

Protection of Medical Personnel and Health Facilities in Palestinian-Israeli Armed Conflict in International Humanitarian Law and Conflict Theory Perspective

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Abstract

The purpose of this study is to analyze both the protection of health facilities and the rights of medical personnel during the 2023 conflict between Palestine and Israel, as well as to investigate the causes of violations against these protections and rights. Protecting health facilities and medical personnel in the war between Palestine and Israel is a daunting task with all the consequences and death threats that can occur. In 2023 there have been several cases of attacks on hospitals and doctors being shot dead in Gaza City. This study employed doctrinal and hermeneutic methods with the theory of international humanitarian law and human rights theory, as well as conflict theory, to explain the causes of human rights violations despite the existence of international humanitarian law. The results of this study prove that there are still many violations of international humanitarian law, especially the 1949 Geneva Convention regarding legal protection for health facilities and medical personnel on the battlefield. This is due to the conflict of interest between countries or ethnicities, where both the state and ethnic Israelis and Palestinians feel threatened by each other's existence. Capitalist orientation also exacerbates ethnic class differences and creates power imbalances. Economic motives to compete for territory, natural resources, and power can easily lead to violations of non-combatant rights, including those of health facilities and medical personnel.

Keywords: Medical Personnel; Palestinian-Israeli Conflict; International Humanitarian Law (IHL); Conflict Theory.

Introduction

The Palestinian Ministry of Health reported that the number of fatalities in Gaza since October 7, 2023, had reached 15,000, with 5,600 of



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them being children. Data from the United Nations Children's Fund (UNICEF) reports that over 100 attacks on healthcare services have occurred, while data from the United Nations Population Fund (UNFPA) as of October 31, 2023, indicates approximately 50,000 pregnant women. UNFPA also reported that women giving birth via cesarean section were unable to receive anesthesia and were discharged just three hours after childbirth to make room for other patients. This was necessitated by the collapse of the healthcare system and the shortage of medical personnel in Gaza due to Israeli attacks. It is not only patients undergoing cesarean sections who are affected; all types of surgeries are now frequently performed without anesthesia due to the scarcity of medications resulting from the prevention of medical supplies from entering the area.

With the escalating health care crisis and shortage of medical personnel in the Palestinian territories, the World Health Organization (WHO) has established two National Emergency Medical Teams in the Gaza region and deployed them to three hospitals that are still operational: Shifa Hospital, Aqsa Hospital, and Abu Yousuf Al-Najjar Hospital. WHO medical personnel are working around the clock to expand the health emergency response in Gaza and establish safe areas for patients to receive care in critical situations.

The importance of protecting healthcare systems and medical personnel in conflict zones is not a new concept, as certain parties must not be targeted for attack, as reflected in the 1949 Geneva Conventions and the 1977 Additional Protocols, which specifically protect individuals not participating in the conflict (civilians, healthcare workers, and humanitarian aid workers). This case has become a global issue because protecting healthcare services and medical personnel requires greater attention from the international community, as stipulated in the Laws of War, or what is more commonly known as International Humanitarian Law.

Humanitarian Law, as a branch of Public International Law, is not widely recognized as a new name for what was previously known as the Laws of War.¹ International Humanitarian Law consists of rules established by the international community to provide war procedures and protect the human rights of certain groups in conflict.

The regulation of civilians in armed conflicts between states is governed by International Humanitarian Law, which applies not only to civilians but also to *combatants* or soldiers who are wounded or taken prisoner. International Humanitarian Law also provides protection to victims of war or those involved in combat. The armed conflict between Israel and Palestine, where Israel carried out an attack known as Operation *Cast Lead*, clearly

¹ KGPH Haryomartaram, "Pengantar Hukum Humaniter," *Jakarta: Raja Grafindo Persada*, 2005.

violates the principles of International Humanitarian Law.

Israel also violated the principle of distinction, as its attacks did not differentiate between civilians and combatants, who in this case were Hamas paramilitaries.² Additionally, Israel did not distinguish between military objects that contributed effectively to military objectives and civilian objects that should not be targeted in military attacks. Israel has destroyed civilian objects such as civilian homes, hospitals, schools, UN buildings, and even places of worship.

Therefore, in providing healthcare services in conflict zones, *the International Committee of the Red Cross (ICRC)* and *Doctors Without Borders (MSF)* emphasize that the right of the wounded and sick to access healthcare during armed conflict must be respected and protected. They also call for an end to attacks on healthcare workers and facilities.³ States must take practical and straightforward implementation measures to protect the wounded and medical personnel if they wish to maintain a humanitarian space in the center of hostilities.

Under international humanitarian law, healthcare workers must provide care to victims from all sides and offer medical assistance to wounded civilians. In return, the 1949 Geneva Conventions and the 1977 Additional Protocols protect healthcare workers from direct attack during war, provided they are not directly participating in hostilities. Additionally, the consequences of the armed conflict between Israel and the Hamas paramilitary group (Palestine) have left civilians in the conflict zone unable to live in peace, as their lives are constantly threatened.

