

Moral Responsibility for the Scarcity of Healthcare in Gaza

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Abstract

In response to Arianne Shahvisi's call for medical ethicists to condemn Israel's having caused extreme scarcity of healthcare in Gaza, two critical commentaries published in this journal attributed primary moral responsibility for the scarcity to Hamas, arguing that its role in initiating the recent conflict, together with its use of "human shields," justifies Israeli military conduct, up to and including the almost-complete destruction of the civilian healthcare infrastructure. This article evaluates and rebuts those claims. First, it challenges the assertion that Hamas's having wrongly initiated the conflict absolves Israel of responsibility for the harms its military action has caused to civilians, arguing that moral responsibility is not zero-sum. Second, it argues that the claim that Hamas's actions "void" the protections afforded to civilians and medical facilities as a matter of both morality and international humanitarian law is mistaken. The article argues, furthermore, that Israel's war has violated the just war principles of proportionality, necessity, and discrimination, particularly in the destruction of much of Gaza's healthcare delivery capacity. The article concludes that medical ethicists must hold all parties accountable for violations of ethical and humanitarian norms, particularly those that systematically undermine civilian health in wartime.

In an article published in this journal more than a year ago, Arianne Shahvisi wrote that “as medical ethicists, we must oppose and condemn Israel’s deliberate production of health scarcity...The medics of Gaza are doing their jobs at risk of death[;] we need to step up and do ours.”^[1] Her article elicited two highly critical responses, both published in this journal.^[2,3] The critics argue, among other claims, that primary moral responsibility for the scarcity of healthcare in Gaza should be attributed to Hamas, not Israel, for two reasons: first, that Hamas initiated the current war in Gaza with its terrorist attacks on October 7, 2023, and, second, that Hamas’s use of Palestinian civilians as “human shields” has made Israel’s destruction of most of Gaza’s civilian healthcare infrastructure morally unavoidable.^a

In this article, I critically evaluate and rebut these claims. First, although I concede that Hamas’s murders of many hundreds of innocent Israeli civilians on October 7 make Hamas morally responsible for all of the deaths in Gaza that would not have occurred in the absence of those murders, I argue that this is compatible with Israel’s bearing far greater responsibility for those deaths; for moral responsibility is not zero-sum. Second, I argue that, even though it is likely that Hamas does indeed on occasion use Palestinian civilians as human shields, this does nothing to “void” or even weaken the protections afforded to innocent people and medical facilities by both morality and international humanitarian law. Finally, I argue that Israel’s military action in Gaza, including its destruction of much of Gaza’s healthcare delivery capacity, has violated the just war principles of proportionality, necessity, and discrimination. In the case of the latter principle, I dispute the assertion that the harms that Israel has inflicted on innocent people have always been unintended side effects of acts intended to affect Hamas only. I do so by presenting evidence that in many cases Israel’s military conduct, policy choices, and treatment of medical personnel and patients have been intended both as collective punishment and as a means

^a According to recent reporting from the WHO, “Only 19 of Gaza Strip’s 36 hospitals remain operational, including one hospital providing basic care for the remaining patients still inside the hospital, and are struggling under severe supply shortages, lack of health workers, persistent insecurity, and a surge of casualties, all while staff work in impossible conditions. Of the 19 hospitals, 12 provide a variety of health services, while the rest are only able to provide basic emergency care. At least 94% of all hospitals in the Gaza Strip are damaged or destroyed.” See <https://www.who.int/news/item/22-05-2025-health-system-at-breaking-point-as-hostilities-further-intensify--who-warns> (accessed 24 July, 2025).

of forcing Palestinians ultimately to flee from Gaza to refugee camps that might be provided by other states in the region.

The conclusion to which my arguments lead is that, while medical ethicists must unconditionally condemn Hamas for its essential role in causing the devastation in Gaza, including the destruction of the healthcare system, they should also recognize Israel's much greater responsibility and condemn the war it has fought as unjust and impermissible.

I THE CLAIMS OF SHAHVISI'S CRITICS

I begin by summarizing the critics' main claims and drawing out some of their implications. I will then evaluate these claims and implications in subsequent sections.

