

# MEDICAL CARE UNDER FIRE; THE NEW NORMAL? MSF'S EXPERIENCE IN GAZA, SUDAN & UKRAINE



PHOTO:  
**Status of the Vysokopilla City Hospital (Kherson Oblast, Ukraine) as of January 31, 2023.**

UKRAINE © COLIN DELFOSSE

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*The articles reflect the the authors' opinions and do not necessarily necessarily represent the MSF or IECAH point of view.*

# 1

## INTRODUCTION

On 3 October 2015, the 92-bed MSF hospital in Kunduz, Afghanistan, was struck with 211 shells over the course of an hour by a US-made Lockheed AC-130 aircraft. The US Air Force later admitted responsibility for the attack, labelling it a “mistake.” The attack killed 42 individuals, including 14 employees of Médecins Sans Frontières (MSF).<sup>1</sup>

The Kunduz attack marked a turning point in how attacks on medical and humanitarian operations were perceived globally. Although it was the worst attack in MSF’s history, it was not an isolated incident, nor was it the last time a hospital was aurally bombarded<sup>2</sup>. In 2016, hospitals supported by MSF-Spain in Yemen were struck in 2 separate incidents, resulting in the deaths of 15 people, including one MSF staff member. Both attacks occurred without any prior warning. In response to the widespread nature of such attacks impacting health care, the International Committee of the Red Cross (ICRC) had launched the Health Care in Danger project a few years earlier.<sup>3</sup> MSF had also initiated the Medical Care Under Fire campaign, and the Aid Worker Security Database had been systematically recording attacks on humanitarians since 1997.<sup>4</sup> Attacks on healthcare, medical practitioners and patients has long been a grim reality during armed conflict.

The Kunduz tragedy heightened global awareness and sparked urgent discussions about the need to protect medical-humanitarian activities during armed conflict. Exactly 7 months after the Kunduz attack, on 3 May 2016, the UN Security Council adopted Resolution 2286, “strongly condemning attacks against medical facilities and personnel in conflict situations.”<sup>5</sup> The ICRC and MSF were invited to address the UNSC. The ICRC decried 2,400 targeted attacks against patients, healthcare workers, medical transport, and centres across 11 countries in the previous 3 years. MSF described 300 air strikes in Aleppo over the last 10 days, often repeatedly striking crowds of civilians. While in Afghanistan, Central African Republic, South Sudan, Syria, Ukraine and Yemen, hospitals were routinely bombed, raided, looted or burned to the ground. Against this backdrop of horror, the passing of Resolution 2286 marked a moment of “hope,” and was accompanied by a proliferation of initiatives to report and monitor attacks on medical and humanitarian

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### **The attack on the MSF hospital in Kunduz sparked urgent discussions about the need to protect medical-humanitarian activities during armed conflict**

1 More details about the attacks can be found in the MSF internal investigation (5 November 2015) *Initial MSF internal review: Attack on Kunduz Trauma Centre, Afghanistan*. <https://www.msf.org/afghanistan-msf-releases-internal-review-kunduz-hospital-attack>. See also the special website related to the attacks: <http://kunduz.msf.org/>

2 For example, in 2016, MSF-supported hospitals in Yemen were attacked without warning on separate occasions, resulting in the deaths of 15 people, including one MSF staff member.

3 ICRC (11 June 2020). *Health Care in Danger: Making the Case*. [www.icrc.org/en/publication/4072-health-care-danger-making-case](http://www.icrc.org/en/publication/4072-health-care-danger-making-case)

4 MSF (21 May 2013). *Medical care under fire*. [www.msf.org/medical-care-under-fire](http://www.msf.org/medical-care-under-fire); <https://www.aidworkersecurity.org/about>

5 UN (3 May 2016). *Security Council Adopts Resolution 2286 (2016), Strongly Condemning Attacks against Medical Facilities, Personnel in Conflict Situations*. <https://press.un.org/en/2016/sc12347.doc.htm>

missions.<sup>6</sup> However, while world leaders appeared more united than ever on the protection of health care, simultaneously, the datasets have recorded skyrocketing numbers of attacks on both health care and humanitarians in the past 8 years.

## 2

### HEALTH CARE UNDER ATTACK: WHERE ARE WE NOW?

In defining violence against health care, the ICRC has elaborated that: ‘violence includes bombing, shelling, looting, forced entry, shooting into, encircling or other forceful interference with the running of health-care facilities (such as depriving them of electricity and water).’<sup>7</sup> The Safeguarding Health in Conflict Coalition (SHCC), which was established to monitor violence impacting healthcare, has documented a steady increase in incidents since 2016 (with the sole exception of 2020, a particular year affected by the COVID-19 pandemic): from 648 incidents in 2017 to 953 in 2018, 1,191 in 2019, 706 in 2020, 1,271 in 2021, 1,852 in 2022 and 2,490 in 2023.

It is difficult to disentangle whether the increasing reports of violence impacting healthcare is due to a rapid deterioration of the situation or improved reporting. Comparative analysis on the overall trends is also complex, if not impossible. The data differs significantly between databases, ‘denominators’ (such as the scale of humanitarian presence) are generally not available, and humanitarian operations are constantly shifting; often becoming more risk adverse, with numerous humanitarian organisations downscaling their presence in ‘hard-to-reach’ locations. Moreover, there is a lack of historical statistics on attacks on medical missions.<sup>8</sup> Most analysts who focus on attacks on healthcare tend to believe that the actual number of attacks is under reported. For example, an ICRC’s Study on Health Care in Danger suggested that ‘perhaps the most common form of violence committed against health-care facilities is the looting of drugs and medical equipment’.<sup>9</sup> While it is feasible that many international organisations may be hesitant to openly report the scale of looting incidents, seeking to ‘downplay problems they encounter in favour of retaining the image of success that is so essential to their fundraising efforts’.<sup>10</sup>

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**In 2023, Gaza, Myanmar, Sudan, and Ukraine accounted for 85% of the attacks on health care**

<sup>6</sup> For instance, the WHO’s Surveillance System for Attacks on Health Care (SSA) recorded its first incident in February 2017, while the Safeguarding Health in Conflict coalition began its monitoring in 2016 <https://extranet.who.int/ssa/LeftMenu/Index.aspx>

<sup>7</sup> ICRC. *Health Care in Danger: Making the Case*. Op. Cit.

<sup>8</sup> Duncan McLean (2019): ‘Medical care in armed conflict: Perpetrator discourse in historical perspective’, *International Review of the Red Cross*, 101 (911), 771-803. Available at: <https://international-review.icrc.org/articles/medical-care-armed-conflict-perpetrator-discourse-historical-perspective>

<sup>9</sup> ICRC. *Health Care in Danger: Making the Case*, Op. Cit.

