



Course 5: Peace through Health in violent conflict

Chapter 1: The Geneva Conventions and Medical Assistance

These exercises are intended as a supplement to Medical Peace Work Course 5. The aim of the exercises is to let students of the course reflect more deeply on the passages of the Geneva Conventions mentioned in the course.

It is important that health care practitioners working in armed conflicts, especially as part of armed forces, have some knowledge of the Geneva Conventions, since they are the juridical norms that govern medical practice in war. Note that the Geneva Conventions apply only in wartime, but the cited articles indicate that the Conventions do not put in place different ethical standards for medical practice than those that apply in peacetime.

Note also that the Fourth Convention, even though it does not establish specific norms for medical care of non-combatants in domestic conflicts, nevertheless insists that non-combatants may not be arbitrarily discriminated against in any circumstance, which would include in access to medical care.

Teachers/trainers should prepare by reading relevant parts of Conventions I (Chapters 1 and 2) and IV (Articles 1-4), Additional Protocol II (Parts I-III), the introductory commentaries to the conventions and the commentaries to the specific articles mentioned in the exercises. This material is available on the ICRC website: www.icrc.org/ihl.nsf/CONVPRES?OpenView

Exercise 1: Geneva Convention IV (relative to the Protection of Civilian Persons in Time of War)

Article 3. *In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions.*

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- *violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture*
- *taking of hostages*
- *outrages upon personal dignity, in particular humiliating and degrading treatment*
- *the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.*



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2. *The wounded and sick shall be collected and cared for.*

(Note: the exact same article is found in all four Geneva Conventions. This article establishes a set of minimum standards to be observed in domestic conflicts, while the standards set for international armed conflicts are much broader and more detailed than those for domestic ones.)

Questions

- A. Can you think of cases where it is not easy to determine who ‘persons taking no active part in the hostilities’ actually are?
- B. Why do you think the Geneva Conventions established these rules for sick and wounded in times of conflict? Discuss.
- C. Think of cases where health professionals may have committed or assisted in committing acts prohibited by this article.

Possible answers

A: There may be cases where it becomes hard to define what people not taking part in hostilities might include, particularly if people are sheltering fighters or involved with militias. Enemies also frequently like to blur the boundaries between ‘innocent’ civilians and ‘guilty’ fighters, to make tactics like aerial bombardment of population areas more acceptable. Nevertheless, it is right that international humanitarian law reserves a space for the concept of the civilian. For further discussion on these issues see Hugo Slim (2008). *Killing Civilians – Method, Madness and Morality in War*. New York, Columbia University Press.

B: The wounded and sick are particularly vulnerable during armed conflict, and thus there is a humanitarian imperative to protect them. This also holds true for wounded combatants: the Geneva Conventions recognize that as long as a soldier is rendered unfit for combat due to injury or disease, he is not to be treated as a combatant, but as a person in need of care. As the introductions to the Geneva Conventions make clear, the Conventions are born out of a concern for safeguarding the inherent dignity of every human person, which is connected to the concept of human rights.

C: One might think of German or Japanese doctors during World War II involved in forced experimentation on prisoners, or doctors involved in torture.

Exercise 2: Geneva Convention I (for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field)

Article 12. *Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.*



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They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not willfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Question

- Can you think of situations in which military doctors could be tempted to violate the provisions of this article – or be pressured to do so? Discuss.

Possible answer

According to medical criteria the most urgent cases should be treated first. So, for instance, when enemy combatants are brought in for treatment at the same time as combatants from one's own side, doctors might be tempted to treat their own side first, even though the enemy patients are more badly wounded. Also, they might be tempted to reserve supplies for their own side and give second-rate treatment to the enemy. According to this article, such actions are not lawful; however, the conventions do not envision sanctions for doctors who violate this rule (only for those involved in serious human rights violations such as torture and experiments on prisoners).

Exercise 3: Protocol Additional to the Geneva Conventions, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)

Note: Protocols I and II were promulgated in 1977 and contain further developments in international humanitarian law, building upon the original conventions of 1949. Not all nations have signed these additional protocols. Protocol I concerns international armed conflicts, and the article below is contained therein as well, as Article 10).

Article 7. Protection and care:

- 1. All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected.*
- 2. In all circumstances they shall be treated humanely and shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.*

Questions

- A. What developments in rights for the wounded does this article present compared with Article 3 of the Fourth Convention (presented in exercise 1) above?



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- B. What differences – if any – are there between doctors’ responsibilities toward sick people (as far as they are non-combatants) in wartime and in peacetime?

Possible answers

A: Article 3 of Convention IV merely states that the wounded and sick affected by non-international conflicts must be treated humanely. Protocol II goes much further in stating that they must also receive medical care if they need it.

B: The article states that “There shall be no distinction among [the wounded and sick] founded on any grounds other than medical ones.” This echoes the statement in Article 12 of Convention I. Thus, at all times in war, a doctor must treat the wounded and sick according to the same criteria as he would in peacetime, namely on the basis of need.

Exercise 4: Protocol II

Article 9:

1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

Questions

- A. Why do you think it would be necessary to develop special protection under international humanitarian law for medical personnel? Discuss.
- B. What tasks do you think that medical personnel could be “compelled to carry out” that are “not compatible with their humanitarian mission”?

Possible answers

A: One answer could be the vulnerability of health workers, forcing the international community to develop strong legal structures for their protection.

B: For example, performing medical experiments on prisoners of war; providing assistance in torture; taking on combat roles; providing treatment preferentially to one part in a conflict.