

**XVIII INTERNATIONAL RED CROSS CONFERENCE**

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**Report of the International Committee  
of the Red Cross**

on the

**Protection of Civilian Hospitals and their Staff  
in time of War**

(Item III of the Agenda  
of the Health, Nursing and Social  
Welfare Commission)

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*THE PROTECTION OF CIVILIAN HOSPITALS  
AND THEIR STAFF IN TIME OF WAR*

I. INTRODUCTION

In time of war the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons confers rights, and imposes duties, on the Managements of civilian hospitals and on all the members of their medical and administrative staff. An attempt is here made to define in very succinct and easily accessible form the essential elements of these rights and duties. For more complete information on the subject the Managements of civilian hospitals and all the members of their staff are urged to study the provisions of the Fourth Geneva Convention, and in particular Articles 13 to 26 of that instrument. Reference may also be made to the Analysis of the Geneva Conventions of 12 August 1949, compiled by the ICRC for the use of National Red Cross Societies, Geneva 1950, Vol. II, pages 89-96.

It is part of the duty of the Managements of civilian hospitals to see that all the members of their staff are acquainted with the provisions of the Fourth Geneva Convention which concern them. It is equally indispensable that the staff should be instructed in the law of their country on the subject. In time of war the State generally issues special regulations relating to the national defence, and these regulations define the attitude to be adopted by the inhabitants of the country in relation to the enemy. Breaches of this legislation may involve severe penalties. It is important therefore that there should be no ignorance on the subject.

In certain countries the authorities have made provision for the automatic requisition of civilian hospitals in time of war, and their transfer to military management under military responsibility. Where this is the case, the civilian hospitals are on the same footing as the establishments of the Army Medical Service, and all their staff are subject to military discipline. As a result these establishments no longer enjoy the protection of the Fourth Convention, but come under the provisions of the First Convention, provided always that they are actually used to receive military wounded as well as civilian sick persons. The rules to be observed by them are summarised in a booklet prepared for their use by the ICRC with the title "Some Advice to Nurses and other Members of the Medical Services of the Armed Forces".

## II. GENERAL PROTECTION OF CIVILIAN HOSPITALS AND THEIR STAFF

Before proceeding to consider the provisions of the Fourth Convention on the subject of the protection of civilian hospitals, it is as well to point out that the duty of belligerents to respect civilian hospitals is based on a principle of international law, which is of long standing; and the provisions of the Fourth Convention on this point merely confirm earlier treaty obligations<sup>1</sup>. Such further special provisions as the Fourth Convention contains in favour of civilian hospitals and of their staff, and of their sick and wounded patients, do no more than strengthen this principle of international law and render its application more easy.

Moreover hospital staff, like the patients, are civilians; and as such they are entitled to the general protection which the Fourth Geneva Convention confers on the civilian population, especially in occupied territory. It was thought necessary to give them additional protection in virtue of their functions or their state of health. But they have all the rights of civilians.

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<sup>1</sup> See Annex to the Hague Convention of 18 October 1907, Sections II and III.

### III. SPECIAL PROTECTION OF CIVILIAN HOSPITALS

The Convention begins by laying down a general rule that the wounded and sick as well as the infirm, and expectant mothers, are to be the object of particular protection and respect (Article 16, paragraph 1), and that in time of war civilian hospitals organised to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but are at all times to be respected and protected (Article 18, paragraph 1).

#### (a) *Recognition*

In order to benefit by the special protection which the Convention accords, a civilian hospital must have been recognised, as such by the State. This recognition is to be certified by a document signed by the competent authority, showing that the establishment is in fact a civilian hospital, and has no purpose other than humanitarian (Article 18, paragraph 2).

In time of war the management of the hospital must always be in possession of this official document. It is indeed highly desirable that the hospital should receive the document in peace time, or should at least take the necessary preliminary steps to enable it to obtain the document without delay on the outbreak of hostilities.

