

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

IMPLEMENTATION OF THE GENEVA CONVENTIONS

Red Cross interest in disseminating and applying the Geneva Conventions is well known. We therefore believe it worth-while mentioning three recent laws on the implementation of those Conventions. One of these was promulgated in France, with the title "Règlement de discipline générale dans les armées" which came into force in October 1966; in Yugoslavia a law relating to protection for the sign and name of the Red Cross became operative in December 1966; in the Vietnam Republic, the Government issued a decree in March last on the application of the Geneva Conventions.

Last February, M. le médecin général Jean des Cilleuls presented a paper on the first of these laws to the International Medical Law Society. It explains clearly the French decree and we are pleased to quote widely from it below:

On October 8, 1966 decree No. 661769 was published in the official gazette under the heading *Règlement de discipline générale dans les armées*. This was intended to replace, from January 1, 1967, onwards a regulation of April 1, 1933, entitled *Règlement du service dans l'armée* the first part of which dealt with discipline in general.

The new Regulations were drawn up by Commissions presided over by General Gambiez and later by General Alleret. The text

was revised under the direct authority of the "Ministre des Armées" before being submitted to the Head of the State for approval.

It gave rise to many comments and criticisms, mostly somewhat unfavourable and expressed before the regulations had been put to the test of time. These criticisms are aimed particularly at the timing of the revision of the 1933 regulations, the decline in disciplinary standards, the rights of subordinates when given illegal orders, and the respect of the laws and customs of war.

We shall not cavil about all the opinions which have been expressed. We shall confine our remarks to those articles which deal with the humanization of war.

The decree of October 1, 1966, laid stress on the respect due to the human person and his dignity, which is the overriding consideration even in war. The same emphasis is apparent in the humanitarian Conventions. It remedies a considerable shortcoming by devoting certain of its articles (34 and 35) to the *Laws and Customs of War and the Treatment of Prisoners*, thus reiterating the gist of the Regulations annexed to the Hague Convention of October 18, 1907 (art. 1, 3, 23, 27, 28, 56...) and the Geneva Conventions of August 12, 1949 (particularly the 1st Convention (art. 4)). Under this new decree, violation of these provisions is included among the most obviously illegal actions, whether they be perpetrated within or without the national territory. Such actions entail disciplinary and penal penalties for subordinates who perform them (art. 22, para. 3) or the officers who order them (art. 21, para. 2).

The new Regulations stipulate that a subordinate may never shelter behind the pretext of an order from a superior to carry out an illegal action.

Article 22 (3) (2) states the procedure a subordinate may follow if he receives such an order; this is an eventuality which, under combat conditions, is so unlikely as to be considered a practical impossibility.

When imputing responsibility, it must not be forgotten that all individuals belonging to States which have signed and ratified the humanitarian Conventions are, like States—on which the onus of treaty obligations generally falls—*directly subject* to these humanitarian Conventions. This applies also to groups not con-

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trolled by the State, since the essential part of the Conventions is also applicable in non-international conflicts.

Consequently, the Conventions should be known to all who are liable to benefit from them and all who may be called upon to apply them or justify their failure to do so before the Courts. In fact, in addition to the rule postulated at The Hague in 1902 on the responsibility of the State, there is the major rule of *individual penal responsibility* which is related to the aforesaid articles of the new French Regulations. . . .

. . . The Regulations of October 1, 1966, contain a long list of prohibited actions, such as the taking of hostages, reprisals, collective punishment, actions detrimental to the life and health of the sick, the wounded, the shipwrecked, prisoners and civilians; murder, injury, cruelty etc. It is also forbidden to use *any means of causing useless suffering and damage*, to rob the dead and wounded, etc.

Some commentators have asked how the new Regulations can be respected and reconciled with what is known of nuclear warfare, and the school of thought which advocates the use of French atomic weapons.

The essential humanitarian principles contained in International Conventions are of overriding importance and permanently valid so that officialdom cannot too often repeat them and underline them. Their strict observation is essential *in all circumstances in warfare, whether conventional or otherwise, no matter what the difficulties.*

To meet the objections to the new Regulations of October 1966 and to contend with the problems to which their application and that of the Geneva Conventions may give rise, elementary, clear and convincing instruction should be given to all ranks, by lectures and films, as is the practice in the Bundeswehr schools.

