

ANNEX 1

INTERNATIONAL LEGAL FRAMEWORK

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	International Humanitarian Law	International Human Rights Law
Protection of the Wounded and Sick	Common Art. 3, GC I, II, III and IV Arts 6, 7, 9, 10, 12, 15, 18, 19 and 46, GC I Arts 6, 7, 9, 10, 12, 18, 21, 28, 30 and 47, GC II Art. 30, GC III Arts 16 and 91, GC IV Arts 10, 11 and 44 (8), AP I Arts 7 and 8, AP II Rules 109-111, Customary IHL Study	Art. 25, Universal Declaration of Human Rights Art. 2, ECHR Arts 6 (1) and 9, ICCPR Art. 12, ICESCR Art. 4, ACHR Art. 4, ACHPR Basic Principles on the Use of Force and Firearms by Law Enforcement Officials CESCR, General Comments No. 3 and No. 14 CESCR, An Evaluation of the Obligation to take Steps to the "Maximum of Available Resources" Under an Optional Protocol to the Covenant ³⁸
Protection of Health-Care Personnel	Arts 24-27, 28-30 and 32, GC I Arts 36 and 37, GC II Art. 20, GC IV Arts 15 and 16, AP I Arts 9 and 10, AP II Rules 25 and 26, Customary IHL Study	ICCPR ECHR ACHR ACHPR
Protection of Health-Care Facilities and Medical Transports	Arts 19-23 and 33-37, GC I Arts 21-35 and 38-40, GC II Arts 18, 19, 21, 22 and 57, GC IV Arts 12-14 and 21-31, AP I Art. 11, AP II Rules 28 and 29, Customary IHL Study	CESCR, General Comment No. 14
International Humanitarian Law		
Distinctive Emblems	Arts 36, 38-44, 53 and 54, GC I Arts 39, 41 and 43-45, GC II Arts 18 and 20-22, GC IV Arts 8, 18, 23, 38 and 85, AP I Annex 1, AP I Art. 12, AP II AP III Rules 30, 59 and 60, Customary IHL Study Regulations on the Use of the Emblem of the Red Cross or the Red Crescent by the National Societies	
Health-Care Ethics and Confidentiality	Art. 16, AP I Art. 10, AP II Rule 26, Customary IHL Study WMA (World Medical Association) Regulations in Times of Armed Conflict and Other Situations of Violence	
Sanctions	Arts 49-54, GC I Arts 50-53, GC II Arts 146-149, GC IV Art. 85, AP I Rules 156, 157 and 158, Customary IHL Study Art. 8 (2) (b) (vii), (ix), (xxiv) and Art. 8 (2) (e) (ii), (iv), Rome Statute	
<p>It is also worth mentioning that the international rules and principles of medical ethics³⁹ governing health-care personnel in the performance of their duties also contain rules that are aimed at protecting the wounded and sick.</p>		

³⁸ UN Doc. E/C.12/2007/1, 10 May 2007.

³⁹ The term 'medical ethics' refers to a branch of ethics that deals with moral issues in medical practice. See World Medical Association, *Medical Ethics Manual*, 2nd ed., 2009 (http://www.wma.net/en/30publications/30ethicsmanual/pdf/intro_en.pdf), p. 9.

