Roundtable Summary: Attacks on health and protection of civilians in armed conflict: Five years on from UN Security Council Resolution 2286

27th April 2021, virtually via Chatham House

Introduction

This document summarizes the discussion that took place at the meeting '**Attacks on health and protection of civilians in armed conflict: Five years on from UN Security Council Resolution 2286'** held virtually at Chatham House on 27th April, 2021. Five years ago, the UN Security Council approved Resolution 2286 [1], following which the UN Secretary General issued recommendations for its implementation[2]. The meeting brought together 42 stakeholder representatives from key constituencies (humanitarian, researchers, the healthcare sector, and states) to consider how to accelerate the implementation of the recommendations.

The meeting was held under the Chatham House Rule [3] and the views expressed are those of the participants. The following summary is intended to serve as an aide-mémoire to those who took part and to provide a general summary of discussions for those who did not.

[1] Resolution 2286 (2016) / adopted by the Security Council at its 7685th meeting, on 3 May 2016, S/RES/2286. Available at: https://digitallibrary.un.org/record/827916?ln=en

[2] Recommendations of the UN SG, submitted pursuant to para 13 of SC resolution 2286 (2016), S/2016/722. Available at: https://reliefweb.int/report/world/recommendations-un-sg-submitted-pursuant-para-13-sc-resolution-2286-2016-measures

[3] The Chatham House Rule: 'When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.'

General discussion

Opening remarks included a Minister from a conflict affected country as well as a review of the progress on and barriers to the ICRC Health in Danger initiative[4] and the Geneva Call Deed of Commitment[5], the work of the Safeguarding Healthcare in Conflict Coalition (SHCC)[6] and of the Researching the Impact of Attacks on Healthcare (RIAH) Consortium[7].

The consensus was that the strength of the wording of the resolution and the publicity following its publication raised expectations, particularly amongst the health and humanitarian communities, that 2286 would lead to a significant diminution in violence against health resources and patients. Instead, the scale and human cost of ongoing attacks on health, both globally and in specific contexts, were noted; this creates a sense of urgency to identify new ways forward. The view of the meeting was that, in respect of member states, the commitments have been mostly rhetorical, with few concrete actions being taken in response to the recommendations. It was accepted that there are a variety of organizations and initiatives that are attempting to:

- understand the scope and scale of the problem of attacks on healthcare;
- raise public awareness;
- prevent and mitigate attacks and their impact; and
- encourage respect for International Humanitarian Law (IHL) amongst armed groups.

However, most thought that the international system and individual States now needed to take a more pro-active approach to implementing the recommendations of 2286. It was also noted that to successfully address violence against healthcare, there is a need to engage with Non-State Armed Groups and underlying social and cultural issues that contribute to such violence.

The meeting featured three thematic discussions around: the use of existing structures in the international systems to support the Secretary General's recommendations; member states' implementation of existing guidance to protect healthcare; and how to expand and mobilize new constituencies to support the goals of 2286. Some additional areas for further research were also identified.

[4] For details see https://healthcareindanger.org/hcid-project/

[5] For details see https://www.genevacall.org/wp-content/uploads/2019/07/Deed-of-Commitment-for-the-protection-of-health-care-in-armed-conflict-final-version-4.pdf

[6] For details see https://www.safeguardinghealth.org/about-coalition

[7] For details see https://riah.manchester.ac.uk/

Discussion Themes

Using existing structures in the international systems to support UN SG recommendations

Healthcare in armed conflict is a cross-cutting issue with different dimensions that affects actors across the international and UN system. These include the UN Secretary General, UN Security Council, the World Health Organization (WHO), and various humanitarian and human rights actors, such as the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Office of the High Commissioner for Human Rights (OHCHR). As the issue of healthcare in conflict has many facets and stakeholders, it can be a challenge to maintain its prominence on the international agenda and actions to promote it are not always harmonized.

Within the international system, multiple sub-systems, structures and mechanisms can contribute to implementing the intent of 2286. The view was that there is no need to create new systems but instead to encourage greater political support for, and resourcing or empowerment of, existing systems for ensuring compliance with IHL. Currently a multiplicity of possible avenues exist for collecting data and investigating attacks on health with variable access restrictions. What is needed is not more mechanisms, but clearer responsibilities and more coordination. However, it was observed that there are potential conflicts between openness in reporting real-time data and the use of such data for investigation and possible prosecution, which also reflects a distinction between investigations for the purpose of prosecution and investigation for greater understanding and diplomatic negotiations.

