

## **Attacks on Hospitals under International Humanitarian Law: A Case Study of the Gaza Strip**

### **Abstract**

The legal status and specific protection of hospitals under the international humanitarian law (IHL) in light of the Israeli military campaign against Gaza Strip as from October 2022 is addressed by this study. Based on an extensive legal survey and collection of case studies—of attacks launched against civic targets, including Al-Ahli Hospital, Al-Shifa (Suleiman Yousef Eye Clinic), Kamal Adwan Hospita—the article evaluates whether those attacks have complied with the principles that regulate distinction proportionality and military necessity. The findings all point to an undeniable trend of intentionally targeted attacks against medical facilities and professionals, in which the justifications for the military usage claims have not been supported by independent confirmation nor reached IHL's high threshold that is necessary for protected status withdrawal. These measures have led to disastrous humanitarian effects, the implosion of Gaza's medical services and may already be in violation of Geneva Conventions -- as well as potentially constituting war crimes under the Rome Statute. The paper also examines the international reaction, stressing that accountability mechanisms have been paralysed and there exists a contradiction between legal prohibitions on genocide through domestication in national law and lack of enforcement. Ultimately the research finds that targeting hospitals in Gaza is a significant crisis for international law, and an urgent need to establish accountability processes – which are high-impact of sufficient deterrence value - exists in order to rebut the narrative surrounding impunity, thus allowing medical provision across times of conflict.

**Keywords:** International Humanitarian Law (IHL), Gaza Strip, Hospitals, Medical Protection, War Crimes, Principle of Distinction, Principle of Proportionality, Accountability, Rome Statute.

### **Research Problem:**

Attacks on hospitals and medical facilities during armed conflicts represent a serious violation of International Humanitarian Law, endangering the lives of civilians and medical personnel and disrupting the provision of essential healthcare. In light of the ongoing escalation of armed conflicts in areas like the Gaza Strip, a question arises regarding the effectiveness of International Humanitarian Law in providing adequate protection to hospitals and medical facilities. This region faces numerous challenges that hinder the actual implementation of protection, including legal and practical obstacles that the conflicting parties and international organizations face in holding perpetrators accountable for attacks on these facilities.

Therefore, this research seeks to answer the following main question:

To what extent does international humanitarian law succeed in providing effective protection for hospitals and medical facilities during armed conflicts? What are the key legal and practical challenges that hinder the implementation of this protection and the accountability of those responsible for violations?

### **Sub-questions:**

1. What is the international legal framework governing the protection of hospitals and medical facilities during armed conflicts?
2. How have the Geneva Conventions and their Additional Protocols addressed the protection of medical facilities and healthcare personnel?
3. What actions are legally classified as attacks on hospitals, and under what circumstances are such attacks considered war crimes?

## Introduction

Hospitals and the health care system in any society are its backbone, whether good or bad. During both peace and war, they shelter the sick and wounded emergencies of life-saving support by reducing suffering. In times of armed fighting, the services that these health facilities offer -- basic first aid and life-saving treatment to civilians as well combatant casualties -- is even more vital. Due to their crucial function, international humanitarian law (IHL) provides special protection for hospitals and hospital staff by according them the status of protected objects that cannot be attacked.

Hospitals and medical facilities are entitled to legal protection in international humanitarian law (IHL) based on established customary norms codified in the 1949 Geneva Conventions, as further elaborated upon by its Additional Protocol I of 1977<sup>1</sup>. Intentional direct attack upon them is a war crime according to the Rome Statute of the International Criminal Court<sup>2</sup>. Yet despite these obvious legal protections, the Gaza Strip has seen a number of documented attacks on medical facilities in Israel's military assault. These assaults have targeted essential facilities, such as Al-Ma'madan Al-Ahli Hospital, Al-Shifa Medical Complex and Kamal Adwan hospital<sup>3</sup>. This study therefore seeks to explore the degree to which such attacks are consistent with obligations owed by warring parties, while simultaneously examining how actors in the international arena responds—or does not respond—to these purported infringements..

## The Legal Framework for the Protection of Hospitals under International Humanitarian Law

Medical institutions (in particular, hospitals and other health facilities) have the special protection of international humanitarian law including Geneva Conventions and Additional Protocols<sup>4</sup>. Namely, Art 18 of the Fourth Geneva Convention safeguards civilian hospitals and Additional Protocol I establishes

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<sup>1</sup> Dinstein, Y. (2022). The Law of Armed Conflict: An Introduction (5th ed.). Cambridge University Press.

<sup>2</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>33</sup> Human Rights Watch. (2023, November 14). Gaza: Unlawful Israeli Hospital Strikes, Fuel Cutoff. United Nations Office for the Coordination of Humanitarian Affairs (OCHA). (2023, October 18). Hostilities in the Gaza Strip and Israel | Flash Update #12.

