Seeking accountablity for Ukraine health-care attacks

Doctors in Ukraine report being targeted by Russian troops. Attacks on health care have contravened international law and are raising calls for accountability. Saleyha Ahsan reports.

Felix (not their real name) is the head of surgery and endoscopy in a private hospital in Kyiv, Ukraine, which has now opened its doors to all. Felix has treated a patient with a gunshot wound—who was discharged after a few days—and another patient with burns after their apartment was hit by a Russian missile If patients have more complex injuries, Felix stabilises them and arranges transfers to a military hospital. The challenge comes from safe navigation of roadblocks and air strikes, Felix explained. "The Russians do not respect any laws of war. They do not differentiate between a civilian or military person. They shoot them all the same."

Since the beginning of the conflict in the Donbas region, driven by Kremlin-backed separatists, and the annexation of Crimea in 2014, there are widespread reports that health-care workers and facilities have been targeted. Ukrainian military medics remove their red cross arm bands, Felix explained. Their insignia marks them out together with military leadership to be taken out first.

The WHO Surveillance System for Attacks on Health Care, launched in December, 2019, is a tool that measures global incidents of attacks against health care. It has now become a vital monitoring tool in Ukraine and has thus far recorded 62 attacks with 15 deaths involving hospitals and ambulances.

Olga (not her real name) is a paediatric anaesthetist and head of the local ambulance dispatch unit, from Kherson, Ukraine, a city surrounded by Russian forces who have declared it under their control. Her team have successfully navigated 19 Russian checkpoints on a return journey from Kherson to Kakhovka having delivered their precious cargo: two newly born babies requiring neonatal intensive care. A journey that normally would have taken less than an hour took more than five.

Each checkpoint requires careful navigation and a white flag. Their status as medical personnel does not guarantee safe passage. "Russian blocks are unpredictable. We receive daily information from all the regions about incidents at the posts. Soldiers shoot without warning and even steal phones."

Sometimes they let them through, but other times they do not. For example, after a 60-year-old farmer had driven his tractor into a mine field and suffered blast injuries, an ambulance was dispatched to retrieve the patient, but a Russian checkpoint refused to let the ambulance through; the patient died of his injuries.
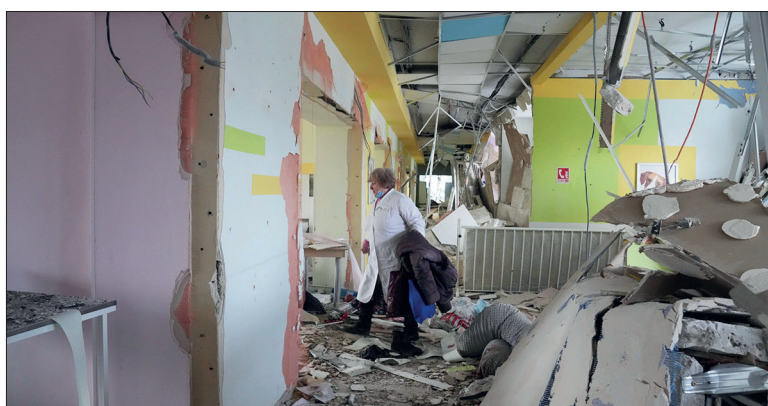
On the second day of the invasion, one of Olga's teams took a direct hit from a Russian tank situated on agricultural land as the ambulance drove down a central road carrying a patient. She described her operators receiving a call from the paramedic shouting that they were being shot at by tanks. The call went silent as the ambulance burst into flames. The driver and the patient suffered extensive burns and both died. The paramedic is recovering in a Kherson hospital. "It was a terrible shock, we couldn't believe it—that they were shooting at the ambulance in Europe in the 21st Century."

Since then, ambulances are tracked using GPS. Telephone and mobile phone contact can be intermittent. It is only when the ambulance crews are back at base that everyone relaxes.

