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Proceedings of the 2nd ICMM Workshop on Military Medical Ethics

Edited by: Messelken, Daniel ; Baer, Hans U

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Edited by D. Messelken and H.U. Baer

2013

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Introduction

Daniel Messelken and Hans U. Baer

Several discussions held over the years during the courses on the Law of Armed Conflict (LOAC) mandated by the International Committee of Military Medicine (ICMM) and organised by Swiss Armed Forces in Spiez/Switzerland have shown a growing demand to analyse ethical questions and dilemmas arising in the course of the deployment of medical troops. This, inter alia, led to the foundation of the *ICMM Reference Centre of International Humanitarian Law and Ethics* which is based in Switzerland and started its work in 2010.

The idea of the ICMM Conference Series on Military Medical Ethics, that started in 2011 and will have its fourth conference in April 2014, is to bring together people from different professional backgrounds and to give them a forum to share their experience and expertise on specific problems or dilemmas from the field of military medical ethics. Thus, the audience of the workshops included medical officers from several armed forces, experts in international humanitarian law, representatives from international organisations, and philosophers specializing in military medical ethics. This unlikely and diverse composition led to a fruitful and open working atmosphere that everyone could gain insight from.

The goal of the three day workshops is to facilitate a discussion and to agree on common positions on how to (re)act in future situations comparable to the case studies discussed. In order to achieve this goal, case studies are discussed with the participants and experts are asked to contribute their commentaries. The conferences themselves gave large room for group and plenary discussions on these cases and cases reported directly by participants. Even if agreement could not always be found, the discussions were deemed to be fruitful and revealing by the workshop participants.

By publishing the proceedings of the 2nd workshop held in 2012 we want to give, to a larger audience, the opportunity to read the presentations and to (re)think the issues treated at the workshop. Even if the discussions held at the Forum Lilienberg and their results do not figure in this book, we are convinced that the presentations and lectures themselves give an important and highly valuable insight into some issues of military medical ethics. The contributions collected in this volume do however only reflect the opinions of their authors.

The Contributions of the Volume

In his contribution, *Bill Boothby* traces the emergence of the humanitarian philosophy that gave rise to the early development of the law of armed conflict. One of his major concerns is how the balance between humanitarian concern and military necessity, which is central to the acceptance of the law of armed conflict, has influenced its subsequent development.

Also concerned with legal aspects, *Sigrid Mehring* presents a short and dense overview of those provisions of International Humanitarian Law which are the most relevant ones for physicians. Besides the basic and well-known duty of «respect and protect» in international humanitarian she outlines some less known but equally important provisions of IHL that complete the legal framework for the work of physicians, whether military or civilian, in armed conflicts. As the boundaries set by the law for physicians' involvement during armed conflict are especially interesting and important to know, she also dedicates some time to what is called «medical war crimes» by international humanitarian law.

Starting from the existing legal regulations, *Paul Bouvier* looks at the ethics of rescuing persons in distress and at the history of the moral duty to provide care to the wounded enemy. He explores how this duty derives from the principle of humanity, and how it closely relates to the medical neutrality and the functional independence of health services in armed conflicts. His main thesis is that the duty to take care of the enemy must apply without compromise. If a physician encounters practical limits to follow this duty (e.g. when resources are limited and security is threatened) his answer in the field should be guided by an ethics of responsibility. Ultimately, he states, that the best guide might be the golden rule: take care of the wounded enemy as you would like yourself to be treated in similar circumstances.

Ayesha Ahmad directs our attention to intercultural issues in humanitarian interventions. She proposes to integrate the analysis of culture into the way that we understand people in the emergency medical setting, following a disaster or a humanitarian crisis. In her view, treating a person ethically in medical practice involves the recognition and respect of the culture that forms the patients' values and beliefs. This principle is all the more important in disaster medicine where the physician is often working in a different culture, and where resources are limited. She concludes that there is a strong need to maintain awareness of the intercultural aspects in disaster medicine in order to recognize, mediate, and resolve conflicts that arise during and from intercultural encounters.

Taking stronger into account the medical role of military physicians, *Hans U. Baer* presents the current mainstream approach to medical ethics which is the so-called principlism that has been developed by Beauchamp and Childress. The four principles and their implications are introduced and a model for ethical decision-making based on these principles is presented. Unlike ordinary medical ethics, the approach presented by Baer takes explicitly into account, however, the needs and the context of military physicians who shall be enabled to independently conduct an ethical analysis of critical cases.

