

Medical Personnel and the Law of Armed Conflict

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Why comply?

*International law is the law which
the wicked do not obey and the
righteous do not enforce*

Abba Eban
Israeli Ambassador to the US
20 September 1957

- Development of LOAC
- Examples throughout history
 - 1859 - Battle of Solferino
 - 1863 - Formation of Red Cross
 - 1863 - Lieber Code
 - Geneva Law - humanitarian law
 - Hague Law - conduct of ops



Sources of LOAC

- International Treaties and Conventions
- International Custom
- General principles of law recognised by civilised nations (domestic law)
- Judicial Decisions, both domestic and international
- Writings of most highly qualified experts

Compliance with LOAC ensures:

- Reciprocity
- Prevention of escalation of conflict
- Avoiding ineffective use of scarce resources
- Internal discipline
- Effective restoration of peace

Distinction: Medical Personnel



- Considered 'hors de combat'
- Pose no military threat
- Not legitimate targets of attack
- Have right to perform medical role and care for patients without hindrance

Definition: Who is Covered?

All personnel required for adequate treatment of wounded and sick, especially doctors, nurses, medassts.



- Includes those *integral* to the medical service – such as cooks, admin, mechanics, drivers
- All such will be specially authorised and specifically connected to medical units
- Will carry identity cards giving specific details

Definition of Medical Personnel



- They may be 'permanent' or 'temporary' (in the length/period of duty) – but for this time it will be an exclusive assignment.

Obligations of the Medical Role



- Medical care must be given to all persons hors de combat
- Medical personnel must protect and treat them humanely.
- No adverse distinction.

Medical Ethics as in Peacetime



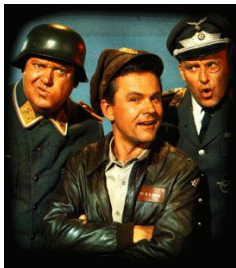
- Patient consent
- Absolute respect for human life
- Treat only in order of medical urgency
- Only perform procedures required by patient's condition

Carrying Weapons?



- Limits on type
- Limits on use

Prisoner of War?




If captured,
Medical Personnel
are NOT PWs.
Must be:
* repatriated; or
* retained for
medical duties
for other PWs

Distinction: Medical Sites



- Situated away from military objectives
- No specific distances laid down


Proliferation Concerns



An additional emblem designed to:

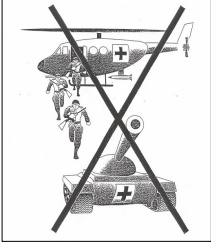
- Be free of religious, political, ethnic connotations
- End proliferation of protective emblems

The Red Crystal Emblem



- Entered into force on 14 January 2007
- Provides additional indicative emblem for use by National Societies
- Legal status and use – equivalent to red cross and red crescent

Perfidy



- Deceiving the enemy and gaining false advantage from the emblem = A war crime
- Seriously decreases the emblem's protective strength
- Ruse vs perfidy?

NO!



Protective Use



In armed conflict, the emblem is:



- Worn by military and civilian medical personnel authorised by their Party
- Also to be shown on medical facilities, stores and equipment
- A protective sign that must not be attacked under any circumstances

Identification



- Display of emblem is not mandatory
- Camouflage may be applied, at commander's discretion
- Usually, camouflage should be temporary and ceases as soon as fighting starts

Identification



- Protection can be reasonably expected *only if* the emblem is conspicuous and prominently displayed.

Emblem Misuse in Peacetime



Questions?

