



The Misuse of Medical Emblems as an Act of Perfidy in the Ibnu Sina Hospital Killing Incident

Muhammad Tsani Prawira¹;

¹ Faculty of Law, Universitas Sebelas Maret

Corresponding author's email: tsaniprawira@student.uns.ac.id;

Article Information Abstract

Keywords:

International
Humanitarian Law;
Perfidy; Distinction
Emblem;

DoI:10.20961/belli.v7i2

This study examines the legality of the Israeli Defense Forces (IDF) operation at the Ibn Sina Hospital, with reference to the prohibition on misuse of medical emblems under Articles 37 and 38 of Additional Protocol I (AP I) to the Geneva Conventions. Reports indicate that about twelve IDF soldiers disguised themselves as medical personnel to conduct a targeted killing. Such conduct potentially violates two fundamental rules of International Humanitarian Law (IHL): Article 37 on perfidy and Article 38 on misuse of protected emblems. The analysis shows the operation meets the elements of perfidy. First, there was a deliberate breach of IHL protections through the false status of medical staff. Second, the conduct was intended to deceive and enable the killing of targeted persons, exploiting protections granted under IHL. Third, the operation caused the confirmed deaths of three Hamas members. Finally, a direct causal nexus existed between the deceptive appearance and the resulting fatalities, showing the interdependence of these elements. Since all cumulative conditions of perfidy are fulfilled, the operation constitutes a violation of the prohibition against treacherous conduct under Article 37 AP I.

I. Introduction

International Humanitarian Law (IHL) governing the conduct of hostilities is based on two principal legal sources: the Geneva Conventions, which regulate the protection of war victims, and the Hague Conventions, which govern the means and methods of warfare. Additional Protocols I and II to the 1977 Geneva Conventions were formulated to supplement and reaffirm the existing provisions of IHL. Additional Protocol I, in particular, shares significant similarities with the Hague Conventions, especially regarding the regulation of methods and means of warfare. Both legal instruments affirm that the conduct of warfare is not without limitations, as expressly regulated under the relevant provisions of these instruments.

The implementation of IHL is grounded in four fundamental principles: distinction, humanity, military necessity, and proportionality. These principles are interrelated and collectively establish a coherent normative framework intended to achieve the overarching objectives of IHL. At its core, IHL aims to safeguard humanitarian values in the context of armed conflict by regulating the protection of the right to life and mitigating the suffering of individuals affected by hostilities..

To achieve these objectives, IHL establishes a set of legal norms that ensure the protection of civilians and civilian objects that do not take a direct part in hostilities. Furthermore, IHL regulates the conduct of parties engaged in armed conflict by emphasizing the necessity of maintaining a balance between military objectives and humanitarian considerations. As such, IHL functions not only as a formal legal instrument, but also as a protective mechanism that imposes limits on the use of force in order to ensure the respect for human dignity during armed conflict (Bakry, 2019, p. 5).

The Principle of Distinction is one of the most fundamental tenets of IHL. This principle obliges all parties engaged in armed conflict to clearly differentiate between combatants and non-combatants. Every combatant bears a legal duty to distinguish themselves visibly from the civilian population in order to ensure the continued protection of civilians. This obligation arises from the established norm that civilians shall not be made the object of attack and are prohibited from directly participating in hostilities. Accordingly, the application of this principle is essential to safeguarding humanitarian protection during armed conflict and to preventing errors that may endanger individuals who are entitled to immunity from the effects of hostilities (Ambarwati et al., 2017, p. 41).

According to legal scholars, combatants are individuals who actively participate in armed conflict, as stipulated in Article 33 of the Third Geneva Convention. In contrast, civilians or non-combatants are those who do not take a direct part in hostilities. Beyond these two primary classifications, IHL also recognizes a third category: war victims' relief personnel (auxiliaries to victims of war).

This group includes individuals who are affected by armed conflict yet hold a distinct legal status that affords them special protection. Such personnel are entitled to legal protection under the provisions of the First through Fourth Geneva Conventions, which collectively establish the rights and safeguards applicable to those providing humanitarian assistance in conflict zones (R. W. Putri, 2017). This also encompasses the protection of medical personnel, the International Committee of the Red Cross (ICRC), and humanitarian organizations (A. N. Putri, 2024).

However, in the practical realities of warfare, the parties involved often disregard the provisions stipulated under IHL, particularly those concerning the protection of non-combatant individuals. This disregard is generally driven by a prevailing tendency to prioritize military victory, thereby sidelining the humanitarian principles that should serve as the fundamental basis of every armed conflict.