Rules on the protection of the wounded and sick

INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICTS	SITUATIONS NOT GOVERNED BY IHL
Attacking, Harming or Killing	
<p>The rights of the wounded and sick must be respected in all circumstances; attempts upon their lives and violence against their person are strictly prohibited.</p> <p>Wilfully killing them or causing great suffering or serious injury to their bodies or to their health constitutes, as grave breaches of the Geneva Conventions, war crimes.</p>	<p>Except under very particular circumstances, set out in the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the wounded and sick are protected under IHRL from attempts upon their lives or violence against their person.</p> <p>Individuals have a right to personal security and States have a non-derogable obligation not to subject any individuals under their jurisdiction or control to arbitrary deprivation of life.</p> <p>The murder of wounded and sick people, as well as other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health, may amount to crimes against humanity.</p>
<p>In certain circumstances, the denial of medical treatment may constitute cruel or inhuman treatment, an outrage upon human dignity (in particular in case of humiliating and degrading treatment), or even torture if the necessary criteria are met.</p>	
Searching for and Collecting	
<p>Parties to an armed conflict must take all possible measures to search for and collect the wounded and sick without delay. If circumstances permit, parties must make arrangements for the removal or exchange of the wounded and sick.</p>	<p>Under the right to health, States have a non-derogable obligation to "ensure the right of access to health facilities, goods and services on a non-discriminatory basis" (GC No. 14). Similar obligations exist under the right to life, especially in life-threatening-circumstances.</p>
Protection and Care	
<p>All parties to an armed conflict must protect the wounded and sick from pillage and ill-treatment. They must also ensure that adequate medical care is provided to them as far as practicable and with the least possible delay.</p>	<p>States have an obligation to protect the wounded and sick from ill-treatment; they must also protect the right to health of the wounded and sick, including by taking all necessary measures to "safeguard persons within their jurisdiction from infringements of the right to health by third parties" (GC No. 14).</p>
Treatment without Discrimination	
<p>The wounded and sick must be treated without discrimination. If distinctions are to be made among them, it can be only on the basis of their medical condition.</p>	<p>The right to health must be exercised without discrimination. This obligation is immediate and non-derogable.</p> <p>Any restrictions on the right to health must be done in accordance with the law (including human rights standards), compatible with the nature of the rights protected by the CESCR, in the interest of legitimate aims pursued, and strictly necessary for the promotion of the general welfare in a democratic society (GC No. 14).</p>

Rules on the protection of medical personnel

INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICTS	SITUATIONS NOT GOVERNED BY IHL
Protecting and Respecting	
<p>Personnel engaging in medical tasks must always be respected and protected, unless they commit, outside of their humanitarian function, acts that are harmful to the enemy. When they carry and use weapons to defend themselves or to protect the wounded and sick in their charge, medical personnel do not lose the protection to which they are entitled.</p> <p>The wounded and sick under their care remain protected even if the medical personnel themselves lose their protection.</p>	<p>Medical personnel have the right to protection against arbitrary deprivation of life and the right to security in the same way as the wounded and sick.</p>
Provision of Care	
<p>Parties to an armed conflict may not impede the provision of care by unduly preventing the passage of medical personnel. They must facilitate access to the wounded and sick, and provide the necessary assistance and protection to medical personnel.</p> <p>Medical personnel may not be punished for providing impartial care.</p>	<p>States must not prevent medical personnel from treating the wounded and sick. Under the right to health, States have an obligation to "refrain from interfering directly or indirectly with the enjoyment of the right to health" (GC No. 14).</p> <p>Arresting medical personnel for providing care may amount to a violation of the protection against arbitrary arrest and detention, even if it is done lawfully under domestic law. The Human Rights Committee of the United Nations has stated that inappropriateness and injustice in legislation can amount to arbitrariness.</p>
Medical Ethics	
<p>Parties to an armed conflict should not compel medical professionals to carry out activities that are contrary to medical ethics or prevent them from fulfilling their ethical duties. Further, parties should not prosecute medical professionals for acting in accordance with medical ethics.</p> <p>Medical professionals must protect the confidentiality of information obtained in connection with the treatment of patients and should not be compelled, unless required to do so by the law, to give information concerning the wounded and sick who are or have been under their care, if this information would prove harmful to the patients or their families.</p>	<p>Resolution 37/194 of the United Nations General Assembly on the Principles of Medical Ethics states that in 'other emergencies' as well as in times of armed conflict, States should not punish medical personnel for carrying out medical activities compatible with medical ethics or compel them to undertake actions that contravene these standards.</p> <p>Medical ethics remain the same during armed conflict and in peacetime.</p>

