

M I S C E L L A N E O U S

PROTECTION OF CIVILIAN MEMBERS OF THE MEDICAL PROFESSIONS

The International Committee of the Red Cross, the World Medical Association and the International Committee of Military Medicine and Pharmacy recently informed the World Health Organization of the result of the work which they had undertaken jointly to determine the means of strengthening the protection of civilian medical personnel of all categories in time of conflict. It will be remembered that the work had been undertaken not only because of the interest which the three organizations took in the problems concerned, but also to enable the World Health Organization to give possible effect to a resolution of its General Assembly, which had asked it to examine certain questions relative to international medical law.

The result of the work is known to the National Societies. It was the subject of the 425th ICRC Circular of February 6, 1959, and of a report by the latter to the Council of Delegates in Prague, in 1961. Moreover, it figures once again on the agenda of the Council of Delegates meeting as part of the Centenary Congress of the International Red Cross.

The text of the letter sent to the Director General of WHO, Dr. M. G. Candau, by the presidents of the three organizations will be found hereunder. The memorandum enclosed with the letter, and in which it is referred to, has not been reproduced, since, apart from minor alterations, it follows the text of the 425th Circular. However, since the latter was published only in the French edition of the International Review (March 1959) which, at that time, published only an English supplement, we believe our readers would like to read the text. We are therefore reproducing it first, followed by the letter of October 30, 1962, to the World Health Organization.

425th Circular
To the Central Committees of the National Red Cross
(Red Crescent, Red Lion and Sun) Societies

Geneva, February 6, 1959

Ladies and Gentlemen,

A few years ago, a number of national and international organizations representing members of the medical profession stated that, in their view and that of their members, civilian doctors of all categories did not enjoy adequate protection in time of international or internal conflict. In particular, they considered that the relevant provisions of the Geneva Conventions for the protection of war victims were not as extensive or detailed in the case of civilian medical personnel as in that of the medical services of the armed forces, and should be strengthened in some way in order to ensure the full and free exercise of the profession in all circumstances.

Several of the organizations therefore proposed that all members of the medical and allied professions should be authorized to display the red cross emblem freely and in all circumstances. This proposal was not acceptable however, since it implied an amendment to the Geneva Conventions which only a diplomatic conference is authorized to make, and it was neither possible nor even desirable to convene a new diplomatic conference at that stage. Moreover, serious disadvantages would have resulted from such an extension of the use of the red cross emblem without any possibility of control. The problem had therefore to be solved in some other way.

At the suggestion of the World Medical Association, it was decided to refer the matter to a working party composed of representatives of that Association, the International Committee of Military Medicine and Pharmacy, and the International Committee of the Red Cross ; an observer from the World Health Organization was also present at the meetings. The conclusions arrived at by the working party, after thorough study of the matter, were recently approved unanimously by the institutions represented and are now being notified to the various national medical organizations, both civilian and military. They have also been approved by other professional organizations, and in particular by the International Dental Federation.

We now have the honour to present these conclusions to the Red Cross movement and to invite the National Societies to give them sympathetic consideration.

1. At the outset of its deliberations, the working party noted that, in time of conflict, what is important for medical personnel of all categories in reality is that they should be protected " in fact "

and should be able freely and fully to exercise their profession without any hindrance. It seems, however, that this factual protection is not guaranteed always and in all circumstances by simple rules of law, particularly in the case of an internal conflict. The working party therefore considered that until such time as international law is universally respected and, if need be, strengthened, every attempt should be made to take practical measures towards this end.

The first fact to realize was that it was for the medical professions themselves to determine and proclaim the principles which their members were prepared to apply, and have applied to them, in time of conflict. This led to the elaboration of new *Rules of medical ethics in war-time*, the text of which is annexed to the present communication.

2. This code of medical ethics, however, cannot in itself ensure protection for civilian doctors and other members of the medical professions. In laying down the principles applicable within those professions, it certainly demonstrates that they are based on the strictest principles of humanity and are therefore worthy of respect and protection, but it does not, and could not, proclaim any rule relating to protection itself. As it stands, it seeks only to strengthen the professional conscience of doctors.

It therefore seemed necessary to set forth, side by side with this code, a certain number of rules defining not only the principles which the medical professions intend to observe themselves, but above all those which they ask should be observed in respect of themselves ; these they should in peace-time and without further delay make known to the general public and notify to the authorities in their own country.