Musalam explained that the treatment of medical facilities and medical personnel that do not comply with international humanitarian law has been going on for a long time, and also occurred during the war in 2021.⁴ Asi also found how hospitals in Gaza became an inevitable target of Israeli bombing. Israel launched a large-scale military campaign in the Gaza Strip that showed a scale of destruction that had never been seen before.⁵

² Houssein H. Ayoub, Hiam Chemaitelly, and Laith J. Abu-Raddad, "Comparative Analysis and Evolution of Civilian versus Combatant Mortality Ratios in Israel-Gaza Conflicts, 2008–2023," *Frontiers in Public Health* 12 (June 25, 2024), <https://doi.org/10.3389/fpubh.2024.1359189>.

³ ICRC Blog Indonesia, "Every Person Wounded or Sick in Armed Conflict Has the Right to Health Care," ICRC Blog Indonesia, 2016, <https://blogs.icrc.org/indonesia/setiap-orang-yang-terluka-atau-sakit-dalam-konflik-bersenjata-berhak-atas-perawatan-kesehatan/>.

⁴ Alaa M. Musalam et al., "Protecting Health Facilities during Wars in the COVID-19 Era: A Case Study of the Indonesian Hospital in the Gaza Strip in the Palestinian Territories," *Journal of Emergency Management* 21, no. 5 (November 3, 2023): 453–67, <https://doi.org/10.5055/jem.0793>.

⁵ Yara Asi et al., "Nowhere and No One Is Safe': Spatial Analysis of Damage to Critical Civilian Infrastructure in the Gaza Strip during the First Phase of the Israeli Military

Therefore, this paper will focus on previously overlooked aspects while strengthening previous research, particularly regarding the protection of medical personnel and facilities under international humanitarian law and conflict theory. This study aims to explore the protection of medical personnel and health facilities in the 2023 Palestinian-Israeli armed conflict. There are important questions to consider regarding this objective. There are two main questions addressed in this study. First, how was IHL implemented in the protection of medical personnel and health facilities in the 2023 Palestinian-Israeli armed conflict? Second, why did violations of the rights of medical personnel and their facilities still occur during the conflict?

To answer these questions, the methods used are doctrinal and hermeneutic, with data collection techniques, namely document study and "analyzing" or "interpreting" prescriptive texts and legal constructions in secondary data. The theory used is international law theory, in this case, IHL and human rights, as well as conflict theory to explain the causes of rights violations despite the existence of IHL.

Discussion

The Concept of International Humanitarian Law on the Protection of Medical Personnel

The application of international humanitarian law to the protection of medical personnel and health facilities in the ongoing conflict between Palestine and Israel focuses on the rules in the Geneva Conventions and the 1977 Additional Protocols as the source of law. The Additional Protocols, also often referred to as mixed law, regulate not only the protection of war victims but also the methods and means of warfare and other provisions. International Humanitarian Law not only regulates the protection of combatants or wounded soldiers and prisoners of war but also addresses the protection of civilians. The key points of protection are: (i) protection granted to persons who, by their work, must be respected and not targeted for attack⁶; (ii) protection granted to *combatants*, i.e., those actively participating in hostilities⁷ (iii) Protection is granted to *the civilian population*.⁸ International Humanitarian Law is divided into the Geneva Conventions and the Hague Conventions. The Geneva Conventions regulate the protection of war victims, while the Hague Conventions regulate the rules and means of

Campaign, October 7 to November 22, 2023,” *Conflict and Health* 18, no. 1 (April 2, 2024): 24, <https://doi.org/10.1186/s13031-024-00580-x>.

⁶ Levina Yustitianiingtyas, “Protection of Civilians in International Humanitarian Law,” *Journal of Legal Communication (JKH)* 2, no. 1 (February 13, 2016), <https://doi.org/10.23887/jkh.v2i1.7282>.

⁷ “Geneva Convention III on the Treatment of Prisoners of War” (n.d.).

⁸ “Geneva Convention IV on the Protection of Civilians in Time of War,” n.d.

warfare.⁹ On April 21–August 12, 1949, *the International Committee of the Red Cross* (ICRC) successfully formulated and adopted four conventions known as the 1949 Geneva Conventions.

Healthcare facilities, medical personnel, civilians, and humanitarian workers must be protected, as International Humanitarian Law explicitly prohibits attacks, particularly those targeting buildings and other infrastructure. Article 57 of the 1977 Additional Protocol I clarifies that objects that may be targeted and must not be attacked in armed conflicts are military and combat-related objects. Article 12, Paragraph 1 of the 1977 Additional Protocol I states: "¹⁰ "Medical units must always be respected and protected and may not be the object of hostilities."

