

# BOFAXE

## Trojan Horses with Emergency Lights – PART I

### International Law and the (Mis)use of Ambulances for Military and Law Enforcement Purposes

— Medical impartiality, the principle that during armed conflicts or civil unrest no one should interfere with the access to or delivery of medical services, is of utmost importance for effective medical services (e.g. [BMA](#), p. 15). Nonetheless, it is regularly disregarded (e.g. [OCHA](#), [BMA](#)). The latest example being the use of ambulances for non-medical purposes by the Islamic Republic of Iran.

Right after the breakout of protests in Iran following the death of 22-year old Mahsa Amini in [mid-September 2022](#), photos and videos of Iranian police forces using ambulances to infiltrate protests, [transport police forces](#), and detain ([here](#) and [here](#)) and transport protesters to police stations ([here](#) and [here](#)) started to appear on social media and news outlets. This practice has seriously impaired the people's trust in medical personnel and transport: Iranian drivers have [stopped clearing the way for ambulances](#), ambulances have become [the object of attack](#), and [people abstained from seeking medical help](#) due to fear of being arrested ([Amnesty](#), p. 2).

Some articles conclude that Iran's conduct – albeit “unethical [...] and without human decency” – would not violate any rules of international law (e.g. [here](#)). But medical impartiality is not just an ethical principle in medicine. It also has a longstanding and strong foundation in international law. This blogpost will examine the legality of the use of ambulances for non-medical military and police purposes under international humanitarian law and international human rights law, and briefly address the (il-)legality of Iran's conduct under international law.

#### Medical Impartiality and the Non-Medical Use of Ambulances During Armed Conflict

Parties to an armed conflict are obliged to respect and protect medical units and transports at all times. This obligation applies in non-international armed conflicts (NIACs, see [Art. 11 \(1\) Additional Protocol II \(APII\)](#)), as well as in international armed conflicts (IACs, for medical units, see [Art. 19 Geneva Convention I \(GCI\)](#), [Art. 22 GCII](#), [Art. 18 GCIV](#), [Art. 12 API](#); for medical transport, see [Art. 35 GCI](#), [Art. 21 GCIV](#), [Art. 21 API](#)) and, according to the International Committee of the Red Cross (ICRC), it can be considered customary IHL for both IACs and NIACs (see Rules [28](#) and [29](#)). Typical violations include airstrikes against hospitals and violence against medical personnel ([here](#), p. 2). But (how) does the non-medical use of ambulances by military personnel violate this obligation when hospitals and ambulances are not attacked with physical force and intimidation is not directed at medical personnel? According to the Commentary to APII of 1987, “respect and protection imply not only the obligation to spare the people and the objects concerned, but also to actively take measures to ensure that medical units and transports are able to perform their functions” ([para. 4714](#)). This includes ensuring respect by a third party ([Commentary to GCVI of 1958](#), p. 171). In its [Resolution 2286 \(2016\)](#), the Security Council elaborates that the obstruction of medical care “may exacerbate ongoing armed conflicts” (p. 2) and – implicitly – equates the obstruction with prohibited violence and attacks against medical services.

A repeated use of ambulances to enter zones of active fighting without identifying as combatants – legitimate targets – results in a loss of respect for medical services by the adversary, which leads to an increase in violence against medical services and a possibly denial of unhindered passage to those transports actually conveying wounded and sick. Moreover, as hospitals are not able to perform their function to the same degree when wounded and sick avoid seeking medical treatment out of fear of being detained, it also results in an obstruction of medical care. Accordingly, this practice violates the obligation to respect and protect medical units and transports under IHL.

#### A Violation of the Prohibition of Perfidy?

Considering that, in our case study, the state employs its ‘tactic’ to mislead the adversary with the intention to facilitate detainment, this practice might also violate the prohibition to capture an adversary by resort to perfidy. An act is perfidious when it invites “the confidence of an adversary to lead him to believe that he is [...] obliged to accord [...] protection under [IHL]” and the acting party acted with an intent to betray that confidence, [Art. 37 \(1\) API](#).

