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## *The right to health and the criminalisation of impartial healthcare*

**A side event at the 38<sup>th</sup> Session of the Human Rights Council  
20 June 2018, 12.00-13.30, Room XXIII, Palais des Nations**

*Co-organized by Switzerland and Colombia, the Human Rights Centre at the University of Essex, and the Safeguarding Health in Conflict Coalition.*

Security Council resolution 2286 in May 2016 urges member states to develop “domestic legal frameworks to ensure respect for their relevant international legal obligations.” Apart from reaffirming the principle that the requirements of international humanitarian law regarding the protection of health care in conflict should be incorporated into domestic law, the provision is also meant to address the problem of the imposition of criminal or other penalties that punish health providers for fulfilling their duty of impartial care where the patients involved are deemed terrorists or other enemies to states. Punishment of health professionals who act in accordance with their ethical obligation of impartial care to all violates the provisions of Protocols I and II of the Geneva Conventions, and international human rights law, including the right to the enjoyment of the highest attainable standard of health.

Regrettably today, two years after the adoption of Resolution 2286, in too many States, health workers are harassed, arrested and prosecuted, or subjected to administrative penalties, for providing care impartially. In some countries, anti-subversion or counter-terrorism laws deem medical care to enemies to be a criminal offense. In others, general laws against acts hostile to the state are applied to individuals who provide impartial health care. In order to promote reform consistent with resolution 2286, it is important to understand the nature and scope of these laws and practices globally. A recent report commissioned by the UN Special Rapporteur on the right to health and produced by the Human Rights Centre at the University of Essex in collaboration with the Safeguarding Health in Conflict Coalition has produced, for the first time, an analysis of a broad global selection of these domestic laws and practices.

Building on a range of high-level side-events over the past year at the World Health Assembly, at the Open Debate on Protection of Civilians at the UN Security Council, a side-event during the Humanitarian Segment of the ECOSOC, and a side-event one year ago at the Human Rights Council, this side-event will formally launch this report, focusing discussions on the importance of understanding these domestic legal challenges from the perspective of the right to the highest attainable standard of health. Such a side-event is needed to advance discussions around implementation of Resolution 2286 beyond exclusive reliance on the humanitarian paradigm and perhaps more importantly, bring the local human rights impact of domestic laws and practices to the forefront of these timely and important global discussions on the protection of healthcare workers and the medical mission.



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Switzerland and Colombia invite you to discuss the report's findings with these key questions:

- What role can human rights play in guiding law reform to protect the provision of impartial healthcare?
- What role can human rights mechanisms play in the implementation of the Security Council Resolution 2286, in particular as a means for constructive accountability in the legal safeguarding of healthcare workers?
- How can human rights mechanisms better contribute to analysis and reporting on domestic legal environments in relation to punishment of impartial healthcare?
- How can the Human Rights Council encourage states to reform laws and practices on punishment of health care providers as a means of advancing the right to the highest attainable standard of health?

**Moderator:** Ambassador Beatriz Londoño, Permanent Representative of Colombia to the UN in Geneva

**Panelists:** Dainius Pūras, UN Special Rapporteur on the right to health  
Marine Buissonniere, Independent Expert  
Dr. Otmar Kloiber, Director General of The World Medical Association