

Are Israel's Attacks on Gaza's Hospitals Legal?

Israeli warplanes are circling in on Gaza's crowded hospitals, which have been issued with orders to evacuate

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Fears are mounting that Gaza's hospitals, many already on the brink of collapse, may come under intensified attack as the Israeli military moves deeper into the enclave.

In recent days, Israeli warplanes have been circling closer to two hospitals in Gaza City - [al-Shifa](#) and [al-Quds](#) - bombing areas in their immediate vicinity. Both hospitals have received orders by the Israeli military to evacuate, a demand that doctors and independent experts say is impossible to fulfil, given the large numbers of patients in their wards, including patients on life support.

The looming threat comes as hospitals across the besieged enclave, deprived of essential fuel and medicine, are collapsing. Sixteen out of 35 are no longer functioning. Hospitals that are still running warn that once generators shut down, they will be unable to keep ventilators, [incubators](#) and dialysis machines working and will effectively turn into morgues.

ISRAEL-GAZA WAR

No fuel for Gaza's hospitals

The Turkish-Palestinian Friendship Hospital is out of service after it ran out of fuel amid Israel's continuing blockade of the territory.



What is happening to Gaza's hospitals? To what extent are they protected by international law?

Which Hospitals Are Under Threat in Gaza?

In recent days, al-Quds and al-Shifa hospitals in Gaza City and the Indonesian Hospital in northern Gaza have seen attacks in their immediate vicinity. They are just three of 13 hospitals across the strip that have been repeatedly ordered to evacuate despite treating thousands of patients.

Speaking after the attacks near al-Quds, Nebal Farsakh, spokesperson for the Palestinian Red Crescent, told Al Jazeera:

“Evacuating them means killing them.”

The World Health Organization said striking the hospital, which is treating hundreds of patients and houses 14,000 displaced Palestinians, would be illegal.

Al-Shifa, which means “house of healing” in Arabic, is the largest hospital in the strip, currently treating thousands of patients. The Israeli military has alleged Hamas has built several military complexes under it. Hamas has [rejected](#) the allegation.

The UN Office for the Coordination of Humanitarian Affairs said “there is nowhere safe for these patients to go”. Any evacuation would, it said, “be a death sentence”. Hospitals are also sheltering about 117,000 displaced people whose houses have been bombed.

Last week, Israeli bombs damaged part of the cancer ward at the Turkish-Palestinian Friendship Hospital. On Wednesday, the hospital [announced](#) it had been forced to close.

“We tell the world: ‘Don’t leave cancer patients to a certain death due to the hospital being out of service,’” hospital director Subhi Sukeyk said.

Has Israel Said It Will Attack Hospitals?

“What we see is they are preparing the public for [the] bombing of hospitals,” Neve Gordon, professor of international law and human rights at Queen Mary University of London, told Al Jazeera on Thursday.

On Monday, in what appeared to be a preemptive deflection of anticipated criticism, the Israeli military released a video alleging that al-Shifa was a Hamas command and control centre, acting as “one of the headquarters” of the group’s military wing, the [Qassam Brigades](#). Last week, Israeli army spokesman Daniel Hagari presented a 3D map of alleged Hamas centres and tunnels beneath the hospital.

ISRAEL-GAZA WAR

Latest figures | October 7-November 2, 10:45 GMT

Israel	Palestine	
	GAZA	OCCUPIED WEST BANK
KILLED		
AT LEAST 1,405 including 333 Israeli soldiers, and 58 police officers	AT LEAST 9,061 including 3,760 children, 2,326 women	AT LEAST 132 including 39 children and one woman
INJURED		
AT LEAST 5,431	AT LEAST 32,000 including at least 6,360 children and 4,891 women	AT LEAST 2,000
CAPTIVE, MISSING OR ARRESTED		
242 taken captive by Hamas (including soldiers, civilians and 30 children) and about 40 missing	At least 2,030 missing , including 1,020 children Detainees from Gaza in Israeli prisons: about 4,000	Detainees from the West Bank: More than 1,900 2 prisoners died in Israeli custody



Source: Al Jazeera, Palestinian Ministry of Health/Gaza, Israeli army, Palestine Red Crescent Society, Addameer | November 2, 2023 | 10:45 GMT

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The latest onslaught on Gaza's hospitals follows last month's explosion at al-Ahli Hospital in Gaza City, which has yet to be independently investigated. Palestinian authorities said the blast killed nearly 500 people, and they pointed the finger at Israel.

Israel blamed Palestinian Islamic Jihad, but its evidence, including footage of a missile filmed [40 minutes after](#) the blast and a verifiably doctored [recording](#) of a purported conversation between Hamas operatives that linguists found to be syntactically unusual, has cast doubt on its claims.

Al-Ahli had also received multiple warnings to evacuate before the blast.

To What Extent Are Hospitals Protected by International Law?

International humanitarian law is based on the 1949 Geneva Conventions, signed after the horrors of the Second World War. Under the conventions, hospitals are considered “civilian objects” and receive de facto protection, said Srinivas Burra, associate professor in international humanitarian law at South Asian University in New Delhi.

The 1977 Additional Protocols to the conventions set out specific provisions for hospitals. Article 12 clearly states: “Medical units shall be respected and protected at all times and shall not be the object of attack.”

However, Article 13 then goes on to outline exceptions, stating that medical units shall cease to be protected if “used to commit, outside their humanitarian function, acts harmful to the enemy”. In such cases, it says, warnings and “a reasonable time limit” should be given.

“The law avows the protection and then disavows it,” Gordon said. He said hospitals could lose their entitlement to protection in cases in which they are used to shield fighters or store arms or if they are located close to legitimate military targets.

There are also questions of proportionality, whether the military aim justifies the harm caused.

As Gordon put it, “the higher the value of the military target, the more people you’re allowed to kill.” Hamas’s headquarters would, in his view, be considered a high-value target.

“You can inflate a military target and you can deflate the damage you create,” he said.

“The protection of hospitals is not absolute. It can be compromised if it is being used for military purposes,” Burra said.

However, he pointed out that it is not sufficient for an enemy to warn an entire hospital treating the sick and wounded to evacuate.

Warnings would have to be issued directly to combatants, allowing sufficient time to comply and proving they were still present before attacking.

“In the current situation, it looks like no such warning has been given,” he said.

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Featured image: Palestinians who fled their homes gather at al-Quds Hospital after Israeli air attacks on the Tel al-Hawa neighbourhood of Gaza City on October 31, 2023 [Mohammed Saber/EPA-EFE]

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