

ISSUE BRIEF

Attacks on Hospitals from Syria to Ukraine: Improving Prevention and Accountability Mechanisms

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At 2:32 p.m. on May 5, 2019, a Russian pilot with call sign 948 flying over northwest Syria received the coordinates of his next strike: 35°36'00.69" N, 36°36'28.06" E. Eight minutes later, he radioed back to ground control, announcing that he successfully executed the strike. On the ground, three projectiles landed within one hundred feet of each other, precisely hitting their intended target: a hospital built into a cave on the outskirts of a Syrian town that has suffered through eight years of war. Although the hospital was destroyed, this was a lucky day—in relative terms—for the staff, as nobody was killed or injured. Having received a warning of a potential attack, the staff had evacuated two days earlier and then set up video cameras to document the impending strike.¹

The evidence of this targeted attack on a hospital is undeniable—clear video footage showing the moment of the hospital bombing, flight spotter logs recording a Russian jet flying over the area immediately before the attack, and the smoking gun: cockpit recordings of the Russian pilot receiving orders to strike the hospital's precise location, which was known by Russian forces through the hospital's listing on a United Nations (UN) "deconfliction" mechanism. Despite this overwhelming evidence of a war crime, there has been no accountability. The pilot and his superiors have not been identified publicly. There has been no trial for this attack or the six hundred other attacks on hospitals documented throughout the Syrian conflict, the vast majority carried out

Through advising on legal tools and impact litigation, the Atlantic Council's **Strategic Litigation Project** works on accountability efforts for atrocity crimes, human rights violations, terrorism and corruption offenses

¹ Evan Hill and Christiaan Triebert, "12 Hours. 4 Syrian Hospitals Bombed. One Culprit: Russia," *New York Times*, last updated May 4, 2020, <https://www.nytimes.com/2019/10/13/world/middleeast/russia-bombing-syrian-hospitals.html>.



The aftermath of a Russian airstrike on a maternity hospital in the Ukrainian city of Mariupol on Wednesday, March 9, 2022. Source: Mariupol City Council/Cover Image via Reuters Connect

by Syrian and Russian forces.² The perpetrators of these war crimes remain free, ready and likely willing to continue carrying out the same crimes with impunity.

Nearly three years later and eight hundred miles north, that is exactly what is happening, but in a different conflict. Shortly before 2:35 p.m. on March 9, 2022, a Russian pilot dropped a 1,000-pound bomb on Mariupol's City Hospital No. 3, a large complex containing a maternity and children's hospital. The strike killed five and injured seventeen civilians.³ It was the thirty-eighth report of an attack on a hospital in Ukraine since the start of Russia's February 24 invasion.⁴ The perpetrators of each of these thirty-eight attacks, and the dozens that have occurred in the ensuing weeks, also have yet to be publicly

identified and held accountable. In the meantime, they too remain free, ready to carry out the same crimes with impunity in Ukraine and beyond.

The well-documented pattern of targeted attacks on healthcare in Syria over the past decade and their subsequent spread to Ukraine this year undermines long-established and hard-won provisions under international humanitarian law that are intended to protect civilians during conflict. Despite the scale of the problem, which extends beyond Syria and Ukraine, there has been no criminal prosecution of any alleged perpetrators of attacks on healthcare in any conflict, no establishment of a UN mandate dedicated to this issue, and no task force created by national governments specifically aimed

² "Illegal Attacks on Healthcare in Syria," Physicians for Human Rights, accessed May 6, 2022, <http://syriamap.phr.org/#/en>.

³ Katie Polglase, Gianluca Mezzofiore, and Livvy Doherty, "Anatomy of the Mariupol Hospital Attack," CNN, March 17, 2022, <https://www.cnn.com/interactive/2022/03/europe/mariupol-maternity-hospital-attack/index.html>.

⁴ Documentation provided by Ukrainian Healthcare Center, March 30, 2022. At the start of the full-scale Russian invasion of Ukraine, the center pivoted from its work (as a think tank) on health system policy to documenting attacks on healthcare in the nation. This documentation consisted of detailed lists and descriptions of all recorded attacks, as compiled and verified by the center through open-source information, information from health departments, and witness interviews.

at prevention of and accountability for attacks on healthcare in conflict. The primary response to these attacks has been hollow condemnations issued after news outlets or victims' groups report on particularly heinous attacks on hospitals. The international community's failure to compel meaningful action to stop the criminal practice of targeting healthcare in conflict after conflict has resulted in continued deaths of health workers and civilian populations.

CENTURIES-OLD LEGAL PROTECTIONS

International humanitarian law (IHL) is a body of law established through a series of international treaties dating back to the 1860s, intended to regulate conduct during war. The goal of IHL is to limit unnecessary suffering for civilians and wounded combatants by focusing on the principles of humanity, the distinction between civilians and combatants, proportionality between civilian harm and military advantage, and military necessity in launching attacks.⁵

IHL awards medical facilities and personnel special protections, on top of those awarded to civilians more broadly. These special protections are set forth in the Geneva Conventions, which virtually all countries are party to; the Hague Conventions of 1899 and 1907, which Russia and many other countries are party to; and customary IHL, which applies to all armed groups, regardless of any status as treaty signatory. Together, these laws require that armed forces both respect and protect medical facilities and workers; in addition to refraining from attacking medical facilities and personnel, they must also actively assist in the functioning of medical facilities and personnel, and protect them from attacks by third parties.⁶



The courtroom during the trial against two alleged former Syrian intelligence officers accused of crimes against humanity in Germany, in the first trial of its kind to emerge from the Syrian conflict. June 4, 2020. Source: Thomas Lohnes/Pool via REUTERS

War crimes are grave violations of IHL.⁷ Intentionally targeting medical facilities or personnel is a war crime.⁸ Likewise, it is a war crime to indiscriminately attack a civilian area, with knowledge that the attack will cause excessive civilian harm.⁹ War crimes are punishable under international criminal law, at international tribunals such as the International Criminal Court, and in national courts. Many European countries and member states of the International Criminal Court have passed laws recognizing universal jurisdiction over war crimes, allowing their national courts to prosecute perpetrators of war crimes regardless of the perpetrator or victim's nationality or where the crime occurred.

5 "Fundamental Principles of IHL," International Committee of the Red Cross, accessed May 6, 2022, <https://casebook.icrc.org/glossary/fundamental-principles-ihl>.

6 "Rule 28. Medical Units," International Committee of the Red Cross, accessed May 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule28; "Rule 25. Medical Personnel," International Committee of the Red Cross, accessed May 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule25; and "What Objects Are Specially Protected under IHL?" *ICRC Blog*, August 14, 2017, <https://blogs.icrc.org/ilot/2017/08/14/objects-specially-protected-ihl>.

7 "Rule 156. Definition of War Crimes," International Committee of the Red Cross, accessed May 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_ru_rule156.

8 "Rule 156. Definition of War Crimes"; see also, e.g., the following parts of Article 8 of the Rome Statute of the International Criminal Court: 8(2)(b)(iii), (ix), (xxiv), and 8(2)(e)(ii)-(iv), in *Rome Statute of the International Criminal Court*, International Criminal Court, 2011, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>; "Rule 28. Medical Units"; and "Rule 25. Medical Personnel," International Committee of the Red Cross, accessed May 6, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_ru_rule25.