Avraham Steinberg writes that, "by initiating and perpetuating the conflict, Hamas, not Israel, is the origin of the scarcity in Gaza, bearing the primary ethical and legal responsibility for the resulting health scarcity in Gaza."^[3] The authors of a separate critique—Moshe Porat-Wojakowski, Daniel Arama, and Yechiel Barilan—seem to agree about Hamas's responsibility for the scarcity of healthcare in Gaza, citing additional factors such as decisions by Hamas's leadership to invest money in military equipment rather than allocating those same funds to building up Gaza's healthcare capacities.^[2]

All four critics claim, in Steinberg's words, that Hamas members "cynically use Palestinian children and civilians as human shields and hide in private homes and public facilities including hospitals and schools out of which they launch their criminal attacks on Israeli civilian cities."

Steinberg then argues that these efforts to exploit the moral principles governing the conduct of war have failed to provoke Israel into acting immorally. He provides a one-sentence list of the labels of most of the traditional principles of just war theory and then asserts that "Israel's actions, taken in self-defence against Hamas's aggression, largely adhere to these principles." He asserts, for example, that Israel does not target civilians intentionally and suggests that any harm that the Israel Defense Forces (IDF) causes to Palestinian civilians is both necessary and proportionate.

Porat-Wojakowski et al. go further than Steinberg by contending that "Hamas's abuse of medical facilities...abrogated the special protection international humanitarian law confers on healthcare facilities and personnel." They stress this claim by repeating it: "Hamas voided

humanitarian special protection by abusing healthcare facilities and by undermining the distinction between fighters and civilians.”

The implication of the terms “abrogate” and “void” (as a verb) is clear: Hamas’s “abuse” of medical facilities exempts Israel from the moral and legal requirement not to attack “healthcare facilities and personnel.” The authors presumably make this claim to justify what they already believe that Israel does—namely, target healthcare facilities and their staff. If they did not believe that Israel does this, there would be no reason to present the justification for Israel’s doing it that appeals to Hamas’s alleged voiding of the prohibition that would otherwise apply.

Here they appeal to certain historical precedents. “Churchill,” they write,

opposed the Allies’ policy of extending humanitarian assistance to civilians of Antwerp. ... [W]hen victory or defeat was at stake, the hardship of civilians was set aside. Moral responsibility was placed on Germany’s barbaric invasion of Belgium.

Applied to the Gaza war, this view implies that Hamas’s use of civilians as “shields” makes Hamas morally responsible for *any* harms that Israel might inflict on those civilians; and the fact that Hamas is responsible for any harms the “shields” suffer makes it permissible for Israel to inflict those harms—a view shared by Daniel Statman, who writes that “countries must be exempted from the requirement to consider the harm to enemy civilians that results from their enemies’ cynical use of human shields.”^[4]

It is unclear whether Steinberg too believes that Hamas’s alleged responsibility for whatever harms Israel inflicts on Palestinian civilians makes it permissible for Israel to inflict them. He does suggest, however, that the location of responsibility with Hamas makes Israel’s infliction of harms on civilians at least excusable. “Hamas’s use of civilians as shields,” he writes, “makes it extremely difficult for Israel to defend itself without causing civilian casualties. No sovereign country in the world—past and present—would accept repeated bombing on its civilians, terrorist attacks against innocent people, performing atrocities against its citizens and kidnapping of innocent babies, children, women, elderly, wounded and sick.” In short, what Israel has done in Gaza, Steinberg implies, is no more than what any other country would do in similar circumstances, which suggests that it must be at least excusable.

Let us now consider each of these claims in turn.

II THE INITIAL CLAIM ABOUT RESPONSIBILITY

First, consider Steinberg's claim that Hamas bears primary responsibility for the harms that Gazan civilians have suffered, including the scarcity of health care that Shahvisi emphasizes. It is certainly true that, if Hamas had not massacred innocent people in Israel on October 7, the Gazans who have been killed or injured by Israel in the subsequent war (whether directly or indirectly through the destruction of much of the health service infrastructure and many of its personnel) would still be alive and uninjured. Because Hamas's slaughter of innocent people was horribly wrong, Hamas does bear substantial moral responsibility for the harms Gazans have suffered—especially given that Hamas's leaders clearly foresaw that the number of innocent Palestinians who would be killed or injured by Israel's retaliation would, as has always been true in conflicts between Israel and Hamas in the past, vastly exceed the number of innocent Israelis that Hamas might be able to kill or injure.