The Hamas-Israel conflict, which has escalated again in the past week, has not only claimed the lives of civilians but also medical personnel, who are also protected under international humanitarian law. Four paramedics were killed in an Israeli attack in Gaza. The four paramedics were members of the Palestinian Red Crescent Society.¹¹ Under International Humanitarian Law, medical personnel are entitled to special protection, meaning they cannot be attacked or targeted as objects of war if they are not directly involved in hostilities. The Geneva Conventions, specifically in Article 25 of Chapter IV, states: "Members of the medical services shall be protected and respected when they are performing their duties, even when they are in the hands of the enemy." Therefore, attacks on medical personnel constitute a violation of International Humanitarian Law, as medical personnel should not be attacked or harassed, but rather respected and their dignity upheld.

The Geneva Conventions were established to regulate warfare and ensure greater respect for *humanitarian* principles.¹² Specifically, the Geneva Conventions were designed to protect military personnel who can no longer participate in combat, as well as individuals who are not actively involved in hostilities, including medical personnel. Unfortunately, some of the provisions of the Geneva Conventions have been violated by Israel through attacks on healthcare facilities and medical personnel in the Gaza Strip. Many of Israel's actions have violated the provisions of international humanitarian law, including the 1949 Geneva Conventions and their additional protocols.

⁹ Haryomataran, "Introduction to Humanitarian Law."

¹⁰ "Additional Protocol I of 1977" (n.d.).

¹¹ "VIDEO: Israel Attacks Ambulance, 4 Palestinian Medical Workers Killed – CNN Indonesia". Diakses November 20, 2023. <https://www.cnnindonesia.com/tv/20231013155302-401-1010915/video-israel-serang-ambulans-4-petugas-medis-palestina-tewas>

¹² Imam Rokhyani, "Perlindungan Hukum Terhadap Anak Dalam Konflik Bersenjata Di Suriah," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 7, no. 2 (November 30, 2018), <https://doi.org/10.14421/sh.v7i2.2035>.

Despite this, Israel has signed or ratified the 1949 Geneva Conventions and their additional protocols. It is well-known that once a state has ratified a convention, it is obligated to recognize the rights of medical personnel, whether they are part of an armed force, members of humanitarian organizations (such as the ICRC), or others using the Red Cross, Red Crescent, or Red Crystal emblems. These individuals must not be attacked and be protected and respected while performing their duties.

Essential Values of the Protection of Medical Personnel as Civilians under International Humanitarian Law

Medical personnel are an essential and integral part of any armed conflict. This is because they are individuals exclusively assigned, either on a permanent or temporary basis, for medical, namely the search for, collection, transportation, diagnosis, or treatment of the wounded.¹³

In this context, medical personnel include military and civilian medical personnel (doctors and paramedics), including Red Cross or Red Crescent members, and civil defense personnel. They are entitled to protection and treatment as provided for under International Humanitarian Law.

The regulations regarding the protection of medical personnel and the obligation to comply with them are related to *jus cogens* norms and *obligations erga omnes*. *Jus cogens* is often interpreted as a binding norm and considered to have the highest hierarchical status or *primary source*. At the same time, *obligations erga omnes* are the legal consequences arising from the characteristics of a crime with the status of *jus cogens*.¹⁴

International humanitarian law requires parties involved in armed conflict to distinguish between civilians and combatants. The term civilians includes all persons with civilian status, including humanitarian volunteers, health workers, and medical personnel. Based on this, civilians are present in the area during an armed conflict or residents living in an occupied area. Based on this analysis, the term "civilian" or "civilian population" refers to any person who is not actively participating in hostilities or is not involved in the conflict. Suppose there is any doubt about whether a person is a combatant or a civilian. In that case, they must be presumed civilians by the provisions of Additional Protocol I of 1977, Article 50. Additional Protocol I of 1977, Articles 61-67, Article 76, and Article 79 state that civilian protection includes persons working as aid workers or volunteers, health personnel and medical staff, journalists, and civil defense personnel. Civilians must be

¹³ ICRC, "Medical Personnel," ICRC, 2024, https://casebook.icrc.org/a_to_z/glossary/medical-personnel.

¹⁴M . Cherif Bassiouni, "International Crimes: 'Jus Cogens' and 'Obligatio Erga Omnes,'" *Law and Contemporary Problems* 59, no. 4 (1996): 63, <https://doi.org/10.2307/1192190>.

treated with special and humane treatment without any discriminatory distinction based on gender, skin color, race, religion or belief, political or other opinions, national origin, social status, wealth, descent, or similar standards of distinction.

Under all circumstances, civilians must receive protection related to human rights, and they must be treated humanely regardless of their circumstances. It is not permitted to commit theft, robbery of property, torture, coercion, whether physical or mental, causing physical suffering, intimidation, terror, reprisals, shooting, taking hostages, and many other acts.

In addition to the general protection provided to civilians in an armed conflict as described above, there is also special protection for certain civilians, such as those who are members of social organizations carrying out humanitarian missions to assist civilians in situations of armed conflict, for example, members of the ICRC, the National Red Cross, health workers and medical personnel, military doctors or soldiers serving in the medical field, war correspondents or journalists, clergy, and other volunteer aid workers.

