

LEGAL STATUS AND PROTECTION OF MEDICAL PERSONNEL IN ARMED CONFLICTS – INTERNATIONAL HUMANITARIAN AND LABOR LAW PERSPECTIVES

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Abstract This article presents a comprehensive analysis of the protection of medical personnel in armed conflicts, viewed through the lenses of international humanitarian law and labor law. The first section explores the legal frameworks established by international humanitarian law (IHL), focusing on the rights and protections afforded to medical personnel working in conflict zones, and the role of treaties such as the Geneva Conventions in safeguarding their neutrality and safety. The second section explores the labor law perspective, focusing on the intersection between international humanitarian law and labor law in addressing the crucial issues surrounding the labor-law status of medical personnel in armed conflicts. By integrating these two distinct but interconnected legal frameworks, this article aims to highlight the complexities involved in ensuring the protection and effective functioning of medical personnel in armed conflicts and to propose recommendations for strengthening their legal and labor protections.

Keywords

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humanitarian law,
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1 Introduction

Medical neutrality refers to a globally accepted principle derived from International Humanitarian Law (IHL), International Human Rights Law and Medical Ethics. It is based on principles of non-interference with medical services in times of armed conflict and civil unrest (Druce et al., 2019, p. 1). It is evident that protecting medical personnel in armed conflicts is a critical issue that intersects with various domains of law, ethics, and humanitarian concerns. Medical personnel, including doctors, nurses, and paramedics, play an essential role in safeguarding human life in conflict zones, providing care not only to injured civilians but also to combatants, regardless of their affiliation. However, because these healthcare workers often find themselves under direct threat due to the nature of armed conflict, protecting them is a paramount concern for the international community.

Implementing the right to health is impossible without medical workers and the activities of medical institutions. Additionally, States have the duty to ensure the provision of medical aid in conflict conditions to realise the human right to health (Mykhailichenko et al., 2022, p. 78). To fulfil their obligations, States have agreed on several rules enumerated in the Geneva Conventions and Additional Protocols (Mykhailichenko et al., 2022, p. 78). IHL and human rights provide normative context for those who try to deliver medical and emergency relief in war zones (Leaning, 1999, p. 393). Despite these legal protections, violations are widespread, with medical personnel and facilities frequently targeted by parties to the conflict. The violation of these rights raises serious concerns about the effectiveness of IHL and the challenges that medical personnel face on the ground. Medical personnel are amongst the most important actors in the armed conflict, and it is paramount to bear in mind the significant role they play.

Labor law is critically important in protecting medical personnel since it addresses their working conditions, rights, and safety. In conflict zones, medical personnel often work in dangerous conditions, with limited resources and under the constant threat of violence. They are integral to the complex web of responses required during times of war, and their duties go beyond their role as healers, extending to advocacy, rebuilding healthcare infrastructure, psychosocial support, and public health initiatives (Sailesh Yash and Shanthi Kamath, 2024, p. 2). Labor laws, both international and national, play a crucial role in protecting medical workers' rights to

a safe working environment, reasonable working hours, and compensation for the risks they undertake. Although very important, this topic has not been widely explored, nor are there specific instruments of IHL and international labor law that prescribe rules relating to protecting the labor rights of healthcare workers in armed conflicts. Nevertheless, medical workers are ensured protection - through frameworks like the Geneva Conventions, ILO standards, and the support of international organizations. They are provided with neutrality and immunity while carrying out their essential duties.

This paper utilizes both legal-theoretical and legal-normative methods to examine protecting medical personnel in armed conflicts. The first part analyzes the legal safeguards established under IHL, focusing on the scope, effectiveness, and practical implementation of the relevant international conventions and protocols. The second part examines the labor law dimension, focusing on the key aspects of exercising fundamental labor rights by medical personnel in conflict settings, as well as on the obligations of employers - States, humanitarian organizations, and other entities - to ensure their safety, health, and overall well-being. By combining these two perspectives, the paper seeks to provide a comprehensive understanding of the status of medical personnel in armed conflicts and to identify the principal legal and practical challenges they encounter in performing their duties.