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## Trojan Horses with Emergency Lights – PART II

### International Law and the (Mis)use of Ambulances for Military and Law Enforcement Purposes

What protection must civilian ambulances be accorded? Are they subject to special protection as medical units or transports or are they ‘only’ subject to general protection as civilian objectives? ‘Medical units’ are defined as “establishments and other units, whether military or civilian, organized for medical purposes, namely the search for, collection, transportation, diagnosis or treatment [...]. [They] may be fixed or mobile, permanent or temporary,” [Art. 8 \(e\) API](#). The Commentary to APII of 1987 classifies ambulances as ‘mobile medical units’ ([para. 4710](#)). The notion of ‘medical transports’ is much narrower. It refers to “any means of transportation, whether military or civilian, permanent or temporary, assigned exclusively to medical transportation,” [Art. 8 \(g\) API](#). This also includes ambulances (cf. [Rule 29](#)). Medical transports by land are referred to as ‘medical vehicles’ ([Art. 8 \(h\) API](#)) and enjoy the same protection as mobile medical units, [Art. 21 API](#). To differentiate between mobile medical units and medical transports the dominant medical purpose served is decisive: mobile medical units do not operate with a focus on transportation, but on the administration of care (Commentary to GCI of 2016, [para. 1782](#)). As such, ambulances would regularly fall within the notion of ‘medical transport’.

In our case study, the ambulances do not display a protected emblem ([Art. 38 ff. GCI](#), [Art. 53 GCI](#)). But as it “is only intended to facilitate identification” ([para. 2403](#)), “displaying the emblem [...] is not a prerequisite for protected status” ([para. 2377](#)). However, to be entitled to protection, civilian medical vehicles “must belong to one of the Parties of the conflict; [...] be recognized and authorized by the competent authority of one of the Parties to the conflict; or [...] authorized in accordance with [Art. 9 (2) API]” (Commentary to API of 1987, [para. 845](#)). Vehicles which sport an ‘ambulance’ lettering or other distinctive medical logo commonly found on ambulances (such as the [Rod of Asclepius](#)) and emergency lights alongside coloring typical for ambulances in the respective state, can reasonably be assumed – by the adversary whose confidence is invited – to be assigned to medical transportation exclusively, at least authorized by the other belligerent party when navigating without obstruction in zones of active fighting, and thus protected.

In any event, such ambulances are civilian objects entitled to general protection under [Art. 52 API](#). Using them to capture enemy fighters may thus fall under the example of perfidy listed in [Art. 37 \(1\) \(c\) API](#): “the feigning of civilian, non-combatant status.”

Accordingly, using ambulances with the intent of leading the adversary to believe they are protected, while using them to capture the enemy, is an act of perfidy (cf. [ICRC](#)).

#### Launching Law Enforcement Operations from Ambulances: A Violation of the Right to Health?

Turning to international human rights law, the principle of medical impartiality strongly influences the right to health – whose most comprehensive codification is [Art. 12 International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#). It proclaims “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

In its [General Comment No. 14](#), the CESCR clarifies that “the right to health [is] a right to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health” ([para. 9](#)). The obligation to respect the right to health “requires States to refrain from interfering directly or indirectly with the enjoyment of the right to health” ([para. 33](#)). Under the obligation to fulfil, States must *inter alia* promote a good reputation of health services ([para. 37](#)). While ICESCR-Rights must only be progressively realized, it is prohibited to take retrogressive measures ([para. 32](#)) and states have immediate minimum core obligations. The obligation to ensure access to healthcare is such a (non-derogable) minimum core obligation (CESCR, [paras. 43, 47](#); ICRC, [p. 6](#)), requiring “health facilities, goods and services [to] be within safe physical reach” ([para. 12](#)).

Using ambulances for law enforcement operations violates Art. 12 ICESCR as it not only seriously impairs healthcare’s credibility and reputation and leads to medical care to not appear within *safe physical reach* for many, but also constitutes a prohibited retrogressive measure when the practice is newly assumed – for example during times of civil unrest – and actively lowers the enjoyment of the right to health.



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## Trojan Horses with Emergency Lights – PART III

### International Law and the (Mis)use of Ambulances for Military and Law Enforcement Purposes

#### The Legality of Iran's Practice

While the protests and violence persist, there has not been a situation of armed conflict in Iran as of September 2022. While Iran has neither ratified API nor APII, it is a party to the four Geneva Conventions. If the protests were to further escalate and pass the threshold for Common Article 3 NIACs, the practice would violate the obligation to respect and protect medical units and transports implicit in Common Article 3 and under customary IHL.

In any case, as a state party to the ICESCR, the Islamic Republic of Iran is bound by the Covenant's obligations. While limitations of the right to health during crises may not necessarily constitute a violation, any limitation must have the sole "purpose of promoting general welfare" (Art. 4 ICESCR). As laid out above, accessibility of health care must always be guaranteed and by taking active measures impairing the credibility of healthcare and degree of enjoyment of the right to health that has existed up to that point, so that arguably Iran violated its obligations under Art. 12 (1) ICESCR.

Nevertheless, Iran's practice has received little attention by states or UN bodies yet. Considering the grave consequences of the misuse of ambulances for non-medical purposes – particularly during times of civil unrest – and its potential to exacerbate conflicts, there should be heightened efforts to end the prevailing impunity for violations of international law with regard to medical services.