

DOCTORS IN THE SERVICE OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS¹

Introduction

From the very beginning, the Red Cross has been closely linked with doctors and with all whose task it is to heal, the finest of vocations.

The Red Cross was in fact created a hundred years ago to provide against deficiencies in the Army Medical Services. This was an essentially medical factor which has continued to exist in every facet of Red Cross work, even when this work has exceeded its bounds and extended not only to the various victims of conflicts, but also in time of peace to life's victims—the sick.

Both the Red Cross and doctors have the same aim : to struggle against suffering and death. There can therefore never be too close co-operation between them. Without doctors the Red Cross would be nothing. The Red Cross, for its part, has obtained bases for doctors rendering their action possible in time of war and which are precisely contained in the Geneva Conventions.

The task of a delegate of the International Committee of the Red Cross (ICRC) is not defined in the Conventions, since it consists chiefly in seeing to their proper application. The delegate's rôle has become more and more difficult, I feel I must tell you now. For the period in which we live is notable for a hardening of hearts and a weakening of international morality. The two world wars and their sequels have accumulated so much suffering and destruction to which one has ended by growing accustomed, one is no longer revolted.

¹ Extracts of a talk given to doctors called upon to assist the work of the Red Cross.

War is now fought with hatred and fanaticism. Suffering has become a political weapon, an important source of propaganda and agitation, so much so that the Red Cross is sometimes reproached for putting an end to it !

One should realise, therefore, that the work of the Red Cross demands more and more courage from those who serve it. Today, to be faithful to the Red Cross in a relentless world can involve risking one's life.

In this connection, I would recall a characteristic episode during the Second World War. In a town sorely tried by the turmoil of war, the whole population, headed by the mayor and the brass band, festooned with flowers and with mixed feelings of joy and anxiety, awaits the arrival of the train bringing home repatriated sick prisoners. Now it pulls into the station. The crowd surges forward to board the train. But alas ! This is not the one they were so eagerly awaiting ; it is full of wounded enemy soldiers. Suddenly the crowd, swarming throughout the carriages, turns upon the disabled men, insulting them, even kicking them. The voice of the ICRC delegate goes unheeded in the uproar ; he has to resort to force. His firmness finally predominates : the onslaught subsides, the crowd leaves the train, with the sudden realization that the Red Cross stands for tolerance.

General principles

At the root of all humanitarian law, there is one principle of humanity which demands that the life and dignity of the individual shall be respected.

On the other hand, there exists a principle of necessity. A state of war justifies resorting to violence.

The combination of these two principles results in this principle of humanitarian law, namely that the life and dignity of the individual shall be respected, in so far as military considerations permit.

From this notion stems, in its turn, the principle of the rule of war : belligerents will not inflict damage on their adversaries out of proportion with the object of the war, which is to destroy or weaken the military strength of the enemy.

This then is the principle which governs the Geneva Conventions : belligerents will respect and protect non-combatants and humanely treat persons falling into their hands.

Amongst the rules of application which can be inferred from the preceding principle, I would mention that of non-discrimination : the individual will be treated without any distinction founded on race, sex, nationality, language, social condition, wealth, political, philosophical or religious opinions, or other similar criteria. Only urgent medical grounds will allow priority in the order of treatment.

This principle, which the Red Cross considers to be fundamental and which it seeks to impose on the world, is a principle which is already old in the history of medical ethics. However, one looks for it in vain in the ancient Hippocratic Oath. This is one of the great achievements of modern humanitarianism.

Rules in force

The *First Geneva Convention* of 1949, which is none other than a revised version of the 1864 Convention, whose centenary we have been celebrating, stipulates above all that military wounded or sick, who have since become defenceless, shall be protected in all circumstances. In 1864 mention was made of the " neutrality " of the wounded. Since then the expression " respect and protection " is used, respect being the negative notion of not firing upon, whilst protection has the positive qualities of defending and of bringing aid and support.

This then is the Convention's cardinal principle upon which practically all other obligations are based. Members of the armed forces who have been placed *hors de combat* shall be treated in the same way as those of the national army.