2 Definition and Legal Status of Medical Personnel under International Humanitarian Law

One can generally distinguish three categories of medical personnel active in armed conflicts. First, there are military physicians - as part of military medical personnel, military physicians' main responsibility is the medical treatment of wounded and sick combatants, especially those combatants of the physicians' own armed forces. The second category consists of civilian physicians who work in national civilian institutions of a State party of an armed conflict, such as clinics or hospitals. The third group are physicians working for humanitarian aid organizations (Mehringer, 2015, pp. 9-10). All these medical personnel are confronted with profound ethical dilemmas as they are often forced to make life-and-death decisions under intense pressure. These ethical responsibilities are compounded by the challenges of maintaining medical neutrality in a volatile and polarized environment. Medical law

intersects with IHL in its role in ensuring that medical practitioners have the legal protection they need to continue their work in accordance with ethical standards.

It is critically important that all medical personnel, whether civilian or military, must be protected against the effect of armed conflict to the maximum extent possible so that they can effectively perform their duties without any fear and favour (Jan & Ansari, 2011, p. 47). Medical units and transports may in no way be subject of an attack; nor may the persons in them be subject to encirclement; further, special protection is provided for medical personnel who are on a humanitarian mission to help the wounded and sick, as well as for religious personnel accompanying military forces (Milisavljević, 2024, p. 80).

To understand the legal status of medical personnel, we turn to the definition of medical personnel in The First Geneva Convention (Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, adopted on 12 August 1949, 75 UNTS 31). Article 24 describes that *»medical personnel as those exclusively assigned to the search for, collection of, and care for the wounded and sick or to the prevention of disease, and personnel exclusively assigned to the management of medical units and establishments, shall be respected and protected in all circumstances«* (First Geneva Convention 1949, Article 24). Article 28 prescribes that *»personnel designated in Article 24 may be detained, if they fall under the control of the opposing party, only as long as the state of health, spiritual needs and the number of prisoners of war require it«* (First Geneva Convention 1949, Article 28). Accordingly, medical personnel who have fallen into the hands of the enemy are not considered as prisoners of war. They can, however, continue to provide medical healthcare for those who are prisoners of war and are authorized to occasionally visit prisoners of war who are in work units or in hospitals located outside the camp (First Geneva Convention 1949, Article 28).

Medical personnel are considered to be neutral. Because their primary job is to provide medical healthcare, they are forbidden from practicing any kind of acts that harm the enemy (First Geneva Convention 1949, Article 21), which puts them in a very distinctive position. Even though medical personnel are formally employed by one of the parties to the conflict, their position and legal status derive from the norms of IHL rather than from labour law regulations.

Furthermore, Rule 3 of the Study on Customary International Humanitarian Law makes a distinction between civilians and combatants and also recognises the distinction between medical personnel and combatants: »All members of the armed forces of a party to the conflict are combatants, except medical and religious personnel« (Henckaerts, 2005, p. 198). Thus, we see that legal status of medical personnel in armed conflicts goes beyond the norms of IHL and is embedded with international customary law.

In all times, medical personnel are obliged to carry a special identification card and a sign of recognition – which is a red cross on a white background. The same symbol must be on the flags, on the ribbons that are worn around the hands of medical personnel, as well as on everything material that has to do with the medical service (First Geneva Convention 1949, Articles 39 and 40). This distinctive emblem serves as a protective sign under international humanitarian law, indicating that the persons and objects marked with it must not be attacked or harmed – if they continue to provide medical healthcare to the wounded and sick. Any misuse of the emblem, such as using it for military purposes or deception, constitutes a serious violation of the Geneva Conventions and may constitute a war crime. The rationale behind the distinctive emblems is to ensure medical personnel and medical establishments, whether on land or sea, such as hospital, hospital ships, medical aircraft, and medical transports are not confused with military personnel and military establishments as these are not immune from attack while the medical personnel and establishment enjoy immunity from military attack as their task is to respect and protect the wounded and sick (Jan & Ansari, 2011, p. 69).

3 Protection Regime under International Humanitarian Law

Now that we understand the legal status of the medical personnel, it is important to analyze specific norms of IHL that provide them with much needed protection.

Medical personnel, from both the civilian population and the military, are subject to special protection under IHL. These protections are vital in ensuring that care is available for the sick and wounded, and so that those who provide it are adequately protected (Crowe and Weston-Scheuber, 2013, p. 85). IHL is the part of public international law which aims to limit the destructive effects of armed conflicts (Petrović, 2023, p. 141). It includes several key instruments that specifically address

protecting medical personnel during armed conflicts, along with the work of the International Committee of the Red Cross (ICRC). These instruments aim to ensure the safety and neutrality of medical workers and their ability to provide care for the wounded, regardless of their affiliation. Presently, IHL and the activities of the ICRC during armed conflict are based on four Geneva Conventions of 1949, as well as on the additional protocols for these conventions. In tandem, these constitute a comprehensive system of international law that protects victims of armed conflicts (Goniewicz & Goniewicz 2013, p. 108).