9 "Rule 156. Definition of War Crimes"; see also, e.g., Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Article 85(3)(b), International Committee of the Red Cross (website), June 8, 1977, <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=73D05A98B6CEB566C12563CD0051E1A0>; and "Practice Relating to Rule 11. Indiscriminate Attacks," International Committee of the Red Cross, accessed May 7, 2022, https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v2_ru_rule11.



A child's artwork depicting Ukrainian healthcare workers saving lives amid the Russian invasion. Parents were encouraged to submit their child's work for a themed contest in April. Source: MEDplus via REUTERS

WHEN BOMBING HOSPITALS IS THE RULE, NOT THE EXCEPTION

Despite well-established laws protecting healthcare in conflict, attacks on healthcare are occurring in many conflicts around the world, from Afghanistan and the Democratic Republic of the Congo to Palestine and Yemen, just to name a few.¹⁰ Yet nowhere has there been more targeted attacks on healthcare than in Syria. As demonstrated below, the Syrian government and allied Russian forces' strategy in carrying out these attacks is to bomb entire towns and cities into submission—to use brutal tactics and cause such extensive harm and destruction that the military forces break the will of the people and “win” the war by sheer force. Three

months into Russia's war against Ukraine, there are serious concerns and evidence that Russian forces are now deploying the same tactics in Ukraine.

Since the crisis in Syria began in 2011 with the state's violent repression of peaceful protests, health workers have been a primary target of Syrian government and security forces. As the crisis escalated into conflict, from 2012 through 2015, the Syrian government waged an all-out war on the healthcare system in areas outside of its control: systematically detaining and torturing medical workers, targeting medical personnel providing treatment in the field, shelling and bombing medical facilities, obstructing access to medical aid in besieged towns and cities, and criminalizing the provision of medical aid to anyone perceived to be affiliated with the opposition.¹¹ Russian forces then militarily intervened in Syria in September 2015 and partnered with the Syrian government in targeting the country's healthcare system, directly carrying out many attacks themselves. Of the 601 attacks on medical facilities documented by Physicians for Human Rights throughout the conflict, over 90 percent are attributed to either Syrian government or Russian forces, with 298 attributed to Syrian government forces alone and an additional 244 attributed to either Syrian government or Russian forces.¹² Other organizations have documented similar numbers.¹³

There are indications that Russian forces are employing the same tactics in Ukraine. From February 24, 2022, through May 23, the Ukrainian Healthcare Center, a think tank, has reported attacks on or damage to one hundred sixty seven medical facilities.¹⁴ The World Health Organization has reported even higher numbers.¹⁵ This rate of attacks—averaging approximately two attacks on medical facilities

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- 10 “No Respite: Violence Against Health Care in Conflict,” Safeguarding Health in Conflict Coalition, May 24, 2021, <https://www.safeguardinghealth.org/sites/shcc/files/SHCC%202021%20Report%20No%20Respite%20Violence%20Against%20Health%20Care%20in%20Conflict.pdf>.
- 11 Independent International Commission of Inquiry on the Syrian Arab Republic, “Assault on Medical Care in Syria,” United Nations Human Rights Council, September 13, 2013, <https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session24/Documents/A-HRC-24-CRP-2.doc>; Independent International Commission of Inquiry on the Syrian Arab Republic, “Sieges as a Weapon of War: Encircle, Starve, Surrender, Evacuate,” May 29, 2018, https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/ColSyria/PolicyPaperSieges_29May2018.pdf; and Rayan Koteiche, Serene Murad, and Michele Heisler, “My Only Crime Was That I Was a Doctor,” Physicians for Human Rights, December 4, 2019, <https://phr.org/our-work/resources/my-only-crime-was-that-i-was-a-doctor/>.
- 12 “Illegal Attacks on Healthcare in Syria,” Physicians for Human Rights, accessed May 6, 2022, <http://syriamap.phr.org/#/en>. In the cases attributed to either Syrian government or Russian forces, Physicians for Human Rights was unable to determine which specific air force was responsible for the attack.
- 13 “Targeting Health: Attacks against Medical Facilities in Syria,” Syrian Archive, March 1, 2021, <https://medical.syrianarchive.org/findings#iii-strategy-perpetrator-analysis-in-context>. Syrian Archive is an independent project collecting and preserving documentation of human rights violations in Syria.
- 14 This statistic reflects the number of facilities attacked or damaged, rather than the total number of attacks. According to the Ukrainian Healthcare Center, at least twelve facilities have been attacked more than once. Documentation provided by Ukrainian Healthcare Center, March 30, 2022, updated May 26, 2022 (via email).
- 15 Through May 23, the WHO has documented 263 attacks on medical facilities. “Surveillance System for Attacks on Health Care (SSA),” World Health Organization, accessed May 26, 2022, <https://extranet.who.int/ssa/Index.aspx> (select Ukraine for Country/Territory and Feb. 24, 2022 to May 23, 2022 for Date Range).



A damaged operating room in a hospital in Trostyanets, Ukraine, which staff said Russian troops attacked with tanks during their occupation of the town. March 30, 2022. Source: REUTERS/Thomas Peter

per day—surpasses rates of medical facility attacks seen in the deadliest spates of violence during the conflict in Syria.¹⁶

Many of the attacks on medical facilities in Syria and Ukraine deliberately targeted medical facilities, while others resulted from deliberately indiscriminate attacks on civilian areas. These attacks are not mere “collateral damage” from attacks on legitimate military targets. Rather, they are intended to kill and harm civilians. Attacks on medical facilities fit the Syrian and Russian governments’ broader strategy of using brutal methods of warfare in order to break the will of the people and “win” the war by sheer force, in direct contravention of IHL. Attacking medical facilities and medical workers is one of

the most effective ways of carrying out this strategy because bombing a hospital and killing medical workers causes more injuries and deaths than can be attributed directly to those initial attacks. Attacks on healthcare in conflict reduce access to care at a time when civilians are subject to heightened violence and healthcare needs are higher. These attacks ensure that civilians will not have access to adequate care and will instead be forced to leave their homes and communities or else die from treatable war wounds and chronic conditions. Syrian and Russian forces have deliberately employed attacks on healthcare as a tactic of forced displacement, compelling entire communities to relocate after their healthcare system has been destroyed.

¹⁶ During the siege of Aleppo, the Syrian American Medical Society reported an average of one attack on a medical facility every three days. Digital Forensic Research Lab, *Breaking Aleppo*, Atlantic Council, February 13, 2017, 22, https://www.atlanticcouncil.org/wp-content/uploads/2019/08/Breaking-Aleppo_English.pdf.