The principle of distinction, which mandates a clear separation between combatants and civilians, is ideally to be used as a guiding standard in every military operation. Nevertheless, in practice, this principle is frequently not implemented consistently. Many combatants tend to focus primarily on strategic efforts aimed at defeating the adversary, without due regard for the legal limitations imposed by IHL (Turel, 2017). As a result, the protection of civilians—who constitute a vulnerable group in armed conflict—is often neglected, thereby posing a serious risk of violations against the fundamental principles of humanity.

One of the critical protections aimed at regulating or mitigating the impact on individuals who are not part of hostilities is enshrined in Article 37 of Additional Protocol I to the 1977 Geneva Conventions, which prohibits the killing of adversaries through perfidious methods. This issue becomes particularly significant when the legal protection afforded to individuals not participating in combat is exploited by irresponsible parties to carry out attacks against the enemy. Such misuse not only undermines the principles of IHL but also poses a serious threat to the safety of those who are entitled to protection during

armed conflict.

The killing of three Hamas members at Ibn Sina Hospital on 30 January 2024 raises serious questions regarding potential violations of the provisions of IHL. These allegations point to the possible use of prohibited methods of warfare, specifically the act of perfidy. In this case, twelve personnel were allegedly involved in infiltrating the hospital while disguised as medical personnel (Kaufman et al., 2024). Such deception indicates the potential misuse of the protected status granted to medical facilities and personnel in situations of armed conflict. This act was employed to gain military advantage by misleading the adversary through the exploitation of protective attributes guaranteed under IHL (IHL). There are two alleged violations of IHL in this operation, namely the act of perfidy as prohibited under Article 37 of Additional Protocol I, and the misuse of recognized emblems as regulated under Article 38 of the same Protocol.

This research aims to analyse the alleged violation committed by the Israel Defense Forces (IDF) involving the killing of individuals while feigning medical status. The primary focus of this study is to examine the legal regulation of the misuse of medical uniforms under IHL (IHL), and to assess whether the operation constitutes a violation of the prohibition against perfidy as stipulated in IHL. Through a comprehensive analysis of processed sources and factual evidence, this research contributes to the protection of parties whose safeguarded status under IHL has been misused. The study underscores the necessity for more comprehensive legal provisions concerning acts of perfidy, in order to prevent the recurrence of similar incidents. The findings of this research are expected to provide recommendations aimed at enhancing legal certainty and ensuring that the protections afforded under IHL are upheld in an absolute and uncompromised manner.

II. Regulation of Perfidy under IHL

In its development, IHL (IHL) did not provide a concrete definition of the act of perfidy prior to the adoption of Additional Protocol I in 1977. For instance, the Regulations concerning the Laws and Customs of War on Land, annexed to Convention (IV) respecting the Laws and Customs of War on Land, The Hague, 18 October 1907, Article 23(b), stipulates:

“It is especially forbidden ... to kill or wound treacherously individuals belonging to the hostile nation or army.”

The term *treacherously*, which was previously used in the provisions of the laws of war, was later replaced by the term *perfidy*, as set forth in Article 37(1) of Additional Protocol I. This terminological change was made because the drafters of the Protocol considered the term *treacherously* to be overly broad in scope, thereby posing a risk of ambiguity in its application. As a substitute, the term *perfidy* was adopted, as it was deemed to carry a similar meaning while being more precise and contextually appropriate within the framework of humanitarian law. Although the two terms may be considered linguistic synonyms, the choice of the word *perfidy* is regarded as more accurate in legally delimiting the scope of the prohibition under IHL (Cottier & Grignon, 2016). It is important to understand that the existence of Additional Protocol I is not intended to replace the entire body of provisions contained in the Hague Conventions. Rather, it serves as a supplementary instrument that adapts existing legal norms to the evolving dynamics and developments of modern methods of warfare.

Perfidy constitutes an act whereby one party exploits the confidence of the adversary by feigning a protected status under IHL (IHL), and subsequently uses that trust to carry out lethal actions against the opposing party. Article 37(1) provides specific examples of conduct that amount to perfidy, including feigning civilian status or non-combatant status, both of which are considered violations of this provision. Although such acts are closely related to the principle of good faith between parties, it is important to note that what is prohibited under this article is not the good faith itself, but rather the abuse of a status that confers legal protection upon certain individuals in armed conflict under IHL (Cottier & Grignon, 2016).