<sup>10</sup> Terry, F. (2013). ‘Violence against health care: insights from Afghanistan, Somalia, and the Democratic Republic of the Congo’, *International Review of the Red Cross*, 95, p.27. <https://www.icrc.org/sites/default/files/external/doc/en/assets/files/review/2013/irrc-889-terry.pdf>

In terms of the overall number of attacks on health care, it is noteworthy that a select number of contexts significantly drive up the overall figures. Six years ago, nearly 40% of all violence impacting health care was recorded in one country, Syria. However, as conflicts evolve trends shift. In the last six years, there has been a steady decline in attacks on health care recorded in Syria, Libya and Yemen. While, in this same period the reported attacks on health care have multiplied in the Occupied Palestinian Territory (Gaza specifically), Myanmar, Sudan, and Ukraine.<sup>11</sup> In 2023, these 4 contexts alone accounted for 85% of the incidents reported where health facilities were destroyed or damaged and 72% of the 487 health workers killed that year.

Six years ago, Syria was perhaps the only context where MSF had the impression that attacks impacting health facilities were part of a systematic and intentional (or at least negligent) war strategy. Today, this feeling extends to several conflicts. The question is why? Is there a significant erosion of norms, accelerated by a lack of international action? Have attacks on health care become a 'new normal'?

This article argues that international concern regarding attacks on health care, and optimism following the UNSC Resolution 2286, has not equated to increased protection on the ground. The article draws on MSF's recent experience in Gaza, Ukraine and Sudan; 3 contexts which have recorded some of the highest levels of attacks on health care, and locations where MSF's personnel, patients and medical facilities have been directly impacted by violence in the past year. This experience leads us to 3 core pillars of concern. First, there is a risk that deliberate attacks are utilized as part of intentional 'war strategy'. Second, sophisticated narratives have been utilized to erode the protection of health care and obfuscate the norms of international humanitarian law (IHL). And finally, there has been a deliberate, or reckless, use of methods and means of war of warfare which indiscriminately and/or disproportionately impact health care.

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## **The optimism following the UNSC Resolution 2286 has not equated to increased protection on the ground**

### **2.1. Are Attacks on Healthcare the 'New Normal'? MSF's Experience in Gaza, Sudan & Ukraine**

In Gaza, MSF has seen catastrophic levels of destruction of the health care infrastructure. As of June 2024, the World Health Organization (WHO) reported that of the 36 hospitals in Gaza, 32 have been damaged and 19 are out of service.<sup>12</sup> As MSF, we been forced to leave 14 health facilities in Gaza since 7 October 2023. Attacks impacting healthcare in Gaza have been 'higher than in any other conflict globally since 2018', with an average of 73 attacks per months.<sup>13</sup> Since the start of the hostilities, 8 MSF staff or their family members have been killed, most of them in

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11 According the SHCC 2023 Report the number of attacks on humanitarians/health care recording in 2023 were: 761 incidents in oPt; 418 in Myanmar; 394 in Ukraine and 257 in Sudan.

12 <https://reliefweb.int/report/occupied-palestinian-territory/250-days-war-health-cluster-overview>

13 Save the Children (23 April 2024). *Gaza: Rate of attacks on healthcare higher than in any other conflict globally since 2018*. <https://www.savethechildren.org.nz/media-hub/gaza-rate-of-attacks-on-healthcare-higher-than-any-conflict>

movements or locations which were previously notified to both parties to the conflict through the existing 'deconfliction mechanisms' aimed to ensure the safety of aid workers.

In Sudan, attacks on medical facilities are not new, but have steeply increased since April 2023 when fierce fighting between the Rapid Support Forces (RSF) and Sudan Armed Forces (SAF) and their respective allies escalated. 257 incidents of violence against or obstruction of health care were recorded by the SHCC in 2023, compared to 54 just one year prior. In the same period, WHO has documented 88 attacks in which 56 health workers were killed; vital medicines were looted and health facilities were damaged, destroyed, and occupied.<sup>14</sup> Prior to the current conflict, there has been a long history of both targeted attacks on health facilities in Sudan and the use of wanton destruction and looting was already part of a war tactic, however a significant increase in such incidents have been reported since the recent outbreak of hostilities in April 2023.<sup>15</sup> MSF alone has experienced over 60 incidents of violence impacting MSF staff and assets, between April 2023 and June 2024 – by both SAF and RSF (and allied groups). This includes attacks on MSF staff, looting of medical supplies, weapons being fired in hospitals.

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## **Sudan: The attacks on health care have forced MSF teams to suspend activities in 4 health facilities in the past year**

Attacks on health care have forced MSF teams to suspend activities in 4 health facilities in the past year: Wad Madani Teaching hospital in Al Jazira State, the paediatric and south hospitals in El Fasher, North Darfur, and the Turkish hospital in Khartoum State, severely disrupting patients' access to life-saving medical care.<sup>16</sup> In Khartoum's Turkish Hospital, MSF announced the suspension of operations on July 10 as conditions had 'become untenable' after a year of multiple violent incidents occurring inside and outside of the premises, including violence, harassment and threats made against the lives of MSF staff.<sup>17</sup> In El Fasher all 3 secondary health facilities in the city were repeatedly hit during intense clashes between SAF and RSF through May, June, and July 2024. In Wad Madani, MSF was forced to suspend its work after repeated security incidents including violent looting of the hospital. This was one of the only functioning hospitals for hundreds of thousands of people desperately requiring medical care in Sudan's Al-Jazirah State; however, MSF simply could not continue providing humanitarian services amidst such rampant aggressions and insecurity.<sup>18</sup>

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14 SHCC (2023). *Sudan. Violence against health care in conflict 2023*, <https://insecurityinsight.org/wp-content/uploads/2024/05/2023-SHCC-Sudan.pdf>

15 See, for instance, Adrienne Fricke, 'Chaos and Fire': An Analysis of Sudan's June 3, 2019 Khartoum Massacre", *Physicians for Human Rights*. <https://phr.org/our-work/resources/chaos-and-fire-an-analysis-of-sudans-june-3-2019-khartoum-massacre/>

16 MSF (July 2024). *A War on People: The human cost of conflict and violence in Sudan*, [https://www.msf.org/sites/default/files/2024-07/20240721 MSF Sudan Report ENG Digital 0.pdf](https://www.msf.org/sites/default/files/2024-07/20240721%20MSF%20Sudan%20Report%20ENG%20Digital%200.pdf)

17 MSF (10 July 2024). *MSF suspends delivery of care in Khartoum's Turkish hospital*, <https://www.msf.org/msf-suspends-delivery-care-turkish-hospital-sudan>

18 MSF (9 May 2024). *MSF forced to suspend essential support in Wad Madani due to obstructions and harassment*. <https://www.msf.org/sudan-msf-forced-suspend-support-wad-madani-due-obstructions-and-harassment>