Deliberate Targeting of Medical Facilities

Syrian government and Russian forces' deliberate intent to target medical facilities is evidenced by the patterns of attacks on hospitals, including the following:

- **Known locations:** Syrian government and Russian forces are aware of the locations of many of the hospitals they have bombed, either because the hospitals were established before the conflict and labeled on maps, or the hospitals were established during the war and included on the UN's deconfliction lists, which are shared with parties to the conflict. For example, a *New York Times* investigation revealed that twenty-seven medical facilities on the UN deconfliction list in Syria were impacted by Syrian government or Russian attacks between April and December 2019.¹⁷ Likewise, all hospitals subject to attacks in Ukraine are in publicly known locations, labeled on maps readily available to Russian forces.
- **Isolated locations:** Many hospitals attacked in Syria, including the government-established National Hospitals, are located on large compounds in relatively isolated areas, far from other structures or potential targets, and readily identifiable from the air. In Ukraine, many of the attacked hospitals are on large compounds surrounded by other medical facilities, so there are only medical buildings within the immediate vicinity of the attacked location. One such example is the Chernihiv City Hospital No. 3, which suffered direct shelling on March 13, 2022, that destroyed part of the hospital's roof, shattered windows, and damaged all six floors including the x-ray, computed tomography (CT), and magnetic resonance imaging (MRI) units. The hospital is located next to at least three other medical facilities.¹⁸
- **Double tap strikes:** Some hospitals have been the subject of "double tap" strikes, an attack pattern where warplanes bomb a location, wait for first responders to



A medic stands at the operation room of a field hospital set inside a cave in the northern countryside of Hama, Syria. March 9, 2015.
Source: REUTERS/Khalil Ashawi

begin rescuing the wounded, and then bomb the same location again, this time targeting the first responders. For example, on October 20, 2015, Russian forces launched an airstrike that impacted a building next to a field hospital run by the Syrian American Medical Society (SAMS) in Sarmin, in Idlib province. Approximately ten minutes after the first attack, once first responders had arrived and were tending to victims of the first strike, Russian forces launched a second airstrike that impacted approximately 20 meters (about 65.6 feet) from the hospital, damaging the facility. The second strike, which was recorded on a video camera mounted to a first responder's helmet, killed a physiotherapist, hospital guard, and civil defense worker.¹⁹ Russian forces have also deployed double tap strikes in Ukraine.²⁰

- **Coordinated campaign:** In Syria and Ukraine, multiple health facilities in close proximity to each other have come under attack in a short time period, suggesting an intent to destroy an entire region's healthcare system.

17 Evan Hill and Whitney Hurst, "The U.N. Tried to Save Hospitals in Syria. It Didn't Work," *New York Times*, last updated December 4, 2020, <https://www.nytimes.com/2019/12/29/world/middleeast/united-nations-syria-russia.html>.

18 Documentation shared by Ukrainian Healthcare Center on April 26, 2022; see also "3 City Hospital," Google Maps, accessed May 7, 2022, <https://goo.gl/maps/AJqVWDRRX3KZAo9z6>.

19 "Russian Forces Carried Out at Least 10 Attacks on Medical Facilities in Syria in October," Physicians for Human Rights, November 16, 2015, <https://phr.org/news/russian-forces-carried-out-at-least-10-attacks-on-medical-facilities-in-syria-in-october/>; "Press Release: Two Medical Staff Killed in Russian Airstrikes on Sarmin," Syrian American Medical Society, October 22, 2015, https://www.sams-usa.net/press_release/press-release-two-medical-staff-killed-in-russian-airstrikes-on-sarmin/; "يُطسرونا أةي ريدم لال _ يروس لال اي ندم لال ع اف دلال," YouTube video, 0:53, <https://www.youtube.com/watch?v=6Ngm5-AvgQ4>.

20 See, e.g., Clarissa Ward, CNN's chief international correspondent (@clarissaward), "We spent the day with Kharkiv's incredibly courageous first responders and saw a Russian 'double tap' in real time. Watch how they maintain their focus and calm as rockets slam into the building," Twitter Post, April 25, 2022, 5:59 p.m., <https://twitter.com/clarissaward/status/1518711322397057024>; Jake Epstein, "Russia Is Bombing the Same Targets Moments Apart to Kill Ukrainian Rescue Crews That Arrive to Save Survivors," *Business Insider*, April 22, 2022, <https://www.businessinsider.com/russia-double-tap-ukrainian-rescuers-bombing-same-targets-twice-2022-4>.



Doctors treat an injured civilian in a field hospital in the Douma neighbourhood of Damascus, Eastern Ghouta, Syria. November 19, 2015.
Source: REUTERS/Bassam Khabieh

For example, in the early morning of October 16, 2015, Russian forces launched a series of airstrikes on al-Hader and al-Ais Hospitals in the southern Aleppo countryside, putting both hospitals out of service and leaving the region without an operating medical facility.²¹ Similarly, in the Zhytomyr region, west of Kyiv, Russian forces attacked five medical facilities in just nine days, damaging a maternity hospital in the city of Zhytomyr on March 1, the Narodytska City Hospital on March 2, the Korosten City Hospital on March 6, and both the City Hospital No. 1 and Children's City Hospital in Zhytomyr on March 9.²²

- **Repeated attacks:** Many hospitals in Syria and Ukraine have been subject to repeated attacks, increasing the likelihood that the hospital was the target of the attacks. For example, from June 2014 to May 2019, Physicians for Human Rights documented twelve attacks on the Kafr Nabl Surgical Hospital in northwest Syria, a hospital established before the conflict and whose location was shared with the Syrian government and Russian forces through the UN deconfliction mechanism.²³ In Ukraine, the Trostyanets City Hospital was repeatedly attacked by at least sixteen shells fired from tanks at close range

21 "Russian Forces Carried Out at Least 10 Attacks on Medical Facilities in Syria in October."

22 Ukrainian Healthcare Center (@UHCteamUA), Twitter (eight-part post), April 15, 2022, 9:05 a.m., <https://twitter.com/UHCteamUA/status/1514953170346299395>.

23 "Kafr Nabl Hospital—In the Crosshairs of a Murderous Barrage of Attacks," Physicians for Human Rights, July 30, 2019, <http://syriamap.phr.org/#/en/case-studies/6>.



A doctor and a nurse inspect a crater caused by what activists said were barrel bombs dropped by forces loyal to Syrian president Bashar al-Assad on a hospital in the city of Nawa, in Deraa province, Syria. November 20, 2015. Source: REUTERS/Alaa Al-Faqir

throughout the course of the day on March 3, 2022. The shelling significantly damaged or destroyed the hospital's surgical, maternity, infectious disease, neurology, and gynecology units, as well as ambulances and the polyclinic and staff housing located next door.²⁴

Indiscriminate Attacks on Civilian Areas

Other attacks on medical facilities in Syria and Ukraine appear to be the result of deliberately indiscriminate attacks on civilian areas, as identified by the following patterns:

- **Indiscriminate weapons:** According to Physicians for Human Rights, in Syria, fifty-seven medical facilities have been damaged or destroyed in eighty-four attacks that employed indiscriminate weapons incapable of being targeted with any precision, such as barrel bombs and cluster munitions.²⁵ Indiscriminate weapons also have been employed in Ukraine. For example, on February 25, a cluster munition struck near a children's hospital and

blood donation center in the city of Kharkiv. According to Airwars, at least twenty-six submunitions detonated across a 350-meter span. Around a dozen submunitions detonated on the hospital compound, including six on the hospital's playgrounds. An additional submunition remained undetonated near the hospital, posing a danger to anyone who discovered it. Another submunition detonated in front of the blood donation center, killing a man who was waiting with his family to donate blood. At least three other civilians were injured in the attack, and the hospital and blood donation center were damaged.²⁶

