While campaigning for sexual and reproductive health and rights remains a day-to-day concern, wars, such as the war started on February 24 against Ukraine, bring an immediate threat to people’s lives, safety, and human rights. Sexual and Reproductive Health Matters has covered the impacts of conflict and forced migration on sexual and reproductive health and rights in enough countries to know that attention must be drawn to these issues now in the context of the war against Ukraine and that international and national obligations need to be invoked to protect the most vulnerable.

Access to sexual and reproductive health care

The world realised the enormous injustice, violence and harm that Ukrainian people in general and vulnerable populations such as pregnant women face, when a maternity hospital in Zhytomy, 85 miles west of the capital Kyiv, was struck by shelling, which may have been an intentional target, along with surrounding government buildings. Newborn babies and their mothers were evacuated to the basement followed by a rescue operation after the Russian missile strike.\(^1\) The imminent danger and injustice pregnant women, newborn babies, their families, and healthcare workers faced in this situation is unspeakable. Intentionally directing attacks against hospitals and places where the sick and wounded are collected is prohibited under international humanitarian law. Even in cases where the medical unit is not intentionally targeted, but the facility has been damaged or destroyed as a result of a party launching an indiscriminate attack which had the potential to strike military objectives and civilians and civilian objects without distinction, the attack is a violation of international humanitarian law. Such a prohibition in armed conflicts is implicit in Common Article 3 of the Geneva Conventions, which require that the wounded and sick be collected and cared for. It is also an established rule of customary international law applicable in both international and non-international armed conflict.\(^2\) Such incidents constitute war crimes and related cases are being prosecuted right now by the International Criminal Court.\(^3\)

Access to health care, and to sexual and reproductive health protection, however, is not only a concern when there is a direct attack on health care centres. Many pregnant women may need health care, medication and assistance on a daily basis or when complications with pregnancy occur. When medical facilities are not accessible, are destroyed, or health care personnel and medical products are scarce or unavailable, maternal health can be endangered.

There may be pregnant women who are in particular and unusual situations. As has been reported by *The Atlantic* on March 1 2022, the war against Ukraine has put pregnant women, intended parents and newborns who are part of surrogacy arrangements in impossible positions.\(^4\) Ukraine is an international surrogacy hub, one of only a handful of countries in the world that legally allow foreigners to enter into surrogacy arrangements in impossible positions. While there are conditions on the intended parents, who must be heterosexual, married, and have a medical reason for needing a surrogate, establishing their legal parenthood is uncomplicated. Certain responsibilities, depending on the agreement between the parties, are attached to this agreement, for example...
securing food and shelter for the woman carrying the baby, while she may agree to abstain from certain foods, or move closer to the clinic and birthing hospital a few months in advance of her due date, as *The Atlantic* article points out.

It is estimated that around 2,500 babies a year are born in Ukraine through surrogacy. BioTexCom, one large fertility clinic based in Kyiv, confirmed to *The Atlantic* that it is expecting some 200 surrogate babies to be born in the next three months. In the days following the Russian invasion of Ukraine, fertility clinics in Kyiv, now under serious assault, shut down. People took shelter or fled to protect parents, surrogates, and newborns, and the availability of food and medical supplies, running water, washrooms, and cooking facilities remains a concern. Being a surrogate is a job in Ukraine for many women, but not one that they can quit, or even put on hold. Very serious questions occur for all parties in this arrangement — for the pregnant women, the newborn child and the intended parents: Should a surrogate stay in Ukraine to stay safe for herself and the baby? Should she seek refuge in a third country, such as Poland or Moldova or Hungary, where parentage laws consign the intended parents to legal complications, or should she press on to a country such as the Czech Republic, where laws for parents are more accommodative? The reality is that the interests of the surrogate, the baby and the interests of the parents do not always align, and war can put people in a precarious situation that jeopardises their safety, health and wellbeing.¹

Beyond pregnancy concerns, experience shows that access to other sexual and reproductive health services — such as safe abortion, treatment for cervical cancer, access to HIV treatment, or sexual violence services — remains a daily concern in a war situation. Ukraine’s hospitals have become bomb shelters for the country’s most severe cancer patients, including children. Relatives and parents try to provide comfort, while doctors and nurses provide the limited treatments they can, despite dwindling supplies of necessary medications, as well as food and water. People’s menstrual health can become particularly difficult when material products, including sanitary products, become scarce on a day-to-day basis, increasing jeopardy to sanitary health, stigma, discomfort, and safety.