The elements of perfidy, according to the *Commentary on the Additional Protocols to the Geneva Conventions*, are divided into three components: first, the inducement of confidence in the adversary; second, the intention to betray that confidence (the subjective element); and third, the betrayal of the adversary through the misuse of protection granted under IHL (the objective element). The core element of the definition of perfidy lies in the deliberate assertion or simulation of legal protection for the purpose of gaining a military advantage in the context of armed conflict (Gasser et al., 1987).

Regarding the first element, namely the inducement of confidence in the adversary, not all forms of such inducement fall within the scope of perfidy. Only those inducements that involve a violation of the rules concerning protection under IHL are considered to

constitute perfidious conduct in breach of this provision (Corn, 2023). The second element is the intent to betray the confidence of the adversary. This subjective element is inherently difficult to ascertain during armed conflict, as it pertains to the internal state or mental disposition of the party engaging in the deception. Therefore, such intent must be inferred from the actions undertaken and the nature of the disguise employed. Through these observable circumstances, the perpetrator's actual intent may be implied or deduced (Corn, 2023). The final element is the infliction of death or injury upon the adversary. Under the applicable rules, the distinction between International Armed Conflicts (IAC) and Non-International Armed Conflicts (NIAC) lies primarily in the treatment of captured adversaries. This element is the most crucial for prosecuting the perpetrator, as the absence of actual harm—whether in the form of death or injury—renders the act of perfidy unprovable. Without the fulfilment of this element, a charge of perfidy cannot be legally substantiated.

When discussing perfidy, Additional Protocol I provides a clear definition of the act; however, there remains ambiguity in the interpretation of its provisions. This ambiguity arises from the dual interpretations of the regulation, particularly regarding the scope of the prohibition. Additional Protocol I prohibits only those acts of perfidy that result in death or injury to the adversary. As long as the act does not lead to such outcomes, it is not considered a violation of this provision. This is because the regulation on perfidy under the Protocol is a result-based regulation, meaning that the occurrence of death or injury to the adversary is a necessary element for establishing a breach of this article.

This gives rise to a legal dilemma, wherein certain parties to a conflict may exploit the act of perfidy for military advantage, so long as it does not result in death or injury to the adversary. Such conduct, while arguably falling within the definitional scope of perfidy, may escape legal sanction due to the result-based nature of the regulation, thereby creating a loophole that can be manipulated in armed conflict (Gasser et al., 1987). At first glance, such conduct does not appear to constitute a direct violation of Article 37 of Additional Protocol I. This is reinforced by the fact that the article does not explicitly regulate situations in which an act of perfidy is carried out but fails to result in the death or injury of the adversary. Accordingly, Article 37 lacks normative clarity on two key aspects: the possibility of exceptions to the prohibition, and the legal consequences of an unsuccessful act of perfidy. Concerns over the lack of specificity in this regulation are also acknowledged

in the Commentary on Additional Protocol I, which notes that parties to an armed conflict may potentially exploit the act of perfidy solely for military advantage—provided that no killing or injury is inflicted upon the adversary—without violating the provisions of the Protocol (Gasser et al., 1987).

To address these two issues, the *Commentary on Additional Protocol I* provides a clarifying interpretation. The Commentary affirms that an act of perfidy may still constitute a violation, even if it does not result in death or actual harm to the adversary. Furthermore, existing international treaties must not be interpreted in a manner that contradicts the general principles of international law. Although Article 37 does not explicitly regulate these two specific aspects, a holistic approach to the interpretation of the entire Additional Protocol I should be employed to resolve the arising ambiguities. Such an approach ensures the prevention of misleading concepts—such as the notion of *permitted perfidy*—which would otherwise compromise the integrity and foundational principles of IHL (Gasser et al., 1987). In analysing Article 37 of Additional Protocol I, it must not be examined in isolation from other related provisions within the Protocol. Such analysis must take into account its interrelation with Article 38, which governs the misuse of medical emblems; Article 39, which addresses the misuse of national identity; and Article 44, which sets forth the minimum standards for distinguishing between combatants and non-combatants. These three articles are complementary and collectively provide a more comprehensive understanding of the legal limitations and prohibitions applicable to the conduct of military operations—particularly in the context of deception and the protection of symbols regulated under IHL.

In addition to Additional Protocol I, the regulation of perfidious conduct can also be found in other legal instruments, such as Rule 65 of Customary IHL, which states:

“Killing, injuring or capturing an adversary by resort to perfidy is prohibited.”

Moreover, perfidy is addressed under the Rome Statute in Articles 8(2)(b)(xi) and 8(2)(e)(ix), thereby establishing that the prohibition against perfidy is a binding norm applicable in both International Armed Conflicts (IAC) and Non-International Armed Conflicts (NIAC). Nevertheless, there are certain distinctions that must be taken into consideration when analysing acts of perfidy occurring within the context of either an IAC or a NIAC.