- **Small hospital in dense civilian area:** Some medical facilities subjected to attacks in Syria and Ukraine, such as clinics and blood donation centers, are located in small buildings in densely populated civilian areas, with many other buildings surrounding them. Although attacks on these structures could be targeted if precise weaponry and targeting tactics were used, many of the attacks on these facilities are likely to be the result of indiscriminate bombing on civilian areas.
- **Carpet-bombing campaign:** Some medical facilities have been attacked during the course of large-scale carpet-bombing campaigns by Syrian and/or Russian forces, where it appears their intent is to bomb any and all civilian structures, hospitals included. For example, Syrian government and/or Russian forces launched 1,309 attacks on the city of Douma, in eastern Ghouta outside of Damascus, over a two-day period from April 6 to April 7, 2018. The Hamdan Hospital, Specialized Hospital, and a medical point in Douma were all struck during that carpet-bombing campaign.²⁷ In eastern Ukraine, Russian forces effectively destroyed the town of Volnovakha within the first two weeks of the war, damaging or destroying approximately 90 percent of the buildings in the town.²⁸ Among the buildings affected was the Volnovakha Central District Hospital, which was shelled on February 27, destroying the hospital's second and third floors, and damaging the trauma department on the first floor.²⁹

²⁴ Documentation provided by Ukrainian Healthcare Center, April 26, 2022.

²⁵ "Physicians for Human Rights' Findings of Attacks on Health Care in Syria," Physicians for Human Rights, last updated March 2022, <http://syriamap.phr.org/#/en/findings>.

²⁶ Imogen Piper, "Anatomy of a Russian Cluster Munition Strike," Airwars (nonprofit transparency watchdog), April 12, 2022, <https://airwars.org/news-and-investigations/anatomy-of-a-russian-cluster-munition-strike-explainer/>.

²⁷ Digital Forensic Research Lab, *Breaking Ghouta*, Atlantic Council, September 7, 2018, 30, 32, https://www.atlanticcouncil.org/wp-content/uploads/2019/08/Breaking-Ghouta_English.pdf.

²⁸ Emma Graham-Harrison, "Nowhere to Go and Nowhere to Go Back to: Life under Fire in Ukraine," *Guardian*, March 6, 2022, <https://www.theguardian.com/world/2022/mar/06/nowhere-to-go-back-to-ukraine-volnovakha>.

²⁹ Documentation provided by Ukrainian Healthcare Center, April 26, 2022.

GLOBAL INTRANSIGENCE IN THE FACE OF UNPRECEDENTED ATTACKS ON HEALTHCARE

While efforts to address attacks on healthcare predate the conflict in Syria, global attention to this issue has increased over the past decade. International institutions, governments, and world leaders have begun tracking attacks on healthcare more systematically, and they have publicly condemned attacks. However, as the following subsections recount, UN bodies, the World Health Organization (WHO), and national governments have taken little, if any, concrete action to stop or prevent future attacks in Syria and other countries. Moreover, to date there has been little accountability for attacks on healthcare in any conflict around the world.

United Nations

UN bodies have debated and discussed, passed resolutions addressing, and enacted limited mandates intended to prevent attacks on healthcare globally and in Syria in particular. However, for civilians living through conflicts plagued by these violations of IHL, the actions have not amounted to much more than lip service to a deadly and growing problem. Much of the inaction at the UN can be attributed to the fact that powerful countries perpetrating these attacks are able to block more effective action for prevention and accountability.

In 2011, responding in part to advocacy by civil society organizations, the UN Security Council passed Resolution 1998, establishing attacks on healthcare in conflict as a grave violation of children’s rights and requesting that the secretary-general include in his annual reports on children in armed conflict an annex containing a list of parties to conflicts that engage in attacks on medical facilities.³⁰ This resolution created the first formal reporting mechanism for



Secretary-general of the United Nations Antonio Guterres speaks during a Security Council meeting about the situation in Syria. February 28, 2020. Source: REUTERS/Carlo Allegri

attacks on healthcare in conflict, with a specific mandate for identifying perpetrators. However, the system has proven to be extremely flawed, as powerful countries including Russia, Israel, and Saudi Arabia have evaded listing, despite significant documentation by the UN and others of their direct responsibility for attacks on hospitals.³¹

In December 2014, the UN General Assembly adopted a resolution on “global health and foreign policy” that, among other things, strongly condemned “all attacks on medical and health personnel, their means of transport and equipment, as well as hospitals and other medical facilities” and urged full respect for protections of medical facilities and personnel in conflict.³² However, there is no indication the resolution has had any positive effect on halting or preventing attacks on medical facilities or personnel.

30 UN Security Council Resolution 1998, S/RES/1998 § (2011), ¶ 3, <https://digitallibrary.un.org/record/706840?ln=en#record-files-collapse-header>; and Leonard Rubenstein, *Perilous Medicine: The Struggle to Protect Health Care from the Violence of War* (New York: Columbia University Press, 2021), 291-292.

31 In reports covering 2015 to 2021, Russia was not listed for attacks on medical facilities in Syria. Israel has also evaded listing for attacks perpetrated in Palestine, and Saudi Arabia has evaded listing for attacks perpetrated in Yemen. See UN General Assembly (UNGA), *Children and Armed Conflict: Report of the Secretary-General*, Seventieth Session, A/70/836-S/2016/360 (2016), https://www.un.org/ga/search/view_doc.asp?symbol=S/2016/360&Lang=E&Area=UNDOC; UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Seventy-First Session, A/72/361-S/2017/821 (2017), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/268/11/PDF/N1726811.pdf?OpenElement>; UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Seventy-Second Session, A-72/865-S/2018/465 (2018), https://www.un.org/ga/search/view_doc.asp?symbol=S/2018/465&Lang=E&Area=UNDOC; UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Seventy-Third Session, A/73/907-S/2019/509 (2019), https://www.un.org/ga/search/view_doc.asp?symbol=S/2019/509&Lang=E&Area=UNDOC; UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Seventy-Fourth Session, A/74/845-S/2020/525 (2020), https://www.un.org/ga/search/view_doc.asp?symbol=S/2020/525&Lang=E&Area=UNDOC; UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Seventy-Fifth Session, A/75/873-S/2021/437 (2021), <https://digitallibrary.un.org/record/3929648?ln=en>; “UN: Return Saudi-Led Coalition to ‘List of Shame,’” Human Rights Watch, June 8, 2016, <https://www.hrw.org/news/2016/06/08/un-return-saudi-led-coalition-list-shame>; and UNGA, *Children and Armed Conflict: Report of the Secretary-General*, Sixty-Ninth Session, A/69/926-S/2015/409, ¶ 105, https://www.un.org/ga/search/view_doc.asp?symbol=S/2015/409&Lang=E&Area=UNDOC.

32 UNGA Resolution 132, A/RES/69/132 (2015), ¶ 8-9, <https://undocs.org/ot/A/RES/69/132>.

In May 2016, the UN Security Council passed Resolution 2286 condemning attacks on healthcare globally and requesting that the secretary-general form recommendations and report on this issue annually and in country-specific briefings.³³ The secretary-general transmitted a list of recommendations to the Security Council in September of that year, which were celebrated as “comprehensive and even visionary.”³⁴ However, the Security Council never brought the recommendations up for consideration or acted on the secretary-general’s recommendations, many of which remain unimplemented.³⁵ In addition, the secretary-general’s annual reporting on the issue remains quite brief, as it is simply a subsection in a broader report on civilians in conflict and has never received its own full-length report.