The parties are usually equipped with exceptional facilities and buildings and given special symbols when performing their duties. When carrying out their work, they must be respected and their rights protected; they must not be attacked and allowed to carry out their social duties as long as they do not participate in hostilities or the war.

International Humanitarian Law has established that both states in conflict and those not involved in the conflict are responsible for protecting the presence of medical personnel. This is enshrined in Additional Protocol I of the Geneva Conventions, which includes: the obligation to respect and protect medical personnel and religious personnel, medical units and medical transport, personnel and goods of humanitarian assistance; and the obligation to protect medical tasks. The 1949 Geneva Conventions and the 1977 Additional Protocols protect healthcare services at all times and under all circumstances.

Three concepts of responsibility can be linked to this case, namely the concept of state responsibility, the concept of individual responsibility, and the concept of command responsibility. The concept of state responsibility arises from acts or omissions by a state that cause harm to another state. The regulation of state responsibility has been developed through international doctrine and custom. In the past two decades, international law experts have frequently referred to the Articles on Responsibility of States for Internationally Wrongful Acts (ARSIWA) draft, which codifies the principles and practices regarding state responsibility.

Under Article 4 of the draft ARSIWA, actions taken by state organs, whether such organs are exercising legislative, executive, judicial, or other functions, regardless of their position within the state organization, and

regardless of their character as central government organs or territorial units of the state, shall be considered as actions of the state in question under international law. Thus, actions taken by military personnel while performing their military duties represent the actions of a state organ, which in this case causes harm to another state, thereby giving rise to state responsibility.

Individual responsibility under international law arises from the commission of a criminal act by an individual where such criminal act falls within the jurisdiction of international criminal law, namely genocide, crimes against humanity, war crimes, and military aggression.¹⁵

The concept of command responsibility arises from the relationship between superiors and subordinates, the superior's knowledge of the criminal acts committed by their subordinates, and the failure to act to prevent, punish, or stop the criminal acts committed by their subordinates. The doctrine of command responsibility is related to individual criminal responsibility, so like individual criminal responsibility, the regulation of command responsibility also uses the 1998 Rome Statute as the legal source for the principle of command responsibility.

War crimes committed by military personnel while performing their duties in the field, coupled with the absence of punishment for such crimes, represent the failure of the superior officer to prevent, stop, and punish the criminal acts committed by their subordinates, thereby giving rise to command responsibility. Thus, military commanders of military personnel may be held responsible for the criminal acts of their subordinates.

Article 87 of the 1977 Additional Protocol I states the obligation of the Commander to prevent and, if necessary, punish and report to the competent authorities any violations of the Convention and the Protocol. Paragraph (3) emphasizes the need to impose disciplinary sanctions or criminal penalties on those who violate these two rules. Unfortunately, Israeli Prime Minister Benjamin has not taken a firm stance in imposing sanctions on his subordinates, even going so far as to order military personnel to continue the war under the pretext of achieving Israel's ambitions to control Palestinian territories. Those involved in the conflict should be brought before the *International Criminal Court (ICC)*.

The errors or losses resulting in state responsibility vary in the Palestinian case. A state is deemed responsible for violating its obligations in the form of: a) an act, and b) an omission.

In the case of the Israeli-Palestinian conflict, violations or omissions by the state occur under point a), which constitutes an act that meets several principles of international law. Under point b), generally, there is no opportunity for a state to defend itself against claims by asserting that a

¹⁵ "Article 25 of the Rome Statute 1998" (n.d.).

particular state organ allegedly responsible for the wrongful act acted beyond the scope of its authority under national law. Therefore, legal responsibility is responsibility that is truly linked to the rights and obligations of the two states, Israel and Palestine.

The conflicting states of Israel and Palestine are responsible for ensuring the safety of medical personnel, even though there is no such guarantee from the Israeli side. Safety in the workplace refers to efforts to protect workers, other people, and production resources to remain safe during the work process.¹⁶

Therefore, in this context, medical personnel must be provided with security and comfort while working in conflict zones. Social and cultural conflicts arise due to the failure of state authorities and society to address ethnic, cultural, and religious diversity fairly and equitably. Within this framework, the state needs to establish governance capable of understanding and managing national diversity fairly and justly.¹⁷

Medical personnel are a group of civilians who are entitled to special protection. Generally, civilians are affiliated with a social organization that carries out social or *humanitarian* tasks to assist other civilians during armed conflicts. They are also members of the National Red Cross Society and other volunteer aid organizations, including members of the Civil Defense.

Deaths of Medical Personnel in the 2023 Palestine-Israel War

The Palestinian-Israeli conflict has deep historical roots, beginning during World War I when Britain seized Palestine from the Ottoman Empire and promised a "national home for the Jewish people" through the Balfour Declaration in 1917. Palestinian resistance to British rule continued until the partition of the territory by UN Resolution 181 in 1947, which proposed the creation of a Jewish and Arab state. This partition was rejected by the Palestinian Arab population, sparking a war with Israel, which declared its independence on May 14, 1948.