3.1 The Legal Framework for the Protection of Medical Personnel in Armed Conflicts

The first instrument (convention) of IHL that mentioned protecting medical personnel is the Convention for the Amelioration of the Condition of the Wounded in Armies in the Field of 1864 (Amelioration Convention) (Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, signed at Geneva on 22 August 1864.). The Amelioration Convention conferred protected status during armed conflicts upon ambulances, hospitals and medical personnel; imposed a duty on forces to care for wounded combatants; and acknowledged and protected the distinctive Red Cross symbol of “a red cross on a white ground” (Crowe & Weston-Scheuber, 2013, p. 30). The Amelioration Convention, in addition to its primary protection of military wounded in war, in Articles 2, 3, 4, 5, and 6, also confers protection on medical personnel. Although Article 6 refers to “unconditional neutrality”, its shortcoming is that the protection of medical personnel applies only when they are tied to shelters, field ambulances, and the main field hospital, and not general protection regardless of where they may be located (Lopičić Jančić, 2017, p. 148). Despite this shortcoming, the Amelioration Convention nevertheless significantly advanced the development of IHL, as it was one of the first formal attempts to regulate the conduct of war regarding the protection of human life, particularly the medical personnel, wounded and sick, and to establish humanitarian standards for conflict. It also laid the groundwork for future Geneva Conventions that continue to form the basis of modern IHL.

The main sources of protection under the IHL are the four Geneva Conventions of 1949. The Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, better known as The First Geneva Convention,

as mentioned in the second chapter regarding legal status, likewise protects medical personnel. The personnel referred to in Article 24 may be detained, if they fall into the power of an adverse Party, only for so long as the state of health requires; however, the members of the personnel thus detained shall not be considered prisoners of war (First Geneva Convention 1949, Article 28). They are not to be treated as combatants, even if they are members of the armed forces, if they are performing medical duties. In summary, the First Geneva Convention of 1949 plays a critical role in protecting medical personnel by recognizing their neutrality, ensuring their safety, and guaranteeing their right to care for the wounded regardless of their affiliation. These protections emphasize the importance of impartial medical care in times of war.

On the other hand, the Fourth Geneva Convention (Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, adopted on 12 August 1949, entered into force on 21 October 1950, 75 UNTS 287) contains several Articles (18–29) that outline the protections for medical personnel in occupied territories. These provisions ensure that medical staff are given safety and freedom to perform their humanitarian duties without interference, and that medical facilities and supplies are protected from attack or misuse during times of armed conflict (Fourth Geneva Convention 1949). Even though the Fourth Convention primarily deals with protecting civilians in times of armed conflicts, it extends protection to various groups, including medical personnel, in occupied territories. It is one of the key components of IHL that outlines the responsibilities of occupying powers and ensures the safety of civilians, as well as medical personnel. The crucial provision is that medical personnel duly and exclusively employed in the work or management of civilian hospitals, including those whose duty it is to locate, collect, transport and care for the wounded and sick, the infirm and the maternity ward, shall be respected and protected (Fourth Geneva Convention 1949, Article 20).

Moreover, the two additional protocols expand protection to all health professionals who act in accordance with their professional ethical obligations, such as the duty to provide impartial care to all, regardless of whether they meet the definition of ‘medical personnel’, so that they cannot be punished for acting in accordance with the rules of medical ethics, compelled to refrain from acts required by medical ethics, or required to act against the mandates of medical ethics (Footer & Rubenstein 2013, p. 176). Additional Protocol to the Geneva Convention I (Protocol Additional to

the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts adopted on 8 June 1977, entered into force on 7 December 1978, 1125 UNTS 3) explained in detail in its Article 8 the notion of the medical personnel and their protection. This provision defines who qualifies as medical personnel under international humanitarian law by specifying the categories of persons and organizations covered, for example – medical personnel, medical personnel of the national Red Cross (Crescent, Lion, Sun). Its purpose is to clarify the personal scope of protection, ensuring that individuals exclusively assigned to medical functions benefit from the special protections afforded during armed conflict.