III. Classification of the Conflict in the Attack on Ibn Sina Hospital

Legal analysts classify the conflict between Israel and Palestine as either an International Armed Conflict (IAC) or a Non-International Armed Conflict (NIAC) by first assessing the statehood status of Palestine. The international community has recognized Palestine as a state through United Nations General Assembly Resolution No. 3236. This recognition provides a solid legal basis for asserting that Palestine possesses the attributes of statehood. Although Israel continues to occupy territories such as Jenin, the West Bank, and the Gaza Strip, this recognition indicates that Palestine is no longer merely a non-state entity. Furthermore, the involvement of other states in the dynamics of this conflict strengthens the argument that the situation bears the characteristics of an armed conflict between states. Accordingly, international legal scholars have increasingly affirmed the classification of the Israel-Palestine conflict as an International Armed Conflict (IAC) (Ho, 2019).

There appears to be a broad, albeit non-binding, consensus that the conflict between Israel and Palestine essentially constitutes an International Armed Conflict (IAC) (Benoliel & Ederytt, 2020). In applying Article 1(4) of Additional Protocol I, this position aligns with the approach taken by the International Criminal Tribunal for the former Yugoslavia (ICTY) in the judgment of *Prosecutor v. Tadić*, Case No. IT-94-1-A, which defined an armed conflict as existing between states or between a state and an organized armed group whenever there is a resort to protracted and intense use of force.

Nevertheless, when discussing the broader conflict occurring in Palestine—particularly the armed conflict within the Occupied Palestinian Territory (OPT), and especially in the Gaza Strip—it is important to note that the principal actor in the hostilities is Hamas. Given that Hamas is not the official armed forces of the State of Palestine, this raises legal implications for the classification of the conflict. This situation has led to divergent views on whether the conflict between Israel and Palestine falls under the category of an International Armed Conflict (IAC), a Non-International Armed Conflict (NIAC), a combination of both, or even a situation of occupation. Consequently, a case-by-case analysis is required to determine and accurately classify the specific conflicts occurring within the jurisdictional territory of Palestine.

Furthermore, in addressing the legal provisions governing acts of perfidy within the context of the Israel–Palestine conflict, several relevant legal instruments must be

considered, including Article 37 of Additional Protocol I to the Geneva Conventions and Article 8(2)(b)(xi) of the Rome Statute. Although Israel has not ratified either of these instruments, the application of IHL (IHL) remains valid in the context of this armed conflict. This is based on the fact that Palestine has declared its acceptance of both the Rome Statute and Additional Protocol I, and that the alleged violations occurred within Palestinian jurisdiction. Accordingly, these legal instruments may serve as normative foundations for interpreting the provisions relating to acts of perfidy.

IV. Case Position Regarding the Killing of Three Hamas Members

As reported by *Al-Jazeera*, the attack at Ibn Sina Hospital occurred on 30 January 2024. The killings were carried out by Israel Defense Forces (IDF) personnel who infiltrated the facility disguised as doctors and dressed as civilian women (Salman & Edwards, 2024). According to official statements issued by both the Palestinian Ministry of Health and the Israeli military on the same day, the individuals targeted in the operation were reportedly asleep inside the hospital at the time of the assault. The Israeli military claimed that its forces had “neutralized” several individuals whom they alleged were using Ibn Sina Hospital as a hiding place and were members of a “Hamas terrorist cell” (Staff, 2024). In a post shared via the official account of the Palestinian Ministry of Health (MoH), surveillance footage (CCTV) was released and widely circulated online. The footage shows approximately twelve disguised personnel, including three dressed as women and two others in what appeared to be medical attire. The individuals were seen walking through the hospital corridors carrying assault rifles, a wheelchair, and a doll.

Journalist Charles Stratford of *Al-Jazeera*, reporting from Ramallah, noted that one could only imagine the fear experienced by patients and medical staff at Jenin Hospital during the incident. The situation reflects the heightened level of aggression demonstrated by the Israel Defense Forces (IDF) in their operations targeting resistance fighters, particularly Hamas, throughout Palestinian territories. On the other hand, an official statement issued by Hamas condemned the actions of the IDF as a crime that would not go unanswered. Hamas asserted that the killings were part of a broader series of ongoing crimes committed under the occupation against the Palestinian people, spanning from Gaza to Jenin in the West Bank (Staff, 2024).