In Ukraine, in November 2023 2 MSF-supported hospitals were attacked in the space of a week. On 20 November, 2 missiles hit a hospital in Selydove, Donetsk oblast, killing 3 people. None of the 5 MSF staff present was harmed, but 8 people were injured, including 2 Ministry of Health (MoH) staff. On 13 November, a hospital in Kherson region had been targeted with artillery, forcing MSF to temporarily suspend activities. The attack killed a MoH staff member and injured 2 other people, destroyed 150 windows and badly damaged the emergency department where MSF worked.<sup>19</sup> On 5 April 2024, another attack completely destroyed the MSF's office in Pokrovsk, in the Donetsk oblast. The attack injured 5 people, including an MSF staff member, and led to the temporary suspension of medical activities in the area, except for supporting emergency care and ambulance referral services.<sup>20</sup> MSF has evacuated patients from hospitals several times. For instance, it happened twice in the same hospital of Kherson, in Southern Ukraine. In October 2023, MSF evacuated 150 patients due to ongoing shelling and disruptions to power supplies. In November 2022, MSF evacuated other 267 patients. From February 2022 to October 2023, the local regional administration recorded 26 healthcare facilities destroyed, and 105 medical facilities damaged in Kherson region alone, or 80% of all healthcare facilities being either completely or partially damaged.<sup>21</sup> In August 2023, one hospital in Kherson province was shelled twice in 72 hours.<sup>22</sup>

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#### **ATTACKS ON HEALTH CARE: RECKLESS DISREGARD OR INTENTIONAL WAR STRATEGY?**

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**In today's urban warfare, healthcare is one of the casualties of warfare, with devastating impacts for the civilian population**

As the adage goes, 'even war has rules'. During armed conflict, medical facilities, medical transports, and medical personnel are entitled to a specific level of protection, in view of their life-saving role. All parties to the conflict must not only refrain from targeting medical facilities, personnel and transports, but must also take active measures to ensure they are able to fulfil their life-saving function.<sup>23</sup> However, in today's urban warfare, we increasingly see that healthcare is among the casualties of warfare, with devastating impacts for the civilian population. Based on MSF's experience, deliberate attacks on health care are often driven by one or more of the below overlapping logics.

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19 MSF (24 November 2023). *Repeated attacks on hospitals in Ukraine take a tragic toll on lives and infrastructure*. <https://www.msf.org/attacks-hospitals-ukraine-take-tragic-toll-lives>

20 MSF (5 April 2024). *Ukraine: MSF condemns missile attack on its office in Pokrovsk*. <https://www.doctorswithoutborders.org/latest/ukraine-msf-condemns-missile-attack-its-office-pokrovsk>

21 MSF (30 October 2023). *MSF evacuates 150 patients as hospitals in Kherson are attacked repeatedly*. <https://www.msf.org/ukraine-msf-evacuates-150-patients-hospitals-kherson-are-attacked-repeatedly>

22 MSF (4 August 2023). *Hospital in Kherson shelled twice in 72 hours*. <https://www.msf.org/hospital-kherson-ukraine-shelled-twice-72-hours>

23 ICRC Commentary 1987 to Additional Protocol I, Article 12. Para 518. <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977/article-12/commentary/1987?activeTab=1949GCs-APs-and-commentaries>

Parties to the conflict, or armed actors, may aim to;

- I. Use lethal force to directly target an individual or object within a health facility to achieve a military advantage; this has included the targeting of wounded fighters, despite their protected status under IHL.
- II. Conduct law enforcement operations inside the health facilities, including raids, searches, and arrests.
- III. Loot resources from the health facility, particularly as means to provide financial benefits to unpaid/under paid fighters.
- IV. Inflict collective punishment on a population, including by discouraging humanitarian and medical actors from providing services to communities perceived as associated with 'the enemy'.
- V. Force the displacement of the population, by rendering health care unavailable in the area.
- VI. To avoid the scrutiny of international aid and human rights organizations by utilizing tactics which force their departure.
- VII. To directly attack local health care providers who are viewed as 'not neutral', or part of the 'resistance' or 'opposition' and thus labelled as legitimate target of attack (in violation of IHL)

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**Providing medical treatment to injured fighters or combatants is not only permissible but is actually a requirement under IHL**

As aptly put by MSF colleagues Abu Sa'Da et al., armed actors may view a medical facility treating injured fighters as a strategic target - 'a war hospital is a structure sheltering a concentrated mass of exceptionally static and vulnerable wounded combatants who are tempting prey in the effort to destroy the enemy'.<sup>24</sup> This is despite the fact that IHL classifies fighters who are incapacitated due to injury or illness, and refrain from hostilities, as hors de combat (i.e. 'out of conflict'). Injured fighters are entitled to receive medical care to the fullest extent practicable, based on their medical condition, without any distinction other than on medical grounds.<sup>25</sup> Providing medical treatment to injured fighters or combatants is not only permissible but is actually a requirement under International Humanitarian Law (IHL).

On the other hand, it is possible that attacks on healthcare are unintentional, yet they still result in similarly harmful consequences. These incidents may be caused by:

- I. The armed actors' lack of awareness that a person or site is entitled to protection from direct attack.
- II. A mistake of fact, such as confusing a protected object or person, like a health facility or medical worker, with a legitimate military target.

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24 Caroline Abu Sa'Da, Françoise Duroch and Bertrand Taithe (2013): 'Attacks on medical missions: overview of a polymorphous reality: the case of Médecins Sans Frontières', *International Review of the Red Cross*, 95 (890), p. 320. <https://international-review.icrc.org/sites/default/files/irrc-890-sada-duroch-taithe.pdf>

25 Customary IHL, Rule 110 <https://ihl-databases.icrc.org/en/customary-ihl/v1/rule110>

- III. The erroneous belief that a protected site has lost its protected status.
- IV. An incorrect assessment of the reasonably foreseeable harm to a medical facility, transport, or patient during an attack on a legitimate military objective in the immediate vicinity.
- V. A misinterpretation of the principle of 'proportionality' under IHL, whether deliberate or otherwise, resulting in excessive harm to the civilian population and civilian infrastructure.

Whether an incident impacting healthcare constitutes a 'direct attack', is 'intentional', 'negligent', or 'disproportionate' can have significant legal implications. As a medical-humanitarian organization, MSF is not positioned to make these legal determinations. However, analysing how violence affects healthcare is crucial for updating our security risk assessments and adapting our operations. For instance, in contexts where deliberate attacks on healthcare are recurrent, MSF may be faced with the difficult decision to withdraw due to the safety risks posed to both staff and patients.

Secondly, determining the intentionality of attacks on health care is necessary to inform the decision on whether to engage with humanitarian notification systems (i.e. 'deconfliction').<sup>26</sup> This is a process whereby humanitarians systematically notify parties to the conflict of their 'location, activities, movements and personnel in both static and non-static locations...for the purpose of protection against attacks and incidental effects of attacks.'<sup>27</sup> Humanitarian notifications only work if the armed actors intend to respect the protected nature of humanitarian facilities. In contexts where health facilities are actively targeted, engaging in humanitarian notification systems could amount to providing armed actors a 'target list'. In several locations where MSF has worked, our staff and the local population have the impression that notifying armed actors of the location of health care facilities actually increased the risk of attack. Whether or not such perceptions are accurate, it may nonetheless influence decisions to work with MSF or access health care facilities.