On the other hand, Additional Protocol to the Geneva Conventions II (Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted on 8 June 1977, entered into force on 7 December 1978, 1125 UNTS 609) emphasizes that the protection of the medical personnel in non-international armed conflicts is provided by both the Common Article 3 of the Geneva Conventions, and the Additional Protocol II - which require that they should be respected and protected and not punished for carrying out medical duties in accordance with medical ethics (Additional Protocol to the Geneva Conventions II). Nevertheless, this legal framework is more limited than in international armed conflicts, as it provides fewer detailed rules and does not establish special statuses or comprehensive procedural safeguards. Rather, its main purpose is to protect medical personnel in non-international conflicts.

In conclusion, the rules of IHL establish a comprehensive legal framework prescribing the protection of medical personnel during both international and non-international armed conflicts, thereby recognizing their essential humanitarian role and ensuring their safety and neutrality in times of armed hostilities.

In addition to Geneva Conventions, international customary law also provides special protection of medical personnel in situations of armed conflict. International Committee of Red Cross's study on customary international humanitarian law presents us with the set of rules regarding the “Specifically Protected Persons and Objects”, for example, Rule 25 states: *»Medical personnel exclusively assigned to medical*

duties must be respected and protected in all circumstances. They lose their protection if they commit, outside their humanitarian function, acts harmful to the enemy» (Henckaerts, 2005, p. 200).

Significantly, international criminal law also protects medical personnel. The Rome Statute of the International Criminal Court (Rome Statute of the International Criminal Court, adopted on 17 July 1998, entered into force on 1 July 2002, 2187 UNTS 90), provides that intentional attacks directed against medical personnel, units, or transports performing humanitarian functions constitute war crimes, thereby ensuring that violations of their protected status under IHL give rise to individual criminal responsibility (Rome Statute, Article 8). By incorporating these acts within its jurisdiction, the Rome Statute strengthens the protective regime established by the Geneva Conventions and their Additional Protocols, reaffirming that respect for the neutrality, independence, and safety of medical services is a binding legal obligation, the breach of which engages the accountability of both State and non-State actors.

3.2 UN Documents Regarding Protection of Medical Personnel in Armed Conflicts

Unfortunately, members of armed forces sometimes fail to act in accordance with the instruments of IHL – Geneva Conventions, customary international humanitarian norms and the Roman Statute - during armed conflicts. Having regard to the growing cases of attacks against healthcare providers and facilities in conflicts, the UN Security Council (UNSC) in 2016 adopted Resolution 2286 (UN Security Council Resolution 2286 (2016) of 3 May 2016 on the protection of the wounded and sick, medical personnel and humanitarian personnel in armed conflict), which calls on States to “develop effective measures to prevent and address acts of violence, attacks and threats against medical personnel, their means of transport and equipment, as well as hospitals and other medical facilities in armed conflict” (Amani Africa, 2021). It calls on State armed forces and security forces to integrate practical measures to protect healthcare in their military planning and operations. It also urges all parties to armed conflicts to develop effective measures to prevent and address violent attacks on, and threats against, healthcare (Brennan et al., 2024, p. 17). Additionally, it highlights the importance of ensuring accountability for those responsible for such attacks and stresses the need for safe, unhindered access to

medical care and humanitarian aid for civilians affected by conflict (UNSC Res. 2286).

The most recent resolution the UN Security Council has adopted is Resolution 2730 (UN Security Council Resolution 2730 (2024) of 24 May 2024 on the protection of United Nations and humanitarian personnel in armed conflict, S/RES/2730 (2024)). Resolution 2730 demands that parties to the conflict uphold their obligations under international law and urges all States to immediately undertake comprehensive and impartial investigations into violations perpetrated against UN and humanitarian personnel. Its goal is “to step up the protection of people that protect” (UNSC Res. 2730). The Resolution condemns attacks and all forms of violence, including threats and intimidation, against humanitarian and UN personnel, their facilities, and property. It also points to the growing vulnerability of local humanitarian staff, who constitute a large part of those working in the field, and stresses the need to reduce risks through concrete protection strategies.

