

INTERNATIONAL MEDICAL LAW

In a previous number we published papers submitted to the Journée d'études de droit international médical which took place in Liège and of which we gave an account. It was concerned with the dissemination of humanitarian law. Below we give a translation of a study submitted to the same meeting by Mr. Marcel Fontaine, Dr. of Law, entitled: L'enseignement supérieur du droit international médical (Higher Education in International Medical Law).

One of the most effective factors leading to the development and dissemination of international medical law is the teaching of its principles and provisions in civilian and military higher education establishments.

International medical law has all the requirements of a subject for systematic scientific teaching. As the body of international law regulations applicable to doctors, medical personnel, the wounded and the sick, it is a well defined sector of the law of nations. Many and important international agreements confer on it a stage of development more advanced than that of any other branch of international law.

The provisions of international medical law are of two types: some relate to time of peace, others to time of war. To the extent that the latter type of provisions coincides with international humanitarian law¹, countries which have signed the Geneva Con-

¹ We have defined *international medical law* as the body of international law regulations applicable to doctors, medical personnel, the wounded and the sick. *International humanitarian law* is construed by us to mean the whole body of international law regulations affecting persons in distress. These two branches have much in common, such as the provisions of the Geneva Conventions relating to the wounded and the sick. International medical law does however have a field of its own, which covers, for example, the legal status of medicine internationally, whilst the status of prisoners of war or civilian populations in time of war, apart from such considerations as hygiene, health and the exercise of the medical profession, come within the scope of international humanitarian law.

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ventions are under a legal obligation to give teaching courses on them. This applies to almost every nation in the world. The four Geneva Conventions (article 47 of the 1st, 48 of the 2nd, 127 of the 3rd and 144 of the 4th), provide that signatory States shall "include the study thereof in the programmes of military and, if possible, civilian instruction . . .".

Some progress has been made, but strikingly little. We shall revert to it later. It is no exaggeration to say that, even now, 18 years after the signing of the 1949 Conventions, no scientific effort to teach this branch of international law has gone beyond the chrysalis stage. This is to be regretted. It is a serious shortcoming in universities and in military colleges, for an army whose officers have but a vague acquaintance with the Geneva Conventions can hardly be expected to observe the humanitarian principles strictly.

International humanitarian law should be taught in military medical colleges, for some of the most important principles of the Geneva Conventions are of concern to medical personnel in the exercise of their mission. Systematic teaching should also be given in all officers training colleges, for in the event of conflict officers must decide on the treatment to be given to the wounded, to prisoners, and to civilians.

International humanitarian law, as a branch of the law of nations, should naturally have a place in the curriculum of the law and medical faculties of universities, for which it has a twofold interest. For its sociological interest, the law of Geneva should be taught to students whose ambition is to accede to the ranks of leadership in their country and thus influence considerably their fellow citizens. In addition, it is of scientific interest, for seminars on international humanitarian law would give added impetus to the study of legislative provisions thus bringing out clearly how they are applied and where there is room for improvement.

Wide dissemination of knowledge on the peace-time application of international medical law is not perhaps such an imperative necessity, but these legal rules are a natural corollary to international humanitarian law and would appear essential for any doctor intending to play fully his rôle in the world today, in which events are more and more connected with the international scene.

Interest in scientific teaching of international medical law is not

entirely unrecognized. At several of its meetings, the *Office international de Documentation de Médecine militaire* has stressed the importance of teaching international medical law with a view to disseminating knowledge on the Geneva Conventions. This was particularly the case at the 1955 meeting in Istanbul and the 1959 meeting in Paris. The XVIIth International Congress of *Médecine militaire*, at Caracas in 1963, proposed that university authorities in all countries be requested to include the Red Cross principles as a subject for study.

As early as March 15, 1949, the *Académie nationale de Médecine de Paris* recommended that in time of peace and of war the exercise of the medical profession should be subject to a compulsory code of ethics to be drawn up by some international medical organization, and that courses on this code should be statutory in all medical faculties and schools throughout the world.

Apart from any question of the framing of such an international code of ethics, there already exists a vast body of international medical law providing sufficient matter for teaching and research programmes. The peace-time provisions of international medical law include sections on the international organization of medicine, particularly the World Health Organization and the World Medical Association, their scope and achievements, the study of international health regulations such as those drawn up by the Council of Europe, international agreements on social security and working conditions, narcotics control and pollution of the seas.

The war-time provisions of international medical law are based mainly on the 1949 Geneva Conventions, which themselves provide sufficient matter for study. Apart from any exposition of the Geneva Conventions, their application to the ever-increasing number of non-international conflicts and to any nuclear war which might break out, provide legal experts with two very serious subjects for consideration. Even conventional warfare makes it necessary for legal experts to exert themselves to improve on the 1949 Conventions. As an example we might mention the problem raised by the utilization of aircraft for medical purposes, the present regulations for which are quite impracticable. In addition, what can be done to ensure respect for the Conventions by the United Nations Forces?