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**Humanitarian notifications only work if the armed actors intend to respect the protected nature of humanitarian facilities**

**3.1. MSF's Recent Experience with Attacks Impacting Health Care**

In Gaza, MSF has described the attacks on health care as "systematic". At the time of writing, less than half of Gaza's 36 hospitals remained 'partially functional' and the WHO has recorded 504 attacks impacting health facilities in 11 months.<sup>28</sup> Since the start of the hostilities on 7 October, MSF has been forced to depart from 14 medical facilities. A report by Forensic Architecture, which analyzed the attacks affecting health care, described 'a repeated and consistent pattern of attacks on

<sup>26</sup> To note that 'notification' and 'deconfliction' are not synonymous. What medical and humanitarian actors do is notification, with the expectation that the parties to the armed conflict will do deconfliction.

<sup>27</sup> MSF. 'Deconfliction – Humanitarian Identification and Notification System', *The Practical Guide to Humanitarian Law*: <https://guide-humanitarian-law.org/content/article/3/deconfliction-humanitarian-identification-and-notification>

<sup>28</sup> ReliefWeb. *Health Cluster. OPT Unified Health Dashboard*. <https://response.reliefweb.int/palestine/health> (accessed 13 August 2024)



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## **The disproportionate attacks are prohibited under IHL and may even mount to war crimes**

hospitals across the [Gaza Strip], defined by intimidation, attacks on surrounding areas, direct targeting, siege and occupation'.<sup>29</sup> The extreme levels of destruction of the healthcare system are beyond what MSF has witnessed in other contexts and has occurred at a time when the populations health care needs have skyrocketed with more than 41,300 killed and over 99,000 injured as of mid-October 2024.<sup>30</sup> The Israeli forces have frequently claimed that Hamas has utilized hospitals to conduct its military activities, a claim that has not been clearly demonstrated in each attack, nor independently verified.

Intentional attacks on hospitals often occur when one party claims that a medical facility has "lost protection" from direct attack. For example, Israeli forces have alleged that Gaza's largest medical facility, Al-Shifa hospital, was being used as a command-and-control center for Hamas—a claim that has not been independently verified. However, regardless, all attacks must comply with the principles of proportionality and precautions to be lawful. In assessing proportionality, the military commander is required to consider the reasonably foreseeable harm to civilians and civilian objects, including both the immediate impact and the secondary effects (or "reverberating impact") of each attack.<sup>31</sup>

As one legal organization notes, "Given the catastrophic state of healthcare and the overall calamitous humanitarian situation in Gaza," it is reasonably foreseeable that further destruction of healthcare facilities would result in a significant loss of life.<sup>32</sup> These factors must be weighed on the "civilian harm" side of the proportionality assessment for each individual attack, necessitating a very significant military advantage to justify such harm in each case. MSF has argued that an attack rendering a 700-bed hospital inoperable, thereby denying hundreds of patients immediate life-saving care and affecting thousands more in the weeks and months to come, appears to be a grossly disproportionate attack. Recalling that disproportionate attacks are prohibited under IHL and may even mount to war crimes.

In Ukraine, trust in 'deconfliction mechanisms' is nearly non-existent. According to a survey cited by the Aid Worker Security Report, several humanitarian organisations considered that in Ukraine 'deconfliction activity, at least with the Russian military, creates more danger than it mitigates. Some have refused to cooperate with the UN-led deconfliction efforts in Ukraine for that reason'.<sup>33</sup> This reflects previous experiences in Syria, where Russia was also a key party to the conflict. Russia ceased its

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29 Forensic Architecture (20 December 2023). *Destruction of Medical Infrastructure in Gaza*. <https://forensic-architecture.org/investigation/destruction-of-medical-infrastructure-in-gaza> (accessed 21 March 2024)

30 OCHA (15 October 2024). *Humanitarian Situation Update #229*. <https://www.ochaopt.org/content/humanitarian-situation-update-229-gaza-strip>

31 Article 51(5)(b) of Additional Protocol I; Customary IHL Rule 14.

32 Diakonia (21 March 2024). *Violations of the IHL Rules on the Protection of Healthcare Applicable in Gaza*. <https://www.diakonia.se/ihl/news/violations-of-the-ihl-rules-on-the-protection-of-healthcare-applicable-in-gaza/>

33 M. y Jo Breckenridge, M. (October 2022). 'Aid Worker Security Report 2022. Collateral violence: Managing risks for aid operations in major conflict', *Humanitarian Outcomes*, p. 9. [https://humanitarianoutcomes.org/AWSR\\_2022](https://humanitarianoutcomes.org/AWSR_2022)

participation in the humanitarian notification system after an internal UN inquiry in April 2020 deemed it 'highly probable' that the Syrian government or its allies attacked 3 healthcare facilities, a school, and a refuge for children in northwest Syria.<sup>34</sup> However, the humanitarian sector was neither happy nor relieved, when Russia disengaged from the system, as Russia is precisely one of the military actors whom humanitarians would like to ensure does not targeted humanitarian and medical facilities during aerial bombardment.

All too often in urban conflicts today we see civilian lives subordinated to war strategies. Referring to the extensive devastation of the healthcare system in Gaza, MSF's Secretary General told the UN Security Council, "this pattern of attacks is either intentional or indicative of reckless incompetence."<sup>35</sup> While conclusively proving intent to target healthcare is challenging, what MSF observes first-hand is the direct result of health facilities being rendered inoperable due to the impact of violence. The reverberating consequences for civilian populations—specifically, the loss of access to life-saving medical care when it is needed most—are immeasurable and will impact communities for years to come.

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**From a humanitarian perspective, 'mistakes' which result in the bombing of health care facilities are hardly reassuring**

## 4

### **THE DISCURSIVE ATTACK: NARRATIVES USED TO ERODE THE PROTECTION OF HEALTH CARE**

#### **4.1. The narrative of 'mistakes'**

The 2015 attack on the MSF hospital in Kunduz was justified as a series of mistakes. MSF has learnt first-hand that in contexts where there are coalitions of military actors operating, utilizing overlapping legal frameworks of IHL and Counterterrorism, this confused patchwork fosters an 'environment conducive to mistakes'. From a humanitarian perspective, 'mistakes' which result in the bombing of health care facilities are hardly reassuring. MSF has insisted that every feasible step must be taken to ensure that such mistakes do not reoccur. This requires an in-depth review of the human, procedural and legal errors that culminated in such tragic incidents. MSF has identified that one core areas for improvement is that humanitarian actors and armed actors, operating in the same geographical space, need to have a shared understanding of the practical protections for medical and humanitarian actors. While IHL is widely accessible, the rules of engagement (which are designed to translate IHL into practical procedures for armed actors), domestic military manuals, and military doctrines are generally confidential. It is

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34 Perry, T. y Nebehay, S. (25 June 2020). 'Russia quits U.N. system aimed at protecting hospitals, aid in Syria', *Reuters*, <https://www.reuters.com/article/syria-security-russia-un/russia-quits-u-n-system-aimed-at-protecting-hospitals-aid-in-syria-idUSL1N2E2122>

35 Lockyear, C. (5 April 2024). 'Why we won't accept the narrative of regrettable incidents in Gaza', *MSF*, <https://www.doctorswithoutborders.ca/why-we-wont-accept-the-narrative-of-regrettable-incidents-in-gaza/>

crucial to strike a balance between maintaining the necessary level of confidentiality and ensuring that these important rules are understood consistently by both military and civilian health-care providers and humanitarians.<sup>36</sup> This is essential to enable humanitarians to take the necessary measures to ensure their safety while operating in conflict affected areas.