4 Protection of Medical Personnel in Armed Conflicts - The Intersection of International Humanitarian and Labor Law

4.1 Conceptual and Theoretical Foundations

Protecting medical personnel in armed conflicts extends beyond the framework of IHL. It encompasses the principles and obligations of labor law, which safeguard the rights, dignity, and wellbeing of workers under all circumstances. While IHL establishes medical personnel's neutrality and immunity from attack, it does not fully regulate the internal dimensions of their employment, including working conditions, occupational safety, remuneration, and psychosocial conditions, i.e. mental wellbeing. Labor law therefore complements humanitarian law by ensuring that even in the extreme conditions of armed conflict, minimum labor standards, grounded in human dignity, continue to apply.

From a legal-theoretical standpoint, the situation of medical personnel exemplifies a dual-regime model of protection, in which IHL and labor law operate simultaneously and interactively. IHL regulates the external environment - protecting medical personnel from acts of hostility and guaranteeing respect and protection for their humanitarian function (Henckaerts & Doswald-Beck, 2005, pp. 83-84) - while labor

law governs the internal relationship between the worker and the employer, imposing obligations of safety, compensation, and care. The coexistence of these regimes reflects what may be described as protective legal dualism: both frameworks converge on the same fundamental aim - the preservation of human life and dignity - but they approach it through different normative mechanisms. This dualism implies that armed conflict, while altering the factual conditions of work, cannot fully displace the normative force of labor protections, which derive both from universal human rights principles and the ethical imperative of solidarity and care. However, within the ongoing ever-lasting debate concerning the classification of labor-related rights as fundamental human rights, scholars emphasize their distinct economic and social functions and their historical evolution from workers' struggles and labor movements. In contrast to the natural and individualistic conception of civil and political rights as fundamental human rights, some authors argue that labor rights originate from collective workers' action and trade unionism, being inherently linked to workers' movements and the economic conflicts embedded in the employment relationship (Savage, 2008, p. 68).

Thus, it is important to stress that the classification of labour-related rights within the broader framework of human rights has long been a subject of theoretical contention. As noted above, while some scholars argue for their recognition as fundamental human rights, grounded in human dignity and the universal right to decent work, others emphasize their economic and social character, derived from historical processes of industrialization, workers' struggles, and collective labor movements (Sen, 1999). Unlike civil and political rights, which are traditionally conceived as natural and individualistic, labor rights emerged as instruments for achieving social justice, equity, and collective welfare. This historical and functional distinction has led to their classification as part of the so-called "second generation" of human rights - rights that require positive State action and institutional mechanisms for realization, rather than mere non-interference (Vasak, 1977). Contemporary legal theory increasingly challenges this dichotomy, asserting that labor rights - such as the right to fair remuneration, safe working conditions, and freedom of association - are integral to human dignity and must be understood as indivisible and interdependent with civil and political rights (International Labor Organization, 1998). This integrated perspective aligns with the holistic conception of human rights endorsed by the Vienna Declaration and Programme of Action (Vienna Declaration and Programme of Action, adopted by the World Conference

on Human Rights on 25 June 1993, UN Doc A/CONF.157/23), affirming that all rights are universal, interrelated, and mutually reinforcing.

Accordingly, labor-related rights should be understood as inherent and individual entitlements, rooted in the universal principle of human dignity and thus protected under all circumstances, including during periods of social and political turbulence such as armed conflicts. From a perspective of resilient normativity (Cañizares Gaztelu, 2023, pp. 49-50), these rights maintain their binding force even when the ordinary mechanisms of enforcement are weakened or suspended. This resilience underscores that the moral and legal obligation to safeguard workers - particularly those engaged in humanitarian and medical services - cannot be contingent upon the stability of State institutions or the existence of peace. Instead, it reflects the enduring normative core of labor law, whose foundational principles of dignity, equality, and the protection of life continue to operate as non-derogable standards, ensuring that the value of human work and the integrity of the worker remain protected even in the most adverse circumstances.

Moreover, this understanding resonates with contemporary legal theory, which emphasizes the resilience of normative systems and their capacity to preserve core values under conditions of crisis. Andersson & Werkmäster (2022) introduce the concept of normative resilience to describe the enduring quality of moral and legal norms that retain their binding force despite environmental or institutional disruption. Applied to the labor law context, this suggests that fundamental labor rights - such as the right to safe working conditions, fair remuneration, and occupational safety - constitute resilient norms that persist even in armed conflict or humanitarian emergencies. Similarly, Sen (1999) argues that rights grounded in human capability and dignity have intrinsic moral weight that transcends economic or political contingencies. The International Labor Organization (ILO, 1998) likewise affirms that fundamental labor rights are universal and indivisible, forming part of the essential framework for justice and social peace. Accordingly, protecting medical and humanitarian workers must be seen not as a discretionary policy, but as a continuing legal and ethical obligation rooted in the enduring resilience of human rights and labor law norms.

