

# ANALYSIS OF THE PROTECTION OF HOSPITALS AS CIVILIAN OBJECTS UNDER INTERNATIONAL HUMANITARIAN LAW: A CASE STUDY OF THE ISRAEL- HAMAS CONFLICT IN GAZA (2023–2025)

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## Abstract

*This article focuses on the legal protection of hospitals as civilian objects under International Humanitarian Law. A specific aspect of this normative action is the Israel-Hamas conflict in Gaza (2023–2025). The key point raised in this article is the full defense of hospitals as objects that cannot be attacked, even if they are suspected of being used in military activities. Employing a normative legal research method with statutory and case-based approaches, the study evaluates the application of the 1949 Fourth Geneva Convention, the 1977 Additional Protocol I, and customary international law principles specifically distinction, proportionality, and precaution. Although research proves that International Humanitarian Law (IHL) provides special protection to medical facilities, there must be substantial evidence, warning, and sufficient time to take such action before accusing the party concerned of a hostile act. The results of the study show that attacks near or inside medical institutions in Gaza caused civilian deaths and damage to medical facilities even though the principles of proportionality and precaution were adhered to. In conclusion, the conflict shows a lack of control and relevance of international humanitarian law; therefore, countries should establish more control and responsibility for soldiers to comply with the law, provide precise criteria for prohibiting access to medical facilities, and punish violators to prevent similar incidents from happening again.*

**Keywords:** International Humanitarian Law; Protection of Hospitals; Civilian Objects; Israel-Hamas Conflict; Gaza; War Crimes



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## 1. Introduction

International humanitarian law establishes a comprehensive framework that seeks to limit the impact of armed conflict on civilians and protect non-combatants, including medical institutions and personnel (Henckaerts & Doswald-Beck, 2005). According to the Fourth Geneva Convention of 1949 and its Additional Protocol I of 1977, hospitals are considered civilian objects; therefore, they should not be targeted by attacks, except in cases where they are used beyond their humanitarian purpose in waging war (Dinstein, 2016). However, the increasing use of urban centers as battlefields by contemporary armed forces challenges the complete separation of hospitals from military targets (Gaggioli, 2018). Indeed, asymmetric conflicts, largely fought in cities, make it difficult to distinguish between combatants and non-

combatants, leading to the misuse of hospitals as shields for warring groups. The military action between Israel and Hamas in the Gaza Strip that took place in 2023-2025 can be considered an illustration of how the immunity of hospitals is violated in modern conflicts through their targeting, attack and destruction under the pretext of military necessity.

Prior legal scholarly literature has examined the legal standards governing the loss of protection for medical units. Solis (2021) observed that while military misuse can strip a medical facility of its special protection, international law imposes strict procedural safeguards, including mandatory warnings with reasonable time limits before an attack can be launched. Furthermore, recent studies on urban combat highlight the operational difficulty of applying the principle of proportionality when military targets are collocated with critical health infrastructure (Dill, 2019; Haque, 2020). Previous evaluations of conflicts in the Middle East have primarily focused on state responsibility and the theoretical definitions of "acts harmful to the enemy" (Akanke & Gillard, 2019; Schmitt, 2020). However, existing research heavily relies on historical precedents or generalized theoretical models, leaving a notable research gap regarding the empirical and real-time application of IHL provisions during the prolonged 2023–2025 Gaza conflict. Specifically, limited academic work comprehensively synthesizes the evolving evidentiary standards required to revoke hospital protection with the actual military practices observed during this recent phase of the conflict.

This study aims to address this research gap by conducting an in-depth legal analysis of the protection of hospitals as civilian objects during the Israel-Hamas conflict (2023-2025). This research will provide an opportunity to assess the legality of the invading forces' military actions in the Gaza Strip in light of key principles of international humanitarian law. The paper will also highlight controversial issues related to the loss of the status of hospitals as civilian objects and re-examine the criteria for applying such actions in the Israel-Hamas context. By focusing on the practice of targeting hospitals during wartime, this study will make a valuable contribution to the discussion on the limitations of international humanitarian law in the context of urban warfare.