**Increased vulnerability of marginalised populations**

Certain population groups, such as people living with disabilities, LGBTQI populations, and people belonging to certain racial, ethnic and religious minorities, may face particular dangers in relation to their life, safety, health, and sexual and reproductive health in this war situation. The situation for persons with disabilities, for example, is appalling in the current emergency. There are 2.7 million persons with disabilities registered in Ukraine and there are around 100,000 people officially classified as having intellectual disability, of whom an estimated 30,000 live in various care centres.² Persons with disabilities living in institutions, already cut off from their communities, risk being abandoned and forgotten. Fleeing abroad as a person with physical, social and/or intellectual disabilities is difficult; sudden changes in routines can be extremely difficult and accessing health care including sexual and reproductive health care in a war crisis situation is even more difficult. According to the latest news, most shelters in Kiev are inaccessible, so people with disabilities are forced to stay at home, not knowing where they can go to be safe. Individuals with disabilities acquired as a result of war are entitled to certain social benefits and protection provided by Ukrainian law. This includes, in particular, the right to receive free medication, free mental health services, and a 100% discount on utility bills.³ However, while accessing goods and services is now difficult for the general population, it is even more severely obstructed, or impossible, for persons living with disabilities.⁴

According to reports from LGBTQI populations, life, health and safety under a Russian occupation could deteriorate quickly for LGBTQI people. Now, with tens of thousands of Russian troops encircling major Ukrainian cities, gay, lesbian, and transgender people are worried that a Russian take-over might put their lives, safety, security and health into imminent danger, and the discrimination, violence, and torture that they face could sharply increase. In the week since Russia invaded, many LGBTQI people have left or are considering leaving, crossing into Poland or

¹ Alison Motluk is a Toronto-based freelance journalist who publishes a weekly newsletter about assisted reproduction, heyreprotech, and the temporary newsletter Ukraine Surrogacy Dispatches.
other neighbouring countries, often illegally through the woods.\textsuperscript{8}

The health and safety of people living with and affected by HIV is highly impacted by the aggression against Ukraine. Those remaining in the country face not only deprivation of required health services, but the accessibility of required services is also a concern of those seeking refuge in other countries. As the International AIDS Society pointed out in its recent statement, Ukraine has the second-largest HIV epidemic in eastern Europe and central Asia, with an estimated 250,000 people living with HIV – and one of the largest HIV responses in the region. More than 150,000 people in Ukraine are on antiretroviral therapy. Many thousands more are particularly vulnerable to acquiring HIV and rely on access to HIV prevention services.\textsuperscript{9}

In addition, recent unverified reports suggest that people of Russian origin living with HIV are being discriminated against, harassed and deprived of services as a symbolic punishment against the aggressor regime. That is completely unacceptable and constitutes inhumane and degrading treatment requiring immediate action, and the practice needs to be stopped.

\textbf{Sexual and reproductive health and rights of refugees}

Sexual and reproductive health concerns are not only a matter for those who are facing the war situation in Ukraine, but also the millions of people who within days became migrants and refugees in neighbouring countries. At the time of writing, over one million people have had to seek refuge in other countries from Ukraine. It is the responsibility of the host countries and the international community to make sure that people receive appropriate sexual and reproductive health services. Even where international frameworks exist to recognise the rights of and need to protect people displaced by war, barriers to implementation have been recognised.\textsuperscript{10} Difficulties in accessing services may arise, not only because of health system barriers in sorting out immediate access; it can also be difficult because the laws of host countries may be different – and extremely restrictive – compared to the countries of origin of the refugees and migrants. In the Ukraine crisis, thousands of people found shelter and safety in Poland. The efforts of the Polish nation to accommodate Ukrainian war victims and refugees are remarkable and worthy of great respect. However, while abortion is legally accessible in Ukraine on request during the first twelve weeks of pregnancy, between 12 and 28 weeks on a variety of grounds, including medical, social and personal grounds, and for any reason with the approval of a commission of physicians, the Polish abortion law is one of the most restrictive in the world. Abortion in Poland is legal only in cases when the pregnancy is a result of a criminal act or when the woman’s life or health is at risk.