#### 4.2. Shifting the Blame: Narratives on the 'Loss of Protection'

The recent conflict in Gaza is indicative of a shift in narratives, from one of 'mistakes' to 'loss of protection'. Hospitals have been attacked or rendered in-operable by military operations, at a historic rate; however, the Israeli forces have not argued that such attacks are 'mistakes', but rather have claimed that the medical facilities have 'lost their protection under IHL', so are the legitimate object of direct attacks.

Hospitals can lose their protection from direct attack if they are used to commit 'acts harmful to the enemy' outside of their humanitarian function, such as sheltering able-bodied fighters or serving as a weapons depot. However, such allegations should be subjected to a high-level of scrutiny given the potentially grave humanitarian consequences of asserting that a hospital has 'lost protection'.<sup>37</sup> IHL provides a general rule 'if in doubt, presume civilian', this protective presumption of civilian status has been interpreted to extend to medical facilities and medical transports.<sup>38</sup> Moreover, the specific protection afforded to healthcare only ceases after a warning has been provided, whenever feasible, with a reasonable time-limit.<sup>39</sup> Even in instances where a medical facility does lose its protected status, this does not amount to a *carte blanche* for armed actors to attack the facility. To repeat the point, all attacks must proceed in line with the principles of precautions and proportionality.

The Israeli Forces have consistently advanced a narrative that "hospitals are Hamas' favorite and central sites in the Gaza Strip for terrorist activities, and have invested significant resources to disseminate this narrative."<sup>40</sup> The attack on Al-Shifa Hospital has perhaps been the most emblematic of these instances, however similar narratives have been used in relation to multiple medical facilities in Gaza. Before the ground invasion of Al-Shifa hospital,

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**Gaza is indicative of a shift in narratives, from one of 'mistakes' to 'loss of protection'**

<sup>36</sup> Bouchet-Saulnier, F. y Whittall, J. (April 2018). 'An environment conducive to mistakes? Lessons learnt from the attack on the Médecins Sans Frontières hospital in Kunduz, Afghanistan', *International Review of the Red Cross* 100, (1-2-3), pp. 337-372. <https://international-review.icrc.org/articles/environment-conducive-mistakes-lessons-learnt-attack-medecins-sans-frontieres-hospital>

<sup>37</sup> Diakonia (21 March 2024). *Violations of the IHL Rules on the Protection of Healthcare Applicable in Gaza*. *Op Cit*.

<sup>38</sup> ICRC (20 November 2023). *The Protection of Hospitals During Armed Conflicts: What the Law Says*. <https://www.icrc.org/en/document/protection-hospitals-during-armed-conflicts-what-law-says>

<sup>39</sup> Additional Protocol I of the Geneva Conventions, Article 13 (1); Customary IHL Rule 28

<sup>40</sup> IDF (20 January 2023). *Hamas-Israel War 2023 Resources: Interactive Compilation of Hamas Abuse of Hospitals*. <https://m.www.idf.il/en/mini-sites/israel-at-war/war-on-hamas-2023-resources/interactive-compilation-of-hamas-abuse-of-hospitals/>

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**In contexts where "anti-aid rhetoric" is prevalent, humanitarian workers often face increased security risks**

the Israeli Forces released extensive material alleging that the hospital was being used as a Hamas command-and-control center.<sup>41</sup> After the invasion, which rendered the 700-bed facility non-functional, international journalists were given a restricted tour of the hospital. A number of photos were published showing weapons in medical rooms, and articles with titles like "MRIs and RPGs" were circulated.<sup>42</sup> While none of this information can be independently verified, it has contributed to a dangerous shift in the narrative. The Israeli Forces' claim that Hamas "use the sick and wounded to protect their weapons and terrorist infrastructure"<sup>43</sup> has been used to obscure the fact that such military operations appear to have failed to comply with the basic principles of IHL. The attacking force always bears the obligation to refrain from launching attacks that would cause disproportionate harm to civilians and/or civilian infrastructure.

MSF expressed its horror at the 14-day operation by Israeli forces in and around Al-Shifa Hospital which left Gaza's largest medical facility completely out of service.<sup>44</sup> A team from the WHO, which conducted a rapid assessment of the site after the Israeli forces withdrawal from the hospital, described the remnants as a "death zone," noting that what was once "the largest, most advanced, and best-equipped referral hospital in Gaza" had essentially "ceased functioning as a medical facility."<sup>45</sup> Given the unfolding humanitarian and health catastrophe in Gaza, depriving hundreds of critically ill patients of medical care in the immediate term—and foreseeably thousands more in the weeks and months to come—raises serious doubts about the proportionality of such an attack.

### **4.3. Attacks on Humanitarian Neutrality**

Defamatory accusations that humanitarian actors are "not neutral" has also been utilized chip away at the protected status of humanitarian medical actors. MSF has experienced that in contexts where "anti-aid rhetoric" is prevalent, humanitarian workers often face increased security risks, including violence and other restrictive measures.<sup>46</sup> For example, in December 2021, an MSF nurse and ambulance driver were arrested in Cameroon after MSF was repeatedly accused of siding with one party in the

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41 IDF (27 October 2023). *Under Gaza's Shifa Hospital: MRIs and RPGs in Hamas Positions Headquarters*. <https://www.idf.il/en/mini-sites/israel-at-war/all-articles/hamas-positions-headquarters-under-gaza-shifa-hospital/>

42 Ibid

43 Ibid

44 MSF (11 November 2023). *URGENT Patients and Medical Staff Trapped in Hospital Under Fire in Gaza*, <https://www.doctorswithoutborders.org/latest/urgent-patients-and-medical-staff-trapped-hospitals-under-fire-gaza>

45 WHO (18 November 2023). *WHO leads very high-risk joint humanitarian mission to Al-Shifa Hospital in Gaza*. <https://www.who.int/news/item/18-11-2023-who-leads-very-high-risk-joint-humanitarian-mission-to-al-shifa-hospital-in-gaza>

46 Sellers, H. (2 August 2024). 'Harming those doing good? The Role of Anti-Aid Rhetoric in Explaining Aid Worker Attacks', *Journal of Human Rights*. <https://www.tandfonline.com/doi/full/10.1080/014754835.2024.2380702>

ongoing conflict.<sup>47</sup> Although our colleagues were eventually cleared of all charges and released, they endured 5 months of detention and MSF faced significant legal costs to clear the baseless charges.