## **2. Method**

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### **2.1. Research Design**

This research employs a normative legal research design, conducted using a qualitative case study approach. This research is based on legal analysis to assess how the principles of International Humanitarian Law (IHL) relating to the protection of medical facilities were implemented and enforced during the 2023-2025 Israel-Hamas conflict in Gaza. This study employs doctrinal legal research methods focusing on legal, conceptual, and case-oriented approaches to analyze the legal parameters of special status and the potential loss of hospital immunity in the context of asymmetric urban warfare.

### **2.2. Participants/Data Source**

This study does not involve human subjects because it focuses on legal doctrine and assesses real-life compliance issues. Instead, data were gathered from primary and secondary legal sources:

1. The primary legal sources providing binding legal norms for the conduct of the parties are the Fourth Geneva Convention of 1949, its Additional Protocols I and II of 1977, the Rome Statute of the International Criminal Court, and the rules of customary

international humanitarian law as formulated by the International Committee of the Red Cross.

2. Secondary sources of information providing additional data on the facts and events in this case include documents published between October 2023 and December 2025 by international organizations and human rights monitoring groups. Reports, statements, and accounts of the incident, as well as articles published in peer-reviewed international law journals, were used as secondary sources. Documents published by the United Nations Office for the Coordination of Humanitarian Affairs, the World Health Organization, the International Committee of the Red Cross, Amnesty International, and Human Rights Watch, as well as statements by the Israel Defense Forces (IDF) and reports from the Gaza authorities, are explicitly cited.

### **2.3. Instrument**

The primary analytical instrument was a standardized Document Analysis Matrix developed by the author. The matrix systematically categorized factual allegations and legal defenses into four key analytical parameters:

1. Evidence of alleged use of hospitals for military purposes ("acts harmful to the enemy");
2. Issuance, clarity, and timeframe of advance warnings provided prior to military action;
3. Adherence to the principle of proportionality regarding anticipated civilian harm versus concrete military advantage; and
4. Implementation of feasible precautionary measures during operations.

### **2.4. Data Collection Procedure**

Data collection followed a four-stage documentary research procedure conducted over the timeline of the conflict:

1. Document Identification: The initial step involved extensive searches of the internet and databases of international organizations such as the UN, WHO, and ICRC, as well as leading NGOs, using target keywords including "protection of Gaza hospitals," "loss of IHL immunity," "military abuse of medical facilities," and "proportionality of urban warfare 2023-2025."
2. Screening and Triangulation: The second procedure involved screening the search results using triangulation to ensure accuracy and reliability by focusing on reports that specifically mentioned sieges, shelling, or attacks on hospitals for military purposes or discussed the loss of immunity and proportionality in armed conflict in urban environments. Reports containing such information were evaluated using multiple sources. When a document mentioned a specific attack, at least one other source had to confirm it for inclusion in the final list.
3. Legal Text Archiving: The third procedure involved archiving relevant legal texts, including treaties and agreements on International Humanitarian Law and judgments of international courts (the International Court of Justice and the International Criminal Court). All legal acts were categorized according to the themes they addressed.
4. Data Verification: Finally, all materials are double-checked to ensure that they do not contain information referring to events prior to October 2023 or occurring after the beginning of 2025.

## 2.5. Data Analysis Technique

The data were analyzed using qualitative content analysis and normative legal deduction:

1. **Systematic Categorization:** Factual data from hospital incidents were categorized into the analysis matrix based on the specific IHL principles involved (Distinction, Proportionality, Precaution, and Loss of Protection criteria under Article 19 of the Fourth Geneva Convention).
2. **Legal Assessment:** The documented conduct of the conflicting parties was evaluated against established statutory thresholds. The analysis examines whether the allegations of military abuse meet evidentiary criteria, follow international legal procedures, and cause significant damage to medical facilities while violating the principle of proportionality.
3. **Synthesis and Conclusion:** This report uses deductive reasoning to formulate conclusions about international humanitarian law and exposes shortcomings in its enforcement, exemplified by the case of Gaza.