In the concluding chapter, *Daniel Messelken* looks at the ethical issues that arise from the fact that medical officers fulfil two roles at the same time: physician and soldier. This double role can lead to a series of ethically problematical situations. Being physician and soldier a medical officer is subject to two professional ethics that from case to case may obligate him to different paths of action. His contribution aims at exploring some of the underlying ethical assumptions and theories, that describe the double role of the medical officer and sketches an alternative approach of how the two roles might be reconciled.

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We thank all authors for their manuscripts and all participants for their open and fruitful contributions to the discussions.

About the Authors

Dr. Ayesha Ahmad

Ayesha Ahmad is a philosopher with a PhD in philosophy of medicine/ medical ethics. She also has a background in religion and psychoanalysis, where she specialises in trauma. She is a Tutor and Ethics and Law Lecturer at University College London, and a Clinical Ethics Committee Member at Great Ormond Street Hospital in London. She holds several international research collaborations in South Africa, Finland, and Serbia, and is a member of a research project entitled «Disaster Bioethics».

Prof. Dr. med. Hans U. Baer

Hans U. Baer is a Professor Titularis of Surgery of the University of Bern, Switzerland and Professor at the Tarumanagara University of Jakarta, Indonesia. He is working in his own Centre for Abdominal Surgery and is the Director of the International Committee of Military Medicine's Reference Centre of Education of International Humanitarian Law and Ethics, based in Switzerland. He has also completed a Master in Advanced Studies in Applied Ethics of the Ethics Centre of Zurich University.

Dr. Bill Boothby

Bill Boothby retired in 2011 as Deputy Director of Legal Services (RAF) after a 30 year career in the Royal Air Force Legal Branch. In 2009 he completed his Doktor Iuris in international law at the University of Frankfurt (Oder) publishing his first book, *Weapons and the Law of Armed Conflict*, with OUP the same year. In 2012 he published his second book, *The Law of Targeting*, with the same publisher. He is currently working on his third book in which he will look to future trends in the conduct of hostilities and in the evolution of international humanitarian law and the law of human rights.

He teaches at Royal Holloway College, University of London, at the Australian National University and at the University of Durham. He is an Associate Fellow of the Geneva Centre of Security Policy.

Dr. med. Paul Bouvier

Dr. Paul Bouvier, MD, MSc, ICRC Senior medical advisor. Lecturer in public health, Geneva University.

After medical studies in Geneva, Paul Bouvier worked as physician delegate of the ICRC in the early 1980's, in detention and assistance operations in Africa and Central America. Specialization in clinical Paediatrics (Swiss paediatrics board FMH) and in Child Public Health (MSc in Community Paediatrics, London). From 1989 to

1996 he worked with the University of Geneva in research projects in child public health in Africa and in Switzerland. From 1997 to 2007, he directed the Child and Youth Health Services of Geneva, in charge of prevention and health promotion activities in schools. He developed various programmes and research in the field of preventive medicine and child protection, child ill-treatment and abuse, violence prevention, promotion of resilience. Chaired the Ethics committee for epidemiological research for 15 years.

As the ICRC Senior Medical Advisor, since 2007, his responsibility involves advising the ICRC Assembly and Directorate on health and ethical issues, ensuring the relevance and quality of humanitarian interventions in the domains of health and medicine, and ensuring ethics in the operations and in people management. He is the coordinator of the HELP course on the management of humanitarian emergencies, in 10 countries around the world.

Dr. Sigrid Mehring, LL.M.

Sigrid Mehring studied international law in Amsterdam. After gaining valuable insights into the practical realities of international law during internships at the International Criminal Tribunal for the former Yugoslavia and at the Dutch Representation at the UN, she joined the Max Planck Institute for Comparative Public Law and International Law as a research fellow concentrating on international humanitarian and criminal law, and was a member of a research group on bioethics and law. In December 2011, she finished her Ph.D. thesis on «The Role of Physicians in Armed Conflict – The Intersection of Medical Ethics and International Humanitarian Law».

Dr. Daniel Messelken

Daniel Messelken has studied Philosophy and Political Science in Leipzig and Paris (1998-2004). He has written his master thesis in 2004 on «Just Wars Today?». He finished his doctoral thesis on «The Notion of Interpersonal Violence and its Moral Evaluation» in 2010.

From 2004-2009 he worked as an assistant to Prof. G. Meggle at the Institute for Philosophy at the University of Leipzig. Since 2009 he is a Research Assistant on «Military Medical Ethics» at the Ethics Centre of Zurich University (Cooperation with ICMM and Swiss Armed Forces) and Scientific Coordinator at the ICMM Reference Centre of Education of International Humanitarian Law and Ethics. His main research fields include Just War Theory, the Morality of Violence, Military Ethics, Political Philosophy, and Applied Ethics in general.