Regarding Syria in particular, in February 2014, the UN Security Council adopted Resolution 2139, which, among other things, condemned attacks on hospitals during the conflict, demanded that parties respect the principle of medical neutrality and protect medical facilities, and requested that the Secretary General report on the implementation of the resolution every month.³⁶ As of April 2022, the Security Council has received seventy-eight reports and briefings under Resolution 2139, with specific information regarding attacks on medical facilities.³⁷ However, there is no indication these briefings have had any positive impact in preventing such attacks.

As hospital attacks continued in Syria unabated, the UN Office for the Coordination of Humanitarian Affairs established a “deconfliction” mechanism, where the precise location

of civilian structures would be shared with parties to the conflict in the hope of preventing attacks on those structures. Humanitarian organizations reluctantly agreed to share their hospitals’ coordinates for this purpose in April 2018 as a “last resort,” after years of reluctance to do so out of a fear that the list of hospitals would become a targeting checklist for Syrian and Russian forces.³⁸ Unfortunately, the deconfliction mechanism failed to protect medical facilities and may have even placed them at greater risk, as Syrian and Russian forces continued to launch attacks on dozens of the listed hospitals.³⁹

In July 2019, the under-secretary-general for humanitarian affairs informed the Security Council that the deconfliction mechanism was “not proving effective.”⁴⁰ That same day, ten countries delivered a *démarche* to the UN secretary-general regarding the lack of investigation into attacks on deconflicted locations.⁴¹ Two days later, the secretary-general announced the establishment of a “Board of Inquiry” to investigate attacks on deconflicted locations in northwest Syria, including hospitals, schools, and a refugee camp.⁴² However, the Board of Inquiry’s investigative mandate covered only four attacks on medical facilities, none of which were carried out by Russian forces, and one of the attacks was removed from the mandate when it was determined the facility was not actually part of the deconfliction mechanism. The secretary-general released a summary of the Board of Inquiry’s final report in April 2020—the full report has never been released—that confirmed the attacks but provided only brief information on each one, without drawing conclusions on liability.⁴³ Less than three weeks later, Russia informed the UN that it would no longer

33 UNSC Resolution 2286, S/RES/1998 (2016), <http://unscr.com/en/resolutions/doc/2286>.

34 Rubenstein, *Perilous Medicine*, 295-297.

35 Rubenstein, *Perilous Medicine*, 297-299.

36 UN Security Council Resolution 2139, S/RES/2139 § (2014), ¶ 1, 8, 17, <https://digitallibrary.un.org/record/765940?ln=en>.

37 See “UN Documents for Syria: Secretary-General’s Reports,” Security Council Report, accessed May 7, 2022, https://www.securitycouncilreport.org/un_documents_type/secretary-generals-reports/page/1?ctype=Syria&cbtype=syria#038;cbtype=syria.

38 “SAMS and 11 Humanitarian Organizations Share Hospital Coordinates,” Syrian American Medical Society, April 4, 2018, https://www.sams-usa.net/press_release/sams-11-humanitarian-organizations-share-hospital-coordinates/; and Rubenstein, *Perilous Medicine*, 151-152.

39 Aron Lund, “The UN Made a List of Hospitals in Syria. Now They’re Being Bombed,” Century Foundation, June 13, 2019, <https://tcf.org/content/report/un-made-list-hospitals-syria-now-theyre-bombed/?session=1>; and Hill and Hurst, “The U.N. Tried to Save Hospitals in Syria. It Didn’t Work.”

40 Briefing to the Security Council on the Humanitarian Situation in Syria, United Nations Security Council, 4 (2019) (statement of Mark Lowcock, Under-Secretary-General for Humanitarian Affairs), https://reliefweb.int/sites/reliefweb.int/files/resources/ERC_USG%20Mark%20Lowcock%20Statement%20to%20the%20SecCo%20on%20Syria-%2030July2019%20-%20as%20delivered.pdf.

41 Michelle Nichols, “U.N. to Investigate Attacks on Humanitarian Sites in Northwest Syria,” Reuters, August 1, 2019, <https://www.reuters.com/article/us-syria-security-un/u-n-to-investigate-attacks-on-humanitarian-sites-in-northwest-syria-idUSKCN1UR4RF>.

42 Stéphane Dujarric, “Statement Attributable to the Spokesman for the Secretary-General—on UN Board of Inquiry in Northwest Syria,” United Nations, August 1, 2019, <https://www.un.org/sg/en/content/sg/statement/2019-08-01/statement-attributable-the-spokesman-for-the-secretary-general-%E2%80%93-un-board-of-inquiry-northwest-syria>.

43 António Guterres, “Summary by the Secretary-General of the Report of the United Nations Headquarters Board of Inquiry into Certain Incidents in Northwest Syria,” United Nations, April 6, 2020, https://reliefweb.int/sites/reliefweb.int/files/resources/NWS_BOI_Summary_06_April_2020.pdf; and Malachy Browne, et al., “Hospitals and Schools Are Being Bombed in Syria. A U.N. Inquiry Is Limited. We Took a Deeper Look.,” *New York Times*, December 31, 2019, <https://www.nytimes.com/interactive/2019/12/31/world/middleeast/syria-united-nations-investigation.html?action=click&module=RelatedLinks&pgtype=Article>.

participate in the deconfliction mechanism over claims that “opposition groups and terrorists” were abusing the system.⁴⁴

In January 2021, the secretary-general announced the appointment of a three-person Independent Senior Advisory Panel to advise on “how to strengthen the deconfliction mechanism,” on the recommendations included in the Board of Inquiry’s report, and on lessons learned for the future. Although the panel was expected to submit a final report to the secretary-general in May 2021, no further information has been publicly reported on the panel or its report.⁴⁵

Given Russia’s responsibility for attacks on healthcare in Syria and now Ukraine, any action through the UN Security Council—where Russia is a permanent member holding veto power over any action—is effectively foreclosed. However, the UN General Assembly, secretary-general, Human Rights Council, and other bodies are not similarly subject to Russia’s control and could take further action on their own.

World Health Organization

In May 2012, the World Health Assembly—the decision-making body of the WHO—adopted Resolution 65.20, which called on the director-general “to provide leadership at the global level in developing methods for systematic collection and dissemination of data on attacks on health facilities, medical workers, health transports, and patients in complex humanitarian emergencies.”⁴⁶ This resolution led to the establishment of the WHO’s Attacks on Health Care initiative in 2015, which has three areas of work: (1) systematic collection of evidence of attacks on healthcare, (2) advocacy to end such attacks, and (3) promotion of good practice for protecting against such attacks.⁴⁷ In December 2017, the WHO finally launched the Surveillance System for Attacks on Health Care (SSA), its online platform for documenting attacks.⁴⁸



The opening session of the 65th World Health Assembly at the United Nations European headquarters in Geneva. May 21, 2012.
Source: REUTERS/Valentin Flauraud

However, the WHO’s SSA has significant flaws. For reasons that remain unclear, the system has failed to document a single attack on healthcare in Ethiopia’s Tigray region, despite hundreds of reported attacks on and looting of medical facilities.⁴⁹ It is quite possible that other conflicts and crises are missing from the SSA. In addition, the SSA only collects and publishes limited information about attacks on healthcare, essentially only providing a classification of the type of attack and numbers of victims. The SSA does not provide descriptive information on the attack, failing to indicate where attacks occurred, what happened, what the impact was on the facility and access to healthcare, and other crucial information. In addition, the system does not collect information on indicators of targeted versus indiscriminate attacks, which is crucial to understanding why these attacks are occurring and how best to prevent them.⁵⁰

44 Stephanie Nebehay and Tom Perry, “Russia Quits U.N. System Aimed at Protecting Hospitals, Aid in Syria,” Reuters, June 25, 2020, <https://www.reuters.com/article/syria-security-russia-un/russia-quits-u-n-system-aimed-at-protecting-hospitals-aid-in-syria-idUSL1N2E2122>.