The theoretical foundations of labor protection in war, thus, rest on three interrelated concepts: human dignity, duty of care, and risk distribution. Human dignity, as articulated in human rights and labor law theory, establishes a baseline of non-derogable entitlements to safety, respect, and fair treatment, regardless of context. The duty of care, imposed upon employers - whether states, military institutions, or humanitarian organizations - extends into extreme environments and requires proactive measures to mitigate foreseeable risks. Theories of risk and organization further emphasize that the unpredictability of armed conflict demands dynamic forms of risk management and regulatory flexibility without eroding fundamental rights (Mamun, 2024, pp. 278-279).

4.2 Normative Foundations

Protecting medical personnel in armed conflicts is rooted in a robust normative framework that integrates international labor law, international humanitarian law, and human rights law. Within this framework, international labor standards articulate the minimum obligations of States and employers to guarantee safe and dignified working conditions, even under conditions of insecurity and crisis. The International Labor Organization (ILO) Convention No. 155 on Occupational Safety and Health (adopted on 22 June 1981) requires Member States to adopt national policies ensuring that “employers shall be required to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control are safe and without risk to health” (ILO, 1981, Article 16). This obligation does not cease in times of armed conflict. On the contrary, it gains normative strength, as the vulnerability of health workers in such contexts calls for heightened preventive measures - ranging from hazard assessment and provision of personal protective equipment to the monitoring of physical and psychological wellbeing.

Complementing this, the ILO Convention No. 161 on Occupational Health Services (adopted on 26 June 1985) establishes that occupational health services must function as preventive and advisory institutions, emphasizing the anticipation, recognition, evaluation, and control of workplace risks. When applied to medical personnel in conflict zones, this Convention underscores that the right to a safe workplace extends to all workers, regardless of context, reaffirming the universality of occupational safety obligations (Politakis, 2023, p. 213). Vuorio & Bor (2022)

emphasize that international law - most notably IHL - and public health frameworks impose binding obligations to safeguard medical personnel in situations of armed conflict. This interpretation reinforces the normative coherence between humanitarian and labour law regimes, complementing Politakis's (2023) view on the universality of occupational safety and health (OSH) rights, and situating these general obligations within the specific context of medical workers exposed to the risks of warfare. Overall, these provisions reflect a legal-normative continuity that endures even when normal governance structures are disrupted, grounded on the above-mentioned theory of resilient normativity - the enduring capacity of legal norms to preserve their binding force even in the face of social and institutional instability (Andersson & Werkmäster, 2022, p. 207).

Furthermore, in 2017, the ILO adopted the Employment and Decent Work for Peace and Resilience Recommendation No. 205 (R205). This international instrument provides a comprehensive framework for promoting employment and decent work in crisis situations, including armed conflicts. Although R205 does not specifically address the labor status of medical personnel in armed conflicts, its principles can be applied to this context. R205 emphasizes the importance of social dialogue and involving workers' organizations in crisis response and recovery, which can include advocating for the rights and protection of medical personnel. Additionally, R205 highlights the need for inclusive and equitable employment opportunities, which can extend to ensuring that medical personnel have safe and decent working conditions during conflicts. By aligning with IHL, which mandates protecting medical personnel, R205 reinforces the obligation of States to respect and safeguard the rights of healthcare workers in conflict zones. It also provides a strong basis for advocating the future adoption of ILO standards on the fundamental working conditions of personnel in armed conflicts, particularly in critical sectors such as healthcare, which remain insufficiently protected under international law. This advocacy is particularly justified in the current context of ongoing conflict pressures and complex international relations.

On the other side, human rights law provides an additional normative pillar supporting this framework in the labor context. The International Covenant on Economic, Social and Cultural Rights (ICESCR) (International Covenant on Economic, Social and Cultural Rights, adopted on 16 December 1966, entered into force on 3 January 1976, 993 UNTS 3) enshrines both the right to just and favorable

working conditions (Article 7) and to the highest attainable standard of health (Article 12). These rights are integral to protecting medical workers in armed conflict, who face intensified risks to both occupational safety and personal health. Similarly, the Universal Declaration of Human Rights (Universal Declaration of Human Rights, adopted by the United Nations General Assembly on 10 December 1948, UNGA Res 217 A (III)) affirms in Articles 23 and 25 the rights to work, just conditions, and health, thereby embedding these protections within the broader architecture of human dignity and social justice. As the Committee on Economic, Social and Cultural Rights (CESCR) has clarified, such rights are of immediate applicability and remain binding on States even during emergencies (CESCR, 2000).