In consequence, around these wounded has been created a zone of immunity, whose red cross emblem is the visible sign. This immunity extends to hospitals and ambulances which shelter the wounded, to vehicles which transport them and to the medical equipment placed for their use.

I wish above all to speak today about the protection of medical personnel.

I would first of all stress that, if doctors and nurses are thus granted such considerable privileges, it is solely because they care

for the wounded. It is indeed through them that one is aiming at the victims. Doctors are protected in their capacity as healers and it is, moreover, the finest tribute one can pay them.

In return for the immunity granted them, medical personnel must naturally observe strict military neutrality, that is to say to abstain absolutely from all interference, whether direct or indirect in operations of war. They are entitled to be armed, but solely for the purpose of ensuring order or in their own defence or that of the wounded in their care against individual acts of pillage.

Who has the right of protection under the First Convention ? Foremost and above all, the personnel of the Army Medical Service, whether it be personnel giving care to the wounded and sick or those carrying out administrative duties, then only one part of the personnel of National Red Cross Societies, namely those assisting the Army Medical Service and who are incorporated in this Service, and only those. In certain countries this forms the largest part of the Society, in others it is only a minority.

Delegates of the ICRC are not assimilated to medical personnel, nor are they protected by the First Convention, which only grants them immunity for the carrying out of exclusively medical tasks. ICRC delegates do not benefit either from diplomatic status, although they often receive diplomatic passports.

However, diplomatic custom recognizes that the ICRC and its delegates are entitled to the prerogatives of an institution of international law. States can, if they wish, grant them extensive facilities. Later on it will be seen that the armlet can ensure them a certain measure of protection.

Finally, private individuals can be protected under the Convention in cases in which the population gives shelter to the wounded. In 1949, we obtained the introduction of a new provision in this connection. No one shall henceforth be molested or convicted for having cared for the wounded or sick. In fact, doctors have too often in the past been imprisoned or even killed for having given treatment to partisans or, conversely, to the occupying forces. Such penalties are the very negation of the Red Cross spirit, as it is of medical ethics, which requires that anyone suffering shall be cared for without even being asked his identity.

One problem which also aroused heated discussion during the revision in 1949, was that of the retention of medical personnel fallen into the hands of the adverse party. According to the traditional

notion, this personnel should be immediately released and returned to their own armed forces. However, during the course of the Second World War, the belligerents agreed with each other to keep the greater portion of medical personnel in the camps, in order for them to care for their own compatriots whilst prisoners. It was said that captives were healed more effectively when treated by their own people. Consequently, the British and the Americans were entirely opposed to the repatriation of doctors and nurses ; whilst they were to be treated as ordinary prisoners of war, they would however, be engaged in medical duties.

In the end, a compromise was reached. This was that medical personnel would only be retained in proportion to the state of health and the number of prisoners concerned. During their retention they would not become prisoners of war, but would benefit from all the latters' rights. The famous French dramatist, Edmond Rostand, in his play " *l'Aiglon* ", makes Napoleon Bonaparte's son say these words : " The world believes that I am free, but I am really a prisoner ". This is more or less the case here and such a solution has the disadvantages of every compromise.

Although I cannot go into details of the Convention's provisions, I would, however, stress the following points.

Armed forces which have to abandon their wounded during a retreat, will leave with them sufficient medical personnel and equipment to care for them.

Every effort must be made to search for and collect the wounded, as well as the dead. These will not be buried until a medical examination and a communication of their identity have been made. Local cease-fires can be arranged, together with the evacuation of the wounded in areas which have been surrounded.

Once in the power of the adverse party, hospitals and medical units should be able to function, as long as the captor has not taken the wounded in charge.

Until 1949, medical equipment had to be returned to its army of origin. This is now no longer the case. This is a consequence of the modification which was agreed concerning the possible retention of medical personnel. This also applies to vehicles, which are protected in the fighting areas, but once captured they are no longer to be returned.