45 “Secretary-General Announces Appointments to Independent Senior Advisory Panel on Syria Humanitarian Deconfliction System,” United Nations, January 21, 2021, <https://www.un.org/press/en/2021/sgsm20548.doc.htm>.

46 World Health Assembly Resolution 65.20, ¶ 2(8), May 26, 2012, <https://www.who.int/publications/i/item/who-s-response-and-role-as-the-health-cluster-lead-in-meeting-the-growing-demands-of-health-in-humanitarian-emergencies>.

47 “Stopping Attacks on Health Care,” World Health Organization, accessed May 7, 2022, <https://www.who.int/activities/stopping-attacks-on-health-care>; and “Attacks on Health Care Initiative,” World Health Organization, July 22, 2020, <https://www.who.int/news-room/questions-and-answers/item/attacks-on-health-care-initiative>.

48 Benjamin Mason Meier, Hannah Rice, and Shashika Bandara, “Monitoring Attacks on Health Care as a Basis to Facilitate Accountability for Human Rights Violations,” *Health and Human Rights Journal* 23 (2021): 61, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8233025/pdf/hhr-23-01-055.pdf>.

49 “Widespread Destruction of Health Facilities in Ethiopia’s Tigray Region,” Doctors Without Borders, March 15, 2021, <https://www.doctorswithoutborders.org/latest/widespread-destruction-health-facilities-ethiopia-s-tigray-region>; Abel F. Dadi and Tesfaye B. Mersha, “WHO’s Surveillance System for Attacks on Health Care is Failing Ethiopia,” *Lancet* 399 (2022): 1225-1226, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(22\)00337-3/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(22)00337-3/fulltext).

50 See “Surveillance System for Attacks on Health Care (SSA),” World Health Organization, accessed May 7, 2022, <https://extranet.who.int/ssa/Index.aspx>; and Rubenstein, *Perilous Medicine*, 294.

Relatedly, the WHO has failed to name the perpetrators responsible for attacks on healthcare. Even in the case of Ukraine, where Russia's responsibility for attacks on healthcare is virtually unquestioned, the organization and its representatives continue to omit any attribution of responsibility in its database and in public statements, even as its member states passed a resolution on May 26 condemning Russia's attacks on healthcare in Ukraine.⁵¹ The WHO has explained it "does not have the mandate or the capacity to address the question of perpetrators," as its "objective is not to instigate action in relation to accountability but to increase awareness of the issue by highlighting the extent and consequences of the problem, so as to instigate action to prevent attacks from occurring."⁵² However, this explanation fails to understand what it takes to prevent attacks from occurring. It is imperative to identify perpetrators of attacks both to pressure perpetrators to stop attacks and to identify the drivers of attacks and incentives to stop attacks. Different parties to armed conflicts have different motives for carrying out these attacks.⁵³ Data sets without information on perpetrators lack highly relevant context for determining how to prevent attacks, and any recommendations based on those data sets will accordingly be based on incomplete information. Moreover, the WHO fails to recognize that accountability for past attacks can deter future attacks; accountability is a prevention mechanism and therefore could fall within the WHO's mandate. Because of these gaps in the WHO's documentation, nongovernmental organizations continue to document attacks on healthcare in specific country contexts, such as Physicians for Human Rights and Ukrainian Healthcare Center documenting attacks in Syria and Ukraine, respectively.

Apart from the issues with the WHO's documentation efforts, the organization has shown indifference to the issue of attacks on healthcare in conflict by nominating and subsequently electing Russia and Syria to its Executive Board

in 2020 and 2021, respectively.⁵⁴ Syria's representative is Minister of Health Hassan al-Ghabbash, whom both the European Union and United Kingdom have sanctioned for his role in "violent repression against the civilian population."⁵⁵ Accordingly, these two countries responsible for hundreds of attacks on healthcare in conflict have a significant say in shaping the World Health Assembly's agenda and resolutions, and their implementation.

On May 26, the World Health Assembly passed a resolution by a vote of 88-to-12, with 53 abstentions, condemning Russia's attacks on healthcare in Ukraine, urging Russia to cease such attacks, requesting that the WHO Director-General submit a report to the World Health Assembly in 2023 with an assessment of the direct and indirect impact of Russia's attacks on healthcare in Ukraine, and suggesting that a continuation of such attacks may result in Russia's suspension from the World Health Assembly.⁵⁶ This resolution is significant for highlighting Russia's responsibility for attacks on healthcare on a prominent world stage. However, unless it is followed up by more concrete action by member states and/or a suspension of Russia from the World Health Assembly, as the resolution suggests may occur in the event of future attacks, it too will be yet another hollow condemnation of attacks on healthcare without any real impact on preventing future attacks or ensuring accountability for past attacks.

National Governments

National governments have condemned attacks on healthcare in conflict repeatedly over the past decade. However, their statements on the UN floor, in press conferences, and on Twitter have had little, if any, broader impact—there has been no reform of military doctrine or training, no imposition of diplomatic or economic consequences on military forces responsible for carrying out these attacks, and no end to weapons sales to governments responsible for such attacks.⁵⁷

51 See, e.g., "WHO Director-General's Opening Remarks Press Briefing in Kyiv-7 May 2022," World Health Organization, May 7, 2022, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-press-briefing-in-kyiv--7-may-2022>; Health Situation Update in Ukraine, Report by the Director-General, May 23, 2022, https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_47b-en.pdf; Adam Taylor, "WHO Members Condemn Russia, Warn Its Voting Rights Could Be Stripped," *Washington Post*, May 26, 2022, <https://www.washingtonpost.com/world/2022/05/26/ukraine-russia-world-health-assembly-who/>.

52 "Attacks on Health Care Initiative: Documenting the Problem," World Health Organization, July 22, 2020, <https://www.who.int/news-room/questions-and-answers/item/attacks-on-healthcare-initiative-documenting-the-problem>.

53 See Rubenstein, *Perilous Medicine*, 219, 223.

54 "Executive Board," World Health Organization, accessed May 9, 2022, <https://www.who.int/about/governance/executive-board>.

55 Tayseer AlKarim, Lia Harris, Abdullah Chahin, "WHO Needs Reform: Why and How Syria Was Elected to the WHO Executive Board?" *BMJ Global Health*, July 8, 2021, <https://gh.bmj.com/content/6/8/e006801>.

56 Adam Taylor, "WHO Members Condemn Russia, Warn Its Voting Rights Could Be Stripped," *Washington Post*, May 26, 2022, <https://www.washingtonpost.com/world/2022/05/26/ukraine-russia-world-health-assembly-who/>; World Health Assembly Resolution 75.XX, May 26, 2022, https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_ACONF6-en.pdf.

