressure on the offending state.

In parallel with these punitive measures, the UNSC should also consider complementary actions to strengthen the international legal framework against the use of booby traps. This could involve launching initiatives to raise global awareness about the illegality of such practices under international humanitarian law. Additionally, the UNSC could provide support for humanitarian aid efforts to assist the victims of these devices, ensuring that affected communities receive the necessary medical and financial assistance.

Complaint Mechanisms under Treaties

In addressing Israel's use of booby traps, concerned states, such as Lebanon, could engage with United Nations human rights bodies through the mechanisms provided under international treaties¹¹. For instance, Lebanon could file a formal complaint under the procedures outlined in the International Covenant on Civil and Political Rights (ICCPR). This would bring attention to the human rights violations caused by Israel's actions, particularly regarding the indiscriminate use of booby traps that affect civilian populations. Additionally, filing a complaint under the ICCPR would contribute to generating broader international discourse on the issue. It could prompt other states to adopt diplomatic measures or pass resolutions condemning Israel's use of booby traps.

In addition to the treaty bodies, the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories¹² was established in 1968 by General Assembly resolution 2443 (XXIII). This committee closely monitors Israel's actions, documenting any human rights violations resulting from its non-compliance and reporting them domestically and internationally.

Invoking Universal Jurisdiction

The international community could also effectively invoke the principle of universal jurisdiction to hold individuals accountable for war crimes committed during the conflict. Under this principle, states are empowered to prosecute perpetrators of serious violations of international law, including war crimes, regardless of their nationality or the location of the crime¹³. This approach is particularly pertinent given that the use of booby traps can be classified as a war crime under the Geneva Conventions, which specifically prohibit indiscriminate attacks¹⁴ that do not distinguish between combatants and civilians.

Focusing on the classification of these actions as war crimes offers a clearer legal pathway for accountability. War crimes, as defined in the Rome Statute, encompass a range of serious violations committed in the context of armed conflict, including the intentional targeting of civilians and the use of weapons designed to cause unnecessary suffering. By framing Israel's use of booby traps in Lebanon within this context, the international community can draw upon well-established legal precedents and frameworks that clearly outline the prohibitions against such conduct.

This approach also emphasizes the requirement

of intent and specific conduct associated with war crimes, which may simplify the evidentiary burden in legal proceedings. By demonstrating that the use of booby traps is part of a systematic pattern of unlawful conduct against civilians, states can build a compelling case for prosecution.

Countries looking to prosecute Israeli military personnel under the doctrine of universal jurisdiction would begin by evaluating whether the actions constitute war crimes as defined under international law. This would involve thorough investigations, evidence collection, and case preparation. Once sufficient evidence is obtained, states could issue arrest warrants and initiate domestic prosecutions, thereby reinforcing the principle that violations of international humanitarian law will not be tolerated.

Appointing a Special Rapporteur

A Special Rapporteur, appointed by the Human Rights Council, could play a crucial role in holding Israel accountable for its use of explosive pagers in Lebanon. To effectively investigate, the Special Rapporteur should be granted a broad mandate that encompasses all aspects of these pager explosions, including their acquisition, deployment, targeting, and the resulting human rights violations. The investigation should prioritize the assessment of the impact on civilians. Additionally, the Rapporteur should examine whether Israel's actions constitute violations of international humanitarian law, particularly the principles of distinction, proportionality, and military necessity, as well as the prohibitions against the use of booby traps under CCW.

Engaging with the Human Rights Council, the Security Council, and other relevant international bodies would be essential to advocate for accountability and ensure that the findings are taken into consideration. Additionally, the Special Rapporteur should engage in public advocacy by utilizing public statements and reports to raise awareness of the legal and humanitarian implications of Israel's actions, ensuring that the issue receives the visibility it deserves.

Notes

¹ “Lebanon: Establish International Investigation into Deadly Attacks Using Exploding Portable Devices” (Amnesty International, September 20, 2024) <https://www.amnesty.org/en/latest/news/2024/09/lebanon-establish-international-investigation-into-deadly-attacks-using-exploding-portable-devices/> accessed September 26, 2024

² Siddiqui U and Najjar F, “Israel Bombs Lebanon Updates: Death Toll Rises to 492, over 1,500 Wounded” Al Jazeera (September 23, 2024) <https://www.aljazeera.com/news/liveblog/2024/9/23/israel-hezbollah-conflict-live-new-air-strikes-target-lebanon> accessed September 27, 2024

³ “UN Appeals for Restraint after Further Devices Explode across Lebanon” (UN News, September 18, 2024) <https://news.un.org/en/story/2024/09/1154486> accessed September 25, 2024