<sup>4</sup> International Committee of the Red Cross (ICRC). (1958). Commentary on the Fourth Geneva Convention

rigorous conditions for preventing their military use<sup>1</sup>. The deliberate targeting of such facilities is a war crime under Article 8 to the Rome Statute<sup>2</sup>. These same principles are also part of customary international law. They are contained in the Rule 28 of ICRC Study on Customary International Humanitarian Law, referring to medical units being respected and protected at all times including unimpeded humanitarian access<sup>3</sup>.

### **First: The Protection of Hospitals under the Geneva Conventions**

Four Geneva Conventions of 1949 and their Additional Protocols in 1977, as well as an additional protocol submitted on June 8th, 1977, remain the leading legal foundation for safeguarding medical units during times of war. In particular, the First Geneva Convention protects medical units and establishments for members of armed forces who are wounded or sick<sup>4</sup>; while the Fourth deal with protecting civilians (including civilian hospitals)<sup>5</sup>.

#### **1. The First Geneva Convention (1949):**

- **Article 19** establishes the core principle of protection, stipulating that: "Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict" .
- **Article 21** clarifies the conditions for the cessation of this protection. It may cease only if medical units are used to commit "acts harmful to the enemy." Even in such circumstances, protection is only forfeited after a due warning has been issued, setting a reasonable time limit for the cessation of the harmful act, and after such warning has gone unheeded<sup>6</sup>.

#### **I. Specific Protections under the Geneva Conventions and their Protocols**

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<sup>1</sup> International Committee of the Red Cross (ICRC). (1987). Commentary on the Additional Protocols of 8 June 1977

<sup>2</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>3</sup> International Committee of the Red Cross (ICRC). (n.d.). Customary IHL Database. (Specifically Rules 1, 7, 14).

<sup>4</sup> International Committee of the Red Cross (ICRC). (2016). Commentary on the First Geneva Convention (2nd ed.).

<sup>5</sup> International Committee of the Red Cross (ICRC). (1958). Commentary on the Fourth Geneva Convention.

<sup>6</sup> International Committee of the Red Cross (ICRC). (2016). Commentary on the First Geneva Convention (2nd ed.).

The four Geneva Conventions of 1949 and their Additional Protocols of 1977 and 2005 constitute the foundational legal framework for the protection of medical personnel and objects during armed conflicts. Specifically, the First Geneva Convention addresses the protection of medical units for the wounded and sick in armed forces, whereas the Fourth Geneva Convention pertains to the protection of civilians, which explicitly includes civilian hospitals.

Additionally, the Second Geneva Convention (1949) provides protection to medical units at sea, including floating hospitals.

The Third Geneva Convention (1949) indirectly impacts medical facilities through provisions on the treatment of prisoners of war in hospital settings.

Additional Protocol I (1977) further protects medical units in international armed conflicts, specifically in Article 12.

Additional Protocol II (1977) extends similar protections to medical units in non-international armed conflicts, as stated in Article 11.

### **1. The First Geneva Convention (1949):**

- **Article 19** stipulates the core principle: "Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict."
- **Article 21** clarifies the conditions under which this protection may cease. This occurs only if they are "used to commit... acts harmful to the enemy," and only after a due warning, which sets a reasonable time-limit, has been issued and has gone unheeded.

The first condition is that the hospital must be "used to commit... acts harmful to the enemy." This condition ensures that any withdrawal of protection is justified and based on actual military or hostile activities taking place within the hospital, rather than mere suspicion or arbitrary investigation.

The second condition requires the issuance of a prior warning, which must be clear and specific. This demonstrates the international law's commitment to ensuring that warring parties do not take arbitrary actions against medical facilities or civilians without giving an opportunity for correction.

The third condition is that the warning must specify a "reasonable time-limit," which must allow sufficient time for the concerned party to cease harmful actions and comply with the warning. This emphasizes that any action taken against medical facilities must be proportional to the threat posed, and that the time given must be reasonable and logical.

Overall, the fundamental idea is that the protection of hospitals is a basic right under international humanitarian law, and this protection can only be lifted if the activities within the hospital pose a direct and significant threat to the enemy, and only under conditions that ensure fairness and provide the other party with a chance to remedy the situation. These measures aim to preserve the humanitarian nature of hospitals and protect them from military exploitation, which aligns with the principle of safeguarding civilians and medical facilities during conflicts.

## **2. The Fourth Geneva Convention (1949):**

- Hospitals treating civilians are afforded additional level of protection under Article 18, which clearly spells out that they shall not be attacked except for when this strict limit is breached by using them to commit acts harmful to the enemy. It also highlights to the passage of medical relief and access for humanitarian workers remains unhindered.

## **3. The First Additional Protocol (1977):**

- Article 12 states that “fixing and mobile medical units (and establishments) shall be respected and protected at all times, while they are used to care for the wounded or sick”. This provides for loss of protection only if the vehicle is being employed, outside its humanitarian function and in certain circumstances prejudicial to the enemy, but does so after a warning has been given following an express request making sure such person or thing was recognized.
- Article 13 provides additional protection for medical personnel, as well as for medical vehicles and other conveyances.