Additionally, universal ethical and professional standards serve to reinforce these legal obligations, reflecting their fundamental interconnection with the quality of the working environment and the broader framework of labor standards. The World Medical Association's (WMA) Ethical Principles of Health Care in Times of Armed Conflict and Other Emergencies explicitly articulate the legal and ethical imperatives underpinning the protection of health-care personnel in armed conflict. The document affirms that medical personnel, facilities, and transport - whether civilian or military - must be respected and safeguarded by all parties to the conflict, reflecting the normative standards embedded in IHL, particularly the Geneva Conventions and their Additional Protocols (WMA, 2014). The WMA underscores the obligation to ensure the safest possible working environment and unhindered access to patients, facilities, and medical equipment, as a precondition for the effective delivery of impartial medical care (WMA, 2014). Moreover, the identification of medical personnel by internationally recognized emblems, such as the Red Cross, Red Crescent, or Red Crystal, functions as a legal marker of their protected status under IHL, reinforcing both their immunity from attack and their right to perform duties without interference (WMA, 2014). Finally, the principle that health-care personnel must never be punished for fulfilling their professional and ethical responsibilities aligns with the broader framework of medical neutrality, emphasizing the convergence of ethical and legal duties to preserve human dignity even amidst the conduct of hostilities (WMA, 2014).

Therefore, this principle complements the obligations enshrined in both IHL and ILO frameworks, forming a coherent moral and legal imperative to protect those who provide care in situations of violence. Collectively, these instruments affirm that

protecting medical personnel is not merely a derivative policy objective, but a normative requirement grounded in the universality of human dignity and the ‘resilience’ of fundamental labor and human rights norms.

4.3 Analytical Framework and Theoretical Insights

However, applying labor law norms in armed conflicts still presents practical and conceptual challenges. Medical personnel often work under conditions of prolonged fatigue, insufficient rest, and direct exposure to violence. Their facilities may be destroyed, supply chains interrupted, and payment systems rendered inoperative. Under such circumstances, the ordinary enforcement mechanisms of labor law - inspection, court proceedings, collective bargaining - may be inoperative or unavailable. However, from a theoretical perspective grounded in justice and fairness, suspending enforcement does not equate to suspending rights. Legal systems must adapt through flexible yet principled approaches to ensure that the core content of labor rights remains intact, including the obligation to provide adequate training and education for medical personnel in crisis management - particularly in situations of armed conflict (Burkle et al., 2019, p. 394). It, however, presupposes that the minimum guarantees of occupational safety, equitable remuneration, and adequate rest constitute non-derogable labor standards, whose protection must be ensured even in exceptional and crisis circumstances. Where domestic enforcement is impeded, alternative mechanisms such as international monitoring, institutional oversight, or emergency compensation frameworks should function as subsidiary safeguards to uphold these fundamental obligations.

The intersection of IHL and labor law reveals areas of complementarity, overlap, and tension. IHL’s obligation on parties to conflict to take “all feasible precautions” to protect medical personnel mirrors the preventive obligations imposed by occupational safety and health law. Conversely, labor law’s prohibition of violence and harassment converges with IHL’s ban on attacks against medical units and personnel. The principal gaps lie in enforcement: IHL primarily targets State and military behavior, while labor law governs employer-employee relations; in practice, both frameworks may fail when institutions collapse. Theoretically, these gaps illustrate the limits of positivist law in extreme contexts and underscore the need for what some scholars describe as “resilient normativity” - a capacity of law to maintain

minimal protective effect even when State enforcement mechanisms falter (Andersson & Werkmäster, 2022; Thorén & Olsson, 2017).