But, as moral and legal theorists understand, responsibility for a single outcome can be indefinitely multiplied depending on how many people contribute to its occurrence. Responsibility is not zero-sum. Sometimes, when two people both bear responsibility for an outcome, the responsibility of one diminishes the responsibility of the other. Suppose, for example, that one person, A, attacks and harms an innocent victim, V. If A would not have inflicted the harm, or would have inflicted only a lesser harm, had another person, B, not pressured him to commit the attack, B's responsibility diminishes that of A.

But other cases are not like this. Suppose that B, knowing of A's hatred of V, lures V to where A is without A's knowledge, whereupon A attacks V. B's action in this case makes her share responsibility for the harm to V but does not diminish A's responsibility.

Hamas's responsibility for the harms that Israel has caused is of this latter sort. The fact that Hamas bears substantial responsibility for the harms that Israel has inflicted on ordinary Gazans does not diminish Israel's responsibility for those harms; nor is it incompatible with Israel's responsibility for those harms being vastly greater. Israel's war was certainly provoked by the

murders by Hamas; but, as I will argue, Israel had alternative, far less destructive options that would have better protected Israelis from violence by Palestinians or others in the future.

In the Gaza War, members of one nation wrongfully initiated a conflict by indiscriminately attacking members of another nation. But this cannot make the initiators the primary bearers of moral responsibility for *whatever* the representatives of the initial victims chose to do in response—in this case, among other things, damaging or destroying virtually the entire health care system on which 2.1 million people depend (see footnote above).

How responsibility for harms to innocent people is apportioned is often difficult to determine. The clearest, and perhaps only, case in which the initial wrongdoer bears all of the responsibility for harms caused by the other party to a conflict is that in which the wrongdoer's action creates a moral *justification* – and, in particular, a moral *obligation* – for the other party to harm innocent people. This claim can be illustrated by a hypothetical example involving the Nazis. Suppose that, for the Allies to destroy an important Nazi military target, the killing of some innocent civilians was unavoidable as a side effect. And suppose further that, given the overwhelming moral importance of preventing the Nazis from conquering Europe, it was obligatory for the Allies to destroy the target (and therefore necessary, proportionate, and permissible for them knowingly to kill the civilians). Because the prior action of the Nazis made it morally required and therefore morally unavoidable for the Allies to kill those innocent people, the Nazis alone were responsible for their deaths. As I will argue in sections IV and V, no such case can be made for a parallel claim that it has been obligatory for Israel to kill tens of thousands of innocent Palestinian civilians.

III PERMISSIBILITY

In a document supplemental to this article (supplementary material), I consider whether, and if so why and to what extent, Hamas uses civilians as shields. But suppose, for the sake of argument, that it does so as a matter of policy. We must consider whether, and if so how, this assumption affects the permissibility of Israel's killing and wounding of Palestinian civilians. Does it, as Porat-Wojakowski et al. claim, “void” the constraint against harming innocent people whom Hamas uses as shields, thus making it permissible for Israel to act as if those people were simply not present?

It may help to consider a hypothetical example:

Defense Against Murder

Suppose there is mutual hostility between two groups, group A and group B. One person, Murderer, from group A intends to murder Victim, an innocent member of group B. Murderer has deliberately embedded himself among 50 innocent bystanders, including many children, all of whom belong to his own group, A. He does this to use these people as shields. Only one person can prevent the murder: Third Party, who is a member of Victim's group, B, but is a stranger to Victim. Because Third Party's only weapon is a large grenade, she cannot prevent the murder except by killing both Murderer and most or all of the innocent bystanders from Murderer's group A (compare [5]; see also [6]).

Third Party has only two options: hurling the grenade and allowing Victim to be murdered. According to the reasoning employed by Porat-Wojakowski et al., it is permissible for her to kill both Murderer and the 50 innocent bystanders; for Murderer's use of the innocent bystanders as shields "voids" the constraint against killing innocent people.