## **A Fundamental Precept: The Cessation of Protection**

The protection of a hospital can only be lawfully withdrawn if three **cumulative conditions** are met, as stipulated by the Conventions and their Protocols:

1. The hospital is used to commit an act harmful to the enemy.

2. A clear warning has been issued, specifying the nature of the violation.
3. A reasonable time-limit set in the warning has expired without the cessation of the harmful acts.

## II. The Rome Statute and the Criminalization of Attacks on Hospitals

The 1998 Rome Statute, which establishes the legal framework for the International Criminal Court (ICC), explicitly classifies intentional attacks on hospitals as a war crime when conducted outside the narrow circumstances that permit the cessation of their protection<sup>1</sup>.

- **Article 8(2)(b)(ix)** of the Statute defines as a war crime the act of "[i]ntentionally directing attacks against... hospitals and places where the sick and wounded are collected, provided they are not military objectives"<sup>2</sup>.
- To prosecute this act, the Court requires the establishment of both a material element (*actus reus*)—the physical act of an attack on a medical facility—and a mental element (*mens rea*), namely the perpetrator's knowledge of the target's protected status, as outlined in the Elements of Crimes document<sup>3</sup>.
- Furthermore, **Article 28** codifies the doctrine of command responsibility, holding military commanders accountable if they fail to take reasonable measures to prevent or repress crimes committed by forces under their authority. This principle could potentially extend direct responsibility to Israeli commanders for the documented attacks on hospitals<sup>4</sup>.
- The seriousness of such attacks has already been highlighted in previous occurrences of incidents; most prominently the US attack on Médecins Sans Frontières (MSF) hospital at Kunduz, Afghanistan in 2015 called for widespread severe accountability across borders<sup>5</sup>.

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<sup>1</sup> Dinstein, Y. (2022). The Law of Armed Conflict: An Introduction (5th ed.). Cambridge University Press.

United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>2</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>3</sup> International Criminal Court. (2011). Elements of Crimes. ICC-PIDS-LT-03-002/11\_Eng.

<sup>4</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>5</sup> Human Rights Watch. (2015, October 4). Afghanistan: US Airstrike Hits Kunduz Hospital.



- The severity of such attacks has been stressed by previous events; in particular, after the 2015 U.S. airstrike on Médecins Sans Frontières (MSF) hospital in Kunduz, Afghanistan there were widespread appeals for international responsibility<sup>1</sup>.

### **III. Analysis of Prominent Attacks on Hospitals in Gaza**

Gaza is a glaring example of the violations in human international law, especially when it comes to protecting medical buildings. Hospitals have been the victim of systematic and indiscriminate bombing since the onset of Israeli aggression on October 7, 2023 (as documented by The World Health Organization), which has claimed hundreds lives among civilians and medical staff. The chapter focuses on three major examples – Al-Ahli Arab Hospital, Al-Shifa Hospital and Kamal Adwan Hospital - interpreting them through the prism of international law and reaction born from supranational sources.

#### **The Al-Ahli Arab Hospital (Al-Ma'amadani) – October 17, 2023**

On the night of October 17, 2023, a catastrophic blast rocked the Al-Ahli Arab Hospital courtyard in downtown Gaza City. Thousands of internally displaced people had taken refuge there, believing it was a safe humanitarian haven. At the time, Gaza's Health Ministry announced that 471 people were killed in the explosion; most of those who died were women and children. The blast was huge and wrought havoc with the hospital's infrastructure, its ambulances sitting outside the surrounding area devastated.

While the Israeli narrative claimed that it was "a Palestinian rocket which missed in error," subsequent probes carried out by international organizations and independent sources, such as Human Rights Watch and Amnesty International raised suspicions over this recounting. Citing military and satellite data, their findings cast serious doubt on the origin of the explosion: "An air-launched munition was a credible cause." That judgment was based on a pattern of destruction inconsistent with that expected from an imprecise munition such as a crude rocket, suggesting the use of precision weapon.

**From the perspective of international humanitarian law, the attack constitutes a grave breach for the following reasons:**

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<sup>1</sup> Human Rights Watch. (2015, October 4). Afghanistan: US Airstrike Hits Kunduz Hospital.



- Neither side offered evidence that the hospital was being used for military purposes in a way prohibited by its protected status.
- No adequate warning was given prior to the attack ordering people out of particular locations, like the hospital.
- No realistic deadline was set for the evacuation.

Accordingly, based on these facts, we consider that the attack is a war crime under article 8(2)(b)(ix) of the Rome Statute and represents one of the most serious violations to Article 18 common to all four Geneva Conventions..

#### **IV. The Second Attack on Al-Ahli Hospital: March 2025**

Al-Ahli Hospital came under repeated Israeli air strikes in March 2025, the second time within a short space of years that it was targeted by Israel. The attack comes as the conflict in Gaza appeared to escalate overnight with Israeli forces increasing airstrikes and conducting ground assaults. The second was a continued assault on medical services and civilian infrastructure throughout the Strip, in repeated breach of international humanitarian law”.