While the primary objective of these rules is in fact to ensure the protection of medical personnel in time of conflict, their true aim is to guarantee that the wounded and sick receive proper care and attention in all circumstances. Here, as in the Conventions of Geneva, the protection afforded to medical personnel is based on the need to ensure the protection of the wounded and sick. For this reason, the rules have been entitled : *Rules governing the care of sick and wounded, particularly in time of conflict*. The text of these rules is also annexed to the present communication.

These rules will not only be disseminated in time of peace, but will be immediately reaffirmed if one or other of the situations occurs which they are intended to cover. In this case, they must also be communicated by every possible means to the various authorities of the parties to the conflict. The aim to achieve is that the principles thus laid down should become known everywhere and should be so entrenched in people's consciences that everyone will instinctively

feel that respect and protection are due—and in time of conflict this seems to be the only real guarantee of the immunity which doctors should enjoy in the pursuance of their functions.

3. Article 6 of these rules mentions a distinctive emblem for the medical and allied professions. The use of this emblem represents the third practical method suggested for ensuring that civilian medical personnel receive the best possible protection in fact.

Indeed, a medical man going to the assistance of the wounded during street fighting, for example, must be able to make himself known as such rapidly. An identity card, while necessary, is not sufficient and it was decided that an emblem was needed which, while not being subject to such severe restrictions as the red cross emblem, would also be universally known and clearly recognizable. It was also necessary for the emblem to be acceptable to the medical profession throughout the world. The emblem of medical science itself was therefore chosen. The staff of Aesculapius, an illustration of which is attached hereto, is today an emblem of medical science known the world over. It has been designed red on a white ground not only to make it clearly visible, but also to arouse that instinctive feeling of respect to which long familiarity with the red cross has already given rise.

The dimensions and proportions of this new emblem have deliberately not been fixed, in order not to restrict its protective value to any definite form and also to enable the doctor or nurse hurrying to render assistance to improvise rapidly an emblem which will still be valid. Those who have been authorized by their professional body to make use of this new emblem will be able to do so in all circumstances and in all places—on their home, their car, their professional equipment, etc. It is even necessary that this should be done so that everyone can become accustomed to the emblem.

The present provisions are undeniably of interest to the Red Cross institution. Any measure which is likely to afford increased protection in time of conflict to civilian medical personnel, and which is therefore likely to improve the exercise of medicine and ensure better care for the wounded and sick, cannot fail to be received with satisfaction by the National Societies, whose activity is so closely linked to the practice of medicine. Furthermore, the creation of a medical emblem will safeguard the full significance of the red cross emblem and help to ensure that the latter is used only in accordance with the relevant rules, and to prevent any abuse.

The International Committee of the Red Cross therefore hopes that the National Societies of the Red Cross will support and assist the professional medical and allied organizations in their country with a view to the full implementation of these measures and in order to make them familiar to the authorities and the general

public as well as to ensure that the principles set forth in the rules are fully respected at all times. In particular, the International Committee of the Red Cross hopes that the National Societies will help to make the new medical emblem known to their own members as well as to the general public and that, if need be, they will support any approach made to the national authorities with a view to obtaining legal sanction for it.

FOR THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Léopold Boissier
President

ANNEX

I. — *Rules of Medical Ethics in War-time*

1. — Medical ethics in time of armed conflict are identical with medical ethics in time of peace, as established in the International Code of Medical Ethics of the World Medical Association. The primary obligation of the doctor is his professional duty ; in performing his professional duty, the doctor's supreme guide is his conscience.

2. — The primary task of the medical profession is to preserve health and save life. Hence it is deemed unethical for doctors to :

- (a) Give advice or perform prophylactic, diagnostic or therapeutic procedures that are not justifiable in the patient's interest ;
- (b) Weaken the physical and mental strength of a human being without therapeutic justification ;
- (c) Employ scientific knowledge to imperil health or destroy life.

3. — Human experimentation in time of armed conflict is governed by the same code as in time of peace ; it is strictly forbidden on all persons deprived of their liberty, especially civilian and military prisoners and the population of occupied countries.

4. — The forbidding of the medical procedures in points 2 and 3 is mandatory under all circumstances regardless of decisions to the contrary issued by either a *de jure* or a *de facto* authority.

5. — In emergencies, the doctor must always give the required care impartially and without consideration of sex, race, nationality, religion, political affiliation or any other similar criterion. Such medical assistance must be continued as long as necessary.

6. — Medical secrecy must be preserved by the doctor in the practice of his profession.

