

Protection of Medical Personnel and Facilities in Armed Conflicts

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Tomorrow (5 November), the African Union (AU) Peace and Security Council (PSC) is expected to convene its 1044th session to discuss the protection of medical personnel and medical facilities in the context of armed conflicts.

Following the opening remarks of the PSC Chairperson of the month and Permanent Representative of Egypt to the AU, Mohamed Omar Gad, the AU Commissioner for Political Affairs, Peace and Security (PAPS), Bankole Adeoye, is expected to make a statement. Council is also expected to receive statements from Hanna Tetteh, Special Representative of the United Nations (UN) Secretary General and Head of the UN Office to the AU (UNOAU); Bruce Mokaya, Head of International Committee of the Red Cross (ICRC) Delegation to the AU; and a Representative of Doctors without Borders.

While this is the first session of the PSC dedicated to the specific theme, Council has at its various previous thematic and country specific sessions condemned attacks on medical personnel and facilities, such as its 862nd and 965th sessions. The protection of medical personnel, units and transport is a core principle stipulated under the Geneva Conventions of 1949 and also forms part of customary International Humanitarian Law (IHL). As such, in both cases of interstate and internal conflicts, attack against medical personnel and facilities engaged in discharging professional activities is prohibited under international law. Moreover, having regard to the growing cases of attacks against healthcare providers and facilities in conflicts, the UN

Security Council (UNSC) adopted in 2016, Resolution 2286 which calls on States to “develop effective measures to prevent and address acts of violence, attacks and threats against medical personnel, their means of transport and equipment, as well as hospitals and other medical facilities in armed conflict”. Despite the existence of these and other normative standards necessary for the protection of healthcare in conflict situations, recent trends signify the growing rate of attacks perpetrated against medical personnel and facilities.

As reports indicate, in the period from 2016 to recently, there have been well over 4500 incidents of attacks against healthcare providers and facilities in armed conflicts across the world, which include killings, kidnappings, and sexual assault perpetrated against medical personnel as well as looting, damage and destruction to medical facilities. In Africa, countries such as Central Africa Republic (CAR), Democratic Republic of Congo (DRC), Libya and Nigeria have experienced the highest rate of attacks. In the DRC for instance, 434 incidents of violence against and obstruction of healthcare were recorded only during the year 2019. Added to the outbreak of Ebola throughout various regions of the country, the impact had been nothing short of catastrophic. In Libya, 77 cases of attacks against and obstruction to healthcare were recorded during 2020. In addition to resulting in injury and death of health workers, these incidents have been cause for multiple hospitals in the country to cease operation, therefore creating serious healthcare vacuum and constraints in the time of Covid-19 pandemic.

While these exemplify incidents that were recorded, it is not hard to imagine that these numbers would increase significantly if unrecorded cases of violence against healthcare in those and other conflict affected countries in the continent were to be considered. Such trend has grave implications not only on medical personnel and facilities, but also on civilian populations in conflict affected areas and

their access to humanitarian assistance. This is further aggravated in times of pandemics as has been witnessed in the period from February to December 2020, when the Covid-19 pandemic was at peak. According to data recorded by the ICRC, there were 848 Covid-19 associated violent incidents perpetrated against health workers in that period. It is also important to note that in addition to its immediate impacts, attack on medical facilities also endangers years of developmental efforts and progresses obtained in the medical field.

One of the major reasons behind the persistent attacks against medical personnel and facilities in conflict settings is the lack of awareness and guidance among belligerents regarding the relevant international rules protecting healthcare in armed conflicts. In addition to the lack of awareness of these rules, armed forces are usually not sufficiently trained to understand the overall applicability of IHL, which is fundamental in regulating military operations. Particularly, the basic IHL principles applicable to the conduct of hostilities – distinction, proportionality and precaution – are essential to minimise civilian casualty in conflicts, including healthcare. It is therefore important for States to ensure that the core principles of IHL are made part and parcel of their military doctrines and manuals and that their troops are well trained on abiding these rules throughout any engagement in hostilities. This would contribute towards ensuring that medical personnel and facilities as well as other protected persons and objects under IHL are not deliberately targeted and that their risk of being subject to indiscriminate and disproportionate attacks is minimised. Mandatory and periodic trainings which target senior leadership as well as junior members of States' armed forces are also important in translating these basic rules and principles into action. On top of training armed forces to identify and avert attacks against healthcare, it is as important for military manuals to provide guidance on how

armed forces can assist and provide protection to medical personnel and facilities.

In addition to integrating IHL rules into military manuals, it is also important for States to develop domestic legal frameworks protecting medical personnel and facilities in times of conflicts. This includes particularly rules which emphasise the prestige and significance of emblems such as the Red Cross and Red Crescent movement's. Such rules would be instrumental in propagating the protected status of medical units, transport and personnel bearing such emblem, thereby protecting them from attacks throughout their operations in conflict settings. Laws which criminalise and prescribe penalties for attacks against and obstruction to healthcare are also necessary not only to deter, but also to fight related impunity and to set precedent of consequences for such acts.

Misconceptions around the provision of neutral and impartial medical treatment in conflict settings also often put medical personnel at risk of attacks. The principles of neutrality and impartiality under IHL oblige health workers to provide medical care to all sick or wounded persons without regard to their status – civilian or combatant/fighter – or their affiliation or lack thereof with either one or more of the conflicting parties. Despite the rule however, medical personnel have in various cases been targeted and attacked by conflicting parties, for providing medical assistance to members of adversary forces or individuals perceived to be affiliated with the "enemy". This indicates the need for raised awareness regarding not only the obligation of medical personnel to provide care without distinction based on affiliations, but also regarding Geneva Convention I and Common Article 3 of the Geneva Conventions which provide for the protection and humane treatment of persons not taking active part in conflicts, including those rendered "hors de combat" due to wounds or sickness.

Both States and non-State armed forces have been implicated in multiple armed conflicts for attacks on medical personnel and facilities. It is therefore important to emphasise and support initiatives of impartial and neutral organisations to create awareness of domestic and international norms protecting healthcare in the context of conflicts to ensure that belligerent parties comply with such norms.

The outcome of tomorrow's session will be a communiqué. The PSC may express concern over the growing rate of attacks against medical personnel and facilities in situations of armed conflicts in Africa. Council may urge member States to ensure increased efforts towards raising awareness on international standards protecting medical personnel and facilities in the context of conflicts. It may also call on member States to strengthen domestic laws and military doctrines to sufficiently integrate IHL rules on the protection of healthcare in armed conflicts and to fight impunity and ensure that violations are properly addressed. It may also encourage member States to report on implementation of Resolution 2286(2016) of the UNSC. Moreover, Council may urge both State and non-State conflicting parties to put their best efforts towards minimising civilian casualty from their engagement in hostilities, including to health workers and medical facilities, and to ensure that medical personnel are granted safe environment to provide medical care and assistance to all in need, in a neutral and impartial manner.