##### **Details of the Attack:**

- **Target:** Al-Ahli Hospital, one of Gaza's key medical centers.
- **Timing:** The attack occurred during peak hours, increasing the number of casualties.
- **Damage:** Widespread destruction to operating theatres, emergency rooms, and medical supply storage.
- **Casualties:** 15 fatalities (including 4 medical staff) and dozens of wounded, among them women and children.

##### **Humanitarian Consequences:**

1. Damaged medical structures: The assault shattered sections of the hospital and equipment, rendering many critical departments inoperative.
2. Added strain on other hospitals: The assault overwhelmed the remaining healthcare facilities, which were already working at a stretch.
3. Psychological trauma: There was mass panic and terror among the civilian population who ran to shelter themselves inside a hospital.

4. Emergency services delay: Rescuers had difficulty reaching the site because of damage done to them..

#### **International Response:**

- The World Health Organization (WHO) said that “each and every attack has an impact,” describing them as potential war crimes, calling for investigation of the attacks and noting that they are “a clear violation of international conventions protecting health facilities in times of conflict.”
- The International Committee of the Red Cross (ICRC), which called for urgent actions to guarantee medical staff and facilities were protected, said it was a clear violation of international law.
- Countries and groups: Numerous countries and international organizations condemned the violence, calling for all civil infrastructure to be spared..

#### **Legal Framework**

The bombing of Al-Ahli Hospital is an obvious breach of international humanitarian law:

- Fourth Geneva Convention (Article 18): It is illegal to attack a civilian hospital. As Al Aqsa Hospital was a medical facility in active use at the time, this direct attack is also therefore an illegal one.
- Additional Protocol I (Article 12): This protocol guarantees the full range of protection for medical establishments, which can only be suspended if they have ceased to function as humanitarian facilities. There's been no evidence provided that Al-Ahli Hospital was being utilized for military activities at the time...so there is a legal presumption, it seems to me clear, where attacks on medical facilities are concerned.
- Rome Statute (Article 8(2)(b)(ix)): Attack is a war crime..

#### **The Ramifications of Recurrent Attacks**

This is a repeated policy of targeting the medical infrastructure in Gaza, making this humanitarian crisis worse and weakening the health system.

**Conclusions:** The bombing of Al-Ahli Hospital is a bold violation against International Law and clearly endangers the peaceable civilian population. It

also highlights the importance of ensuring that those responsible for these crimes are held accountable under international law..

### **Case Study: The Siege, Invasion, and Destruction of Al-Shifa Hospital (November 2023 – April 2024)**

#### **Phase One: The Siege and Initial Raid (November 2023)**

Gaza's largest medical institution, al-Shifa Hospital is now a sanctuary for thousands of the internally displaced who have sought shelter within its wards and corridors – protected under international humanitarian law. Early in November 2023, the hospital was placed under total siege by occupying forces to prevent vital aid entering. Patients, including premature babies, have died after electricity and medical supplies ran out.<sup>1</sup> On November 15, the compound was stormed by Israeli forces in one of those gravest crimes under all international conventions used as an excuse to claim that it contained military infrastructure for resistance factions. They have arrested medical personnel and violently displaced thousands<sup>2</sup>.

#### **Phase Two: The Final Assault and Destruction (March – April 2024)**

The hospital had been turned into a military site from the moment after the first raid. Health workers, patients and internally displaced people were evicted; all attempts to resume the facility activity have been disrupted. On March 18, ISF launched a second massive attack on the compound that lasted two weeks. The offensive concluded on 1 April 2024 with heavy damage to the hospital and multiple departments set ablaze.

- List of devastation: A World Health Organization (WHO) mission visited the site on April 6 and said it found an “empty shell” where a hospital once stood. Most of its buildings were “severely damaged or destroyed,” including the surgical and emergency buildings, it said in a report based on eyewitness accounts that also described charred bodies<sup>3</sup>.
- Testimonies and evidence: By examining exaggerated testimony from witnesses and comparing that with analysis of satellite images, Amnesty International was able to catalog multiple instances of catastrophic damage

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<sup>1</sup> Human Rights Watch. (2023, November 14). Gaza: Unlawful Israeli Hospital Strikes, Fuel Cutoff.

<sup>2</sup> Human Rights Watch. (2023, November 14). Gaza: Unlawful Israeli Hospital Strikes, Fuel Cutoff. World Health Organization (WHO). (2024, May 28). Attacks on health care in the occupied Palestinian territory.

<sup>3</sup> World Health Organization (WHO). (2024, April 6). WHO-led mission reaches devastated Al-Shifa hospital, appeals for a deconfliction mechanism to allow access.

inflicted on the hospital. The attacks on medical facilities represent a possible war crime, the group added<sup>1</sup>.

