
Viewpoints

Are there ‘two sides’ to attacks on healthcare? Evidence from Palestine

In June 2018, 20-year-old medic Razan al-Najjar was shot and killed by an Israeli sniper as she tended to protestors on the border between the Gaza Strip and Israel. Despite efforts to obscure Razan’s motivations, with an Israeli spokesperson claiming she was ‘not the angel of mercy Hamas propaganda is making her out to be,¹ eventually Israel admitted that her death was unintentional and a rigorous New York Times investigation found that the medics and others in the immediate area posed no threat to Israelis². Although Razan’s murder made international news, the World Health Organization (WHO) reported 431 other attacks against healthcare in the occupied Palestinian territories (oPt) in 2018.³

Just as acts targeting health infrastructure are condemned when committed by regimes seen as hostile by the West, the international medical community must speak out forcefully when they are performed by states viewed as allies. This is particularly true when our governments are providing significant military aid to these countries, as in the case of the USA⁴ and the European Union,⁵ which collectively supply Israel with billions of dollars in such aid annually.

For decades, there have been dozens, and often hundreds, of attacks on Palestinian healthcare from Israeli military forces reported annually. But to the medical community, these attacks are not mere numbers. In May 2021, a former colleague of one of the authors of this article was killed in the Gaza Strip. Dr. Ayman Abu al-Ouf, head of internal medicine at al-Shifa Hospital and the coordinator of the hospital’s COVID-19 response, died when Israeli bombs struck his home an hour after he left his shift at the hospital. Dr. al-Ouf was more than a work colleague; he was an inspiring figure who had mastered his profession and saved many lives. ‘His death is a catastrophe’, said one of the physicians he trained.⁶

The recent cycle of Israeli military aggression on the besieged Gaza Strip has caused colossal damage to the already worn-out healthcare system. Six hospitals and nine clinics, including a trauma clinic run by Médecins Sans Frontières as well as the main COVID-19 laboratory in Gaza, were damaged.⁷ As with other attacks on Gaza, the true damage to the infrastructure of roads, water and sanitation facilities, electricity, and other resources vital to health remains to be discovered. Simultaneously, Israeli troops invaded Al Makassed Hospital in East Jerusalem and blocked ambulances of the Red Crescent responding to protests at the al-Aqsa mosque. From May 7–20 alone, the WHO reported 117 attacks on healthcare across the West Bank and Gaza.⁸

Civilian medical facilities, personnel and ambulances are offered special protections in international humanitarian law (IHL), as mandated in the Geneva Conventions and supported by multiple resolutions, statutes and statements since. Article 19 of the Fourth Geneva Convention states that hospitals retain these protections unless actively engaged in ‘acts harmful to the enemy’. Loss of civilian life and damage to civilian infrastructure must also be weighed in such decisions. Yet the vagueness of this provision allows belligerent actors to make unsubstantiated claims of military uses, such as the hospital being utilized as a ‘human shield’. This justification has been given even as hospitals were clearly used for civilian purposes, with some bombings occurring as facilities were full of patients.

Israel regularly claims that the dozens of medical facilities bombed in Gaza are attacked because they house militants or arms. In some cases, the bombing is considered collateral damage for attacks on nearby facilities thought to be holding militants. In others, the Israeli

military admits a target was a mistake. This reveals the entire premise of Israel’s approach to security: that their actions should be construed solely as self-defense in ongoing warfare, with the other side equally if not more culpable for attacks on its own people.

After multiple massive assaults on Gaza, and regular violence against Palestinians across the oPt, medical and public health professionals tasked with protecting human life should take the lead in questioning whether Israel’s aggressive use of military force against medical infrastructure and personnel, under the guise of self-defense, is acceptable. The lack of evidence provided to justify these numerous attacks begs the question of how many would qualify as self-defense under IHL if Israel was independently investigated. Israel’s past internal investigations have led to almost no repercussions or admissions of wrongdoing.

The bombing of healthcare facilities and medical staff is only the most visible of the systematic violence towards Palestinian healthcare. As the Occupying Power throughout the oPt, Israel has specific duties to provide for and protect Palestinian health and medical needs ‘to the fullest extent of the means available to it’ according to the Geneva Conventions. Yet years of occupation, segregation, building walls and checkpoints, restrictions on freedom of movement, and an illegal siege in Gaza systematically weakens and de-develops the Palestinian healthcare system. Israel’s attacks on health across the West Bank and East Jerusalem include the raiding of hospitals, the blockage of ambulances and other physical attacks or barriers. In June 2021, Israel shut down one of the largest health care service providers in the West Bank for purported political affiliations.⁹ Such closures, restrictions and other targeted disruptions of Palestinian healthcare should be viewed as akin to physical violence—as violations of Palestinian health that are tantamount to collective punishment.