7. — Privileges and facilities afforded the doctor must never be used for other than professional purposes.

MISCELLANEOUS

II. — *Rules Governing the Care of Sick and Wounded, particularly in Time of Conflict*

1. — Under all circumstances, every person, military or civilian, must receive promptly the care he needs without consideration of sex, race, nationality, religion, political affiliation or any other similar criterion.

2. — Any procedure detrimental to the health, physical or mental integrity of a human being is forbidden unless therapeutically justifiable.

3. — In emergencies, doctors and associated medical personnel are required to render immediate service to the best of their ability. No distinction shall be made between patients except where justified by medical urgency. Services may be refused if other doctors are rendering their services.

4. — The members of medical and auxiliary professions must be granted the protection needed to carry out their professional activities freely. The assistance necessary will be given to them in fulfilling their responsibilities. Free passage will be granted whenever their assistance is required. They will be afforded complete professional independence.

5. — The fulfilment of medical duties and responsibilities shall in no circumstances be considered an offence. The doctor can never be prosecuted for observing professional secrecy.

6. — In fulfilling their professional duties the medical and auxiliary professions will be identified by the distinctive emblem of a red serpent and staff on a white field. The use of this emblem is governed by special regulation.

Letter to the Director General of WHO

Geneva, October 30, 1962.

Sir,

At its 9th plenary session on May 20, 1953, the 6th World Health Assembly passed a resolution (WHA 640) inviting the Director General to undertake a preparatory study of the problems relating to International Medical Law with the assistance of appropriate organizations and persons.

In order to assist the World Health Organization in this new task thus defined, and with its agreement, the World Medical Association, the International Committee of Military Medicine and Pharmacy and the International Committee of the Red Cross

set up a working party in 1954 to make a thorough study of certain of the problems confronting members of the medical professions today and which come under International Medical Law. The World Health Organization took part in all the meetings of this working party, delegating qualified observers to them.

It was also kept informed at regular intervals by the three above-mentioned institutions of the state of progress of the party's work, particularly in 1955 and 1957.

This work consisted, among other things, of examining the means of improving the protection accorded by the law of nations and more particularly by the Geneva Conventions of 1949 for the protection of victims of war, to the members of the medical and allied professions in time of internal or international conflicts.

The conclusions reached by the working party and the measures which it recommended should be adopted were submitted to the three mandatory institutions.

The World Medical Association formally approved them during its General Assembly in 1956 and recommended each of its member national associations to intervene with their Governments to have these conclusions put into effect.

Similarly, in 1957, the International Committee of Military Medicine and Pharmacy, through its international office of military documentation and medicine, also accepted them and invited its members to intercede to obtain their adoption on a national level.

The International Committee of the Red Cross presented them to the National Red Cross and Red Crescent Societies throughout the entire world, in the first place by means of a circular, then by a report submitted to a meeting of the International Red Cross, held in Prague in 1961. In this report the International Committee asked the National Societies to co-operate with the medical associations of their respective countries to get the public authorities to put the proposed measures into operation.

These measures have also been adopted unanimously by the International Dental Federation and will shortly be examined by the International Council of Nurses.

They have already been ratified by special legislation in Brazil, Liechtenstein and Luxembourg.

MISCELLANEOUS

Enclosed, you will find a memorandum giving explanations and comments on the measures set up by the working party.

The undersigned three institutions consider that the aim referred to by this working party, namely to improve, particularly on the practical level, the protection due to members of the medical professions in the discharge of their functions in time of disturbances and war, would be achieved in large measure, or at any rate an important step would have been taken in that direction, if the public authorities of the different countries accepted, expressly or tacitly, the recommended resolutions which have been submitted to them by the national medical associations. To this end the three institutions hope that the World Health Organization, within the framework of the 1953 resolutions and if these solutions meet with its approval, will, in turn, draw the attention of member States to the new proposals and invite them to give them their favourable consideration.

In thus associating its efforts with those of the medical associations, military/medical officers and the Red Cross Societies, the World Health Organization would be contributing to hasten the solution of one of the important current problems of International Medical Law and would be making a first positive reply to the 1953 resolution of its World Assembly.

We would be grateful for any effect which you deem it possible to give to this proposal and we would ask you to accept the assurance of our high consideration.

FOR THE
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MILITARY MEDICINE
AND PHARMACY :

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FOR THE
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Dr. A. M. de Aragao,
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FOR THE
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Léopold Boissier,
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