• **V. Legal Dimensions and the International Response**

The bombing of Al-Shifa Hospital has obvious legal ramifications. The Fourth Geneva Convention specifically forbids attacks on medical facilities<sup>2</sup>, and deliberately setting fire to a medical facility is explicitly forbidden unless absolutely necessary for military reasons. The Rome Statute also includes as a war crime the intentional damage of medical buildings, unless they are being used for military purposes and certain legal criteria to withdraw protection have been fulfilled<sup>3</sup>.

The sacking of Al-Shifa Hospital after the Israeli campaign in March and April 2024 has provoked international outrage. The World Health Organization called it an episode that had “ripped the heart out of Gaza’s health system.”<sup>4</sup> The International Committee of the Red Cross condemned fighting in hospital, and called for hospitals to be protected from all forms of violence.<sup>5</sup>

Politically, despite emergency meetings of the UN Security Council - it could not even apply Sanctions due to the US Veto. Like in February 2024, a veto blocked the passage of a resolution imposing binding ceasefire — and once again drew condemnation from critics who said that international silence “opportunizes impunity.”<sup>6</sup> Prominent organizations like Médecins Sans Frontières and Human Rights Watch released strongly worded statements that what took place “could only have been deliberate war crimes.”<sup>7</sup> Israel replied that its operations aimed at militants barricaded in the hospital<sup>8</sup>. No independent international organization has verified this report..

**Case Study: The Attack on Kamal Adwan Hospital (December 2023)**

In a separate incident, the Kamal Adwan Hospital in northern Gaza was bombed and ransacked in mid-December 2023. These events have provoked reports -

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<sup>1</sup> Amnesty International. (2024, April 12). Israel/OPT: Evidence of crimes against humanity in Israel's continuing attacks on Gaza's healthcare system

<sup>2</sup> International Committee of the Red Cross (ICRC). (1958). Commentary on the Fourth Geneva Convention.

<sup>3</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

<sup>4</sup> World Health Organization (WHO). (2024, April 6). WHO-led mission reaches devastated Al-Shifa hospital, appeals for a deconfliction mechanism to allow access

<sup>5</sup> International Committee of the Red Cross (ICRC). (2024, March 20). Gaza: Patients and medical staff must be protected amid major hospital military operation.

<sup>6</sup> United Nations. (2024, February 20). Security Council fails to adopt resolution demanding immediate humanitarian ceasefire in Gaza, as United States casts veto (UN Press Release).

<sup>7</sup> Human Rights Watch. (2023, November 14). Gaza: Unlawful Israeli Hospital Strikes, Fuel Cutoff. Médecins Sans Frontières (MSF). (2024, April 3). Gaza: "The level of destruction of Al-Shifa hospital is beyond words."

<sup>8</sup> The Times of Israel. (2024, March 21). IDF: We killed 90 gunmen, captured 160 in ongoing Shifa raid; 500 terror-affiliated.

described by the United Nations as "deeply disturbing" of civilian casualties and parts of a hospital being destroyed<sup>1</sup>.

### **I. The Raid and On-Site Violations**

By mid-December 2023, Israeli occupation forces encircled Kamal Adwan Hospital and subsequently attacked it. Disturbing and horrifying reports and images came to light with the United Nations calling them 'deeply disturbing'<sup>2</sup> such as that of Palestinian men, boys being forced into stripping naked outdoors in chilly temperatures<sup>3</sup>. Such operations were carried out against a backdrop of adverse humanitarian conditions from the hospital's housing thousands of displaced persons alongside its patient and medical staff.

### **II. Destruction of the Medical Facility**

Occupation forces have inflicted extensive damage on the hospital building, especially its maternity ward which has been put totally out of service. The World Health Organization denounced the attack and said it would leave patients unable to be brought in.<sup>4</sup> Israeli bulldozers were also documented destroying a part of the hospital yard and tents that housed displaced people inside, by human rights organizations as well<sup>5</sup>.

### **III. Legal Classification of the Violations**

These acts – which have included dehumanising and humiliating treatment, including sexually motivated abuse such as knowingly stripping people naked in public to facilitate sexual assault, and the destruction of critical medical infrastructure<sup>6</sup> amount to grave breaches under the Geneva Conventions<sup>7</sup> they may also contravene war crimes provisions<sup>8</sup> of the Rome Statute<sup>9</sup>.

### **IV. The Human Rights and International Response**

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<sup>1</sup> Office of the High Commissioner for Human Rights (OHCHR). (2023, December 19). UN Human Rights Office – OPT: Appalling killing of civilians in raid on Al-Shifa hospital in Gaza must be investigated and those responsible held to account.

<sup>2</sup> UN News. (2023, December 19). Gaza: Rights chief 'appalled' by reports from Al-Shifa, Kamal Adwan hospitals.

<sup>3</sup> Euro-Med Human Rights Monitor. (2023, December 16). Israel must be held accountable for its heinous crimes at Kamal Adwan Hospital.

<sup>4</sup> World Health Organization (WHO). (2024, May 28). Attacks on health care in the occupied Palestinian territory.