While we have been interrogating whether the concept of self-defense might apply above, many legal scholars do not accept that Israel has such a right under international law. A state cannot simultaneously control and occupy a territory while claiming to be under attack from that territory as a foreign threat.¹⁰ Israel’s duty to protect Palestinians under occupation has a much stronger legal basis than any purported right to self-defense, particularly one that in practice leads to killing those who require said protection. Leaving aside the question of whether self-defense can legally justify attacks on the Gaza Strip, there is ample documentation that many of the large-scale bombings, exhibiting the latest in modern weaponry, are carried out with no such purpose.

The 2021 attacks on Palestinian healthcare workers and facilities are therefore not isolated incidents but represent a pattern of illegal targeting, which may amount to war crimes. In response, the International Criminal Court has recently opened an investigation into these and other potential crimes in the oPt since 2014, and the United Nations Human Rights Council voted to open an investigation on violations of IHL after this latest assault. While too many lives have been lost, it is not too late for the international community, including health professionals, to change course and demand accountability.

Conflicts of Interest

None declared.

References

- 1 Pileggi TJ. After saying it shot medic by accident, IDF claims she was 'no angel'. *The Times of Israel* 2018. Available at: <https://www.timesofisrael.com/idf-spokes-person-slain-gaza-medic-no-angel-of-mercy/> (22 June 2021, date last accessed).
- 2 Halbfinger D. A day, a life: when a medic was killed in Gaza, was it an accident? *The New York Times* 2018. Available at: <https://www.nytimes.com/2018/12/30/world/middleeast/gaza-medic-israel-shooting.html> (22 June 2021, date last accessed).
- 3 WHO. Right to Health in the occupied Palestinian territory, 2018. Available at: <https://reliefweb.int/report/occupied-palestinian-territory/who-right-health-occupied-palestinian-territory-2018> (23 June 2021, date last accessed).
- 4 Ali M. Aid and human rights: the case of US aid to Israel. *Policy Perspect* 2018;15:29–46.
- 5 European Coordination of Committees and Associations for Palestine. EU and Israel – the Case of Complicity 2019. Available at: <https://www.eccpalestine.org/eu-and-israel-the-case-of-complicity/> (23 June 2021, date last accessed).
- 6 Shaikhouni L. 'His death is a catastrophe': Gaza doctors mourn specialist killed in air strike. *BBC News* 2021. Available at: <https://www.bbc.com/news/world-middle-east-57148580> (24 June 2021, date last accessed).
- 7 Mahase E. Gaza: Israeli airstrikes kill doctors and damage healthcare facilities. *BMJ* 2021;373:n1300.
- 8 WHO. (2021). Escalation in the occupied Palestinian territory. Available at: http://www.emro.who.int/images/stories/palestine/documents/210520_-_OPT_flash_up_date_May_20.pdf (22 June 2021, date last accessed).
- 9 Amnesty International. (2021). Israeli army shutdown of health organization will have catastrophic consequences for Palestinian healthcare. Available at: <https://www.amnesty.org/en/latest/news/2021/06/israeli-army-shutdown-of-health-organization-will-have-catastrophic-consequences-for-palestinian-healthcare/> (23 June 2021, date last accessed).
- 10 Erakat N. No, Israel does not have the right to self-defense in international law against occupied Palestinian territory. *Jadaliyya* 2014; Available at: <https://www.jadaliyya.com/Details/27551> (23 June 2021, date last accessed).

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International Humanitarian Law: what does it say on protection of medical facilities?

With experience from research and policy on international humanitarian law, I will here give some short comments from an international law point of view.

With regard to the recurring hostilities linked to Gaza, it is well known that Israeli forces have in some cases attacked medical facilities and thus committed grave breaches of international humanitarian law (IHL). On the other hand, it cannot be excluded that the common Israeli argument that medical facilities have been shielding military resources has sometimes been correct. Nevertheless, it is clear that Israel has not always taken feasible precautions in order not to harm civilians, including medical personnel. The obligation of feasible precautions is a cornerstone of IHL.

At the same time, the protection to which medical units are entitled will cease if they are used for military purposes harmful to the enemy. The parties to the conflict shall not use civilians or medical units in order to attempt to shield military objectives from attacks. Nevertheless, the protection of medical units shall cease only

after a fair warning has been given, setting a time limit, and after such warning has remained unheeded.

It is a tragedy that these rules of international humanitarian law have often been violated by parties to armed conflicts, especially in the hostilities between Hamas and Israel.

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