This conflict has evolved into a multidimensional issue involving social, economic, and political tensions. From Karl Marx's perspective on conflict theory, social injustice, exploitation, and alienation are the leading causes of tension. Dominant groups such as Israel, supported by major powers like the United States, continue to strengthen their hegemony through military actions and economic policies. At the same time, Palestinians face marginalization and economic blockades that exacerbate the suffering of their people.

¹⁶ Cecep Triwibowo, "Ethics and Health Law," *Yogyakarta: Nuha Medika*, 2014.

¹⁷ Secretariat General of the People's Consultative Assembly of the Republic of Indonesia, "Four Pillars of National and State Life," *Jakarta: Secretariat General of the People's Consultative Assembly of the Republic of Indonesia*, 2012.

Israel's foreign policy is often criticized as destructive, marked by attacks on civilian infrastructure such as hospitals and schools. In 2023, these attacks destroyed 36 health facilities in Gaza and killed 200 medical personnel, including two doctors. These attacks constitute serious violations of the 1949 Geneva Conventions and the 1977 Additional Protocols, which require the protection of healthcare facilities and medical personnel in conflict zones.

The humanitarian impact of this conflict is enormous, particularly for women, children, and other civilians. The economic blockade imposed on Gaza has created social and economic alienation, preventing access to basic needs such as healthcare, education, and employment. Therefore, a social justice-based approach and enforcing international law are essential to resolve this conflict. International community support for upholding International Humanitarian Law must be a priority to protect human rights in this region.

From Marx's perspective, this conflict can be seen as a consequence of the capitalist system that creates social inequality. Marx views hegemony as a powerful and supreme nation-state in an unstable relationship between nations. This instability is caused by competition between a group of powers vying for world leadership. The Palestinian population, especially in Gaza, experiences alienation due to Israel's economic blockade and military pressure. They have lost access to necessities, resource control, and social freedom. Considering the history and dynamics of this conflict, it is clear that resolving the conflict requires an approach based on social justice and respect for international law. International community support in upholding humanitarian law is crucial to protecting human rights in conflict zones, a principle known as the *Responsibility to Protect* (R2P), where states are obligated to protect their people, and if they fail to do so, that responsibility shifts to the international community.¹⁸ Holsti added that foreign policy is a state's effort to maintain and advance its national interests. He outlined four fundamental characteristics of foreign policy, including policy orientation, which reflects a state's behavior and commitments toward the international community. This policy serves as a strategy aligned with the state's national interests.¹⁹

However, on the other hand, there are many opportunities for abuse if *humanitarian intervention* is allowed without authorization from the UN Security Council, as in the case of the 2003 invasion of Iraq. That is why most experts

¹⁸ International Commission on Intervention, State Sovereignty, and International Development Research Centre (Canada), *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (IDRC, 2001).

¹⁹ Sintaya Luchma Fudia et al., "Regional Conflict: A Case Study of the Al-Aqsa Mosque Dispute," *Journal of Integrative International Relations* 7, no. 2 (November 23, 2022): 133–47, <https://doi.org/10.15642/jiir.2022.7.2.133-147>.

and countries reject *humanitarian intervention* without authorization from the UN Security Council.²⁰ The UN Security Council can carry out humanitarian intervention through fact-finding, diplomacy, and military force. The use of military force must be considered a *last resort* if a country has failed to protect its citizens and if peaceful means have also failed.²¹

Thus, the conflict between Israel and Palestine is rooted in both nations' claims to the same territory, namely Palestine. As a result, both sides have been at war for a long time over this territory. History has proven that the claim to ownership of the Palestinian territory is quite challenging to resolve. Three thousand years ago, the names "Israel" and "Palestine" originated from two nations that entered the region at the same time, namely in the 12th century. Nearly two hundred years later, the Jews united to defeat the Palestinians and other communities in the Palestinian territory.

During World War II, the arrival of Jewish refugees from Europe to Palestine further complicated the conflict between Jews and Palestinian Arabs. These refugees arrived due to concerns about Nazi actions aimed at exterminating nations deemed inferior by the Nazis, with the ultimate goal of elevating the Aryan race to the highest status.²² The conflict escalated because, for the Palestinian Arabs, the arrival of these refugees would increase Jewish settlements in Palestine. This rejection sparked further rebellions against the Jews and triggered a crisis in Palestine. The crisis between the two nations could not be resolved by Britain, which had held the mandate over Palestine since the end of World War I. After World War II ended and the United Nations (UN) formed, Britain officially withdrew from Palestine and handed over the mandate to the UN.