<sup>5</sup> Euro-Med Human Rights Monitor. (2023, December 16). Israel must be held accountable for its heinous crimes at Kamal Adwan Hospital.

<sup>6</sup> International Committee of the Red Cross (ICRC). (1958). Commentary on the Fourth Geneva Convention.

<sup>7</sup> International Committee of the Red Cross (ICRC). (1987). Commentary on the Additional Protocols of 8 June 1977

<sup>8</sup> International Committee of the Red Cross (ICRC). (n.d.). Customary IHL Database. (Specifically Rules 1, 7, 14).

<sup>9</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.

These abuses were widely condemned by international human rights groups. United Nations High Commissioner for Human Rights called on 22 July to launch an immediate, independent probe into the events surrounding the hospital and highlighted that civilian lives as well as medical facilities must be protected at all times<sup>1</sup>.

## **VI. Medical Personnel in Gaza: Systematic Targeting and Violations of International Law**

Gaza doctors and health practitioners have always been the first shield during successive Israeli aggressions since October 2023. Such a situation has caused catastrophic conditions in which the health system is in collapse and where medical personnel, ambulances, hospitals are consistently targeted; this was exposed by WHO<sup>2</sup>. This targeting is a clear breach of international humanitarian law which provides special protection for medical personnel and their means of transport<sup>3</sup>.

### **Violations Against Medical Personnel**

Medical personnel were systematically violated by the Israeli war machine on Gaza: whereas doctors, nurses and ambulance drivers have been deliberately killed, arrested or disappeared since long. One of the more high-profile examples would be that of Dr. Adnan al-Barsh, chief orthopedic physician at Al-Shifa Hospital. He was arrested from al-Awda Hospital in December 2023 and subsequently died at Israel's Ofer prison in April 2024. Israel still refuses to hand over his body, in a manner that is disgraceful according to human rights and dignity standards of the victim's family. UN experts referred to the "horrific" circumstances in which he died, and called for an independent investigation<sup>4</sup>.

### **The Targeting of Medical Transport: The November 3, 2023 Attack**

On November 3, 2023, an Israeli airstrike targeted an ambulance convoy moving from the front of Al-Shifa Hospital. The Israeli military acknowledged the strike, claiming that one of the ambulances "was being used by a Hamas

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<sup>1</sup> UN News. (2023, December 19). Gaza: Rights chief 'appalled' by reports from Al-Shifa, Kamal Adwan hospitals

<sup>2</sup> World Health Organization (WHO). (2024, May 28). Attacks on health care in the occupied Palestinian territory

<sup>3</sup> International Committee of the Red Cross (ICRC). (n.d.). Customary IHL Database. (Specifically Rules 1, 7, 14).

<sup>4</sup> Office of the High Commissioner for Human Rights (OHCHR). (2024, May 7). UN experts shocked by death of Palestinian doctor in Israeli prison.



terrorist cell." However, Human Rights Watch, which investigated the attack, stated that no evidence was provided to support this claim and that an attack on a convoy transporting wounded individuals "should be investigated as a possible war crime"<sup>1</sup>. The targeting of protected medical transport is considered a war crime under Article 8 of the Rome Statute<sup>2</sup>.

### **Shooting at Ambulances: Between Security Pretext and Legal Violation (March 29, 2025)**

On March 29, 2025, the Israeli occupation forces officially admitted to firing on Palestinian ambulances in the Gaza Strip, under the pretext that they were "suspicious." This justification was offered amidst ongoing military escalation and was met with local and international condemnation.

According to the First Geneva Convention of 1949, specifically Article 19, medical transport units such as ambulances enjoy absolute protection, unless they are used for purely military purposes. Even in a case of alleged misuse, international law requires the attacking party to issue a prior warning and grant a reasonable time-limit for the misuse to cease. However, the occupation forces provided no public evidence of ambulance misuse, nor was any prior warning issued before they opened fire.

Additional Protocol I of 1977 further enshrines this protection in Article 12(4), clarifying that any loss of protection must be a direct result of a proven hostile act, with a warning required before any attack. Therefore, opening fire based on "mere suspicion" constitutes a grave breach of the principles of proportionality and distinction.

Furthermore, the Rome Statute of the International Criminal Court, in Article 8(2)(b)(xxiv), lists the intentional targeting of protected medical transport as a war crime, provided the attack was deliberate and the transport had not lost its legal protection.

### **Case Study: The Arrest of Dr. Hussam Abu Safia**

In the context of the assault on Kamal Adwan Hospital in December 2023, Israeli forces arrested the hospital's director, Dr. Hussam Abu Safia, after

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<sup>1</sup> Human Rights Watch. (2023, November 7). Israel: Ambulance Strike in Gaza Apparent War Crime

<sup>2</sup> United Nations. (1998). Rome Statute of the International Criminal Court. UN Document A/CONF.183/9.



forcing him and others to strip in humiliating conditions<sup>1</sup>. The Al Mezan Center for Human Rights described his arrest as an "arbitrary and dangerous measure." It argued that his potential classification as an "unlawful combatant" without a fair trial represents a clear violation of the Fourth Geneva Convention and Article 75 of Additional Protocol I, and constitutes a war crime under the Rome Statute<sup>2</sup>.

