



HOW DOES LAW PROTECT IN WAR?

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Ever since the first Geneva Convention of 1864, providing neutral and impartial health care in armed conflicts has been a core focus in international humanitarian law (IHL). According to IHL, the people exclusively assigned to the performance of medical duties enjoy specific protection from attack and harm. Medical personnel also has a duty to provide medical care to the sick and wounded without adverse distinction other than medical emergency grounds and must treat them humanely in all circumstances. How should the protection granted by IHL to medical personnel materialize? How should they fulfil their obligations towards the sick and wounded in practice, with which constraints? This highlight addresses these questions through seven case studies illustrating the rights and duties of medical personnel in armed conflict situations.

The Law section of the Online Casebook

Information on the rights and duties of medical personnel can be found in the Law section of the online casebook under **Wounded, sick and shipwrecked** ^[1].

This section has been updated and provides more details on religious and medical personnel as well as on the protection of medical transport, units and material.

I. Rights of medical personnel

- Syria, *The Battle for Aleppo* ^[2] examines, among other attacks that occurred, the consequences of the air strikes that repeatedly struck the health-care facilities in Eastern Aleppo, the display of emblems to protect such facilities and the legality of “double-tap” attacks.
- UN, *Security Council Resolution 2286 on Attacks on Hospitals* ^[3] reiterates the protection medical and humanitarian personnel are entitled to under IHL. It also provides precisions on their rights and duties: data on attacks against them must be collected, attacks must be subject to enquiry and prosecution, and such personnel must not perform against medical ethics.
- Afghanistan, *Attack on Kunduz Trauma Center* ^[4] analyzes the air strikes that hit Kunduz Trauma Center discussing legal aspects linked, most notably, to treatment of wounded fighters, consequences of display of protective emblems (or lack thereof) as well as the request by MSF that the situation be referred to the International Humanitarian Fact-Finding Commission.
- South Sudan, *Attack in Malakal UN Protection Site* ^[5] discusses the protection of medical personnel under treaty and customary IHL and the protection of persons providing medical aid on their personal initiative.

II. Duties of medical personnel

- Israel/Palestine, *Accountability for the Use of Lethal Force* ^[6] illustrates the obligation to provide medical aid to wounded people even if they are considered “terrorists” by one of the Parties during an armed conflict.
- Syria: *Medical support for ISIS* ^[7] examines the situation of British medics (mostly students) offering medical assistance to wounded ISIS soldiers and how some of them were arrested under counter-terrorism laws upon their return to England.
- Iraq, *Medical Ethics in Detention* ^[8] discusses the role and duties of medical personnel in detention facilities where torture, inhumane or degrading treatments allegedly occur and the “red lines” they should never cross.

The “A to Z” section of the Online casebook

The “A to Z” section of the online casebook also provides specific information on Medical personnel ^[9], Medical ethics/Medical duties ^[10], Medical treatment ^[11], Hors de combat ^[12], Humanitarian assistance ^[13], Medical objects ^[14] and Hospital zones and localities, hospital and safety zones and localities ^[15], Emblems (Red Cross, Red Crescent & Red Crystal) ^[16] and Misuse (of the emblem) ^[17].

To go further

- The factsheet “Respecting and protecting health care in armed conflicts and in situations not covered by international humanitarian law” ^[18] provides a summary of the rules applicable to protect health care in armed conflict situations.
- “Health care in danger: The responsibilities of health-care personnel working in armed conflicts and other emergencies” ^[19] is an ICRC brochure providing practical guidance on the rights and responsibilities of health personnel, most notably on their protection as well as certain standards of practice.
- The “Manual on the rights and duties of medical personnel in armed conflicts” ^[20] informs military and civilian medical personnel about the provisions contained in the legal instruments of IHL which apply in the event of armed conflict.
- The issues of the International Review of the Red Cross on “Violence against health care I: The problem and the law” ^[21] and “Violence against health care II: The way forward” ^[22] focus respectively on attacks against health-care and on the legal, operational or policy measures that could be taken to improve access to medical care.
- The blog post “The Novye Atagi hospital attack, 20 years later: A call to care for the carers” ^[23] shows excerpts of a testimony of a former head of office at the ICRC surgical hospital in Novye Atagi, Chechnya.

- The blog post "Joint Blog Series: Medical care in armed conflict PARTS I and II" ^[24] discusses questions about IHL rules governing medical care today.
- "Safeguarding the provision of health care: Operational practices and relevant International Humanitarian Law concerning armed groups" ^[25] is an ICRC publication providing armed groups with information on relevant IHL obligations and practical measures that armed groups can adopt to safeguard the provision of health care.
- The e-learning module "The rights and responsibilities of health-care personnel working in armed conflict and other emergencies" ^[26] provides an in-depth explanation of the principles that underlie the work of medical personnel in armed conflict and other emergencies.
- The previous highlight "Protecting Wounded Persons and Medical Care on the Battlefield" ^[27] concentrates on IHL rules protecting the wounded and sick as well as medical personnel on the battlefield.
- The ready-to-use workshop on protection of health-care in armed conflict ^[28] focuses on international rules and the importance of respecting IHL and medical ethics with the aim of ensuring respect for medical care in critical situations.
- "Health-Care in Danger" ^[29] is an initiative of the International Red Cross and Red Crescent Movement aimed at addressing the issue of violence against patients, health workers, facilities and vehicles, and ensuring safe access to and delivery of health care in armed conflict and other emergencies.

Source URL: <https://casebook.icrc.org/highlight/rights-and-duties-medical-personnel>

Links

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- [3] <https://casebook.icrc.org/case-study/un-security-council-resolution-2286-attacks-hospitals>
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- [20] http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwjw8ZyH_JpuQyoKmo8sjh33D5p
- [21] <https://www.icrc.org/en/international-review/violence-against-health-care-0>
- [22] <https://www.icrc.org/en/international-review/violence-against-health-care>
- [23] <http://blogs.icrc.org/law-and-policy/2016/12/15/novye-atagi-hospital-attack-20-years/>
- [24] <https://blogs.icrc.org/law-and-policy/2019/01/24/joint-blog-series-medical-care-armed-conflict-part-i/>
- [25] <https://www.icrc.org/en/publication/4243-safeguarding-provision-health-care-operational-practices-and-relevant-international>
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- [28] <https://www.icrc.org/en/document/health-care-danger-rights-and-responsibilities-medical-personnel-during-emergencies-0>
- [29] <http://healthcareindanger.org/>