The requirement of just war theory, and of the morality of individual defense, that is relevant here is *proportionality*. The question it poses is whether the harm that the defensive act would cause to innocent people would be disproportionate, or morally excessive, in relation to the good effect that the defensive act would achieve. It is obvious that killing 50 innocent people is disproportionate as a side effect of saving one innocent person. And this remains true even if we take into account that Third Party and Victim share the bond of being members of group B. Special relations may sometimes affect the assessment of proportionality, but the ratio of 50 deaths to 1 is too great to be justified by even the most significant special relations, such as that between a parent and child.

It makes no difference to this conclusion that Murderer deliberately uses the 50 bystanders as innocent shields. One person's wrongly using an innocent person as a shield does not weaken the innocent person's rights against other persons or make any harm to the innocent person matter less morally. That Murderer would share responsibility for the killings of the bystanders if Third Party were to throw the grenade is irrelevant to whether Third Party's action would be

permissible. The *permissibility* of an act and moral *responsibility* for the consequences of that act are distinct and separate matters.

Defense Against Murder helps to expose the mistake in supposing that if Hamas uses civilians as shields, Israel is justified in acting as if the shields were simply not there. The mistake may be even easier for Shahvisi's critics to appreciate if we consider a claim that a prototypical "pro-Palestinian protester" might be imagined to make (see Box 1).

Box 1. The case of a hypothetical pro-Palestinian protester: a moral mistake the other way around

Suppose that a pro-Palestinian protester asserts that Israel has forcibly kept the Palestinians in Gaza and the West Bank in subjugation for many decades, subjecting them to occupation and blockade, preventing them from exercising their right to collective self-determination, dispossessing them of their land and establishing settlements on it, bulldozing their homes, and so on. Suppose the protester also claims that Israel has prevented the Palestinians from developing the means of liberating themselves through a potentially permissible use of force by a uniformed military. Having endured these conditions of unjust oppression for decades and—especially with the escalating takeover of the West Bank—foreseeing no hope of achieving respect for their rights, a group of Palestinians, so the protester alleges, risked their lives to lash out violently at their oppressors in the only way they could.

What would the implications of such an account of the background to the Gaza war be for questions of permissibility and responsibility? Let us assume, in my view with good reason, that the Israeli government could very likely have avoided anything like the murders of October 7 through action in the past to fulfill its duties of justice to the Palestinians. If that is correct, then the logic of Shahvisi's critics implies that the present Israeli government shares responsibility – or even bears primary responsibility – for the massacres of October 7. Suppose the hypothetical protester now advances precisely this claim.

The appropriate response to the protester is not to deny that several generations of Palestinians have been unjustly subjected to conditions of life that Israelis would fight

relentlessly to prevent anyone imposing on them, or to deny that Israel shares responsibility for what Hamas did on October 7. The appropriate response is instead to say that, despite all this, it was *wholly impermissible* and indeed inexcusable for Hamas to slaughter innocent people in Israel. Even if Israel was morally responsible for unjust conditions that provoked the killings by Hamas, that responsibility has no bearing on whether the killings were permissible.

The killings of October 7 were obviously impermissible. They violated the requirements of discrimination (because the victims were not liable to be harmed), proportionality (because this requirement weighs bad consequences against good, but there were no good consequences), and necessity (because the killings were not only ineffective in liberating Palestinians from bondage, but profoundly counterproductive – and indeed foreseeably so).