The Israel Defense Forces (IDF) claimed that the three individuals targeted in the operation were members of Hamas involved in terrorist activities (IDF Media Center, 2024).

These individuals had reportedly been hospitalized due to injuries caused by shrapnel from an Israeli drone strike on 25 October 2023, during which the IDF targeted a group of men near a cemetery in the Jenin refugee camp. They had since been receiving medical treatment at Ibn Sina Hospital.

In reality, Hamas confirmed that two of the three individuals killed—Jalamneh and Ghazawi—were indeed members of the organization, but clarified that the third individual was not affiliated with Hamas and was instead a civilian victim of the earlier drone strike. The Israeli covert mission, which involved infiltrating Ibn Sina Hospital, was carried out according to plan, culminating in a targeted killing operation against Palestinian individuals, including civilians (Luc, 2024).

As cited from the United Nations Human Rights website, Ben Saul, the Special Rapporteur on counter-terrorism and human rights, stated that under IHL (IHL), it is permissible to target armed individuals who are deliberately using a hospital as a place of concealment. However, this does not apply in situations where those individuals are wounded, undergoing medical treatment, and simultaneously disguising themselves as medical personnel or civilians in order to present an appearance of being “harmless” or as “protected persons.” Such conduct constitutes a clear violation of IHL and amounts to a betrayal of the laws of war, as it involves the misuse of protected status and deception prohibited under the rules governing armed conflict (Ben Saul, 2024).

V. Violation of Perfidy in the Operation Involving the Killing of Three Hamas Members

The use of civilian clothing in the context of an international armed conflict does not, in itself, constitute a violation of IHL (IHL). However, such conduct may result in the loss of combatant status and the forfeiture of prisoner-of-war protections if the individual is captured. In the context of a non-international armed conflict, allegations of violations based solely on the use of civilian attire become even less substantiated within the framework of IHL. This is because IHL does not impose the same legal distinctions and protections regarding combatant status and uniform requirements in non-international conflicts as it does in international ones (Schmitt, 2024).

Likewise, there is no explicit prohibition under IHL (IHL) against feigning status as medical personnel. What is expressly prohibited is the misuse of internationally protected emblems—such as the Red Cross and the Red Crescent—as well as the misuse of protected medical facilities and medical transportation units. Therefore, the relevant legal issue

concerning the use of civilian clothing or medical attributes should be assessed from the perspective of whether such conduct forms part of an attack that employs a prohibited method of warfare, namely perfidy (Schmitt, 2024).

Article 37(1) of Additional Protocol I is widely regarded as reflecting a rule of Customary IHL. It states:

“It is prohibited to kill, injure or capture an adversary by resort to perfidy. Acts inviting the confidence of an adversary to lead him to believe that he is entitled to, or is obliged to accord, protection under the rules of international law applicable in armed conflict, with intent to betray that confidence, shall constitute perfidy.”

In other words, perfidy is a deceptive tactic aimed at causing the adversary to lower their guard by exploiting the legal protections provided under the law of armed conflict. One of the specific examples of perfidious conduct mentioned in Article 37 is the feigning of civilian status, which also includes the unauthorized use of medical attributes.

However, two primary issues arise when assessing the claim that the use of civilian clothing and medical symbols by Israeli forces automatically renders the military operation as perfidious attack under IHL. First, the issue relates to the scope of the prohibition itself. Unlike States Parties to Additional Protocol I in the context of international armed conflict, Israel is not legally bound by the specific prohibition on perfidy as articulated in the Protocol, as it has not ratified this instrument. Moreover, the rule prohibiting perfidy in the context of *capture* (as opposed to killing or injuring) has not yet attained the status of universally binding customary international law. Therefore, Israel may argue that its legal obligations under this provision are not applicable in a binding form. Nonetheless, it is important to emphasize that the prohibition against killing or injuring through perfidy—as opposed to mere capture—is more widely accepted as a customary rule binding on all parties to armed conflict, irrespective of treaty ratification. Thus, where the deceptive conduct results in the death of adversaries, as in the Ibn Sina Hospital case, the legal argument for a violation of the perfidy prohibition is considerably stronger under customary IHL.

To conduct a thorough analysis of the aforementioned case, it is necessary to refer to the provisions of Article 37(1) of Additional Protocol I as well as the Elements of Crimes stipulated in Article 8(2)(b)(xi) of the Rome Statute. Both Article 37(1) of Additional Protocol I and the relevant provisions of the Rome Statute essentially contain similar elements, namely an invitation or inducement to place trust, the intent to betray such trust, and the occurrence of killing or injury inflicted upon the adversary.

