Physician advocacy, international humanitarian law, and the protection of health care workers in conflict zones

Attacks on health care in conflict zones are increasing, depriving civilians of urgently needed care, putting the lives of patients and health care workers at risk, and contributing to the deterioration in the health of affected populations.[1] Health care is protected under international humanitarian law but there are challenges faced with its enforcement. Consequently, we opine that physicians and medical societies have a moral imperative to advocate for the enduring protection of health care workers, patients, and health care infrastructure in conflict zones.

International humanitarian law

Customary laws of war have existed since time immemorial and were borne out of civilisation's demand to fulfil one of its most basic functions: to minimise violence.[2] Although these laws formed the beginnings of international humanitarian law and afforded protection to hospitals and medical personnel, it was not until the 1864 Geneva Convention that such protections began to be codified and widely endorsed by the international community.[2] Subsequent conventions and treaties, particularly the 1949 Geneva Convention, supplementary protocols I and II (1977), and the Rome Statute of the International Criminal Court (1998), have since responded with attempts to strengthen and expand the scope of protections for civilians, hospitals, and health care workers.[3-5]

The growing attacks on health care workers in current conflicts

Attacks on health care are increasing.[6] In 2022, the Safeguarding Health in Conflict Coalition documented 1989 incidents of violence against or obstruction of health care in conflicts.[6] This represented a 45% increase in incidents compared with 2021, and was the highest annual number of incidents recorded since the Safeguarding Health in Conflict Coalition began tracking such violence in 2014.[6] In 2023, the number of incidents increased by 25% to exceed 2500, largely due to the conflicts seen in Israel–Palestine, Myanmar, Ukraine and Sudan.[1,7] The attacks reported include bombings, looting, occupation and deliberate targeting of health facilities, with health care workers killed, kidnapped or arrested. Medical supplies were hijacked, patients obstructed from accessing care, and hospitals were repurposed for military use, leading to injuries and deaths of patients and staff.[1]

In the first two weeks of Russia's invasion of Ukraine in 2022, an average of four to five health care centres were attacked each day.[8] This included the bombing of a maternity and children's hospital in the city of Mariupol. Between 24 February and 31 December 2022, 707 attacks on Ukraine's health care system were documented.[8]

In the past year, during the Israel–Palestine conflict, there have been at least 1662 incidents of violence against or obstruction of access to health care in Israel and Palestine.[9] Of these, 48 reported incidents occurred in Israel, and 1614 occurred in the Occupied Territories of Palestine. Over the same period, 23 health workers have been killed in Israel and at least 490 have been killed in the Occupied Territories of Palestine. More than 341 Palestinian health workers have also been arrested.[9] A report by the United Nations Human Rights Office of the High Commissioner concluded that "… the destruction of the healthcare system in Gaza, and the extent of killing of patients, staff, and other civilians in these attacks, is a direct consequence of the disregard of international humanitarian and human rights law".[10]

The World Health Organization has condemned the escalating attacks on health care amid Sudan's war, verifying 88 incidents since the conflict began in April 2023.[11] These attacks resulted in 55 deaths and 104 injuries, with less than 25% of health facilities remaining functional in the hardest hit areas.[12] Médecins Sans Frontières (MSF) has also voiced serious concerns over repeated attacks on hospitals in Sudan and the obstruction of essential medical supplies and food.[12]

Health care facilities have been attacked in Myanmar, where sectarian violence has escalated into another humanitarian crisis. These attacks have forced MSF to suspend medical services in certain areas.[13]

This overview is not exhaustive but highlights the increasing trend of health care attacks despite international humanitarian law protections. In addition, there has been a lack of accountability for these crimes.[1]

Enforcement of international humanitarian law

The enforcement of international humanitarian law presents many challenges due to a lack of willingness to respect them, a lack of means to enforce them, and an ignorance regarding their substance on the part of politicians, commanders, combatants and the general public.[2,14,15] Only 125 countries are state parties to the Rome Statute, which limits the jurisdiction of the International Criminal Court. In addition, there are substantial differences in the application of international humanitarian law in non-international, internal armed conflict compared with international conflict. The prosecution of crimes under international humanitarian law also typically occurs long after the fact, in the aftermath of a conflict.