Medical aircraft marked with the distinctive emblem, will only be protected at times, altitudes and flights agreed in advance

between the belligerents. For, nowadays, aircraft are fired upon before they are even seen.

The sign of immunity, the visible mark of protection, as I have said, is the red cross emblem on a white ground, created in 1863 by the promoters of the Work and, so it appears, without any conscious intention at that time of reversing the Swiss Federal colours. This notion only came later and it was not until 1906 that it became official.

A distinction must be made between the protective sign, for example, red cross markings of large dimensions placed on the roofs of buildings and the armlet on the left arm, and the purely indicatory sign which only designates persons or objects connected with the Red Cross. Only military medical installations and personnel, and partly civilian, have the right to use the protective sign, as will be seen further on.

Until 1949, the ICRC did not have, and this was a serious omission, the recognized right to make use of the red cross sign, of which it was the originator. This strange gap has now been filled. The international bodies of the Red Cross and their duly legally accredited personnel have, in the Convention, been given formal authorization to use the sign. This provision can be interpreted in the following manner : when circumstances demand this, the sign will assume a protective quality. This will be the case on a hospital, as in the Yemen, and on ships such as those which transported relief during the world war. A valid claim for protection can also be given the armlet worn by delegates of the ICRC.

As you know, the unity of the red cross sign, so essential moreover, was broken by Turkey and the other Moslem countries which, in 1929, obtained the right to make use of the red crescent and in Iran only, the red lion and sun, in the place of the red cross. Since then about a dozen other attempts have been made to have different signs accepted, such as the red shield of David for Israel, which is also known as the Jewish star and even in the African countries, those of the red sheep and rhinoceros.

Disturbed by these facts we attempted, moreover in vain, at the Diplomatic Conference of 1949, to return to the unity of the red cross sign, since it is both illogical and dangerous to want to substitute for a universal and neutral sign a proliferation of national emblems, symbols of belligerency and attracting armed attacks. For the sign of the red cross, it can never be too often repeated, is

devoid of any national or religious significance. It was chosen, moreover, in a somewhat unfortunate manner since it has led to some dispute, in order to extend over the whole earth, for peoples of all beliefs or for those with none. We will continue to work for a return in the long run to the sole emblem of the red cross.

I will not speak much of the *Second Convention*, since it is the adaptation to maritime warfare of the principles of the First Convention. There is, however, this difference that it gives protection to vehicles, that is to say to hospital ships without reservation whether full or empty. Neither these nor their crews can ever be retained.

The *Third Convention* is relative to the treatment of prisoners of war. The Power which takes prisoners is responsible for their treatment. It is in particular bound to give them treatment free of charge as required by their state of health.

You know that the official controlling body of the Geneva Conventions is the Protecting Power, in other words neutral States charged with representing the interests of the belligerent countries with their adversaries. In this way, during the Second World War, Switzerland ended by being the Protecting Power of nearly all the belligerents. The ICRC, for its part, also ensures that the Conventions are properly applied, but this it does in a subsidiary capacity. It can also, however, act as substitute for the Protecting Powers, should the latter not be able to arrange protection.

The most effective method of control available to the Protecting Power and the ICRC in order to check arbitrary acts by the Detaining Powers, are visits to prisoner-of-war camps. On these visits doctor-delegates can render invaluable help, since they can immediately assess the prisoners' health.

Here again, I can but briefly mention the principal provisions which are of a medical character.

Medical personnel of enemy nationality, retained in prisoner-of-war camps, shall enjoy the privileges necessary for the accomplishment of their mission, although their liberty will in fact, by the force of circumstances, be restricted. They will exercise their functions in accordance with the standards of their professional conscience ; they cannot be forced to undertake work which is outside the scope of their mission. They can visit hospitals and labour detachments.

Every prisoner shall undergo a complete medical examination at

least once a month, at which in particular his aptitude for work will be evaluated.

All measures shall be taken to ensure the cleanliness of the camps, the prevention of epidemics, the isolation of contagious cases, the transfer of the seriously sick to hospital, etc...