Nevertheless, the Elements of Crimes under the Rome Statute incorporate an additional and significant element, namely the requirement to establish a causal link between the act of deception (such as the use of protected symbols or emblems) and the resulting harm, specifically injury or death inflicted upon the adversary. Accordingly, in analysing whether a particular act may be classified as a perfidious attack, all of these elements must be considered cumulatively and must be proven in their entirety. Each element will be examined in detail to assess the fulfilment of the constituent components of perfidy within the framework of IHL.

A. *Inviting*

The fact that an individual wears civilian clothing, whether at a particular moment or previously, according to this latter view, may automatically bring the act within the scope of Article 37 as conduct constituting perfidy. A combatant engaged in an attack or a military operation preparatory to an attack is permitted to use camouflage to avoid detection by the enemy, whether through natural or artificial means. However, the combatant is not permitted to feign civilian status and conceal themselves among the civilian population. This prohibition constitutes the *crux* of the rule governing such conduct (Gasser et al., 1987).

In discussing the element of *invitation to believe*, the approach proposed by Keisuke Onishi divides this concept into two categories: passive invitation and active invitation. Passive invitation refers more closely to lawful ruses of war, such as the use of camouflage or similar strategies that rely on passive forms of deception. The objective is to prevent the enemy from accurately identifying the presence of military objects or combatants. In this context, there is no active attempt to mislead the enemy's perception regarding the identity or function of a given object (Onishi, 2023).

Conversely, *active invitation* or *active deception* refers to deliberate efforts to convey false information regarding one's actual intentions or capabilities, with the purpose of causing the adversary to misidentify a military target as a harmless object or individual. Acts of deception involving the imitation of protected civilian objects—such as wearing medical attire or humanitarian emblems—are more appropriately classified as *mimicry* rather than mere camouflage. Accordingly, active invitation constitutes a critical element in determining the existence of perfidious conduct, as it involves a deliberate and systematic attempt to actively mislead the enemy's perception (Corn, 2023). In this case, the act of deception or invitation to place trust was carried out by the IDF unit that infiltrated the Ibn Sina Hospital. CCTV footage released by the Palestinian Ministry of Health provides

evidence that the unit wore medical attire to carry out the killing of adversaries. This invitation to trust falls within the category of *active deception*, as classified by Onishi, wherein the forces disguised themselves as medical personnel to conceal their combatant status in order to infiltrate and assassinate three Hamas members. Therefore, it is evident that the IDF engaged in an invitation to trust for the purpose of infiltration by impersonating medical personnel, an act expressly prohibited under Article 38 of Additional Protocol I. This act fulfils the first element required to establish whether such deception constitutes a substantial component of the killing, thereby demonstrating the occurrence of perfidy in this operation.

B. *Intent to Betray*

It is often difficult to ascertain the true intent behind a military operation when the available facts are frequently contradictory and objective information is not consistently disclosed to the public. Nevertheless, an official statement issued by the IDF Media Center revealed that there were allegations suggesting that Jalamneh—one of the individuals killed—was allegedly planning to carry out a terrorist act in future and had been using the hospital as a place of concealment, thereby justifying his targeted killing. According to the IDF, this action was taken to neutralize potential threats to Israeli civilians, and similar measures will continue to be pursued in the future (IDF Media Center, 2024).

To assess the element of intent, which is inherently difficult to establish through direct evidence, one may examine the method of disguise employed and the resulting consequences of such conduct. If the disguise is utilized to traverse strategic points—such as choke points—even in the absence of direct violations or casualties inflicted upon the adversary, such conduct may nonetheless indicate an intent to betray. Accordingly, the use of disguise in such circumstances reveals a concealed purpose aimed at gaining a military advantage by means that undermine the adversary's trust, which constitutes the core of perfidious conduct (Onishi, 2023). As demonstrated in the present case, the primary objective of the Israeli forces' infiltration into Ibn Sina Hospital was to eliminate the imminent threat of potential terrorist activity. In this context, neutralizing the perceived threat entailed the targeted killing of the three Hamas members. Furthermore, the presence of firearms equipped with silencers is frequently cited as a basis for inferring an intent to kill. Thus, it may be reasonably inferred that the principal aim of the military operation was indeed the elimination of those Hamas operatives.

An alternative interpretation was put forward by Schmitt, who argued that the intent

behind the use of disguise by the forces within Ibn Sina Hospital did not involve openly traversing areas under enemy control. Rather, it was directed toward actions such as entering the hospital to locate the intended target. As a result, the intent to betray—serving as the basis for an act of perfidy—becomes considerably weaker under this interpretation (Schmitt, 2024).