The UN then formed UNSCOP (United Nations Special Committee on Palestine) to investigate and find a solution to the problem that had been ongoing since the 19th century. UNSCOP recommended a partition plan dividing Palestine into two states, one for Arabs and one for Israel. However, once again, the Palestinian Arab community and other Arab countries did not support this partition plan. The Arab nations believed that acceptance of

²⁰ Ryan Goodman, "Humanitarian Intervention and Pretexts for War," *American Journal of International Law* 100, no. 1 (January 27, 2006): 107–41, <https://doi.org/10.2307/3518833>; Christine Chinkin, "The Legality of NATO's Action in the Former Republic of Yugoslavia (FRY) under International Law," *The International and Comparative Law Quarterly* 49, no. 4 (August 2, 2000): 910–25, <http://www.jstor.org/stable/761768>.

²¹ Emi Eliza, Heryandi Heryandi, and Ahmad Syofyan, "Humanitarian Intervention According to International Law and Its Implementation In Armed Conflict," *Fiat Justisia: Journal of Law* 8, no. 4 (August 14, 2015), <https://doi.org/10.25041/fiatjustisia.v8no4.316>.

²² Charles Smith, "The Arab-Israeli Conflict," *International Relations of the Middle East*, 2013, 245–67.

the partition plan would grant Israel legitimacy to establish the State of Israel in Palestine, something that the Palestinian Arab people and other neighboring countries had long opposed. However, the Jews took a bold step. On May 14, 1948, they declared the establishment of the State of Israel, with its territorial boundaries as defined by *the UN Partition Plan*.²³ On May 15, 1948, the United States recognized the State of Israel *de facto*, followed by the Soviet Union, which recognized the sovereignty of the State of Israel *de jure*. On the same day, Arab forces invaded Palestine to attack the State of Israel, marking the beginning of a new chapter in the Middle East conflict.²⁴

Marx and Engels argued that no nation can be free if it oppresses another, so Marxists firmly reject all forms of oppression of a nation. The idea of uniting the two nations into "one country," namely Israel and Palestine, to become "Isratine" also surfaced. The pioneer of this idea was the liberal intellectual Edward Said, who was later popularized by another Israeli liberal intellectual, Ilan Pappé. The idea sounded reasonable, but within the framework of capitalism, it would be shattered into pieces by the existing reality. To unite the two nations, certain conditions must be met. First, the economic conditions of both nations must be equalized. However, the reality is that capitalism is entirely in the hands of the Jews. At the same time, the Palestinians are marginalized, not only economically but also politically and socially, much like African Americans in the United States, and possibly even worse.

One of Ilan Pappé's ideas for Israeli-Palestinian peace within the framework of Isratine is the recognition of the 1948 Nakba and the return of Palestinian refugees. Pappé states that recognizing the Nakba and returning refugees are important steps toward genuine peace. However, if around 4 million Palestinian refugees return, social tensions could escalate due to resource constraints such as housing, jobs, and social services within the capitalist system. The Israeli ruling class would exploit this situation to stoke hatred and divide the working class, creating competition among groups to survive, while profits remain concentrated among the capitalist elite.

Ultimately, the struggle to resolve the Israeli-Palestinian conflict does not depend on lobbying at the UN or diplomacy with imperialist powers, but on the struggle toward socialist revolution. A solution can only be achieved in a socialist federation that grants autonomy to Jewish and Palestinian working people, with Jerusalem as their shared capital. By removing capitalist and imperialist interests, both nations can negotiate on equal terms to resolve their issues, without interference that undermines peace. The struggle to free

²³ Fred Halliday, *The Middle East in International Relations: Power, Politics and Ideology*, vol. 4 (Cambridge University Press, 2005).

²⁴ Smith, "The Arab-Israeli Conflict."

Palestine from Israeli and Western domination is an integral part of the revolutionary effort to achieve global socialism. Therefore, the proper solution lies in supporting *the Intifada* until victory is achieved and the revolution until its ultimate goal is realized.²⁵

The Application of International Humanitarian Law in the Protection of Medical Personnel in the Conflict between Palestine and Israel

International humanitarian law must be adhered to by all states, especially in order to protect the rights of medical personnel. However, the conflict between Palestine and Israel appears to have disregarded the protection of medical personnel, as evidenced by the numerous medical personnel injured or killed, along with the destruction of 36 healthcare facilities, including 22 hospitals, as a result of the conflict.

According to the author's research, the conflict between Palestine and Israel falls under the category of non-international (internal) conflicts that have been internationalized because the conflict is led by someone who should be responsible for their subordinates, as stated by Pietro Verri, who refers to such armed conflicts as "*internationalized internal armed conflicts*," meaning internal armed conflicts that have been internationalized. Pietro Verri classifies such conflicts as follows:²⁶ 1) The state where the rebellion occurs recognizes the rebels as *belligerents* or warring parties; 2) One or more foreign states assist one of the armed forces of the warring parties; 3) Two foreign states intervene with armed forces and assist each of the warring parties.

In this case, regarding the second point, it is known that Israel is not alone in attacking Palestine. Several countries have assisted in carrying out the attack, particularly *by supplying* weapons or military equipment. These countries include the United States, France, the United Kingdom, Canada, and Germany.