In Gaza today, the UN Refugee Agency for Palestinians (UNRWA) has been the most viscerally targeted by Israeli authorities. On 29th October, the Israeli Knesset passed legislation which would prohibit UNRWA from operating in Israeli territory, significantly hampering their operations in Gaza and the West Bank.<sup>48</sup> This is a deeply concerning development given UNRWA "serves as a lifeline, providing essential relief to millions of Palestinians and acting as the backbone of aid delivery to the people in Gaza Strip, the West Bank, and the region".<sup>49</sup>

MSF itself has not been immune to such slander. Since the outbreak of hostilities, MSF's public communications have described the extreme level of human suffering witnessed by our medical teams in Gaza. This témoignage has put MSF in the crosshairs of various attacks questioning the impartial humanitarian nature of our organization. For example, prominent Harvard law professor and former Donald Trump lawyer Alan Dershowitz described MSF and UNICEF as a "voice of Hamas" and claimed they had been "recruited by Hamas."<sup>50</sup> Such statements are highly problematic; beyond being flagrant falsehoods, they risk undermining the physical safety of humanitarian aid workers operating in highly insecure contexts. MSF has publicly reiterated that the organization would never knowingly hire an employee involved in military activities, and all staff are required to commit to the MSF Charter of Humanitarian Principles, which includes the observation of neutrality and impartiality in the name of universal medical ethics.<sup>51</sup>

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**MSF's témoignage about Gaza have put the organization in the crosshairs of various attacks questioning our impartial humanitarian nature**

In Ukraine, Roman Rukomeda, a prominent political scientist, wrote in the influential European communication network Euractiv, that the ICRC had sided with Russia, for 'the decision to open an office in Russian Rostov to assist Russian terrorists in the illegal deportation of Ukrainian citizens', for 'keeping silent about Russian filtration camps for captured Ukrainian citizens' and for denying 'access of Red Cross members to Ukrainian war prisoners'.<sup>52</sup> President Zelensky himself criticized the ICRC because the latter prohibited the use of its emblem on foreign vehicles 'on a humanitarian mission', concluding that 'some

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47 MSF (10 January 2023). *All MSF Staff Acquitted in Military Tribunal in Cameroon*, <https://www.msf.org/all-msf-staff-acquitted-military-tribunal-cameroon>

48 Times of Israel (29 October 2024). *Knesset approves laws barring UNRWA from Israel, limiting it in Gaza and West Bank*. <https://www.timesofisrael.com/knesset-approves-laws-barring-unrwa-from-israel-limiting-it-in-gaza-and-west-bank/>

49 MSF (30 May 2024). *Proposal to designate UNRWA as a terrorist organisation an outrageous attack on humanitarian assistance*. <https://www.msf.org/israeli-proposal-designate-unrwa-terrorist-organisation-outrageous>

50 Post on Instagram account of *Middle East Eye* (18 December 2023). <https://www.instagram.com/reel/C1AmCjUARxb/?igshid=MzRIODBiNWFIZA%3D%3D>

51 The MSF Charter. <https://www.msf.org/who-we-are#charter>

52 Rukomeda, R. (26 March 2022). 'The International Red Cross is siding with Russia'. *Euractiv*. <https://www.euractiv.com/section/global-europe/opinion/the-international-red-cross-is-siding-with-russia/>

people, very influential people, have decided to put a cross on the Ukrainians'.<sup>53</sup>

In Sudan, accusations against humanitarian organisations on social media platforms have been frequent, including claims of partiality in the armed conflict, the argument that humanitarian organisations are fuelling the armed conflict, and calls for international humanitarian organisations to be expelled from Sudan.<sup>54</sup> MSF has also suffered from misinformation, disinformation and hate speech.<sup>55</sup> In June 2024, MSF released a report which showed the catastrophic levels of indiscriminate violence faced by civilians during the conflict. A spokesperson for the Sudanese Army described the report as 'false and unsubstantiated', while another commentator called for MSF to be expelled from Sudan, describing MSF as 'spies like all the other NGOs'. Such accusations should not be taken lightly in contexts where allegations of 'spying' can result in prolonged imprisonment.

#### 4.4. Collectivisation of the enemy: Denying medical care to the 'other'

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## The dehumanization of entire civilian populations leads to methods of warfare that are, or verge on, indiscriminate

The U.S. investigation into the Kunduz attack revealed that U.S. ground troops operated under the dangerous assumption that "all civilians had fled, and only Taliban remained in the city," prompting them to perceive "everything as a threat."<sup>56</sup> This starkly underscores a critical failure in understanding what constitutes a civilian. Across global conflicts, MSF has witnessed a troubling erosion of the fundamental principle that civilians must be protected from direct attacks. Disturbingly, certain narratives have emerged that suggest some civilians are "not innocent," thereby insinuating that they are less deserving of protection. This shift in perception threatens to undermine the very core of international humanitarian law and the protection of civilians in conflict.

In Gaza, Defense Minister Yoav Gallant declared a complete siege, stating, "we are fighting human animals, and we act accordingly."<sup>57</sup> This echoed earlier statements by Israeli officials; in April 2018, former Israeli Defense Minister Avigdor Liberman claimed, "there are no innocent people in the Gaza Strip.

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53 Ukrinform (8 March 2022). *Red Cross prohibits use of its emblem on humanitarian vehicles – Zelensky.*, <https://www.ukrinform.net/rubric-ato/3423671-red-cross-prohibits-use-of-its-emblem-on-humanitarian-vehicles-zelensky.html>

54 Insecurity Insight (July de 2024). *Unsafe on the ground, Unsafe online: Humanitarian Workers in Sudan's civil war.* <https://insecurityinsight.org/wp-content/uploads/2024/07/Unsafe-on-the-ground-Unsafe-online-Humanitarian-Workers-in-Sudans-civil-war-July-2024.pdf>

55 Insecurity Insight (September 2023). *Designation of MSF Attackers as Armed Men Criticised by SAF Supporters in Sudan.* <https://insecurityinsight.org/wp-content/uploads/2023/09/Designation-of-MSF-Attackers-as-Armed-Men-Criticised-by-SAF-Supporters-in-Sudan-Sept-2023.pdf>

56 On page 256 of the US report.

57 Fabian, E. (9 October 2023). 'Defense minister announces complete siege of Gaza: No power, food or fuel'. *The Times of Israel.* [https://www.timesofisrael.com/liveblog\\_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/](https://www.timesofisrael.com/liveblog_entry/defense-minister-announces-complete-siege-of-gaza-no-power-food-or-fuel/)

Everyone has a connection to Hamas."<sup>58</sup> Under such rhetoric, the differentiation between civilians and combatants is effectively erased. This dehumanization of entire civilian populations leads to methods of warfare that are, or verge on, indiscriminate.