It was noted that the provision of information about incidents attacks on healthcare on its own is unlikely to lead to change and action on this issue. It is not a lack of knowledge about attacks on healthcare that prevents accountability, but a failure by member states to take responsibility and enact the existing recommendations from 2286, and a need to harmonize the efforts of the multi-sectoral and multi-organizational international system.

Ways forward for international systems

- For investigation of attacks on healthcare as violations of IHL, two systems in particular were noted as potentially fruitful: the UN International Humanitarian Fact Finding Commission (IHFFC) and the International Criminal Court (ICC). The IHFFC is able to conduct confidential investigations and use their good offices to carry out diplomatic and rapprochement efforts to ensure respect for IHL. The ICC is able to publically name and shame and prosecute violations.
- The existing provisions and roles in the UN, such as the Special Rapporteur on Children in Conflict, could offer a way forward. A Special Representative for Attacks on Healthcare could act as a champion to unify efforts under a single mandate. However, there are challenges to this as it appears that within the Security Council the issue of attacks on health do not seem to have the same level of consensus as do those on children in armed conflict. Some thought this meant the approach would not work, while others believed this could be used to build political consensus.

- Another potential avenue for raising the profile of the issue and bolstering political support would be the development of action plans[8], including publishing lists of perpetrators. It was noted that States went to significant lengths to prevent themselves from being listed as non-compliant and it was proposed that this could form the basis of a model for encouraging compliance with UNSC 2286.
- The example of national action plans, such as those that exist for the Women, Peace and Security agenda, could serve as a blueprint for a similar initiative focused on attacks on healthcare in conflict. With a national action plan, States would have to report on their progress towards the implementation of the resolution.
- The role for a 'group of friends' or 'coalition of the willing', led by member states willing to spend political capital to champion the issue in the Security Council and beyond, was highlighted. These efforts could be integrated into or complementary to the group of friends on the protection of civilians, or function as a more informal mechanism like the group of friends on responsibility to protect.

Action at the National/Member State level

There was an emphasis on the need to remember that member states bear the main responsibility for implementing 2286, but some noted that they try and shift the onus and responsibility for action on the issue to humanitarians and the UN. The recommendations of 2286 make clear that member states have a responsibility to review their legislative instruments and to incorporate the principles and guidance of 2286 into domestic law.

The importance of looking at the issue of attacks on healthcare at local and national levels was also connected to a recognition of the importance of the specific context, including conflict dynamics, cultural context, and existing healthcare provisions. The complexity of the necessary responses to attacks on health in contexts of armed conflict and political instability was highlighted.

It was noted that the instinct has been to focus on the worst violations, but perhaps this is not the most useful way forward. It may be that the impact is greater from regular smaller attacks or obstructions than from the more acute or spectacular attacks. This is an area where there is scope for states to address and/or review their own military practices.

The increasing volume of counter-terrorism legislation, sanctions and money laundering regulations has had an adverse impact on the providing of humanitarian assistance and protection. It has also inhibited interactions with non-state armed groups by the broader community, with many who do so being careful not to advertise the fact openly. Excluding non-state armed groups from the debate on 2286 is counter-productive and, as demonstrated by the Minister at the meeting, can be undertaken via appropriate means.

[8] For details see https://childrenandarmedconflict.un.org/tools-for-action/action-plans/

Ways forward for action from member states?

- The priorities should be in developing and strengthening domestic laws which incorporate the requirements of IHL and the Geneva conventions; strengthening investigation; ending impunity by holding perpetrators to account; and in taking responsibility for the impact of arms transfers and sales.
- The appointment of nominated Champions (see also next section) within member states could be used to facilitate such action. Such Champions could also complement the appointment of a Special Representative and provide an informal coalition of those interested in pursuing these issues. They could help to build an international consensus and use their political capital to push for investigations and prosecutions via institutions such as the ICC. Part of the role of Champions might also be to stimulate annual reporting on actions taken by States to implement 2286. Member state Champions in the Security Council must be willing to invest their political capital, especially around questions of the role of arms sales and transfers and the impact of counter-terror legislation on attacks on healthcare in conflict.
- Governments and ministries of health can implement protection solutions that focus on acting to stop less acute forms of attacks.
- Activism can move from concentration on international level campaigning to focus on strategies to facilitate local and national level engagement, through operational tools and guidance, and advocacy with non-state armed groups as well as state actors.

Expanding and mobilizing 2286 constituencies

It was noted that the focus on member states can be problematic, particularly where they appear to have weaponized healthcare. There is a need to think about alliances of organizations that are able to operate separately from states and to attempt to hold states to account. It is important that these alliances operate at the local and domestic level, although the difficulty in doing so in more repressive political systems was recognized.