Failure to give such vivid instruction may result in the new Regulations on the Laws and Customs of War, and the Geneva and the Hague Conventions, remaining a dead letter. . . .

. . . It must be mentioned that experience has shown the implementation of the Geneva Conventions in the event of conflict to be greatly facilitated by the support of the population. To include the principles of these Conventions in such important

regulations on military discipline as those which have just been promulgated, and to comment on those principles, cannot but have a favourable influence on the dissemination of knowledge on these Conventions and induce the population of France to get to know them better in case this should ever prove useful.

The decree of March 31, 1967 promulgated by the Republic of Vietnam is as follows¹:

In view of the Charter of 19.6.1965, supplemented by Decision No. 6—QLVNCH/QD of 6.6.1966 of the Grand Council of the Armed Forces of the Republic of Vietnam;

In view of Decision No. 3-QLVNCH/QD of 14.6.1965, supplemented by Decision No. 7-QLVNCH/QD of 6.6.1966 of the Grand Council of the A.F.R.V.N. setting up the C.D.N.;

In view of Decree No. 001-a/CT/LDQG/SL of 19.6.65 and of the subsequent Acts on the composition of the Central Executive Committee; and

On a proposal by the President of the Central Executive Committee;

The *Comité Directeur National*, after a discussion and vote, hereby

DECREES:

Article One.—The Geneva Conventions of August 12, 1949, accepted and approved by the Government of Vietnam on November 9, 1953, and including:

- a) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field;
- b) the Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea;
- c) the Convention relative to the treatment of prisoners;

¹ Translated by the ICRC.

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d) the Convention relative to the protection of civilian persons in time of war,
are hereby promulgated.

Article 2.—The President of the Central Executive Committee is vested with authority to enforce the present decree which shall be published in the official gazette of the Vietnam Republic.

The law promulgated by the Yugoslav Government is very comprehensive and important for the National Society, in view of the wide range of situations it covers. We therefore deem it useful to quote the text thereof below¹:

Act Relating to the Use and Protection of the Sign and the Name of the Red Cross

Article 1. With a view to the implementation of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, and of the Geneva Convention relative to the protection of civilian persons in time of war, both dated August 12, 1949 (hereinafter referred to as "the Geneva Conventions"), the present Act lays down the conditions and instructions for the use and protection of the sign and the name of the red cross in time of peace and in time of war, or any armed conflict whatsoever.

Article 2. The distinctive sign of the red cross is a red cross with limbs of equal length on a white background.

Article 3. The sign of the red cross may only be used as a means of protection or of indicating membership or property of army medical services, the health service, or the Yugoslav Red Cross Society subject to the conditions stipulated in this Act.

The Yugoslav Red Cross Society shall use the sign of the red cross in accordance with the provisions of the Geneva Conventions.

¹ Translated by the ICRC.

The Yugoslav Red Cross shall define in detail in what circumstances it may display the red cross sign in the exercise of its functions.

Article 4. No one may use the name or sign of the red cross if not authorized so to do by this Act and the Geneva Conventions.

Article 5. In Yugoslavia, only the Yugoslav Red Cross Society, as the national organization, is entitled to the name Red Cross.

Article 6. In time of peace, the sign of the red cross shall be used or displayed only by:

1. the personnel, buildings, plant, medical equipment, and means of transport of medical organizations or medical units on emergency service;
2. first aid posts in towns, labour and other organizations, vehicles, medical material and equipment for emergency use in case of occupational injuries or road accidents;
3. the personnel, material and equipment of foreign Red Cross Societies when carrying out their Red Cross functions in Yugoslavia.

Authority to use the red cross emblem according to para. 1 and 2 of this article is granted by the Yugoslav Red Cross.

Article 7. In time of peace, war, or any armed conflict whatsoever, the red cross sign shall be used to identify and protect the medical personnel, units, institutions, buildings, equipment and vehicles (for transport on land, sea or in the air) belonging to the medical services of the Yugoslav Armed Forces or the medical services of the Armed Forces of other countries when operating in Yugoslavia with the approval of the Federal Executive Council.