Rules on the protection of health-care facilities and medical transports

INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICTS	SITUATIONS NOT GOVERNED BY IHL
<p style="text-align: center;">Protecting Health-Care Facilities</p>	<p style="text-align: center;">Protecting Health-Care Facilities and Medical Transports</p>
<p>Medical units, such as hospitals and other facilities that have been set up for medical purposes, must be respected and protected in all circumstances. Medical units may not be attacked and access to them may not be arbitrarily limited. Parties to an armed conflict must take measures to protect medical units from attacks, such as ensuring that they are not situated in the vicinity of military objectives.</p> <p>Medical units will lose the protection to which they are entitled if they are used, outside their humanitarian function, to commit acts harmful to the enemy. However, this protection can be withdrawn only after due warning has been given with a reasonable time limit and only after that warning has gone unheeded.</p>	<p>Under the right to health, States have a non-derogable obligation to ensure access to health infrastructure. They must therefore respect medical units and transports. States may not target them or use them to launch law enforcement operations or to carry out other similar measures. States must also take measures to protect medical units and transports from attacks or misuse by third parties.</p>
<p style="text-align: center;">Protecting Medical Transports</p>	
<p>Any means of transportation that is assigned exclusively to the conveyance of the wounded and sick, medical personnel and/or medical equipment or supplies must be respected and protected in the same way as medical units. If medical transports fall into the hands of an adverse party, that party becomes responsible for ensuring that the wounded and sick in their charge are cared for.</p>	
<p style="text-align: center;">Prohibition of Perfidy</p>	
<p>Parties to an armed conflict who use medical units or transports with the intent of leading the opposing parties to believe they are protected, while using them to launch attacks or carry out other acts harmful to the enemy, commit acts of perfidy. If such an act of perfidy results in death or injury to individuals belonging to an adverse party, it constitutes a war crime.</p>	

Rules on the use of the distinctive emblems

INTERNATIONAL AND NON-INTERNATIONAL ARMED CONFLICTS	SITUATIONS NOT GOVERNED BY IHL
Use of the Distinctive Emblems	
<p>When used as a protective device, the emblem – the red cross, the red crescent or the red crystal – is the visible sign of the protection conferred by the Geneva Conventions and their Additional Protocols on medical personnel, medical units and medical transports. During an armed conflict, this includes military medical personnel, units and transports; National Red Cross and Red Crescent Societies' medical personnel, units and transports that have been recognized by the State and authorized to assist the medical services of the armed forces; State-certified civilian medical units authorized to display the emblem; and medical personnel in occupied territory. To secure the best protection, the emblem used as a protective device should be large enough to ensure visibility. Medical units and transports may also use distinctive signals (such as light and radio signals).</p> <p>When used as an indicative device, the emblem links the person or object displaying it to an institution of the International Red Cross and Red Crescent Movement. In this case, the sign should be relatively small.</p> <p>Attacking buildings, material, medical units and transports or personnel displaying the distinctive emblems is a war crime.</p>	<p>Under Article 44, Paragraph 1, of the First Geneva Convention, military medical personnel, units and transports can use the emblem as a protective device in time of peace, and in situations of violence other than armed conflict. National Red Cross and Red Crescent Societies' medical units and transports, whose assignment to medical duties in the event of an armed conflict has been decided, can also use the emblem as a protective device, as long as they have been authorized to do so by the appropriate authority. Finally, in certain cases, civilian medical units may be authorized to use the emblem as a protective device. This requires the medical units to have been recognized as such by the State and the State to allow this use of the emblem. However, this use should be limited to the preparation of medical units for an armed conflict: for example, painting the emblem on the roof of a hospital.</p> <p>The emblem may also be used as an indicative device by ambulances and first-aid stations, when they are exclusively assigned to provide free treatment to the wounded and sick. In this case, the use must be in conformity with domestic legislation and authorized by the National Society.</p>
Misuse of the Emblems	
<p>Any use of the emblem not prescribed by IHL is considered to be improper. Perfidious use of the emblem – to protect or hide combatants, for example – constitutes a war crime when it results in death or serious injury.</p>	