57 See Rubenstein, *Perilous Medicine*, 300-303.

In addition, there has never been a prominent prosecution of a targeted attack on a medical facility. No cases were prosecuted at the International Criminal Tribunal for the Former Yugoslavia, despite there being incidents of attacks on medical facilities and court consideration of these events during trials.⁵⁸ Although European courts are hearing cases of war crimes in Syria under the principle of universal jurisdiction, none of the crimes charged relate to attacks on medical facilities.⁵⁹ No other case of a hospital attack in conflict has been prosecuted in an international tribunal, and any cases that may exist in national courts have not been well publicized. There are likely multiple challenges leading to the lack of prosecutions, including difficulties in identifying individuals responsible for carrying out attacks, the absence of those specific perpetrators from jurisdictions that could prosecute the cases, and the difficulty in proving beyond a reasonable doubt that the individual perpetrator specifically intended to target a medical facility. However, with concerted effort and resources, these challenges are surmountable.

RECOMMENDATIONS FOR PREVENTION AND ACCOUNTABILITY

There have been virtually no consequences for perpetrators of attacks on healthcare in conflict. While victims of the attacks—healthcare workers and entire communities seeking healthcare in conflict—have paid a deadly price, the perpetrators remain unpunished and undeterred, free to replicate their actions in new conflicts. That Russia can spend years honing its strategy of targeting healthcare in conflict in Syria and then apply that strategy in Ukraine demonstrates that the tools and mechanisms for preventing attacks on healthcare are inadequate and much more must be done to ensure accountability for past attacks.

What follows is a list of recommendations to UN bodies, the WHO, national governments, and nongovernmental organizations on how to better prevent and ensure accountability for attacks on healthcare in conflicts around the world. These recommendations build upon and reinforce recommendations issued in the past and identify new areas of action that have not previously been an area of focus.

Recommendations to United Nations Bodies and Member States

Security Council:

- Following the model used for protection of children in armed conflict under Security Council Resolution 1612 (2005), establish a Monitoring and Reporting Mechanism to gather accurate and timely information about attacks on healthcare in armed conflict, including perpetrators of attacks, and establish a Security Council Working Group to receive and review the documentation from the Mechanism and issue recommendations on how to better protect healthcare in conflict.⁶⁰

General Assembly:

- Where the Security Council fails to address the situation of attacks on healthcare in armed conflict due to lack of unanimity of the Council’s permanent members, the General Assembly should immediately convene to issue recommendations to member states on what action is necessary to maintain or restore international peace and security.
- Call on member states to act to prevent and ensure accountability for attacks on healthcare in conflict, including by amending national legislation to ensure adequate legal protection for healthcare in armed conflict and criminalization of attacks, establishing mechanisms to investigate attacks on healthcare carried out by a member state’s military forces, and prioritizing the investigation and prosecution of attacks on healthcare in conflict including through universal jurisdiction cases.
- Following the model for the special representative on the impact of armed conflict on children, pass a resolution requesting that the secretary-general appoint a special representative on attacks on healthcare in conflict, to work with member states, UN bodies, and mandates including the Office of the UN High Commissioner for Human Rights, the WHO, and nongovernmental organizations to address prevention of and accountability for attacks on healthcare in conflict.

58 See Lara Hakki, Eric Stover, and Rohini J. Haar, “Breaking the Silence: Advocacy and Accountability for Attacks on Hospitals in Armed Conflict,” *International Review of the Red Cross* 915 (2022), <http://international-review.icrc.org/articles/breaking-the-silence-advocacy-and-accountability-for-attacks-on-hospitals-in-armed-conflict-915>.

59 Hayley Evans, “A Survey of Recent Developments and Trends in Universal Jurisdiction,” *Lawfare* (blog), Lawfare Institution in cooperation with the Brookings Institution, February 9, 2022, <https://www.lawfareblog.com/survey-recent-developments-and-trends-universal-jurisdiction>.

60 See “Monitoring and Reporting on Grave Violations,” Office of the Special Representative of the Secretary General for Children in Armed Conflict, accessed May 26, 2022, <https://childrenandarmedconflict.un.org/tools-for-action/monitoring-and-reporting/>.

Secretary-general:

- Take a stronger stance against attacks on healthcare in conflict and the need for accountability by publicly condemning attacks in real time, identifying parties alleged to be responsible, and calling for investigation of attacks and prosecution of responsible parties. The secretary-general should also push these issues in private meetings with member states and relevant UN bodies.
- Work with member states, UN bodies, international organizations, and nongovernmental organizations to fully implement the secretary-general’s recommendations under Security Council Resolution 2286.⁶¹
- Enhance the reporting under Security Council Resolution 2286 by including more detailed reporting on attacks on healthcare, ideally in a stand-alone report. In addition, reporting should identify the parties to conflicts responsible for carrying out attacks on healthcare, in order to identify motives and drivers of attacks and formulate appropriate recommendations on how to prevent future attacks.
- In identifying perpetrators in reports under Security Council Resolutions 2286 (relating to attacks on healthcare in conflict) and 1998 (relating to protection of children in conflict), apply objective, impartial criteria for listing and delisting perpetrators, independent of financial interests or political influence.

Human Rights Council:

- The special rapporteur on the right to health should issue a global thematic report on attacks on healthcare in conflict and include recommendations on prevention and accountability.
- Pass a resolution requesting that the Office of the UN High Commissioner for Human Rights, Commissions of Inquiry, Fact Finding Missions, and other relevant bodies

specifically investigate and document attacks on healthcare in conflict, identify perpetrators wherever possible, and share investigative material with national and international prosecutors, courts, and investigative mechanisms.

Member states:

- Provide diplomatic support and earmark financial contributions to create mandates related to attacks on healthcare in conflict, such as a special representative to the secretary-general.

Recommendations to International Investigative and Prosecutorial Mechanisms

- Recognizing that a prominent prosecution of a hospital attack in Syria would help reinforce international norms regarding protection of healthcare in conflict, the International, Impartial and Independent Mechanism (IIIM) on Syria⁶² should prioritize the investigation of attacks on healthcare in the conflict in Syria and encourage prosecuting authorities to pursue these cases.
- Likewise, the Independent International Commission of Inquiry on Ukraine⁶³ and the International Criminal Court should prioritize the investigation and prosecution of attacks on healthcare in Ukraine.

Recommendations to the World Health Organization

- Improve data collection and reporting under the Surveillance System for Attacks on Health Care by ensuring coverage of all contexts where such attacks are occurring and gathering and publishing more detailed information about attacks including locations and descriptions of attacks, impact on the facility and access to care, indicators of a targeted or indiscriminate nature of an attack, and basic information about suspected perpetrators.

61 Ban Ki-moon, “Letter Dated 18 August 2016 from the Secretary-General Addressed to the President of the Security Council,” United Nations Security Council, August 18, 2016, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1626255.pdf>.

62 The UN General Assembly established the IIIM in 2016 to assist with the investigation and prosecution of the most serious crimes under international law in Syria. See IIIM (website), <https://iiim.un.org/>.

63 With its adoption of Resolution 49/1 (on March 4, 2022), the UN Human Rights Council established an independent international commission of inquiry, comprising three human rights experts; the initial duration was set at one year. See “Independent International Commission of Inquiry on Ukraine,” UN Human Rights Council (website), accessed May 16, 2022, <https://www.ohchr.org/en/hr-bodies/hrc/iicir-ukraine/index>.