#### (b) *Marking*

The Management of the hospital must ask the State to authorize the marking of the hospital buildings by means of the emblem of the red cross on a white field or red crescent or red lion and sun in certain countries (Article 18, paragraph 3).

The authorization to display the red cross emblem in time of war is not automatically given to all recognized civilian establishments. The competent Ministry of the State concerned is the sole judge in the matter ; and it alone decides whether it is, or is not, desirable for the emblem to appear on a particular civilian hospital.

The emblems are to be of large size, and all necessary steps are to be taken to render them clearly visible to the land, air and naval forces. Their illumination at night time will depend on the general measures taken by the authorities. Further, in view of the dangers to which civilian hospitals may be exposed by being close to military objectives such as arms or munition depots, the managements of the hospitals are to see in agreement with the authorities that such military objectives are as far as possible at a distance from the hospitals (Article 18, paragraphs 4 and 5).

(c) *Cessation of Protection*

It is because of their purely humanitarian work of public utility that civilian hospitals have special protection in time of war. They may not in any circumstances serve military purposes, or act as cover for "acts harmful to the enemy". Espionage, for example, or observation of the movement of troops, aircraft or ships for the purpose of informing the armies of their country cannot possibly be tolerated. No able-bodied combatant may be sheltered or concealed in them, and any warehousing of arms or munitions is prohibited. If these rules are not strictly observed, the safety of the wounded and sick is liable to be compromised, for the enemy would in such case no longer be under obligation to respect the hospital. However the protection is not to cease until after due warning has been given, naming a reasonable time limit and after such warning has remained unheeded (Article 19, paragraph 1).

The Convention provides however that civilian hospitals may receive and nurse military wounded or sick personnel, just as military establishments may extend their activities to civilians. When however a civilian hospital receives army wounded or sick, the management must see that the arms and munitions surrendered by such military personnel are forwarded without delay to the competent services of the army concerned. But the fact of such arms or munitions not having yet been handed to the competent services cannot be cited by the enemy as a pretext for ceasing to respect the civilian hospital (Article 19, paragraph 2).

(d) *Medical Transports and Use of the Emblem*

It has also to be noted that the transports of civilian wounded and sick, infirm persons and maternity cases, which take place on land by convoys of vehicles or hospital trains, or at sea by specially provided transport ships, are to be respected and protected in the same way as civilian hospitals. If authorized by the State, they may be marked and display the emblem of the red cross or red crescent or red lion and sun (Article 21). On the other hand, the Convention does not permit the emblem to be displayed in time of war on motor-ambulances or other vehicles proceeding singly to search for or return civilian wounded or sick. Similarly, civilian doctors or members of medical or administrative staff are not entitled in time of war to place the red cross sign on their personal cars or on the vehicles of which they make use in proceeding to their work.

IV. SPECIAL PROTECTION OF STAFF IN ZONES OF MILITARY OPERATIONS AND IN OCCUPIED TERRITORY

The protection, which the Fourth Convention confers on recognized civilian hospitals, is also accorded under certain conditions to the members of their staff, who in such case are respected and protected. The Convention distinguishes in this connection between permanent staff regularly engaged on the work of the hospital and purely temporary staff.

(a) *Permanent Staff*

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of wounded and sick, the infirm and maternity cases are to be respected and protected (Article 20, paragraph 1).

In zones of military operations and in occupied territory the permanent staff is to be recognisable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority.

They are also, while carrying out their duties, to wear an armlet on the left arm, stamped by the competent authority and water-resistant, with the emblem of the red cross, or red crescent, or red lion and sun on it (Article 20, paragraph 2).

(b) *Temporary Staff*

Persons not working permanently at a hospital, but employed there for temporary or occasional purposes, are also to be entitled to the special respect and protection of the Convention, while employed on their duties at the civilian hospital. The identity cards are to state, in addition to the civil status of the holder, the duties on which he is employed at the hospital. The armlet with the emblem, delivered and stamped by the State may not be worn by him except during his performance of his hospital duties (Article 20, paragraph 3).