IV PROPORTIONALITY

Next consider the issue of *proportionality* in Israel's war in Gaza. The UN Office for the Coordination of Humanitarian Affairs (OCHA), citing figures from the Hamas-affiliated Palestine Ministry of Health in Gaza, reports that, as of July 23, 2025, 59,219 Palestinians have been killed in Gaza, directly or indirectly as a result of Israeli military action, and 143,045 have suffered injuries of sufficient seriousness to require that they be taken for medical treatment (which they have then often been unable to obtain).^[7] Of those who have been killed, 26,655 have been identified as men, an unknown proportion of whom were potential or likely combatants, and 17,921 have been identified as children, 9497 as women, and 4307 as elderly.^[7-9]

For the sake of argument, let us make the conservative assumption, highly favorable to Israel, that 75 percent of the men (19,991) and 10 percent of the children, women, and elderly (3173) who had been killed by early July 23, 2025, were militants who in some way or other contributed to the threat to Israelis. That leaves 6664 men and 28,554 children, women, and elderly – a total of 35,218, which for simplicity we can round down to 35,000 – who were innocent, unthreatening civilians. I have no means of calculating the same figures for the seriously

wounded but I will assume that it is uncontroversial that at least 60,000 – significantly less than half the total of 143,045 – have been innocent, unthreatening civilians.

The figure of 35,000 innocents killed is likely an underestimate for two further reasons in addition to the fact that our assumptions about the percentages of the dead who were innocent are themselves probably underestimates. One reason is that the numbers given by OCHA leave 839 of those killed unidentified by either gender or age, so the number of those dead who were innocent and unthreatening is omitted from the assumed total number of innocent people killed. The second reason is that a study by epidemiologists at the London School of Hygiene and Tropical Medicine and other institutions concluded that even as early as the end of July 2024, the death toll among Palestinians in Gaza had been substantially underestimated by the Palestinian Ministry of Health. At that point, the study concluded, 64,260 Palestinians had been killed rather than only 37,900, which was the figure given by the Palestinian Ministry of Health.^[8]

Assuming that Israel's aim in the current war has been only to prevent Hamas from harming and killing more Israelis, how many killings and woundings of Israelis by Hamas must the war have prevented for it to have been proportionate?

In my example of Defense Against Murder, I claimed that killing 50 innocent people as a side effect of saving one innocent person is disproportionate, even if the 50 were being used as human shields. I assume that this is uncontroversial—even if the 50 were Palestinians and the one an Israeli Jew. A far more defensible, though still highly controversial, view is that in war it can be proportionate, and therefore permissible, to kill five – though no more than five – innocent enemy civilians as a side effect of saving one of one's own innocent civilians. But if we assume, implausibly, that it can be permissible to kill 50 – though no more than 50 – innocent enemy civilians as a side effect of saving one of one's own civilians, Israel's war has been disproportionate if it has prevented Hamas from killing no more than 700 Israeli civilians and seriously wounding no more than 1200. To determine whether the war has achieved this we must address a counterfactual question: Would Hamas have killed more than 700 Israeli civilians and injured more than 1200 if Israel had not gone to war after completing the anti-terrorist operations on October 7 and 8 that killed some Hamas militants in Israel and drove the remainder back into Gaza?

According to figures compiled by the United Nations that exclude Israeli casualties in the current war, Palestinian militants have, between 2008 and 2025, been able to kill 205 Israeli

civilians, 106 of whom have been settlers in the West Bank.^[10] In short, excluding the killings on October 7, Hamas has, between the time that it came to power in Gaza in 2006 and 2025, been able to kill only 99 Israeli civilians who were not at the time in Palestinian lands dispossessing the inhabitants. And the only reason that Hamas was able to kill so many innocent Israelis on October 7 was that the Israeli government had complacently assumed that Hamas could be indefinitely contained even without the permanent stationing of combat-ready forces along the border with Gaza. If, therefore, Israel had not gone to war after October 7 but had instead militarily sealed the border and begun to fulfill its moral duties to the Palestinians by initiating international negotiations for the establishment of a Palestinian state that could not be governed by Hamas, it is clear, I believe, that Hamas could not have killed more than 700 Israeli civilians and wounded more than 1200 more. If that counterfactual claim is plausible, then Israel's war has been grossly disproportionate. (For further, more detailed arguments about proportionality, see ^[5].)

What is true of Israel's war as a whole must necessarily also be true of many of the acts of war that together constitute the war—for example, the destruction at night of the residences of individuals identified as members of Hamas. These raids have typically killed the members' wives, children, and extended families, as well as the members of many other families that lived in the same building.^[11] Such tactics cause harm to innocent people that is disproportionate to the increase in Israeli security, if any, that might be achieved by killing a single low-level member^[11] of Hamas.