⁴ Boothby WH, “Exploding Pagers and the Law” (Lieber Institute West Point, September 18, 2024) <https://lieber.westpoint.edu/exploding-pagers-law/> accessed September 25, 2024

⁵ Article 2, Convention on Certain Conventional Weapons, Protocol II

⁶ Article 2(4) Convention on Certain Conventional Weapons Protocol II

⁷ Article 48 of the 1977 Additional Protocol I to the Geneva Convention

⁸ Article 51(5)(b) of the 1977 Additional Protocol I Geneva Convention

⁹ “Doctors without Borders” (The Practical Guide to Humanitarian Law) <https://guide-humanitarian-law.org/content/article/3/military-necessity/> accessed September 30, 2024

¹⁰ Marx W, “Did Exploding Pagers Attack on Hezbollah in Lebanon Violate International Law?” NPR (September 20, 2024) <https://www.npr.org/2024/09/20/g-s1-23812/lebanon-israel-exploding-pagers-hezbollah-international-law> accessed September 30, 2024

¹¹ “Complaints Procedures under the Human Rights Treaties” (OHCHR) <https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties> accessed September 30, 2024

¹² M.I, “Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories - (A/78/553) - Question of Palestine” (Question of Palestine, January 19, 2024) <https://www.un.org/unispal/document/report-of-the-special-committee-to-investigate-israeli-practices-affecting-the-human-rights-of-the-palestinian-people-and-other-arabs-of-the-occupied-territories-a-78-553/>

¹³ Article 146 of Geneva Convention IV

¹⁴ <https://ihl-databases.icrc.org/fr/customary-ihl/v2/rule12>

Action Matrix

Options for International Community

Option	Pathways to Solution	Implementation of Solution	Actors Responsible	Implementation Timelines
Invoking Universal Jurisdiction	Universal jurisdiction allows states to prosecute and punish perpetrators of war crimes, crimes against humanity, genocide, and torture irrespective of the jurisdiction, territory, and citizenship.	Numerous countries could prosecute Israeli military personnel for war crimes. The process involves evaluating the alleged crimes, investigating, collecting evidence, and preparing the case. The state may issue arrest warrants and pursue domestic prosecution.	<ul style="list-style-type: none"> Ministries or Departments of Foreign Affairs Ministries or Departments of Law and Justice Judiciary Office of the Attorney General or Chief State Law Advisers. 	12-24 months for evaluation, investigation and legal proceedings
Imposition of Sanctions by the United Nations Security Council (UNSC)	After acknowledging the situation as a clear violation of International Law, the council can call for sanctions on Israel.	UNSC can draft a resolution demanding Israel to cease the use of booby traps. The UNSC would impose sanctions, including an arms embargo, travel bans, and asset freezes. Additionally, the Council should launch initiatives to raise global awareness of the issue and provide humanitarian aid to victims affected by these devices	<ul style="list-style-type: none"> United Nations Security Council. UN Office for the Coordination of Humanitarian Affairs 	1-3 Months to draft the resolution. 3-6 Months for implementation of sanctions.
Resorting to Complaint Mechanisms under Treaties	Human rights committees possess the capability to influence compliance through various avenues including hearing complaints and providing recommendation for state behavior.	Treaty based bodies include: <ul style="list-style-type: none"> Committee on Elimination of Racial Discrimination Committee on Economic Social and Cultural Rights Human Rights Committee Committee on the Elimination of Racial Discrimination Against Women Committee against Torture. Committee on the Rights of the Child. Committee on Migrant Workers 	<ul style="list-style-type: none"> Human Rights Committee Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories National Human Rights Institutions United Nations Human Rights Council. 	6-12 Months for Investigation and filing of application before relevant committee depending on the human right violation Each human rights committee has its own rules and procedures

Action Matrix

		<ul style="list-style-type: none"> • Committee on Enforced Disappearances • Charter Based bodies include the Human Rights Council which includes • Special Procedures and Mandates • Universal Periodic Review • Independent Investigations, including the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories 		
<p>Appointing a Special Rapporteur</p>	<p>A Special Rapporteur, appointed by the Human Rights Council, could play a crucial role in holding Israel accountable for its use of explosive pagers in Lebanon</p>	<p>To effectively investigate Israel's use of explosive pagers, the Special Rapporteur should be granted a broad mandate that encompasses all aspects of these actions, including their acquisition, deployment, targeting, and the resulting human rights violations.</p>	<ul style="list-style-type: none"> • Human Rights Council • United Nations Security Council • Ministry of Foreign Affairs Lebanon 	<p>1-3 months for appointment of special rapporteur.</p> <p>3-6 months for investigations and reporting.</p>