C. *Killing*

The third cumulative element required to classify a military operation as an act of perfidy is the killing or wounding of adversary personnel resulting from the abuse of protections afforded by IHL (IHL) by the party committing the perfidious act. In the present case, there exists undisputed objective evidence that the Israeli forces killed the three Hamas members. This fact has been widely reported by various media outlets, which confirmed that the individuals in question died as a result of the military operation conducted by the IDF. This is further corroborated by an official statement from the IDF Media Center, which reported that the IDF had successfully eliminated or neutralized the terrorist operatives who were hiding inside Ibn Sina Hospital (IDF Media Center, 2024). Accordingly, the final element of perfidy—namely, the killing of enemy personnel—under a result-based legal framework is fulfilled. The remaining question, therefore, is whether the act of disguise through the use of medical attire, combined with the confirmed killings and the implicit intent of the IDF, meets the threshold for treacherous conduct as defined under the Rome Statute and Additional Protocol I of 1977.

D. *Nexus*

Although the harmful consequences may be established, there remains ongoing debate regarding the degree of causal proximity that must be demonstrated between the act and its resulting effect. Nonetheless, the prevailing view among legal authorities holds that the causal link must be direct and sufficiently proximate (Corn, 2023).

As an illustration, Michael Bothe, Karl Josef Partsch, and Waldemar A. Solf, as cited in Corn (2023), assert that there must be a direct causal link between the act of deception and the resulting harm, such as death or injury. A remote or indirect causal connection is deemed insufficient. They provide the example of a lethal attack initiated by feigning injury, which cannot be classified as perfidy unless it can be demonstrated that the deception directly caused the resulting casualties.

Therefore, if a State engages in an act of perfidy by disguising its forces as civilians for the purpose of conducting an arrest, the positive element of the principle of distinction

may be reasonably considered violated when followed by a direct attack that bears a close causal proximity. However, the application of this principle remains complex and is highly context-dependent, particularly in cases involving perfidious attacks carried out indirectly or from a distance (Benolielf & Ederytt, 2020).

Even if it is assumed that the primary objective of the operation was to eliminate Jalamneh, video footage shows that upon entering the hospital, the team drew their weapons while proceeding to the third floor. At that point, there could be no reasonable doubt, from an objective standpoint, that they were Israeli forces conducting a military operation. Consequently, the element of disguise as civilians or any act intended to gain the adversary's trust by obscuring combatant status—both of which are essential elements in establishing an act of perfidy—was no longer present (Schmitt, 2024).

However, in the context of this case, the author contends that there exists a close causal relationship between the act of disguise and the resulting killings. This view is grounded in the primary objective of the military operation, which was to eliminate the terrorist threat posed by members of Hamas as part of a broader effort to protect Israeli civilians. By targeting individuals suspected of being involved in the planning of terrorist activities, the operation sought to prevent potential future attacks. Accordingly, the use of disguise during the operation served as a principal means of achieving this strategic objective, thereby rendering the connection between the disguise and its resulting consequences legally and logically inseparable.

One critical factor that must be highlighted in analysing this case is the location of the military operation—namely, Ibn Sina Hospital. The hospital served as the site where Hamas members were receiving medical treatment for injuries sustained in previous attacks conducted by the IDF. In an effort to infiltrate the hospital, which was believed to function both as a hideout and a planning centre for Hamas operatives, the IDF launched a raid targeting the location.

Although alternative opportunities may have existed to target the individuals outside the hospital premises, the IDF deliberately chose to carry out the elimination while the targets were inside the hospital. This decision necessitated the implementation of a specialized strategy to enable Israeli forces to enter the hospital undetected. In this regard, the IDF employed the tactic of disguising its personnel as medical staff, as evidenced by CCTV footage released by the Palestinian Ministry of Health.

Through this deception, IDF forces successfully reached the third floor of the

hospital without encountering resistance in the form of security personnel or armed engagement with Hamas members or Palestinian civilians. Ultimately, the mission to execute the three Hamas operatives was successfully completed.

Accordingly, the use of medical disguise bears a strong causal connection to the success of the targeted killing. In this context, the acts of infiltration and execution are intrinsically linked and cannot be separated. Therefore, the element of perfidy—namely, the use of deception in clear violation of IHL—can be considered fulfilled. On this basis, the military operation may be classified as an act of perfidy or treachery under the framework of IHL.