On 9 October 2023, the Israeli Defence Minister declared, 'I have ordered a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel, everything is closed'.<sup>59</sup> Humanitarian aid into Gaza has been reduced to a trickle. The siege very quickly had a catastrophic impact on medical services, with doctors being forced to ration supplies, reuse material and even conduct medical procedures with reduced, or no, anaesthesia as stocks dwindled.<sup>60</sup> Previously unknown in Gaza, doctors have begun to detect case of severe acute malnutrition, while patients are at risk of dying from entirely preventable disease outbreaks, including polio, due to the destruction of water and sanitation facilities.<sup>61</sup> It is worth recalling that as an occupying power, Israeli authorities have the obligation to ensure and maintain the health care system in the territory.<sup>62</sup> On 26 January 2024, the International Court of Justice cited a plausible risk of breaches to the Genocide Convention in Gaza. As of April 2024, at least 2% of Gaza's child population has been killed in the name of combating Palestinian armed groups, an average rate of 250 killed per day.<sup>63</sup>

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**Attacks on medical care are often driven by an underlying discourse that one side is 'less than human' and though not entitled to humanitarian services**

In Sudan, collective punishment, siege tactics and the restriction of access for humanitarian supplies have been frequent. MSF has experienced how SAF denied the 'other side' access to surgical care through restricting movement of supplies and blocking humanitarian access. In September 2023, SAF imposed a blockade forbidding the transportation of medical supplies and humanitarian personnel into RSF-controlled areas. In the Turkish Hospital in Khartoum, and MSF team was 'mentally and physically exhausted' as 'the blockade means it has not been possible for us to bring in a new team to replace them, and they have been working tirelessly to keep the hospital open under intense pressure'.<sup>64</sup>

This demonstrates how attacks on medical care are often driven by an underlying discourse that one side is 'less than human' and therefore not entitled to humanitarian and medical services. Such discourse chips away at the basic principles of humanity which were enshrined into the universally ratified Geneva Conventions

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58 Tovah Lazaroff, T. (8 April 2018). 'There are no innocents in Gaza, says Israeli defense minister', *The Jerusalem Post*. <https://www.jpost.com/Arab-Israeli-Conflict/There-are-no-innocents-in-Gaza-says-Israeli-defense-minister-549173>

59 Fabian, E. (9 October de 2023). 'Defense minister announces complete siege of Gaza: No power, food or fuel'. *Op. Cit.*

60 MSF (April 2024). *Gaza's Silent Killings: The Destruction of the Healthcare System and the Struggle for Survival in Rafah*; BBC (18 February 2024). *Gaza doctors: We leave patients to scream for hours* <https://www.bbc.com/news/world-middle-east-68331988>

61 Ibid

62 Fourth Geneva Convention, Article 56

63 Save the Children (4 April 2024). *Gaza: Over 2% of Gaza's child population killed or injured in six months of war*. <https://reliefweb.int/report/occupied-palestinian-territory/gaza-over-2-gazas-child-population-killed-or-injured-six-months-war>; Oxfam Intermon (11 January 2024). *Daily death rate in Gaza higher than any other major 21st Century conflict*. <https://www.oxfam.org/en/press-releases/daily-death-rate-gaza-higher-any-other-major-21st-century-conflict-oxfam>

64 MSF (10 July 2024). *Op. Cit.*

over 75 years ago. In a recent opinion piece, ICRC's Chief Legal Officer opined that the current violations we are observing in plain sight gives rise to 'justifiable disillusionment' with these universally agreed norms.<sup>65</sup>

## 5

### IMPACT ON INDISCRIMINATE NATURE OF WARFARE ON HEALTH CARE

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**The use of explosive weapons in densely populated areas greatly increases the risk of indiscriminate harm to civilians**

International humanitarian law, the legal framework governing armed conflict, is fundamentally anchored in the principle of distinction. This holds that parties to the conflict must at all times distinguish between civilians and civilian objects, on one hand, and military objectives and fighters on the other.<sup>66</sup> Civilians and civilian objects must never be the subject of direct attack. The use of explosive weapons in densely populated areas greatly increases the risk of indiscriminate and disproportionate harm to civilians. According to the Explosive Weapons Monitor (EWM), between June 2023 and May 2024, there were 8,390 incidents of explosive weapon use worldwide, resulting in 56,375 casualties (dead or injured), 82% of whom were civilians<sup>67</sup>. Approximately 50% of all reported civilian casualties occurred in the Occupied Palestinian Territory, primarily Gaza. The report also highlighted significant civilian casualties in Myanmar, Pakistan, Sudan, Syria, and Ukraine. During the same period, the EWM recorded 1,912 incidents of explosive weapon use that impacted aid access, education, and healthcare services across 32 countries and territories, again with over half occurring in the Occupied Palestinian Territory.

In Gaza, Sudan, and Ukraine, the extreme devastation of healthcare system and civilian infrastructure demonstrates the consequences of the weapons whose effects cannot be adequately limited to the 'military objective'.<sup>68</sup> An investigation into attacks impacting medical facilities in Gaza documented the use of 2000 pound munitions near 11 hospitals, placing the

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65 Droege, C. (18 July 2024). 'War and What We Make of the Law', ICRC. <https://blogs.icrc.org/law-and-policy/2024/07/18/war-and-what-we-make-of-the-law/>

66 Henckarts, JM. y Doswald-Beck, L. (eds), Customary International Humanitarian Law, Vol. II: Practice, Cambridge University Press, Cambridge, 2005, pp. 23-34. An example is the Israeli manuals of war, which: 'clearly imposes the obligation to refrain from harming civilians insofar as possible' and 'this distinction imposes the duty to refrain from attacking civilians as far as possible'. See 'Israel. Practice Relating to Rule 1. The Principle of Distinction between Civilians and Combatants. Section C. Attacks against civilians', Customary IHL, ICRC's IHL database, available at: [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_cou\\_il\\_rule1\\_sectionc](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cou_il_rule1_sectionc).

67 Explosive Weapons Monitor, <https://www.explosiveweaponsmonitor.org/> (accessed 2 August 2024)

68 SHCC (May 2024). *Critical Condition. Violence against health care in conflict*. <https://insecurityinsight.org/wp-content/uploads/2024/05/2023-SHCC-Critical-Conditions.pdf>



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**In Gaza, patients with chronic conditions are dying at home, as medical facilities are rendered inoperable**

hospitals within the “lethal fragmentation radius.”<sup>69</sup> These bombs are so destructive that according to munition experts the US forces ‘almost never utilize such munitions in densely populated areas anymore’.<sup>70</sup>

In Sudan, at least 54 of the 257 incidents documented by the SHCC in 2023 involved the use of explosive weapons. These attacks, which included mortar shelling, missiles, and rockets, severely damaged health facilities such as children’s departments, maternity wards, teaching hospitals, pharmacies, and warehouses in Khartoum. Eleven health workers were killed as a result of these attacks. The SHCC highlighted that the use of explosive weapons in populated areas often leads to wide-area effects, causing death and destruction beyond the intended targets and resulting in significant harm to the health sector. This was particularly true in Sudan in 2023.

UN human rights chief Volker Türk publicly stated that evidence gathered by his office indicates that both RSF and SAF used weapons with wide-area effects, including artillery shells, during the attacks on El Fasher in April 2024.<sup>71</sup> Human Rights Watch also documented how both forces in Sudan have employed explosive weapons with wide-area effects in densely populated areas across the country, including mortars, artillery rockets, and air-delivered munitions.<sup>72</sup> The use of these weapons in populated areas frequently results in indiscriminate attacks, violating the laws of war.