National strategies and action plans are a potential useful tool for both preventing attacks on healthcare and mitigating their impact. This can be formal government-led ones, as mentioned in the previous sections, but also ones coming out of multi-stakeholder alliances that allow for parallel organizing where working with government actors may be problematic.

Professional associations can be particularly influential, even where democratic means of holding state authorities to task is weak. Their individual members have access to policy makers and many such organizations are also represented on international professional organizations, such as the International Committee of Military Medicine and the World Medical Association, that can and do provide guidance on mitigation strategies to their members.

There is a need to expand the constituencies invested in progress on preventing attacks on healthcare beyond the ‘usual suspects’. Perhaps most crucial are local communities. The COVID-19 pandemic has made clear that there is not always trust and respect among the general public for healthcare providers, and has highlighted the dangers of mis-information, dis-information and the suppression of information.

Communities may not know the details of IHL, but they can understand the value of healthcare to their communities; this is an important avenue to pursue as part of an acceptance strategy for health worker security.

Following the example of the International Campaign to Ban Landmines, local level champions can play a role in the protection of healthcare. These can be used to expand constituencies, drawing in high profile individuals from the business, sport, technology sectors, or religious leaders. Some actors may have specialist skills and contributions to make in this effort. For example, the technology sector can play an important role in preventing and mitigating the spread of mis- or disinformation that lead to attacks on health.

It is also important to remember that informal healthcare actors, such as traditional healers, also need consideration and protection. Such informal healthcare is a vital resource in fragile and conflict contexts where formal healthcare may be inaccessible. These practitioners have good access, and may have strong legitimacy in local communities, so can be helpful in building trust and fostering norms of restraint.

Non-state armed groups are a key constituency with which to engage when seeking to prevent attacks on healthcare. This can be difficult to do due to constraints of counter-terror legislation, but examples were given of how a ministry of health in a conflict context had approached this. Other examples were given of organizations that had worked with non-state armed groups to promote commitment to and compliance with IHL.

Ways forward for expanding constituencies and mobilizing?

- Encouraging healthcare workers and facilities to work on building community trust at a local level, which international actors can support by resourcing and by providing the research and evidence to support the effort.
- The use of Champions and public norm entrepreneurs to encourage action is important. These individuals can build trust and support for healthcare at the national, regional or facility level. For example, religious and community leaders could play a role in ensuring that violations are condemned and that healthcare protection is built from the grassroots up, building support for making attacks on health a taboo.
- The pandemic has shown that there is appetite to support local healthcare workers through community support groups. This could be harnessed to empower local populations to support their healthcare providers.
- Professional associations can play a more active role in providing support and guidance to members on context specific protection and mitigation, and in calling out government violations.
- Informal multi-stakeholder alliances can develop national or local level action plans that do not depend on government support. This is especially important in context of government repression and perpetration of attacks. These could also include informal healthcare providers.
- As stressed by a number of participants, only by interacting with non-state armed groups can these groups be educated on their duties and responsibilities under IHL and persuaded to comply.

Research

While the data on incidences of attacks on healthcare have improved, there has been less high-quality research on the wider impact of attacks on healthcare. Qualitative research needs to be prioritized; quantitative data alone are insufficient for achieving change. Such research also needs to look at the ethical norms around healthcare.

- *Research on perpetrators*: There is a need for academic research to understand why perpetrators carry out attacks. This would require research into the motivations of attacks. One example given was that of attacks that occurred partly as a consequence of a denial of medical materiel to a particular group. Others highlighted the need to understand the role that attacks played in the wider conflict strategy of perpetrators. It was also noted that this research should consider the role that impediments to access for non-state armed groups, such as sanctions and counter-terror legislation, might play.

- *Research on ethical norms*: One important question asked why, for example, there is not sustained outrage at attacks in the way that there is around the use of child soldiers? Ethical norms are intangible, but understanding what ethical norms exist around attacks on healthcare and its protective status is an important starting point for building political consensus around the need to prevent attacks, both formal and informal. This can inform specific political strategies, both positive and negative, by raising the political costs of not championing an end to attacks on healthcare.

- *Research on impact:* this is important for mobilizing new constituencies, especially at the local level. Understanding who is impacted by attacks and how is vital for supporting the design of better context-specific protection and mitigation strategies. Such research needs to identify the wider and longer-term impact of attacks and not just the immediate and short-term impact on the health resource affected. It was also noted that studies need to consider the impact of less visible or acute forms attacks, for example routine obstruction of ambulances, as these can be greater in their cumulative impact.