

#### **Discussion Series 4: “Strengthening accountability in the fight against impunity for attacks against humanitarian workers in armed conflicts” (16 June 2021) – Summary report**

The EU, together with the missions of Norway, Niger, Mexico, Switzerland, Germany, and France in New York, organized a series of discussions on “[Ensuring the protection, safety, and security of humanitarian workers and medical personnel in armed conflicts](#)”, with the aim to identify main challenges and bring forward practical solutions.

The fourth and last meeting of the Discussion Series, “Strengthening accountability in the fight against impunity for attacks against humanitarian workers in armed conflicts”, co-chaired by the EU, France, and Germany, took place on 16 June 2021. The meeting welcomed over 100 participants, including representatives of Member States and key humanitarian stakeholders.

According to the Aid Worker Security Database, in 2020 at least 169 security incidents against humanitarian workers were recorded in 19 States affected by conflict. Incidents included shootings, IED detonations, bodily and sexual assault, kidnapping, principally in the course of ambushes, combat and crossfire, and raids. They resulted in the death of 99 humanitarian workers.

Investigating attacks against humanitarian and medical workers in armed conflicts, including violations of international humanitarian law, and ensuring accountability are critical in order to deter future attacks and contribute to provide the necessary legal protection afforded by international and national laws to humanitarian activities. However, in spite of existing international and national legal frameworks, most attacks remain unpunished.

Participants discussed whether current monitoring, investigation, and prosecution mechanisms of violations against humanitarian and medical workers operating in armed conflicts are successful, and reflected upon best practices and possible solutions.

This summary report acts as the fourth and final element of an outcome document, which will lay out avenues for concrete further action, stemming from recommendations compiled throughout the entire Discussion Series.

#### **Current practices, challenges, and key areas for action:**

There is a consolidated international legal framework; and mechanisms in place to monitor, investigate, and prosecute violence against humanitarian and medical personnel in armed conflict, and that stipulate the obligations of all parties’.

The Security Council has adopted a number of resolutions inter alia UNSCR 2175, UNSCR 2286, UNSCR 2417, and UNSCR 2573 that require states to investigate alleged war crimes committed by their armed forces, to improve domestic accountability and investigations on attacks on healthcare, and to ensure safe and protected data collection as a prerequisite to improve monitoring and reporting.

Among the most relevant international mechanisms to ensure accountability, the International Criminal Court (ICC) investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community. Among the non-judicial mechanism, the International Humanitarian Fact Finding Commission (IHFFC), constituted in 1991, is a permanent body whose primary purpose is to investigate allegations of grave breaches and other serious violations of international humanitarian law.

However, participants recognized that while bringing perpetrators to justice is critical to preventing and deterring future attacks and violations of IHL, the current system is unsatisfactory. States and the international community are failing to establish or to use the preconditions and measures required to monitor, investigate and impose responsibility for violations.

The 2017 IPI [report](#) on “Evaluating Mechanisms for Investigating Attacks on Healthcare” denounces the unwillingness or inability of national entities to carry out investigations. The report compares the advantages and multidisciplinary capacities of twenty different non-judicial mechanisms from UN- and non-UN bodies

States and international actors should promote a more systematic use of existing frameworks and instruments. States should adopt or reinforce national protection frameworks to ensure domestic implementation of IHL and must actively engage with the International Criminal Court and other international mechanisms when national action cannot be undertaken.

The lack of coordination among the existing legal framework and mechanisms hamper the achievement a successful implementation and enforcement of the law in a comprehensive manner. States and international actors need to strengthen comprehensive approaches for discerning, scrutinizing and attributing violations, and support cross-disciplinary training and monitoring systems. All forms of violations must be pursued in a comprehensive manner, including the imposition of responsibility of states for failure to perform their IHL obligations.

The participants also reiterated that another challenge is the lack of safe instruments to collect data and weak information sharing mechanisms to monitor and analyze the trends and the number of attacks against aid workers. Participants reiterated the need to support efforts to collect, analyse and share information, reinforce preventative mechanisms and ensure accountability.

### **Best practices and practical recommendations:**

The following recommendations were suggested by participants as a way forward to strengthen accountability measures in the fight against impunity for attacks against humanitarian workers in armed conflict:

1. **States and international actors should promote a more systematic use of existing frameworks and instruments:** Participants reiterated the need to make a better use of

existing legal frameworks and mechanisms, including a more robust implementation of UNSCR 2417, UNSCR 2286, and UNSCR 2573.

2. **States should adopt or reinforce national protection frameworks to ensure domestic implementation of IHL.** It is also important to collaborate between national authorities, to deepen judicial cooperation between States to ensure investigations are launched and proceedings start. Donors can play a key role in support of national law enforcement, including by promoting the sharing of good practices and providing training.
3. States must explore to **actively engage with the International Criminal Court** in case of attacks against humanitarian workers that could be qualified as war crimes or crimes against humanity **and other international mechanisms when national action cannot be undertaken**, for example, other international legal/judicial bodies, such as the ICJ, which might be mobilised exclusively for State-State cases regarding the duty and responsibility of States in the protection of (attacks on) humanitarian and health workers.
4. **Other new complementary mechanisms could also be explored**, for example to **strengthen the connection of UN bodies with competence in humanitarian matters with existing mechanisms for monitoring compliance with international humanitarian law**, in particular the Humanitarian Fact Finding Commission. The purpose being to reinforce the automaticity of the attribution mechanisms when an attack occurs, and to this end, to try to build a bridge between the main UN bodies with competence in humanitarian matters and the different existing mechanisms for monitoring and compliance. Or the **appointment of a UN Special Envoy for Humanitarian Space**: A dedicated representative with the capacity to support and engage with states to investigate, report, and strengthen local national frameworks, who focuses on tracking, collecting data and reporting on trends of attacks against humanitarian and medical personnel, gaps in compliance, accountability and state cooperation in all conflicts. Or a better use **UN sanctions' regimes** against individuals or entities that attack humanitarian workers or impede humanitarian activities. On the latter some participants stressed that sanctions and counterterrorism regimes have created unintended obstacles in the delivery of humanitarian assistance in many conflict settings and suggested that these measures may not be the best solution to strengthen accountability for attacks against humanitarian and medical personnel.
5. Ensuring **safe and protected data collection** as a prerequisite to improve monitoring and reporting. This point is very much linked with the conclusions of the first of the discussion series ["Monitoring the safety and security of humanitarian personnel"](#). The ability to independently collect and subsequently provide evidence-based data on the topic of violations against humanitarian and medical works via field-focused organizations is a concrete achievement. The challenge is also how/where to channel this information in order to promote a corresponding outcome.

6. Reinforce the **advocacy pillar by collectively, systematically and publicly denounce attacks and violations**. France and Germany launched in September 2019 the “Humanitarian [Call for Action](#) to strengthen respect for international humanitarian law and principled humanitarian action”, endorsed by 48 Member States and the EU. More Member States should endorse this initiative. At the same time while initiatives exist to monitor violations of IHL with respect to specific groups of persons or specific protections, the available data and analysis is often scattered and lacks a global overview. The lack of an independent and comprehensive data source on IHL violations weakens the possibility of strong IHL advocacy by states and the international community as a whole. It also hinders the possibility of taking fast and appropriate action to respond to violations of IHL.
7. More support should be given to **local and international humanitarian organizations**, to support context-based accountability mechanisms; to enhance monitoring, collecting and data-sharing mechanism on threats and attacks, and to ensure training and capacity building, while at the same time safeguarding their principled approach of humanitarian action and the safety and security of humanitarian workers. But also to provide legal advice and psychosocial support to humanitarian and medical workers.