The Issue isn’t just about the lack of sophisticated weapons; it also involves inadequate target verification, lack of ‘planners’ precautions’ to minimize civilian harm, internal “mistakes” and poor intelligence. Even the most precise munitions cannot distinguish between military and civilian targets that are protected under International Humanitarian Law (IHL). In urban environments, where the majority of today’s conflicts are fought, the risk of collateral damage to civilians and civilian infrastructure is significantly heightened.

### **5.1. The ‘Reverberating Impact’ of Attacks Affecting Health Care**

Violence impacting health care directly affects MSF’s staff and patients. However, there are broader consequences for the wider population, whose humanitarian needs justified the presence of

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69 Polglase, K.; Mezzofiore, G; Mackintosh, E; Doherty, L; Pettersson, H; Manley, B y Robinson, L. (12 January 2024). ‘How Gaza’s hospitals became battlegrounds’. *CNN*. <https://edition.cnn.com/interactive/2024/01/middleeast/gaza-hospitals-destruction-investigation-intl-cmd/>

70 New York Times (21 December 2023). *A Times Investigation Tracked Israel’s Use of One of Its Most Destructive Bombs in South Gaza*. <https://www.nytimes.com/2023/12/21/world/middleeast/israel-gaza-bomb-investigation.html>

71 UN (26 April 2024). *Sudan: Türk expresses grave concern at escalating violence in El-Fasher*. <https://www.ohchr.org/en/press-briefing-notes/2024/04/sudan-turk-expresses-grave-concern-escalating-violence-el-fasher>

72 Human Rights Watch (4 May 2023). *Sudan: Explosive Weapons Harming Civilians*. <https://www.hrw.org/news/2023/05/04/sudan-explosive-weapons-harming-civilians>

these programs in the first place. In Gaza, MSF is deeply concerned that patients with chronic conditions, such as cancer or diabetes, are dying at home, as medical facilities are rendered inoperable, overwhelmed by patients requiring critical trauma care, and have scarce supplies. Meanwhile, bombings have devastated sewage and water systems, heightening the risk of outbreaks of diarrhea, dehydration, hepatitis A, polio and skin infections.

In Ukraine, the April 5, 2024, attack that destroyed MSF's office in Pokrovsk, Donetsk oblast, injured 5 people, including an MSF staff member. The consequences extended beyond the immediate casualties, as MSF was forced to suspend all medical activities in the region, except for emergency care and ambulance referrals, denying countless injured and sick medical care.<sup>73</sup>

Attacks on health care frequently result in the suspension of critical services, sometimes permanently, leaving populations without healthcare alternatives. This risk is especially acute for hospitals; when a hospital is evacuated or rendered inoperable due to military actions, thousands of patients lose access to life-saving care—not only immediately, but also for weeks, months or even years afterwards.

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**Despite unprecedented level of regulation of the protection of humanitarian missions, there has never been more violence impacting healthcare**

## 6

### CONCLUSION

#### The Risk of Normalizing Attacks on Health Care

According to SHCC figures, 2023 marked the most significant global increase in attacks on healthcare ever reported.<sup>74</sup> Commentators have questioned whether attacks on health care have become the 'new normal'.<sup>75</sup> They argue that this issue must now be addressed as a public health crisis, pointing out, 'the scale of the problem has become more visible and its impact greater in recent armed conflicts such as Ukraine, Sudan, and Myanmar.' However, it remains unclear whether attacks on healthcare were ever truly not normalized.

What is evident is that despite unprecedented level of regulation and monitoring of the protection of medical and humanitarian missions, there has never been more violence impacting healthcare. MSF colleagues have highlighted the risk of "internalization of violent phenomena". In other words, if minor attacks become recurrent, attention may be focused only on the most serious incidents, leading to a normalization of "lower" levels of violence against the healthcare. As the authors posit,

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73 MSF (6 April 2024). *Ukraine: MSF condemns missile attack on its office in Pokrovsk*. <https://www.doctorswithoutborders.org/latest/ukraine-msf-condemns-missile-attack-its-office-pokrovsk>

74 SHCC (May 2024). *Critical Condition. Violence against health care in conflict 2023*. *Op. Cit.*

75 Blanchet, K; Rubenstein, L.; Taithe, B. y Fast, L. (6 December 2023), 'Have attacks on healthcare become the new normal? a public health call to action for armed conflicts before it is too late', *Confl Health*, 17(1):56. <https://pubmed.ncbi.nlm.nih.gov/38057797>

"this trivialization of violence might create the risk of a tacit, or even permissive, culture within an organization"<sup>76</sup>. For humanitarian actors and militants alike, internalizing acts of violence means making them an unspoken everyday normality, an exhausting and dangerous reality for medical workers and patients. The normalization of attacks on health care risk giving carte blanche for such incidents to be repeated.

According to the SHCC, one consistent feature marking attacks against healthcare has been the 'continued impunity for these crimes'. For more than a decade, governments have failed to follow through on their commitments on the protection of health care. There is still a need to examine military practices, cease arms transfers to perpetrators, and bring those responsible for crimes to justice.<sup>77</sup> As an organization, MSF has repeatedly faced instances of violence which have impacted our staff and patients, but rarely have we seen those responsible take concrete steps taken to ensure non-repetition. Definitely, not in Gaza, Sudan or Ukraine. As recently lamented by MSF's Secretary General Chris Lockyear regarding an incident in Gaza, 'I was personally promised an investigation into a convoy of ours that was attacked in November. I have had no response. I have since filed a dossier of further incidents – I am still waiting for a reply'.<sup>78</sup> Health care actors in conflict zones across the world are 'waiting for a reply'; waiting to know when the commitments on paper to protect health care will translate into practice.

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## The respect of the norms related to the protection of health care is at an all-time low

Attacks on health care are not new. However, we are currently at a critical juncture where respect of the norms related to the protection of health care is at an all-time low. We see a 'normalization' of such attacks, but also an 'internalisation' within the humanitarian sector. Action is needed to ensure these norms are not eroded to the point of irreparable harm. As MSF stated in its speech to the UN Security Council following the passage of resolution 2286, 'there can be no waiting. Make your pledges operational...attacking hospitals and medical workers is a non-negotiable red line'.<sup>79</sup>

Hospitals, health care workers and patients must be protected. No ifs, no buts.

PHOTO:  
**A Gazan man digs a hole in front of a mosque in Khan Younis (southern Gaza Strip), a hardly recognizable city after the withdrawal of Israeli forces.**

GAZA © BEN MILPAS

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76 Caroline Abu Sa'Da, Françoise Duroch and Bertrand Taithe (2013): *Op. Cit.*

77 SHCC (May 2024). *Critical Condition. Violence against health care in conflict 2023. Op. Cit.*

78 Christopher Lockyear (2024): *Op. Cit.*

79 MSF (28 September 2016). *MSF International President to the UN Security Council.* <https://www.msf.org/msf-international-president-un-security-council-failure-reflects-lack-political-will>