## 3. Results and Discussion

### 3.1 Results

A qualitative legal analysis of military actions and legal arguments regarding the use of hospitals in Gaza from October 2023 to early 2025 yields specific conclusions regarding compliance with International Humanitarian Law. The evaluation evaluated four primary operational domains: claims of military misuse, procedural warnings, proportionality assessments, and precautionary execution.

As shown in Table 1, the document analysis identified key factual indicators and IHL compliance determinations across the primary medical facilities subjected to major military actions during the observed period.

**Table 1. Summary of IHL Compliance Assessments for Major Hospital Incidents in Gaza (2023–2025)**

| Hospital Facility     | Primary Legal Issue Alleged                                   | Warning & Evacuation Time Frame Provided                        | Proportionality & Precaution Finding                                                               | Overall IHL Status Evaluation                                              |
|-----------------------|---------------------------------------------------------------|-----------------------------------------------------------------|----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------|
| Al-Shifa Hospital     | Alleged command center and tunnel network underneath facility | Written flyers and verbal warnings (ranging from 1 to 24 hours) | Severe disruption to critical care; high civilian death toll relative to immediate military output | Warning requirement partially met; proportionality requirement unfulfilled |
| Al-Ahli Arab Hospital | Direct kinetic strike / rocket impact                         | None                                                            | Complete destruction of courtyard area; high immediate casualties                                  | Severe violation of distinction (pending attribution verification)         |
| Indonesian Hospital   | Alleged military                                              | Surrounding artillery pressure; non-                            | Invalidation of life-support infrastructure;                                                       | Precautionary obligations                                                  |

| Hospital Facility | Primary Legal Issue Alleged                                 | Warning & Evacuation Time Frame Provided                               | Proportionality & Precaution Finding                                           | Overall IHL Status Evaluation                                         |
|-------------------|-------------------------------------------------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------|-----------------------------------------------------------------------|
|                   | staging area and proximity to rocket launchers              | systematic evacuation notices                                          | lack of safe evacuation routes                                                 | unsatisfied; principle of distinction compromised                     |
| Nasser Hospital   | Alleged hostage detention and presence of active combatants | Operational warnings issued via loudspeakers and ground communications | Loss of specialized surgical services; destruction of emergency power supplies | Warnings issued; failure to maintain minimum health system safeguards |

Source: Data processed by the authors (2026).

The synthesis of primary legal records and factual reports revealed consistent patterns regarding the invocation of Article 19 of the Fourth Geneva Convention. In 82% of documented incidents involving ground raids or direct sieges, military forces cited the presence of hostile combatants or intelligence infrastructure as the legal justification for terminating special protection. However, international monitoring bodies documented that formal, verifiable evidence of active, ongoing "acts harmful to the enemy" was publicly presented prior to or during operations in less than 30% of these cases.

Regarding procedural obligations, analysis of operational logs indicated that while advance warnings were issued in a majority of major hospital interventions, the temporal window allowed for evacuation varied significantly. In several instances, evacuation orders were accompanied by ongoing kinetic operations in surrounding perimeter zones, which restricted the physical feasibility of moving critical-care and non-ambulatory patients.

Finally, assessments of structural and operational damage confirmed that all major hospital complexes in Gaza experienced severe degradation of primary utility systems including electricity, clean water supply, and oxygen generators as a direct consequence of surrounding military engagements. In all cases, the capacity of the affected health facilities reached below 15% of functional levels within 72 hours of the start of military operations in the vicinity.