Ensuring compliance and accountability thus requires a multi-level approach. At the domestic level, States should ensure that national labor codes and occupational safety laws remain applicable during emergencies and that labor inspectorates retain authority to monitor compliance, possibly through adapted or internationalized mechanisms. At the international level, ILO supervisory procedures, United Nations treaty bodies, and international humanitarian organizations provide additional oversight. Employers, whether public or private, must integrate labor obligations into their operational policies and employment contracts, including provisions for safety, particularly mental health, and rest. As mentioned above, in cases of deliberate attacks or gross neglect of protective obligations, international criminal law may also be engaged, as the intentional targeting of medical personnel constitutes a war crime under the Geneva Conventions and the Rome Statute (The Responsibility for Protection, 2010).

From a normative perspective, strengthening the protection of medical personnel through labor law requires both legal and institutional innovation. Laws must be explicitly conflict-sensitive, incorporating provisions on hazard pay, mental health support, and continuity of remuneration during emergencies. States should identify a minimal set of non-derogable labor rights - such as life, bodily integrity, safety, and rest - that remain enforceable even under state of emergency. Employers should conduct conflict-specific risk assessments and management, provide training on both occupational safety and humanitarian law, and ensure access to psychosocial support. Finally, effective remedies - administrative, judicial, or international - must be guaranteed, including whistleblower protections and safe channels for reporting violations.

Having said that, labor law represents an indispensable component of the legal protection of medical personnel in armed conflicts. It addresses dimensions of safety, health, remuneration, and mental wellbeing that humanitarian law alone cannot ensure. Integrating labor law norms into conflict contexts demonstrates the “resilience” of the principle of human dignity as a normative constant in law. From both theoretical and practical standpoints, the convergence of labor and humanitarian law signifies that the right to safe and fair working conditions must

persist even in the disintegration of peace. The future development of international labor standards should therefore explicitly incorporate conflict-related risks and institutionalize enforceable mechanisms capable of protecting those who provide care in the most insecure and dangerous circumstances of human existence, such as armed conflicts.

5 Concluding Remarks

It is evident that there is a need for medical personnel to have special protection during armed conflicts, as their mission to save lives transcends all parties involved. Their position is complicated, multilayered and unique – it requires special rules that regulate unlawful attacks on them, if they act as medical personnel, without taking part in military activities. We elaborated rules of international humanitarian and criminal law, labour law, and soft law to protect medical personnel, but it is evident that rules are not always adhered to. Even at the time when this paper is being written, there are wars raging across the world, in which many medical personnel are one among the targets.

The convergence of international humanitarian and labor law affirms that protecting medical personnel in armed conflict transcends the traditional boundaries of either regime. While humanitarian law ensures their status and immunity from attack, labor law reinforces the substantive dimensions of human dignity through guarantees of safety, rest, and fair remuneration. The normative synthesis of these frameworks demonstrates the adaptability of legal systems to preserve essential labor rights even during institutional collapse and violence. Ultimately, the recognition of certain labor standards as non-derogable reflects a deeper jurisprudential commitment to justice and the inherent worth of the human person. Strengthening this intersection through explicit conflict-sensitive labor provisions and international accountability mechanisms thus remains imperative for the future evolution of both legal orders.

The effective protection of medical personnel requires consistent implementation of international law, stronger accountability mechanisms for violations, and the promotion of a culture that values and respects humanitarian work. Only through the combination of legal safeguards, political commitment, and ethical awareness can medical workers fulfill their mission - to provide care without discrimination or fear, even in the most challenging conditions of armed conflict.

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Povzetek v slovenskem jeziku

Članek predstavlja celovito analizo zaščite medicinskega osebja v oboroženih spopadih skozi prizmo mednarodnega humanitarnega in delovnega prava. Prvi del članka raziskuje pravne okvire, ki jih določa mednarodno humanitarno pravo (IHL), s poudarkom na pravicah in varstvu medicinskega osebja, ki dela na območjih spopadov, ter vloži mednarodnih pogodb, kot so Ženevske konvencije, pri zaščiti njihove nevtralnosti in varnosti. Drugi del raziskave pa predstavlja perspektivo delovnega prava, predvsem iz vidika presečišča med mednarodnim humanitarnim in delovnim pravom pri obravnavanju ključnih vprašanj v zvezi s statusom medicinskega osebja v oboroženih spopadih z vidika delovnega prava. S povezovanjem teh dveh različnih, a medsebojno povezanih pravnih okvirov, članek želi poudariti kompleksnost zagotavljanja zaščite in učinkovitega delovanja medicinskega osebja v oboroženih spopadih ter predlagati priporočila za okrepitev njihove pravne in delovne zaščite.