VI. Conclusion

The disguise employed by the Israel Defense Forces (IDF) during a military operation aimed at eliminating individuals suspected of being members of a terrorist organization—through impersonation as medical personnel and civilians—constitutes a violation of the prohibition against perfidy. The deliberate use of medical or civilian attire is explicitly prohibited under IHL, as it entails the manipulation of protected status.

In this context, the four elements required to qualify an act as perfidy appear to have been met. First, the use of medical and civilian attributes indicates the deliberate assumption of non-combatant status. Second, there was a clear intent to kill the individuals targeted by the operation. Third, the operation did in fact result in the deaths of the Hamas members in question. Fourth, there exists a close causal link between the act of disguise and the successful execution of the killings, particularly with respect to the infiltration of the hospital where the targets were hiding.

Given the cumulative fulfillment of these four elements, it can be concluded that the act in question constitutes perfidy as prohibited under IHL. Although Israel has not ratified Additional Protocol I or the Rome Statute, the prohibition of perfidy remains binding as a rule of customary international law applicable in armed conflict, and therefore imposes legal obligations on all parties involved.

References:

Journal Article:

Benoliel, D., & Ederyt, Y. (2020). Israeli *Perfidy* In The Disputed Occupied Palestinian Territories (OPT). *Int'l Comp., Policy & Ethics L. Rev.*, 3(3), 857–927.

Corn, G. S. (2023). The Case for Attempted *Perfidy*: An “Attempt” to Enhance Deterrent

- Value. *Journal of National Security Law and Policy*, 13(3), 401–448.
<https://doi.org/10.2139/ssrn.4874132>
- Ho, H. (2019). Penerapan Hukum Humaniter Internasional Dalam Konflik Bersenjata Antara Palestina Dan Israel. *Lex Et Societatis*, 7(2).
- Putri, A. N. (2024). Perlindungan Hukum Tenaga Medis Yang Bertugas Di Wilayah Konflik Bersenjata Berdasarkan Hukum Humaniter Internasional. *Jurnal Penelitian Hukum*, 4(05).
- Turlel, A. Y. (2017). Perlindungan Penduduk Sipil Dalam Situasi Perang Menurut Konvensi Jenewa Tahun 1949. *Lex Crimen*, 6(2).
<https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/15355>
- Onishi, K. (2023). Toward Clarifying the Gap Between Prohibited *Perfidy* and Ruses : A Role for the Principle of Good Faith? *同志社法學*, 74(8), 2826.
<https://doi.org/10.14988/00029544>

Newspaper Article:

- Ben Saul. (2024). *Israel's alleged undercover killings in occupied West Bank hospital may amount to extrajudicial killings and war crimes: UN experts Press Release*. Office of the United Nations High Commissioner. <https://www.ohchr.org/en/press-releases/2024/02/israels-alleged-undercover-killings-occupied-west-bank-hospital-may-amount>)
- IDF Media Center. (2024). *Neutralized: Hamas Terrorist Cell Hiding in Ibnu Sina Hospital in Jenin*. Israel At War. <https://www.idf.il/en/mini-sites/idf-press-releases-israel-at-war/january-24-pr/neutralized-hamas-terrorist-cell-hiding-in-iba-sina-hospital-in-jenin/>
- Kaufman, E., Skinner, H., & Atta, N. (2024). *Israeli Security Forces may have violated international law in West Bank hospital raid, experts say*. <https://abcnews.go.com/International/idf-may-have-violated-international-law-west-bank-hospital-raid/story?id=106810456>
- Luc. (2024). *Pasukan Israel Nyamar Jadi Dokter & Serbu Rumah Sakit, 3 Orang Tewas*. CNBC Indonesia. <https://www.cnbcindonesia.com/news/20240131045732-4-510310/pasukan-israel-nyamar-jadi-dokter-serbu-rumah-sakit-3-orang-tewas>
- Schmitt, M. N. (2024). *Israel – Hamas 2024 Symposium – The Ibn Sina Hospital Raid and*

IHL. Article Of War. <https://lieber.westpoint.edu/ibn-sina-hospital-raid-international-humanitarian-law/>

Staff, A. J. (2024, January 31). *Israeli forces kill three Palestinians in West Bank hospital raid.* <https://www.aljazeera.com/news/2024/1/30/israel-troops-kill-three-palestinians-in-west-bank-hospital-ministry>

Salman, Ab., & Edwards, C. (2024). *Undercover Israeli troops dressed as medical staff kill three militants in West Bank hospital raid, officials say.* CNN. <https://edition.cnn.com/2024/01/30/middleeast/israel-undercover-raid-jenin-west-bank-amas-intl>