Another scholar, Draper, also expressed his opinion on what is meant by an international armed conflict as follows:²⁷

"Any situation in which a difference between two states leads to the intervention of armed forces within the extended meaning conferred upon the latter term by Article 4 of the Prisoner of War Conventions."

Thus, according to Draper, an international armed conflict is a conflict in which two armed forces from different states (Palestine and Israel) are

²⁵ Revolutionary Socialist Editorial Board, "The Marxist Response to the Two-State Solution and the One-State Solution to the Palestinian-Israeli Problem," Revolutionary, 2023, <https://revolutioner.org/palestina-solusi-dua-negara/>.

²⁶ ICRC, *Dictionary of the International Law of Armed Conflict* (ICRC, 2020), <https://www.icrc.org/en/publication/0453-dictionary-international-law-armed-conflict>.

²⁷ Haryomataram, "Introduction to Humanitarian Law."

engaged.

One of the acts of violence and murder committed by the Israeli army was an attack on 200 medical personnel, particularly two doctors, the first on November 7, 2023, Dr. Mueen Al Shurafa, Sp. A 47-year-old 47, who was killed in the Gaza Strip, was killed while on duty at one of the government hospitals, Kamal Adwan Hospital. He was a recipient of the Indonesian Red Crescent Society (BSMI) scholarship and had completed his residency program in anesthesiology at UNS for approximately four years. Given the critical need for specialized doctors in Gaza, which is a conflict-prone area,²⁸ Residents of Gaza, who remain under Israeli blockade, are highly vulnerable to rocket attacks or long-range weapons, making them in urgent need of medical personnel with various specializations.

This was followed by the tragic death of Dr. Hammam at Al Shifa Hospital on November 11, 2023. Before passing away due to an Israeli attack, he left a message stating that during his 14 years of medical studies, he had dedicated his knowledge without prioritizing himself and remained committed to caring for his injured patients in Gaza.²⁹ Instead of fleeing to save themselves and escape the battlefield, these medical personnel remained steadfast in their commitment to fulfill their professional responsibilities, as outlined in the doctors' oath, which states that they dedicate their lives to the cause of humanity.

Looking at the two cases above, it can be seen that the state's responsibility as the protector of medical personnel is almost non-existent. Israel is not present as a state responsible for the deaths of several medical personnel in Palestine, so in this case, Israel is not subject to the rules of international humanitarian law, particularly the 1949 Geneva Conventions and the 1977 Additional Protocols.

According to foreign media outlet Al Jazeera, Muhammad Abu Salmiya, Director of Al Shifa Hospital, stated that on November 11, 2023, all surgical procedures at the hospital were forced to cease due to a shortage of fuel and the depletion of electrical power, This also affected the condition of newborn incubators, with at least 39 newborn babies at the time, who were struggling to survive due to Israel's continuous bombardment of healthcare facilities, resulting in the death of a medical staff member who was

²⁸ BSMI, "Graduating as a Specialist Doctor in Indonesia, Gaza Residents Return Home," BSMI, 2022, <https://www.bsmi.or.id/blog/post/25/lulus-jadi-dokter-spesialis-di-indonesia-warga-gaza-pulang-kampung>.

²⁹ Reza Sulaiman, "Final Interview with Dr. Hammam Alloh Before His Death in Gaza: If I Leave, Who Will Treat the Patients?" Suara.com, 2023, <https://www.suara.com/lifestyle/2023/11/14/151500/wawancara-terakhir-dokter-hammam-alloh-sebelum-meninggal-di-gaza-kalau-saya-pergi-siapa-yang-rawat-pasien>.

attempting to assist a newborn baby.³⁰

Despite the widespread recognition of International Humanitarian Law, numerous violations continue. The actions of Israeli military personnel that led to the death of medical personnel are highly detrimental to the Palestinian side, thereby creating Israel's responsibility toward Palestine. Suppose we follow the concepts and regulations regarding state responsibility. In that case, there are several forms of accountability that Israel can provide to Palestine, namely the cessation and guarantee not to repeat *the internationally wrongful act* that has occurred. Unfortunately, to date, Israel has refused to provide any form of accountability, claiming that the actions of its military personnel constitute self-defense (*Cast Lead*) in response to actions initiated by Hamas on October 7, 2023, and that these actions were by Israel's military operational procedures.

Revealing the Factors Behind the Violations of International Humanitarian Law

Based on the above facts, the armed conflict between Israel and Palestine in 2023 resulted in numerous violations against medical personnel and healthcare facilities due to the intervention of conflicting political and ethnic powers. According to Marx's conflict theory, this conflict reflects the class and ethnic struggles of capitalist states that exacerbate power imbalances, thereby disregarding the rights of non-combatants such as medical personnel.

Karl Marx's conflict theory can explain this through the lens of historical materialism and the concept of class struggle. Marx argued that human history is driven by conflicts between different social classes, primarily due to differences in ownership of the means of production.³¹ In the context of Gaza, this conflict can be interpreted as a struggle between the ruling class (Israel, which controls the territory and resources) and the oppressed class (Palestinians, who have lost their land and rights).