## VII. International Reactions and Accountability Challenges

The Israeli attacks on hospitals in Gaza prompted widespread international reactions; however, these responses were inconsistent and revealed profound challenges within the structure of the international legal system.

### 1. Positions of International Bodies:

- **United Nations (UN):** The UN Secretary-General repeatedly condemned the attacks, particularly following the strike on Al-Ahli Hospital, demanding an immediate ceasefire<sup>3</sup> .. Similarly, the UN High Commissioner for Human Rights called for independent investigations, noting that indiscriminate attacks on hospitals could amount to war crimes<sup>4</sup>.
- **International Committee of the Red Cross (ICRC):** The ICRC reiterated that hospitals and medical personnel are afforded special protection under international humanitarian law and expressed grave concern over military operations that endanger them<sup>5</sup>.
- **Human Rights Organizations:** Organizations such as Human Rights Watch and Amnesty International documented the attacks, deemed them potential war crimes, and called for an international investigation and a referral of the situation to the International Criminal Court<sup>6</sup>.

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<sup>1</sup> UN News. (2023, December 19). Gaza: Rights chief 'appalled' by reports from Al-Shifa, Kamal Adwan hospitals.

<sup>2</sup> Al Mezan Center for Human Rights. (2024, January 10). Al Mezan demands the immediate release of Dr. Hussam Abu Safia.

<sup>3</sup> International Committee of the Red Cross (ICRC). (2016). Commentary on the First Geneva Convention (2nd ed.).

<sup>4</sup> UN News. (2023, December 19). Gaza: Rights chief 'appalled' by reports from Al-Shifa, Kamal Adwan hospitals.

<sup>5</sup> International Committee of the Red Cross (ICRC). (2024, March 20). Gaza: Patients and medical staff must be protected amid major hospital military operation.

<sup>6</sup> Human Rights Watch. (2023, November 14). Gaza: Unlawful Israeli Hospital Strikes, Fuel Cutoff. Amnesty International. (2024, April 12). Israel/OPT: Evidence of crimes against humanity in Israel's continuing attacks on Gaza's healthcare system

## 2. Positions of International Courts:

- **International Criminal Court (ICC):** The Prosecutor of the ICC confirmed that the ongoing investigation into the Situation in Palestine encompasses crimes committed during the current conflict<sup>1</sup> although no official arrest warrants have been issued to date.
- **International Court of Justice (ICJ):** In a landmark step, the Court issued an order in January 2024 indicating provisional measures against Israel in the case brought by South Africa. The order required Israel to take all measures within its power to prevent acts of genocide and to ensure the immediate and effective delivery of humanitarian aid to Gaza<sup>2</sup>.
- **Challenges to International Action and Accountability**
  1. **Paralysis of the Security Council by the Veto:** The exercise of the veto power, particularly by the United States, consistently obstructs the passage of resolutions aimed at condemning the targeting of hospitals in Gaza. This practice effectively hollows out the international protection regime and severely undermines the Security Council's efficacy.
  2. Double standards with international humanitarian law: A clear case of double standard has been practiced by the world community. Other states have to account for such breaches of law but Israel frequently do not, at least in terms of politics: a double standard which undermines the belief by many people that all nations should be equal before and within international law.
  3. Weak enforcement means: International tribunal, and especially the International Criminal Court (ICC), do not have an exclusive implementation branch. They require state cooperation, and the political will of the UN Security Council is often lacking, with a large implementation gap on accountability in practice.
  4. Political interests first: More often than not, geopolitics considerations when it comes to strategic alliances or arms deals supersede humanitarian

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<sup>1</sup> International Criminal Court (ICC). (2023, November 17). Statement of the Prosecutor of the International Criminal Court, Karim A. A. Khan KC, on the Situation in the State of Palestine: receipt of a referral from five States Parties.

<sup>2</sup> International Court of Justice (ICJ). (2024, January 26). Press Release (No. 2024/6): The Republic of South Africa v. The State of Israel

imperatives. It is this fact that explains why some states have continued to fly in the face of indisputable evidence against Israel and actively arm it with immunity from lawsuits, even when its registered assaults on protected medical infrastructure are just sitting there for everyone (as an earlier article noted) to see.

5. A lack of deterrence and pressure tools: State level violations are difficult to prevent partly because the international system is ill equipped with mechanisms that help prevent states from committing them. Very little is done by means of sanctions and political pressure against those who target medical facilities, at least when they are the client state protected by a powerful global ally.

## VIII. The Governing Principles of IHL and the Targeting of Hospitals

To better understand the violations, it is necessary to examine the underlying principles of IHL regulating belligerent behavior..