Oleksii Tatarenko is an emergency medicine doctor from Kharkiv now working in Lviv, after he left his home with his wife and two children—aged 16 and 14 years—for a safer city in western Ukraine. Together with his colleagues, military paramedic Alina Heider and civilian paramedic Roman Garkavyj, they transfer patients injured from the war to the newly constructed joint civilian and military Volunteer Emergency Medical Service centre at the Lviv Danylo Halytskyi International Airport, that he set up with colleagues. They use a rented ambulance and work under the charity War Angels. Tatarenko is not new to war. In 2014 he was deployed as the deputy lead of medical services being supplied in the conflict areas of Donetsk and Luhansk.

During his service, he has experienced numerous attacks against health care—and believes that Russian troops have orders to target health workers.

A maternity hospital damaged by shelling in Mariupol, Ukraine

"Targeting medical workers is their first priority, to shoot an ambulance and a doctor." Asked why, he replies nobody knows.

Ukrainians are not alone in wanting to see Vladimir Putin made accountable for such actions. Leading names in politics, law, and academia—including two former British prime ministers, John Major and Gordon Brown, and a former prosecutor for the Nuremberg military tribunal, Benjamin Ferencz—are calling for a Nuremberg-style process that could see Putin put on trial. An online petition calling for such an investigation of Putin and his enablers of the Ukraine invasion, which had a target of 2 million signatures, reached 740 000 names 24 hours after being launched.

Hostilities between Russia and Ukraine constitute an international armed conflict governed by international humanitarian treaty law that provides protection to civilians in the arena of war. But these laws are being flouted by Russian forces.

Russia's invasion of Ukraine violates Article 2(4) of the UN Charter that requires members states to refrain from the "use of forces against the territorial integrity or political independence of any state".

The protection of health care in armed conflict, both international and non-international, is enshrined within the 1949 Geneva Conventions together with the growing acceptance of its Additional Protocols I and II (1977), which detail the necessity of protecting both civilian and military medical personnel and their patients. The targeting and attack of health care is a clear breach of these international legal standards.

In an unprecedented letter published in *The Lancet*, 27 medical bodies—including The International Federation for Emergency Medicine and the Royal College of Emergency Medicine—condemned attacks on health workers and called for health workers to be protected. The letter demanded that all parties to the conflict must adhere to international laws governing conflict situations, including the UN Security Council Resolution 2286 (2016), which came in to being following Russian bombing of Syrian hospitals, demanding an end to impunity for those who attack health care. However, the resolution has not abated Russian attacks in Syria, and no action has yet been taken against Russia for this contravention. The UN Security Council has been repeatedly thwarted by Russia's veto on any proposed action.

The International Criminal Court's Chief Prosecutor, Karim A A Khan, has opened an investigation, at the request of 38 governments, which puts all perpetrators of war crimes and crimes against humanity in Ukraine, including Putin, on individual notice they will be held accountable. The investigation will include attacks on health care. The investigation does not discriminate on the basis of nationality, so, in theory, could also include the likes of Syrian President Bashar al-Assad, who has sent troops to Ukraine.

A Nuremberg-style trial would also offer the opportunity to investigate the tactic of attacking health care in the way Russia has. Seeking accountability in theory is feasible; however, the challenge lies in apprehension, explains international human rights lawyer Marina Brilman. Even if found guilty, Putin and others could only be detained if they left Russian territory and entered a country with bilateral International Criminal Court–state agreements in place, which many but not all countries have.

Sara Halimah, trauma specialist for the Eastern Mediterranean region for WHO's Trauma Operational and Advisory Team explained that, in lieu of meaningful preventive action, conflict medicine relies on working around the fact that attacks against health care will continue. She describes how in countries like Yemen and Afghanistan some trauma training has now moved into the community, where smaller trauma stabilisation points are harder to hit, thus enabling care to continue.

Felix appealed for the international community to not trust information provided by Russia for fear of false red flags that lead to the Kremlin justifying actions that otherwise breach international humanitarian law, including falsely stating hospitals are being used by the Ukrainian military as it did for the maternity hospital in southeastern Mariupol just prior to a Russian airstrike that killed a woman and her newly born baby. His main concern is the bombing of hospitals: "close the skies or give us the means to close them ourselves so mothers with their children won't have to be afraid of what falls from it".

Saleyha Ahsan

Karim Khan, the International Criminal Court's chief prosecutor

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