- Recognizing that identifying perpetrators is necessary for prevention efforts, as public condemnation of perpetrators can have a deterrent effect and identification of perpetrators will help determine motives for and incentives to stop attacks, expand the WHO's prevention mandate to include public acknowledgment of perpetrators, as well as the collection and publication of basic information that may help identify suspected perpetrators, such as reports regarding uniforms, military insignia, modes of attacks or weapons used, and other potentially identifying information.
- Recognizing that accountability for past attacks may deter future attacks, expand the prevention mandate to support accountability efforts, including by sharing information gathered in the Surveillance System for Attacks on Health Care with the Office of the UN High Commissioner for Human Rights, as well as national and international prosecutors, courts, and investigative mechanisms.
- Adopt measures to ensure that member states responsible for attacks on healthcare are not allowed to run in elections for leadership positions within the WHO, such as on the Executive Board.⁶⁴
- Passing the Justice for Victims of War Crimes Act to ensure that US courts can criminally prosecute any individual present in the United States who has committed war crimes abroad, and revive accompanying efforts to add crimes against humanity under Title 18 of the US Code and expand civil litigation tools available under the Torture Victim Protection Act to include causes of action for war crimes and crimes against humanity.⁶⁶
- Congress should follow the model used for the Child Soldiers Prevention Act (22 U.S.C. §§ 2370c-2370c-2) to pass legislation requiring the secretary of state to issue annual reports identifying national governments responsible for attacks on healthcare in conflict and prohibiting assistance to or the sale of military equipment to such foreign governments.⁶⁷

Recommendations to National Governments

- Go beyond condemning attacks on medical facilities and take concrete action in response to attacks, including suspending diplomatic or economic relations with perpetrating governments, halting weapons sales to perpetrating armed forces, or designating perpetrating military units as state sponsors of terror.
- Ensure that domestic laws incorporate legal obligations related to the protection of healthcare in armed conflict, as set out in the Geneva Conventions and their Additional Protocols and under customary IHL. Specifically ensure that domestic military and/or criminal codes prohibit attacks on and require the protection of medical workers, facilities, and transport in armed conflict.⁶⁸
- Establish oversight bodies to monitor their own national forces' compliance with IHL, paying particular attention

Recommendations to the US Government

- Congress should amend existing legislation and pass new legislation to ensure adequate avenues to accountability through US courts. Specific legislative efforts should include:
 - Passing the Alien Tort Statute Clarification Act, to ensure that war crimes and crimes against humanity committed abroad can be the subject of civil suits in US courts.⁶⁵

64 See Dr. Mufaddal Hamadeh and Donna McKay, "Open Letter to WHO Director-General Concerning the Election of the Government of Syria to the WHO Executive Board," Physicians for Human Rights, June 3, 2021, <https://phr.org/our-work/resources/open-letter-to-who-director-general-concerning-the-election-of-the-government-of-syria-to-the-who-executive-board/>.

65 "Durbin, Brown Introduce Legislation to Clarify Critical Tool for Holding Human Rights Violators Accountable," Office of Senator Dick Durbin, Press Release, May 5, 2022, <https://www.durbin.senate.gov/newsroom/press-releases/durbin-brown-introduce-legislation-to-clarify-critical-tool-for-holding-human-rights-violators-accountable>. See Alien Tort Statute Clarification Act, S. 4155, 117th Cong. (2022), <https://www.govinfo.gov/app/details/BILLS-117s4155is>.

66 "Following the Atrocities in Bucha, Durbin to Introduce Legislation to Hold Russian War Criminals Accountable," Office of Senator Dick Durbin, Press Release, April 5, 2022, <https://www.durbin.senate.gov/newsroom/press-releases/following-the-atrocities-in-bucha-durbin-to-introduce-legislation-to-hold-russian-war-criminals-accountable>; and see Alien's Action for Tort, 28 U.S.C. § 1350 (1992), <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title28-section1350&num=0&edition=prelim>.

67 See 22 U.S.C. §§ 2370c-2370c-2, <https://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title22-section2370c-2&num=0&edition=prelim>.

68 See Ban Ki-moon, "Letter Dated 18 August 2016 from the Secretary-General Addressed to the President of the Security Council," United Nations Security Council, August 18, 2016, ¶ 9(c), <https://reliefweb.int/sites/reliefweb.int/files/resources/N1626255.pdf>.

to attacks on medical facilities and personnel. Incidents of violations should be investigated, and individuals and units responsible for violations should be disciplined, given additional training, and/or removed from duty.⁶⁹

- Prioritize the investigation and prosecution of attacks on healthcare in conflict, and ensure prosecutorial bodies have sufficient financial resources to do so. Countries that practice a “pure” form of universal jurisdiction could issue arrest warrants for perpetrators of attacks on healthcare even without a perpetrator’s presence in their jurisdiction, with arrest warrants accompanied by Interpol “red notices” (i.e., wanted persons alerts). Where there may be shared perpetrators across country contexts—for instance, where the same Russian forces may be responsible for hospital attacks in both Syria and Ukraine—ensure that investigations and prosecutions cover all contexts where crimes may be charged.
- Share intelligence information identifying individuals and/or military units responsible for attacks on healthcare publicly, with other governments, with investigative and prosecutorial bodies, and/or with trusted nongovernmental organizations. Such information would increase the prospects of criminal prosecutions in international courts or in third countries under universal jurisdiction laws, enable noncriminal sanctions including travel bans and asset freezes, and assist with civil litigation.
- Ensure reparations for victims of hospital attacks, even in the absence of prosecutions. Any mechanism established to seize Russian perpetrators’ assets and repurpose the funds to rehabilitate Ukrainian victims should also enable recovery for Syrian victims, who have suffered violations by the same perpetrator groups.
- Provide funding and training to nongovernmental organizations documenting attacks on healthcare in conflict, to ensure proper evidence collection that may support future accountability efforts.

Recommendations to Nongovernmental Organizations

- Where national forces fail to adequately train their militaries on IHL and the protection of healthcare in armed conflict, international organizations such as the International Committee of the Red Cross and nongovernmental organizations such as Geneva Call should seek to fill that gap by engaging with and training forces on these issues.
- In coordination with the Office of the United Nations High Commissioner for Human Rights, develop a standardized protocol for documenting attacks on medical facilities for accountability purposes, which would specifically collect information regarding individual perpetrators and intent to attack a medical facility, in addition to other general information such as damage to the medical facility, loss of service and operations, and casualties. After developing a protocol, train documenters in conflict situations on how to use and implement the protocol.
- Seek out the evidence that is necessary to establish criminal responsibility for a targeted attack on a medical facility, including information regarding the individuals or military units responsible for carrying out such attacks and any indication of the perpetrators’ specific intent to target medical facilities.
- With funding from UN agencies and national governments, implement better tools to identify perpetrators of attacks on medical facilities and their intent to target medical facilities. Such efforts may include observing and recording armed forces’ radio communication in order to intercept targeting orders, as well as placing video cameras on the roofs of hospitals to record video footage of the airspace around a hospital, which may help identify perpetrators and specific targeting practices indicative of intent to target a medical facility.

⁶⁹ Ban, “Letter Dated 18 August 2016 from the Secretary-General,” ¶ 22.

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