Women who may have been waiting to receive safe and legal abortion services in Ukraine within days and weeks, including adolescent girls, may now be deprived of access to safe abortions in Poland, putting their health, safety and lives in danger from both legal and practical perspectives. International evidence, including in crisis situations, shows that restricting legal access to abortion does not decrease the need for abortion, but is likely to increase the number of women seeking illegal and unsafe abortions, and to increase morbidity and mortality.\textsuperscript{11} Legal restrictions also lead many women who have the means to do so to seek services in other countries/states, which is costly, delays access and creates social inequities, and is most likely not an available option for refugees and migrants. An important consideration is that during the crisis, health must remain a priority, with health workers being protected so they can continue to save lives, and with health systems and facilities being protected so that they remain functional, safe and accessible to all who need essential medical services. According to a recent \textit{Lancet} article, the WHO representative and Head of the WHO Country Office in Ukraine says that they have verified incidents of an attack on healthcare facilities, killing and injuring people, including six healthcare workers. Attacks on health care in armed conflict, including those on health workers, facilities, patients, and transport, represent serious violations of human rights and international humanitarian law.\textsuperscript{12}

\textbf{What to do? accountability, action and solidarity}

As a recent Center for Reproductive Rights publication explains, the various branches of international law apply to sexual and reproductive health and rights concurrently, and their
protections are complementary and not mutually exclusive, as has been expressly recognised by international and regional human rights bodies and courts. Consequently, they mutually strengthen accountability for SRHR in humanitarian settings, including armed conflict.\textsuperscript{13} Importantly, they provide a range of mechanisms for survivors of violations to exercise their right to a remedy and reparation.

To address the gap that people face in crisis situations and humanitarian settings, including in war situations, the Inter-Agency Working Group for Reproductive Health in Crisis developed the Minimum Initial Service Package (MISP) for sexual and reproductive health in crisis situations.\textsuperscript{14} The MISP addresses morbidity and mortality due to HIV and other sexually transmitted infections by promoting the use of standard safety precautions, the availability of contraception, the provision of antiretroviral therapy for people enrolled in such programmes prior to the onset of an emergency, and the availability of syndromic treatment for sexually transmitted infections. It makes provisions for safe and clean access to newborn care and emergency obstetric care at the community level, referral hospital level, and primary health facility level, as well as a 24/7 referral system to enable transportation and communication between communities and health facilities. The package prioritises safe abortion care ("to the full extent of the law") and post-abortion care in healthcare facilities.

The notions of solidarity and accountability for providing assistance in this situation raise specific concerns, including in relation to sexual and reproductive health, rights and justice. As part of the relief effort, and international accountability for assistance, UN political mechanisms including the Security Council play an important role in preventing human rights violations and fulfilling human rights obligations, including violations of sexual and reproductive rights under humanitarian law. The Human Rights Council, that is in session while this editorial is being written on the 12\textsuperscript{th} day into the war, has special responsibility for strengthening the promotion and protection of human rights, including sexual and reproductive rights in humanitarian crises, and including the war situation in Ukraine now. The intergovernmental community hold significant potential and tools for accountability for the SRHR of persons in humanitarian settings, including in the Ukrainian war. There is no time to wait to figure out what can be done in this situation. There are international experiences, recommendations for solutions and good practices that can be evoked and systematically implemented even in the most challenging situation. It requires targeted, well organised effort that covers all different needs and rights, including the protection of the most vulnerable.

Sexual and Reproductive Health Matters is calling on the international community and the Ukrainian and Russian governments to pay attention to the sexual and reproductive health and rights, lives, and safety of all populations affected by the Ukrainian situation. Specifically, they should have full access to all humanitarian aid, be protected from violence, abuse and ill treatment, be provided with accessible information, and have access to basic services including water and sanitation, health care, and transport. The international community must account for and must not abandon those who are most at risk – including women, children, persons with disabilities, LGBTQI populations, pregnant people, and those living with HIV. Recipient countries have international and national obligations to provide health services to refugees and migrants to the full extent of the law and to respect and protect the rights and needs of all.

We need to stand with solidarity, awareness, and full accountability to respect, protect, and fulfil the sexual and reproductive health, needs and rights of all affected by the war against Ukraine.

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