

Can stronger legal frameworks safeguard aid workers and the people they assist?



On 20 November 2023, five Médecins Sans Frontières vehicles parked in front of the Gaza City MSF clinic were destroyed by Israeli forces.
Photo Credit: MSF

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Humanitarian work faces increasing challenges in adapting to a more dangerous and complex global order characterised by heightened conflict, geopolitical tensions, climate crises and resource scarcity.

Global humanitarian needs reached unprecedented levels in 2024. As the gap between needs and available resources continues to widen, the humanitarian sector is struggling to rise to the challenge, largely due to a deficit in support from states.

Importantly, this support is not only about financial and material resources, but also about robust legal and accountability frameworks for humanitarians to work within. It is about ensuring respect for and compliance with International Humanitarian Law (IHL). For aid workers to deliver life-saving and life-sustaining assistance impartially and independently, unimpeded by states and armed groups, and with legal protections for safety and security, IHL must be effectively enforced.

As we reflect on 2024, it is the threat to these very foundations — to established norms, the rule of law and the rules of war — that most endangers the future of humanitarianism. Civil society organisations are tired of screaming into the wind. We can only do so much to safeguard lives and prevent suffering. It's time for states to step up, to take immediate, consistent and meaningful action against violations of IHL, and fight against impunity for violations of the laws which are the very basis of humanitarian work.

Last year was a devastating one for Médecins Sans Frontières (MSF)/Doctors Without Borders and other humanitarian organisations. Our staff have witnessed senseless attacks on our patients and the weaponisation of humanitarian aid. Healthcare facilities and personnel are explicitly and specifically protected under IHL. And yet, over the past 12 months, the World Health Organization has **reported**

516 attacks on healthcare in Gaza alone, and 19 of Gaza's 36 hospitals are now out of service. More than 300 aid workers and 1,000 medical staff have been killed, including nine of our MSF colleagues.

Gaza is not the only crisis. We have witnessed severe restrictions on humanitarian access and medical supplies by Myanmar's armed forces, as well as the brutal targeting of civilians by armed groups in Sudan. Violations of IHL have been more numerous and severe than ever before. The lack of political will and resources to investigate and hold the perpetrators to account is glaring. The double standards applied by states in support of allies are unconscionable. It is civilians, predominantly women and children, who carry the brunt of the suffering.

Tragically, in an increasing number of contexts where we work, MSF and other humanitarian actors can no longer assume that states and armed groups will facilitate our safe access to conflict-affected communities. We cannot trust states and armed groups to consistently respect IHL or act decisively when confronted with evidence of violations, such as attacks on hospitals. Rulings and decisions from international institutions such as the International Criminal Court (ICC) or the United Nations Security Council are often ignored, and states fail to bring war criminals to justice. With a record number of humanitarian colleagues killed in 2024 alone, it is evident that in some contexts humanitarian aid workers, medical personnel and civilians are unprotected and at high risk of being killed or targeted.

Violations of IHL appear to stem not from a lack of awareness or discipline but from a growing contempt for IHL, and the knowledge that mechanisms for compliance and accountability are weak. The United Nations Security Council's lack of decisive action has exacerbated the issue. Laws should not be open to expedient interpretations by states. IHL compliance should not be seen as aspirational best practice.

States repeatedly fail to hold actors accountable for not implementing UN resolutions and they refrain from taking concrete action following rulings from international courts — in what the UN Secretary General [Antonio Guterres has described](#) as the “age of impunity”. The same states that condemn violations of IHL continue to transfer weapons to conflict zones — contributing directly to indiscriminate bombings and the systematic dismantling of healthcare systems.

With the weakening of UN authority and legal frameworks and apparent impunity for violators of IHL, what recourse is there for humanitarians under a more dangerous new world (dis)order?

In the past, the humanitarian sector has tried to strengthen universal compliance

with IHL through initiatives aimed at strengthening national legal systems, expanding the role of human rights law and training military actors. But this overlooks a critical reality: the political architects behind these conflicts increasingly treat compliance with IHL as optional in their pursuit of military or political gains. Investigations of IHL violations have often been too slow, and penalties too inconsistently enforced, to pose any real threat of accountability to politicians. Obvious violations of IHL are often excused as regrettable mistakes in the fog of war.

So, looking forward, what options are available to us to better protect humanity, disincentivise violations of IHL, and ensure unimpeded humanitarian access?

While it is not the role of MSF or other humanitarian organisations to lecture states about how to structure the international legal framework, we believe that our historically-based observations and concerns are valid and that we owe it to our patients to make sure that our voices are heard at the highest levels. To make IHL a more effective deterrent to future war crimes, and a timelier mechanism for justice for victims and their families, states must greatly strengthen and adhere to accountability and compliance mechanisms.

Drawing from half a century of global humanitarian experience, we advocate for consistent application of the rulings of the International Court of Justice (ICJ) and the ICC to protect humanitarian efforts. Progressive states, including Australia, must implement their policies consistently, avoiding hypocrisy. Politicians should seek multi-partisan support and publicly explain their positions, ensuring transparency and accountability in practice. Middle powers like Australia and New Zealand should seek to establish strong coalitions committed to zero tolerance for violations of IHL.

For Australia to “walk the talk” on IHL, it should include civilian protection in its duty of care, credibly addressing the UN Human Rights Committee’s condemnation of its arbitrary and inhumane detention of asylum seekers and refugees in offshore processing facilities like Nauru.

MSF identifies several emerging areas requiring expert research and state action:

1. The increasing disconnect between IHL and technological advances, such as autonomous drones, artificial intelligence, cyberwarfare and the weaponisation of orbital space.
2. The implications of greater data capture and real-time monitoring for IHL compliance and investigations of potential violations.
3. The media’s role, particularly social media, in promoting IHL adherence, and the regulation of misinformation and disinformation about violations.
4. Establishing transparent and consistent frameworks at national and multinational levels for punitive measures against violators, including resourced investigations, prosecutions and targeted sanctions.

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As a medical humanitarian organisation, MSF urges reconsideration of siege warfare tactics and advocates for broad protections for civilians, encompassing physical and mental wellbeing beyond casualty counts. Civilians in conflict endure profound suffering through separation from loved ones, deprivation of access to health care (for maternal health, chronic health issues and infectious disease) and deprivation of access to basic requirements like food, water and adequate shelter.

Reflecting on Australia's initiative for a new declaration on protecting humanitarian aid workers, efforts should focus above all on efforts to hold states and armed actors accountable to IHL and binding UN resolutions. Protecting aid workers is vital, but strengthening IHL must always focus on civilian protection.

While new approaches can supplement IHL mechanisms, they must work alongside the core principles of humanity, neutrality, impartiality and independence. Strengthening protections for civilians, aid workers, and medical personnel demands strong civil society advocacy and bold political leadership.

For Australia and like-minded nations, upholding IHL must take precedence over political alliances, trade or cultural ties. Our values of freedom, fairness, and respect must guide leaders to bring greater humanity to a fractured world.

This blog is published as part of a partnership between the Development Policy Centre and Médecins Sans Frontières / Doctors Without Borders (MSF) Australia. MSF provides medical assistance to people affected by conflict, epidemics, disasters or exclusion from healthcare. Their actions are guided by medical ethics and the principles of impartiality, independence and neutrality. MSF Australia does not receive public institutional funding.

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