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Another key challenge to prosecuting attacks on hospitals under international humanitarian law relates to the loss of protection they experience if military forces are accused of using hospitals to commit, outside of their humanitarian duties, acts harmful to the enemy.[4] The use of civilians and civilian structures, including hospitals, to shield military objectives or military forces from attacks is itself a war crime under the Rome Statute and should be prosecuted as such.[5] However, states or armed groups are not obliged to disclose any information as to how they reach a conclusion that a hospital has become a military target.[16] This has led to claims that hospitals have become militarised in order to justify attacks, refute criticism, and even to accuse the other party of violating international law.[17,18] The truth of such claims remain disputed and unresolved.

International humanitarian law and the role of physician advocacy

Physician advocacy was traditionally considered a professional obligation that extended beyond the individual patient to include the broader socio-economic determinants of health.[19] Nineteenth century pathologist and archetypical physician advocate, Rudolf Virchow, proposed that if medicine was to fulfill its potential "it must enter the larger political and social life of our time".[20] More recently, Herbert Abrams, a radiologist who received the Nobel Peace Prize for his work with the International Physicians for the Prevention of Nuclear War, described physician activism as the fourth dimension of biomedicine, linking patient care, research and teaching with the greater world.[21] Advocacy is also incorporated into the charters of medical associations and specialty societies around the world, including the American Medical Association, which states that physicians must "advocate for the social, economic, educational, and political changes that ameliorate suffering and contribute to human well-being".[22]

There have been notable contemporary examples of powerful physician advocacy, from clinicians working in conflict zones speaking out about atrocities witnessed to others advocating for climate action. At the 2016 DevelopingEM conference in Sri Lanka,[23] Kathleen Thomas shared her experiences at the MSF-run Kunduz Trauma Centre in Afghanistan, which was destroyed in a US bombing, killing many, including her colleagues. Her account led to the Colombo Declaration, which condemns attacks on medical facilities, reaffirms the principles of health care delivery in conflict zones under international humanitarian law, and calls on medical societies, specialist colleges, and individuals to support these principles.[24]

How physicians and medical organisations can advocate for health care workers

Despite previous advocacy efforts, most medical associations and societies have been inconsistent when it comes to advocating for the protection of health care workers in conflicts. An argument commonly put forth in recent years is that such organisations must remain apolitical, yet advocacy by its very nature must be political if it is to effect real and sustained change.

Medical organisations should create initiatives to educate their members about violence against health care workers in conflict zones, speak out to publicly condemn attacks on health care personnel and facilities, and call for action from their respective governments. All health professional organisations should also regularly express the strongest possible solidarity with colleagues who are under or at risk of attack. Furthermore, the medical community, and especially those in leadership positions, should create and protect forums for colleagues with lived experience of working in conflict zones to bear witness to the atrocities and share the difficulties they encountered, as well as permitting those clinicians to acknowledge the political landscape contributing to health, for example, at annual scientific meetings. Australian medical journals can also publish commentary and scientific material about the challenges faced when working in a health care system destroyed by conflict.

Conclusion

International humanitarian law in its current form cannot be relied upon as the sole mechanism of prevention and response to attacks on health care in conflict zones. Medical associations and specialty societies must lead advocacy efforts to ensure that hospitals, health care workers, and patients are protected and not viewed as military targets. Physicians have been unconscionably silent in recent years and must now integrate professional and political activities if they are to live up to the highest ideals of the profession.[25] Respecting health care in conflict zones should not purely be a question of legality; it is one of morality and humanity. Finally, physicians must do better to honour those colleagues who have lost their lives in the line of duty. In the words of Mahmoud Abu Nujaila, a Palestinian doctor working for MSF who was killed in an attack on Gaza's Al-Awda Hospital in November 2023, "We did what we could. Remember us".[26]

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