Third States Consultation – ICRC Global Initiative
Geneva, 11 February 2026

Hello to everyone, Ladies & Gentleman,

Allow me to be direct: IHL is clear and the previous work of these States consultations helped to clarify it further, if needed, while highlighting the grey zones needing alignment.
Still, the conclusion is extremely obvious -and uncontested: hospitals must be respected and protected.
The problem is that we are very good at writing law and very poor at enforcing it.
This session asks an important question: not what the rules say, but how to make them real.

<u>On Individual and Collective Measures to Promote IHL Respect (Guiding Question 1)</u>

From our operational experience, the forces that effectively protect hospitals seem to share three main characteristics: senior commanders who personally enforce the obligation, legal advisors genuinely integrated into operations — not just consulted after the facts — and a concrete assessment of the real consequences of violations.
The forces that fail to protect hospitals also share characteristics:

- Protection is seen as someone else's problem,
- IHL compliance is treated as an obstacle, and
- Violations go unpunished.

We therefore call on States to take concrete <u>individual</u> measures:

- Criminalize attacks on medical facilities within their domestic law arsenal ;
- Support the establishment of universal jurisdiction for serious IHL violations affecting hospitals ;
- Require high-level command authorization before any action affecting a medical facility ;
- Implement zero tolerance for attacks on hospitals by the military hierarchy, leaving career-ending commanders with no other alternative than complying with IHL ;
- Integrate hospital protection as a criterion of mission success — not a footnote.

On collective measures, States have leverage they are not using. Many provide military support, equipment, and intelligence to parties that attack hospitals.

- States should be prepared to condition that support on IHL compliance.
- Political condemnation after attacks is insufficient.
- Prevention requires using available leverage before attacks occur.

On Linking Recommendations to Existing Frameworks (Guiding Question 2)

UN Security Council Resolution 2286 already demands that all parties to armed conflict comply with IHL regarding medical facilities and personnel. The SRSG for Children and Armed Conflict has a monitoring and reporting mandate (MRM) that explicitly covers attacks on hospitals as one of the six grave violations.
These are not new tools — they exist. What is lacking is consistent activation.

This can be supported and contributed to as part of a coalition of (good) willing States such as the one that contributed to the adoption of resolution 2286 in 2016.
All states who sponsored the resolution 2286 have requested the Secretary General to report on concrete measures to operationalize the protection reaffirmed by the resolution.
10 years after, it is really time to give substance to this commitment.
We are not specifically asking to create new mechanisms or new laws : we need that good practices compatible with existing IHL are promoted as good faith standards of protection of the medical mission.

We urge states to ensure that the recommendations emerging from this workstream are explicitly cross-referenced with the 2286 framework, the MRM mechanism, and the Secretary-General's annual reports on children and armed conflict.
Recommendations that exist in isolation from these reporting and accountability chains will not change behaviors. Systematically feeding hospital attack data into these mechanisms is a concrete and achievable good practice.

On Accountability - Good Practices and What Must Be Avoided (Guiding Question 3)

I want to say something uncomfortable here. Accountability talk can become an alibi. States can conduct investigations that go nowhere, establish mechanisms with no teeth, and cite process as a substitute for outcome. We have seen this. We ask that the recommendations from this workstream be measured not by the quality of the investigation process but by whether attackers of hospitals are actually held to account.

On the specific good practices proposed in the agenda, we fully support the call to establish systems for investigating allegations — but we emphasize: military investigating military is not an independent system.
Any credible accountability mechanism must include elements of independence, whether through national judicial oversight, independent commissions, or international mechanisms.

We also add the last following challenges to the list:
First, training judges and prosecutors on IHL hospital protections is essential — but courts must also be willing to prosecute. Legislative criminalization without prosecutorial will is symbolic.

Second, States should establish public, transparent reporting on investigations of attacks on medical facilities. Investigations conducted in opacity do not deter future attacks. Evidence, information should be de-classified. Victims, including medical organization, shall have access to this information.
Third, command responsibility must be addressed explicitly in domestic legislation — individual commanders who fail to prevent or punish attacks on hospitals must face consequences.

We also emphasize the forgotten mandate of the IHFFC (International Humanitarian Fact Finding Commission), created by Additional Protocol I which is a tool which could play such a bigger role in accountability that what it is reduced to today, including through his good offices mandate.

We similarly emphasize the absence of concrete investigations on attacks on hospitals and consolidated jurisprudence from international tribunals or the International Criminal Court that could create an effective framework of accountability for the protection of hospitals. International tribunals and Court know that they cannot reach the high threshold of proof required by criminal law to establish criminal responsibility beyond reasonable doubt without having access to restricted military information. This is probably why almost no cases have reached the level of judgement within international justice.
For these reasons, it is ineffective and hypocritical to rely on criminal justice or on the individual responsibility of commander to define and implement the proportionality test related to the protection of civilians. It is first and foremost the responsibility of State Parties to define, share and adopt dedicated political, military doctrine and best practices that effectively limit civilian harm and attacks on hospitals in conflict.

Hospitals in conflict zones are being attacked right now. Real patients are dying from preventable causes. The knowledge of what works exists. The recommendations from this process will matter only if States implement them with urgency, enforce them with consequence, and measure them against outcomes - not against the quality of their documentation and paper production.

Thank you.