Article 8. In time of war or of any armed conflict whatsoever, the sign of the red cross shall be used as a protective sign for:

1. Yugoslav Red Cross personnel, buildings, medical equipment and vehicles intended to be used for seeking, collection, transport and care of the injured and of the sick or for the pre-

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- vention of disease, and provided they are subject to the laws and regulations applicable to members of the armed forces;
2. the personnel, buildings, medical equipment and vehicles belonging to civilian hospitals;
 3. the personnel, buildings, medical equipment and vehicles belonging to the medical services of foreign Red Cross Societies or other benevolent societies which, with the approval of the Federal Executive Council, assist the medical services of the Yugoslav Armed Forces or Public Health or the Yugoslav Red Cross, in conformity with Yugoslav or international regulations;
 4. medical vehicles for transport by land, sea or air (hereafter referred to as ambulances), used for the conveyance of the injured, the sick, the infirm, maternity cases and medical material.

Article 9. In conformity with this Act and the Geneva Convention relative to the protection of civilian persons in time of war, civilian status shall be granted to a hospital or other medical institution organized to provide medical assistance to the injured, the sick, the infirm and maternity cases in time of war or any other armed conflict, and provided it has an ambulance.

The Communal Assembly of the National Defence Council shall decide, and proclaim by ordinance, which hospitals or other medical institutions are recognized as having the status of a civilian hospital in conformity with the first paragraph of this article.

Article 10. In time of war or any other armed conflict the sign of the red cross may, in conformity with the provisions of the Geneva Conventions be used to indicate hospital and safety zones and localities for the protection of the wounded, the sick, the infirm, aged persons, children under fifteen, expectant mothers, mothers of children under seven, and the personnel in such zones and localities who are responsible for fitting, maintenance and management and for medical assistance to the persons residing therein.

The Federal Executive Council shall define the hospital and safety zones mentioned in the preceding paragraph.

Article 11. The Yugoslav and foreign Red Cross organizations, in time of war or any armed conflict whatsoever, may only use their emblem on Yugoslav territory as a sign that they belong to the Red Cross Organization, except in those cases provided for in article 8 of this Act, when they may also display the red cross emblem as a protective sign.

The sign of appurtenance to the Red Cross organization shall be of relatively small dimensions to distinguish it from the protective sign, and it shall not be placed on armlets or roofs.

Article 12. The international organizations of the Red Cross, which are permitted to carry out their functions on Yugoslav territory, and their personnel, shall be entitled to display the emblem and name in time of peace and of war or any armed conflict whatsoever.

Authority to act in accordance with the preceding paragraph is issued by the Federal Executive Council.

Article 13. Personnel working in medical institutions recognized as civilian hospitals shall, in time of war or any armed conflict whatsoever, be issued with an identity card bearing the holder's photograph and an official stamp; this card shall be proof that the holder works in such a medical institution in a civilian capacity. The type of work performed by the holder shall be shown on the card.

For the purposes of the preceding paragraph, the personnel shall include any civilian working in these medical institutions for the purpose of seeking, collecting, conveying, treating or caring for military or civilian wounded and sick, the infirm, and maternity cases, or working in an administrative or other capacity in such medical institutions.

Article 14. Medical establishments having the status of a civilian hospital shall be indicated in time of war or any other armed conflict by the emblem of the red cross.

Personnel working in the institutions mentioned in the preceding paragraph shall, when on duty, be in possession of an identity card as prescribed in the first paragraph of article 13 and shall wear on the left arm a stamped, water-resistant armlet showing the sign of the red cross.

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Article 15. Ambulances, medical institutions recognized as civilian hospitals, their personnel, medical equipment, plant and means of transport, as mentioned in articles 6 to 8 above, shall clearly display the red cross emblem in an obvious place.

Personnel who, according to article 7, article 8 (1) and (2) and article 10 of the present Act, are entitled to display the red cross sign in time of war or any armed conflict whatsoever must be in possession of an identity card issued by the authorities specified in this act.