V NECESSITY AND INTENTIONALITY

It is implicit in what I have just written that the war has also violated the just war requirement of *necessity*. Many hundreds of Israelis have died because of this war—mainly IDF soldiers in Gaza rather than civilians in Israel. If the aim of the war was really to prevent Israelis from being killed, injured, or kidnapped by Hamas, the war has therefore been not only unnecessary, but self-defeating. The war has increased support for Hamas among Gazans, at least for the time being, when this support was quite weak before the war began.^[12] And it has vastly exacerbated the hatred most Palestinians and many others in the region must feel for Israel and Israeli Jews—which is not the way to ensure security for Israelis.

As I noted in the first section, Steinberg claims that the harms inflicted on Palestinian civilians have been “unintentional and, in most cases, unavoidable.” There is, however, no one truth about the matter of intention. There are many documented instances in which Palestinian children have been shot in the head or chest by Israeli snipers^[13]; but also many instances, as in all wars, in which soldiers have fired weapons foreseeing, but not intending, that in doing so they would kill or otherwise harm civilians. Most discussions of this matter, however, are concerned with *collective* intention. Thus Steinberg contends that “Israeli policy is to avoid intentionally targeting civilians or children.”

It is, however, difficult to reconcile this claim with various Israeli policies and patterns of action that no one can plausibly deny: (1) Israel’s having repeatedly and systematically deprived all Gazans of access to electricity, clean water, food, medicine, and other humanitarian aid,^[14-16] (2) the shooting by Israeli snipers of three unarmed *Israeli* hostages carrying a white flag, which provides some evidence of a policy of shooting young men on sight in certain areas,^[17] (3) recent shootings into crowds of starving people seeking food at aid stations, with many of the victims being “children aged between 10 and 13, many with gunshot wounds to the head or chest,”^[18,19] (4) the intentional killing of paramedics and civilian rescuers who attempt to save the survivors of recent Israeli bombings,^[20] (5) the recent government talk about, and widespread public support (variously estimated at 82 percent^[21] and 53 percent^[22]) for the “voluntary” expulsion of Palestinians from Gaza (for example, Finance Minister Bezalet Smotrich’s recent assertion that “We will occupy Gaza and make it an inseparable part of Israel” and “relocate Gazans to other countries^[23]), and so on.

Consider, moreover, two categories of victim that are of special relevance to medical ethics: medical personnel and patients in medical facilities. As of the end of May 2025, Israel had bombed 33 of Gaza’s 36 hospitals.^[24] It has killed 1400 health care workers and seriously injured countless others.^[25] It has detained and imprisoned between 300 and 400 Palestinian doctors^[26], many of whom have been repeatedly subjected to torture^[25,27]—and one cannot unintentionally torture a person in a detention center. The IDF has also stopped a convoy of emergency medical vehicles with their lights flashing and executed 15 unarmed and unresisting paramedics^[27,28]—hardly an unintended side effect of a legitimate military operation.

Finally, throughout the war there have been enormously large numbers of patients in Gaza, many of them children, who have required treatments not available in Gaza in order to survive.

Israel has consistently refused to allow the vast majority of these patients to receive the necessary treatments elsewhere.^[29] How saving a sick or wounded Gazan child's life, or allowing the child to leave Gaza to receive a life-saving treatment elsewhere, could imperil Israeli security has never been explained.

VI CONCLUSION

In summary, I have tried to show that all of Shahvisi's critics' central claims – that Hamas bears most or all of the responsibility for the devastation, and in particular the destruction of the health care system, in Gaza; that Hamas's initiation of the conflict and use of human shields has exempted Israel from the requirement of proportionality; and that the harms that Israel has inflicted on innocent noncombatants in Gaza have been unintended side effects of military action directed against Hamas alone – are false. The scarcity of healthcare in Gaza, along with the vast number of killings and woundings of innocent people, the near-complete destruction of the entire civilian infrastructure, and now the starvation of the population, are all the result of unnecessary, disproportionate, and indiscriminate warfare for which Israel – meaning the relevantly involved Israelis in the government, military, and so on – is not only responsible but also highly culpable.

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