The Geneva Conventions in their anxiety to preserve the full protective value of the red cross emblem, have limited its use very strictly. It is reserved more especially for the use of members of the medical personnel of the armed forces, who in virtue of their military character might be attacked, if they were not marked by the red cross emblem, whereas the members of the medical personnel of civilian hospitals, whether permanent or temporary, have to be protected and respected independently of the emblem for the mere reason that they are civilians. As any abuse of the emblem involves the risk of reducing its protective value to nothing, it is urgently necessary that the Managements of civilian hospitals should exercise strict and constant supervision to prevent the red cross being used for purposes not authorised by the Convention, or its use by persons not entitled to do so.

(c) *List of Medical Personnel*

The Management of each hospital is required regularly to keep an up-to-date list of all its staff, including temporary as well as permanent members, and specifying the duties of each. The list is to be put at the disposal of the competent national or occupying authorities on demand (Article 20, paragraph 3).

## V. FUNCTIONS OF CIVILIAN HOSPITALS IN OCCUPIED TERRITORY

### (a) *Duties of Medical Personnel*

If the territory, on which the civilian hospitals are situated, is occupied by the enemy, the Management and staff of the civilian hospital will in general remain on the spot and continue their work. The Fourth Convention lays down in this connection that the medical personnel of all categories is to be allowed by the Occupying Power to carry out their duties (Article 56, paragraph 1).

### (b) *Obligation of the Occupying Power*

The Occupying Power is under obligation to the fullest extent of the means available to it to ensure, with the cooperation of national and local authorities, the efficient operation of the medical and hospital establishments and services intended for the civilian population. The Occupying Power has further to maintain the Public Health and Hygiene Services, and to take the necessary prophylactic and preventive measures to combat the spread of contagious diseases and epidemics (Article 56, paragraph 1).

In addition the Occupying Power has the duty of ensuring the food and medical supplies of the population, and is to import them, if the resources of the occupied country are inadequate (Article 55, paragraph 1). The Occupying Power is further bound to agree to relief schemes on behalf of the civilian population (Article 59, paragraph 1).

### (c) *Establishment of new hospitals*

In the event of the establishment of new hospitals being necessary in occupied territory, the Convention provides that the official recognition of the new hospitals, their staff and transport vehicles may fall on the Occupying Authorities, if the competent organs of the Occupied State are no longer functioning (Article 56, paragraph 2).

### (d) *Requisition*

In cases of urgent necessity, the Occupying Power may requisition civilian hospitals temporarily for the care of military

wounded and sick, but only after suitable arrangements have been made in due time for the care and treatment of the patients and the needs of the civilian population. Further, the material and stores of civilian hospitals may not be requisitioned so long as they are necessary for the needs of the population (Article 57, paragraph 2). Moreover, such requisitions may only take place for use by the Occupation Forces and administration personnel, and in such a case the Occupying Power is to take the necessary steps to ensure that fair value is paid for any requisitioned goods (Article 55, paragraph 2).

(e) *Recourse to the Protecting Power*

In conclusion it may be pointed out that the Convention specifically states that all the inhabitants of an occupied territory and *a fortiori* the Management and staff of civilian hospitals and all patients therein, are at all times to be treated with humanity by the Occupying Power and in particular protected against any acts of violence or intimidation. The Convention provides that protected persons are entitled in all circumstances to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs (Article 27). In occupied territory, the Managements of civilian hospitals have to see that the clauses of the Convention are strictly observed by all in their establishments. It may happen that a hospital is completely isolated and temporarily cut off from all relations with its national authorities. In such a case heavy responsibilities will devolve on the Management. If it is faced with difficulties which paralyse the operation of the hospital, or if a disagreement arises between it and the Occupying Power on the subject of the application or interpretation of the clauses of the Convention, it has the right to apply freely to the Protecting Power, whose duty it is to safeguard its interests (Article 9). In default of the Protecting Power, it may also apply for intervention to the International Committee of the Red Cross (Article 11, paragraph 3).

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