Article 16. The identity cards mentioned in article 13 above, as well as the armlets mentioned in article 14, shall be issued by an administrative body qualified to deal with health affairs, and shall be deposited in the custody of the medical institution having the status of a civilian hospital. These identity cards and armlets shall be distributed to the aforesaid personnel immediately on the outbreak of war or any other armed conflict.

The administrative body qualified to handle health affairs shall, in accordance with the provisions of article 9 above, ensure availability of identity cards and armlets for delivery to the institutions mentioned in the first paragraph of that article.

Article 17. When any person ceases to be employed for the functions mentioned in the first paragraph of article 13 above, he shall surrender his identity card and armlet to the director of the medical institution where he worked.

Article 18. A fine not exceeding 500 dinars shall be imposed for infringement of the law:

1. on any person responsible for a medical institution who fails to ensure that the red cross sign is clearly displayed in the place stipulated (first paragraph, article 15);
2. on any person responsible for a medical institution who fails to preserve and use the identity cards and armlets or fails to issue them at the proper time to the persons mentioned in the first paragraph of article 16 above.

Article 19. A fine not exceeding 500 dinars shall be imposed for infringement of the law on any person who:

1. whilst on duty does not clearly display the red cross in the place stipulated (articles 7, 8 and 10);
2. on ceasing his work in a medical establishment, does not surrender his identity card and armlet (see article 17).

Article 20. The provisions of this Act apply with equal force to the protection of the emblem and name of the organizations of the Red Crescent and the Red Lion and Sun.

Article 21. The Federal Executive Council shall prescribe ways and means of making the Geneva Conventions known to the Yugoslav population.

Article 22. The Secretary of State for National Defence is authorized to issue regulations for the use of the sign to indicate medical units, buildings, material, plant and means of transport in the service of the Yugoslav armed forces; he shall also appoint the bodies responsible for applying such regulations.

Article 23. The Secretary of State for medical and social policy is empowered to regulate:

1. the use of the sign to indicate the premises of first-aid and emergency medical assistance institutions, and also to indicate emergency medical assistance personnel, plant, equipment and material (article 6 (1) and 6 (2));
2. the location and dimensions of the red cross sign denoting means of transport intended to be used in medical emergencies (article 6 (1)) and ambulances (article 8 (4));
3. the form of the ordinance mentioned in the second paragraph of article 9 above, the wording of the identity card, the shape of the stamp mentioned in the first paragraph of article 13 and the shape of the armlet mentioned in the second paragraph of article 14 above;
4. the registration of the ordinances, identity cards and armlets issued (article 16).

Article 24. Red cross signs in use on the day this Act becomes operative but which do not conform thereto may be used for a period not exceeding two years thereafter.

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Article 25. From the day this Act becomes operative, the following shall no longer be valid:

1. the provisions of article 6 of the Yugoslav Red Cross Act ("Službeni List FRNJ", No. 59/46 and "Službeni List SFRJ" No. 17/64);
2. the decree relative to the issuance of certificates of civilian status for hospitals in time of war and for civilians employed in such hospitals ("Službeni List FRNJ", No. 7/55);
3. the regulation on special health service transport ("Službeni List FRNJ", Nos. 6/59 and 32/59).

Article 26. This Act shall come into force on the eighth day following its publication in the "Official Gazette of the Yugoslav Federal Socialist Republic".

THE PRINCIPLES AND HISTORY OF NURSING CARE

The lack of nurses is everywhere prevalent. The tasks devolving on them become increasingly difficult and their responsibilities ever heavier. It is therefore essential to make efforts to have the present requirements for the training of nurses made known and also to recall that this profession takes its dignity from a long tradition and that some of its principles give it, to a certain extent, a moral protection in a period of rapid change. We therefore think it useful to mention some of the recent efforts which have been made in that direction.

The League of Red Cross Societies has prepared two series of colour slides, the first of which depicts the *Life of Florence Nightingale*. These thirty illustrations are accompanied by a commentary based on a number of biographies of the "Lady of the Lamp", concluding with a reminder of what is the Florence Nightingale Medal.