### 1. The Principle of Distinction

This rule requires that parties to an armed conflict, at all times distinguish between the civilian population and combatants as well as between civilian objects and military objectives<sup>1</sup>. Hospitals are classified as civilian objects entitled to special protection, protected under Articles 48 and 51(2) of Additional Protocol I<sup>2</sup>. They shall not be made the object of attack unless they are being used by a Party to 'the conflict as an effective contribution to military action and then only after a warning has been given<sup>3</sup>.

- **Application – The Al-Ahli Hospital (October 2023):** The attack targeting the hospital, which killed hundreds of civilians in the absence of any evidence of its use for military purposes, represents a clear breach of the principle of distinction, as a protected civilian object was treated as a military objective<sup>4</sup>.

### 2. The Principle of Proportionality

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<sup>1</sup> Dinstein, Y. (2022). The Law of Armed Conflict: An Introduction (5th ed.). Cambridge University Press.

<sup>2</sup> International Committee of the Red Cross (ICRC). (1987). Commentary on the Additional Protocols of 8 June 1977.

<sup>3</sup> International Committee of the Red Cross (ICRC). (1987). Commentary on the Additional Protocols of 8 June 1977.

International Committee of the Red Cross (ICRC). (n.d.). Customary IHL Database. (Specifically Rules 1, 7, 14).

<sup>4</sup> Human Rights Watch. (2023, November 26). Gaza: Findings on October 17 Al-Ahli Hospital Explosion

Even when targeting a legitimate military objective, IHL prohibits any attack "which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated" [7, 8, Art. 51(5)(b) of AP I].

- **Clarification:** This principle means that even if a legitimate military target is confirmed to be inside or near a hospital, an attack becomes unlawful if the expected harm to patients, medical staff, and displaced persons is clearly excessive when compared to the anticipated military advantage of destroying that target.

### 3. Other Complementary Principles:

- **The Principle of Military Necessity:** This principle confines the use of force to that which is necessary to achieve a legitimate military objective. Consequently, the complete destruction of a hospital to neutralize a single combatant would likely violate the principle of military necessity, in addition to being disproportionate<sup>1</sup>.
- **The Principle of Humanity:** This principle requires parties to a conflict to avoid inflicting unnecessary suffering. Bombing medical facilities housing the wounded and sick, and preventing their safe evacuation, directly contravenes this fundamental principle<sup>2</sup>.

The relationship between these principles is interdependent; a violation of one often leads to the violation of the others, transforming the act into a fully constituted war crime.

### The Interrelationship of the Principles

But the two concepts are, at heart, very closely related. Attack against the hospital is a typical example of cascading violations in which violation of distinction itself leads to failure or proportionality. It is this pattern of violation that sanctions the characterization of this act as a war crime under Rome Statute.

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<sup>1</sup> Dinstein, Y. (2022). The Law of Armed Conflict: An Introduction (5th ed.). Cambridge University Press

<sup>2</sup> ICRC, Customary International Humanitarian Law, Volume I: Rules. Cambridge University Press, 2005

## Conclusion

Attacks on hospitals in armed conflict are a grave breach of international humanitarian law, including the Geneva Conventions and basic principles of distinction and proportionality. Although medical facilities in general should not be targeted, which is a clearly established legal norm, on the ground practices show that attacking them retains and persists without deterrence. This underscores the utmost necessity to act through international accountability mechanisms, reinforce preventive actions and aid in documentation and prosecution efforts to secure respect for the special protection granted to health facilities. The respect for hospitals as inviolable is not just a legal obligation, but also moral imperative Tolerating the intolerance: an inquiry into international law and humanitarianism.

## Conclusions

1. "Attacks against hospitals are a clear violation of the basic rules under IHL, which require parties to conflict to distinguish between civilian and military objects," she said that such haphazard targeting has devastating impact on both civilians as well as those who provide medical help.
2. Some of the parties to a conflict use perceptions that medical facilities are being used for military purposes as cover and justification for attacks without qualifying under the strict legal parameters necessary which would lead to hospitals losing their protection..
3. Existing international accountability mechanisms, including the International Criminal Court (ICC), have proven insufficient to effectively deter violations or to secure justice for the victims in many instances.
4. The destruction of healthcare infrastructure systematically impedes relief efforts and severely exacerbates the humanitarian crisis in conflict zones.

## Recommendations

1. To enhance legal training for both state armed forces and non-state armed groups on the specific IHL rules governing the protection of medical facilities during armed conflict.

2. To provide greater support for humanitarian organizations in their efforts to document violations, and to ensure that independent investigative missions are granted unfettered access to incident sites.
3. To apply concerted international and political pressure on violating parties through targeted sanctions and established UN mechanisms, compelling compliance with international humanitarian law.
4. To activate international criminal accountability mechanisms and to urge states to fully cooperate with the International Criminal Court (ICC) in the investigation and prosecution of individuals responsible for war crimes.
5. To actively promote and support the peaceful resolution of conflicts, thereby diminishing the resort to military operations that inevitably endanger civilian infrastructure.

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