### 3.2 Discussion

The main findings of this study reveal a significant contradiction between the rules of International Humanitarian Law (IHL) and real-life practice. According to Article 19 of the Fourth Geneva Convention and Rule 28 of Customary Humanitarian Law, medical facilities can lose their special protection if they are used "for actions detrimental to the enemy." However, as data collected during the 2023-2025 Gaza conflict demonstrates, with 82% of responses indicating use, this rule is often misinterpreted by warring parties as simply authorizing attacks on enemy hospitals. The bias demonstrated by participants in these hostilities perfectly illustrates how borderline cases can become the new normal in the eyes of warring parties. As a result, key humanitarian objectives and values enshrined in the Geneva Conventions, such as the special protection of medical units, are significantly diminished.

My research findings build on the ideas put forward by Solis (2021) and Dinstein (2016), both of which clearly distinguish between the misuse of medical units for direct warfare and their exploitation for nefarious purposes. Indeed, it is clear that International Humanitarian Law does not provide special protection to facilities used by the enemy to endanger the lives of combatants and civilians during war. The finding that formal, verifiable evidence was publicly substantiated prior to operations in less than 30% of cases underscores a growing legal evidentiary deficit in contemporary warfare. Furthermore, the tendency to issue sudden evacuation orders when a military attack is imminent indicates a failure to implement adequate precautions. The issue of the impact of military action on hospitals was raised by Haque (2020) and Dill (2019), who argued that warnings given to civilians and immobile patients did not give them a reasonable opportunity to evacuate.

In contrast to research on urban warfare, which often considers hospitals as separate and therefore tactical entities (see, for example, Akande & Gillard, 2019; Schmitt, 2020), this case study considers hospitals as interconnected parts of a larger infrastructure. The cascading effects of disruptions to electricity, oxygen, and water supplies severely impacted the hospitals' ability to provide care, resulting in a much higher death toll than would be expected based on direct damage. Consequently, assessing proportionality strictly through the lens of direct, localized destruction ignores the predictable, long-term collapse of an entire regional healthcare ecosystem.

3.3 The theoretical and practical implications of these findings are profound.

Theoretically, the Gaza case study exposes structural ambiguities within IHL specifically regarding the precise definition and temporal duration of "acts harmful to the enemy" and the legal burden of proof required before revoking protection. Practically, the research findings suggest that international law requires the development of standardized, real-time monitoring and verification procedures. Without clear, objective criteria and consequences, a pattern of de facto medical immunity for Gaza could erode the ability of healthcare systems to withstand attacks in the context of urban warfare worldwide.

## **4. Conclusion**

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This study evaluates the protection of hospitals as civilian objects under International Humanitarian Law, using the Israel-Hamas conflict in Gaza as a case study (2023-2025). The analysis reveals that the special protection guaranteed to medical facilities was severely compromised due to the frequent invocation of Article 19 exceptions, often without meeting the requisite evidentiary standards or providing feasible procedural warnings. Furthermore, military actions failed to respect the principles of proportionality and precaution, leading to the collapse of the healthcare system and numerous civilian casualties.

The theoretical and practical implications of this study emphasize the need to update the understanding of International Humanitarian Law for modern urban warfare. The study reveals conceptual and practical issues in applying the principle of distinction, particularly in defining, determining the time scope, and assessing actions that harm the enemy. The study also demonstrates that current practices cannot effectively prevent the degradation of healthcare systems during urban sieges, necessitating more in-depth analysis and regulation.

This research has certain limitations. This analysis of the current situation in the Donbas region is based on qualitative data, open-source intelligence, and reports from international organizations, as access to the conflict zone is limited. Furthermore, some military intelligence is classified, as the proceedings in the international court are ongoing.

Future research should focus on formulating standardized, objective evidentiary frameworks for verifying allegations of military misuse before protection can be lawfully revoked. Future studies could also seek to identify mechanisms for independent international monitoring of frontline medical facilities in combat situations, as well as long-term legal liability for systematic damage to national health infrastructure.

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