Mixed medical commissions, consisting of three members, two of whom neutrals appointed by the ICRC, will visit prisoners of war and shall decide cases whose condition justifies measures as laid down by the Convention as regards the seriously wounded and sick, such as, either repatriation or hospitalization in a neutral country. A model agreement annexed to the Convention enumerates in detail the disabilities and sicknesses to be taken into consideration. It will form the basis of the work of the Mixed Medical Commissions.

We will now pass on to the *Fourth Convention* (entirely new), dating from 1949, which finally grants guarantees to civilians, so grievously lacking during the course of the Second World War. In the field in which we are concerned here, it extends to civilian wounded and sick, as well as to the infirm and children, those principles at first intended for wounded military alone and of which I have already spoken.

Civilian hospitals recognized as such by the State, will be protected in the same way as military hospitals and can henceforth be marked by the red cross emblem, which was not possible before 1949.

Persons regularly and solely engaged in the operation and administration of civilian hospitals shall be protected, as are military personnel, and authorized to wear the red cross armlet and carry the identity card.

Convoys of the sick shall be protected under certain conditions.

However, when not carrying out hospital duties, civilian medical and auxiliary personnel are not especially protected and do not have the right to wear the red cross emblem. The intention was in fact to avoid extending the use of the emblem too widely for fear of abuses. Now these doctors and others, in their capacity as civilians, already benefited from a general sort of protection. If the protective sign was created in 1864 for military medical personnel, this was because it concerned soldiers in uniform, upon whom, otherwise, it would have been legitimate to fire. According to the general principles of international law, however, attacks cannot be made against civilians carrying out peaceful activities.

But civilian doctors consider, and I entirely share their anxiety, that these provisions are inadequate and that their position has been incompletely regulated in the Fourth Convention. They maintain that their very duties expose them to face risks, to go into the fighting areas and that identification and movement facilities are necessary for them. We are therefore now studying new legal rules for civilian medical personnel and have proposed the creation of a new emblem for their benefit : the staff of Aesculapius, red on a white ground, which is often employed in the medical world. Several countries have already adopted this emblem.

Mention should also be made of special regulations. In conquered territory, the occupying authorities have the responsibility of maintaining public health. Medical personnel of all categories, as well as Red Cross and other relief societies are permitted to continue their tasks.

All civilians who may be interned will benefit from similar provisions applying to prisoners of war, of which I have already spoken.

Finally, the Convention foresees the possibility of creating hospital and safety zones in which shall be assembled the wounded, the sick and certain other categories of the civilian population, together, naturally, with the necessary medical personnel. The Convention makes this point optional and not obligatory. Much has been spoken about such zones, but, in fact, few examples of these have actually been found in the past. They undeniably offer the risk of weakening the safety of other parts of the territory. If one says : these zones are protected, one thereby assumes that the rest are less so. The creation of such zones can, however, no doubt be envisaged in urgent cases of necessity and limited locally.

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I have just called to mind the letter of the Geneva Conventions. More important still is their spirit. Now, the spirit of the Geneva Conventions is the spirit of the Red Cross, which is much older and considerably larger. The 1st Geneva Convention contains one great humanitarian idea which goes far beyond what it lays down, namely that all wounded shall be treated without distinction of nationality. The result of this is that the aid which is brought, even to adversaries, is always lawful, that it never constitutes a hostile act or interference in the struggle.

Certainly, if one were to hold a purely egoistical or utilitarian point of view, the Geneva Convention would appear to be an aberration. Is not the characteristic of war to attack the enemy's forces ? If the most immediate military interests, moreover badly understood, had prevailed in 1864, it would have been considered that the wounded, who can be healed, remained potentially harmful adversaries. Similarly, the Medical Service which gives its support to the military potential in so far as it allows itself to "recover" combatants, would not have been protected. There would not then have been a Geneva Convention and those caring for the enemy would have been regarded as traitors. This conception, however, did not triumph and the States, by signing the Geneva Convention, consented to sacrifice national interests to the demands of conscience. This then is the great achievement of the Red Cross.

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