Within the framework of Marx's conflict theory, Israel, as a powerful state, represents the dominant class that controls the means of violence and resources. At the same time, Palestinians are considered a subordinate class whose rights are often ignored, including protection for doctors and hospitals. Political and ethnic capital interests cause the logic of power primacy to override humanitarian interests, disregarding medical protection

³⁰ Dianita Devi Putri, "Dozen Babies in Al-Shifa Hospital Incubators in Gaza at Risk of Dying Due to Israeli Military Siege," Jawa Pos, 2023, <https://www.jawapos.com/internasional/013282406/puluhan-bayi-di-inkubator-rumah-sakit-al-shifa-gaza-terancam-tidak-selamat-akibat-dikepung-militer-israel>.

³¹ Armando Boito, "The Political Scene and Class Interests in Capitalist Society: Marx's Analysis," 2023, 135–48, https://doi.org/10.1007/978-3-031-22046-3_7.

provisions in the Geneva Conventions.

Non-compliance with the 1949 Geneva Conventions and the 1977 Additional Protocol I, despite their normative provisions that medical personnel must be respected and protected, frequently occurs due to the dominant political and military power structures that nullify international humanitarian law. Legal studies indicate that these legal instruments are ineffective due to the absence of general enforcement mechanisms when dominant parties disregard them for political defense and national security.

Furthermore, a WHO report notes that since October 7, 2023, there have been hundreds of attacks on health facilities, resulting in the deaths of hundreds of medical personnel, and many hospitals are not operating due to shortages of fuel and medical supplies.³² Marxist conflict theory interprets this phenomenon as a result of a military-dominated structure pursuing strategic interests rather than the welfare of the people, thereby viewing hospitals as targets or sacrificial entities.

The prolonged conflict in Gaza also reveals how global economic and class structures are complicit in the disregard for international humanitarian law, including the protection of medical personnel. From a Marxist perspective, this global inequality reflects the alliance of the international bourgeoisie, which remains silent about the suffering of the working class (including healthcare workers) because they hold no value in the global political and economic system. This demonstrates that medical protection is often sacrificed to maintain the dominance of capital and military power.

International media and multilateral organizations also play an ambivalent role in many cases, as they highlight suffering but lack the power or will to stop it structurally (aljazeera.com). Marx emphasized that the dominant ideology in society is the ideology of the ruling class, and the media and global organizations often reflect this power bias, normalizing violence against medical personnel and civilian facilities as "side effects" of conflict. Therefore, the silence or ambiguity of the international community reflects the reproductive function of power ideology, as formulated by Marx and Althusser within the framework of modern conflict theory.

It is important to note that medical personnel in Gaza are not only victims but also part of the working class that continues to experience structural alienation, both economically, legally, and humanely. Within Marx's framework, this alienation occurs when humans no longer have control over their work and its social meaning—medical personnel, despite their role in saving lives, become objects of military and political power they do not control. Thus, the structural injustice in this conflict demonstrates that legal

³² WHO, "Conflict in Israel and the Occupied Palestinian Territory and Region," WHO, 2023, <https://www.who.int/emergencies/situations/conflict-in-Israel-and-oPt>.

protection is merely a moral illusion easily sacrificed without fundamental changes in the power structure.

In conclusion, Marx's theory of conflict shows that the lack of protection for medical personnel and health facilities during the 2023 war was not merely due to legal negligence but rather a product of a capitalist-ethno-state power structure that prioritized geopolitical control and security over human rights, thereby neglecting medical protection that should have been absolute. Although the international legal framework is clear, class and ethnic conflicts transcend legal norms, and without firm enforcement by international institutions, such protection remains meaningless.

Nevertheless, it is important to remember that Marxist theory is one of many ways to understand the Gaza conflict. Other factors, such as nationalism, religion, and international politics, also play significant roles in the complexity of this conflict.

Conclusion

The Geneva Convention of 1949 provides categories of protection for civilians, namely general and special protection. The category of special protection includes medical personnel in conflict areas, granting them civilian status. The armed conflict between Palestine and Israel, which resumed on October 7, 2023, has resulted in 25 damaged healthcare facilities, 200 medical personnel injured, and two doctors killed since the start of the Palestine-Israel war.

Marx's theory of conflict shows that the lack of protection for medical personnel and health facilities during the 2023 war was not merely due to legal negligence but rather a product of a capitalist-ethno-state power structure that prioritized geopolitical control and security over human rights, thereby neglecting medical protection that should have been absolute. Political instability and domestic turmoil have resulted in 100% impunity. Conflicting interests between nations, particularly the Israeli and Palestinian states and their respective ethnic groups, create a situation where both sides feel their security is threatened by each other's existence due to territorial claims, geopolitical interests, and power imbalances, which easily leads to violations of the rights of non-combatants, including healthcare facilities and medical personnel. Additionally, Israel has not ratified the Geneva Conventions.

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