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These and many other questions are being studied thoroughly by such organizations as the International Committee of the Red Cross, the International Committee of Military Medicine and Pharmacy, the *Commission médico-juridique de Monaco*, National Societies of International Medical Law, the *Centre d'Etudes de Droit international médical*, the International Law Commission of the International Law Association, etc. It is not difficult to see how their efforts would be assisted by the development of international medical law seminars in the higher educational establishment of various countries.

Some measures to this effect have already been taken; that they are few in number makes all the more praiseworthy the efforts of their promoters.

It was the college of Military Medicine in Florence which first, in April 1949, appointed Physician-General voncken, Secretary-General of the International Committee of Military Medicine and Pharmacy and Chairman of the International Medical Law Commission of the International Law Association, to give a course of five lessons on the history and principles of international medical ethics.

On December 10, 1949, the Dean of the Faculty of Law of the University of Aix-Marseille, supported by the University Board of Governors, asked that the Faculty of Medicine take the initiative by organizing public conferences for a year on the international legal status of medicine and the medical profession in time of peace and of war. These conferences were given by Professor P. de La Pradelle.

In 1951, the *Bordeaux Ecole de Santé navale* also decided to give courses on international medical law, the first of which was entrusted to Physician-General voncken.

At about the same time chairs in international medical law were created at the military colleges of Mexico and Havana, then later at the Turkish Academy of Military Medicine at Gülhane. *L'Ecole d'application du Service de Santé*, in the Val-de-Grâce in France, has also organized conferences on international medical law. In the Federal Republic of Germany, international humanitarian law is taught in the Bundeswehr schools by professors of law. German

officer cadets must follow a 15 hour course on the Geneva Conventions.

The Faculties of Law and Medicine of the University of Bordeaux have had a chair in international medical law since 1952; the incumbent is a legal expert, Professor Auby. This chair was created pursuant to a ministerial decree of January 20, 1952 and a decision by the University Board on February 8, 1952. Although optional, Professor Auby's courses are well attended and have prompted several medical students to submit theses on international medical law. The course covers completely the subject of international medical law in time of peace and of war.

The refresher courses for young medical officers at Macolin (Switzerland) in 1959, Florence in 1962, and Madrid in 1965, on the initiative of the International Committee of Military Medicine and Pharmacy, included several papers dealing with various aspects of humanitarian law.

At the University of Louvain, Professor Renaer devotes a large part of his course on international medical law to medical ethics.

The Faculty of Law of the University of Geneva recently appointed Mr. Jean Pictet, one of the outstanding specialists in this field, to give regular courses on humanitarian law. A report submitted by the ICRC to the XXth International Conference of the Red Cross, mentioned a seminar on the Geneva Conventions at the Faculty of Political Science of the National University of Colombia, and also plans for courses in various American universities sponsored by the American Bar Association. The University of Pristina, in Yugoslavia, also gives courses in international medical law.

This list is undoubtedly not complete; we hope so. Much has still to be done. Most universities do not have chairs in international humanitarian law. In too many countries military colleges do not give the Geneva Conventions the place they deserve in their programmes.

The first task is to overcome the ignorance or indifference which prevails in certain circles and to bring about the necessary awakening of conscience. Once this obstacle is crossed, it may be presumed that a number of practical problems connected with the organizing of courses on international medical law in universities will have to be solved. The creation of a new chair requires administrative

authorization; it may set a budgetary problem. As things stand at present courses on international medical law would probably be optional and therefore reach only a small proportion of students.

For this reason it may well be more practical in certain cases to advocate the inclusion of international medical law in already existing courses for students as a whole. In the Faculty of Law, the courses on international public law would normally embody the subject of international medical law. In Medical Faculties, international medical law could be included in the study of medical ethics, but it should be stressed that these rules of international law go beyond those of professional ethics.

The inclusion of international medical law into existing courses should not of course be restricted to a few brief allusions. The scientific and humanitarian importance of the subject deserves to be considered a major section of courses on public international law, on the same footing as medical ethics. It could be the subject of seminars, examinations, monographs or theses for a doctor's degree.

If this limited objective could be achieved to some extent, international medical law would progress to a new phase of development with great promise for the future of the humanitarian cause.

A MODERN HOSPITAL

According to modern theories, a hospital should be better integrated in the community than was previously the case. Vast buildings with forbidding exteriors now give way to more human, more personal constructions. A recent article alludes to this and indicates the main outline of a master plan.¹

We think it to be of interest to reproduce some passages of this text. In fact, medicine is developing so fast that many hospitals which have

¹ See *WHO Chronicle*, World Health Organisation, Geneva, 1967, No. 5.