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Proceedings of the 3rd ICMM Workshop on Military Medical Ethics

edited by D. Messelken and H.U. Baer

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Introduction

Daniel Messelken and Hans U. Baer

About the workshop

The annual ICMM Workshops on Military Medical Ethics, which are organized by the Swiss Armed Forces Medical Services Directorate together with the ICMM Reference Centre for Education of International Humanitarian Law and Ethics, have now become a regular and appreciated forum to discuss ethical issues and to exchange experiences.

The *idea* of this workshop series, which started in 2011, is to bring together people from different professional backgrounds and to have them work together on topical issues and dilemmas from the field of military medical ethics. Thus, participants of the first three workshops not only included medical officers from several armed forces coming from all over the world, but also academic experts in international humanitarian law and military medical ethics, and representatives from several international organizations like the ICRC and MSF. As a result, discussions were not only led on a high academic level, but were also grounded in practice and enriched with reports and case studies from the field.

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 cases and problems discussed during the sessions. The conferences therefore give large room for group and plenary discussions of the cases, which are reported directly by the participants or collected beforehand. Even if an agreement could not always be achieved, the discussions were nevertheless fruitful and revealing for the workshop participants.

The workshop series continues in April 2014 with the fourth edition of the workshop. The main topics of this meeting will be resource allocation, disaster bioethics, and e-learning in military medical ethics. In addition, a longer session will be dedicated to the development of a common position on the question to what extent physicians and dentists can ethically accept to be involved in the process of an age assessment of young refugees, prisoners of war, and detainees. The results of this workshop are again planned to be published.

About the proceedings

With the publication of selected contributions of the 3rd ICMM Workshop on Military Medical Ethics held in 2013 we want to open the discussion of these topics and make the presentations available to those who are interested but who could

not join the workshop. We hope that our book will find interested readers and that it will stipulate further discussions and exchange between the authors and a larger audience.

The Contributions of the Volume

The five contributions to this volume treat quite different topics, but they are at the same time all about the limits that ethics impose on the exercise of the medical profession during conflict.

In the first chapter on *Military Necessity and Military Medical Ethics*, **Michael Gross** explores the ambiguous and contested normative concept of military necessity and its relationship to medical ethics. He proposes a revised definition of an ethical definition of military necessity (different from the definition in IHL) that is built on arguments of both (revisionist) just war theory and basic human rights. According to his account, there may be situations in war where the *ethical* imperative of military necessity overrides International Humanitarian Law for example with regard to the administration of impartial medical care during armed conflict. Also, military necessity according to Gross' argument can sometimes exempt physicians from their obligations to medical ethics and allow them to be involved in the development of weapons and so called enhancement technologies to improve the soldiers' fighting capabilities. Gross concludes by proposing an «integrated definition of military medical necessity» according to which medical means may be justly used to subdue an unjust aggressor in addition to military means.

The next two chapters both look at euthanasia or mercy killing in a military context. In the second chapter, **Sylvain Fournier** asks, *What if a Prisoner of War requests Euthansia?* His answer, which looks at the legal context, starts from the fact that since the adoption of the Geneva Conventions after the Second World War medicine has made a huge progress. As a result, the timing and the manner of death, in a growing number of cases, is part of an active and personal decision rather than just a natural event. At least some countries have now adopted legislations that make euthanasia a legally allowed option. Fournier imagines a situation in an international armed conflict, during which a Prisoner of War asks to be euthanized and then gives the elements of an answer to this request according to International Humanitarian Law by reviewing and discussing its key provisions.

In the third chapter, **Daniel Messelken** looks at the *Ethical Aspects of Battlefield Euthanasia* and complements the legal perspective of the preceding chapter. Even though the purposeful killing of wounded soldiers (or even civilians) in order to end their suffering has often been an issue of soldiers' moral codes, the question remains open whether it can ever be morally justified to kill those wounded out

of mercy. Can immediate death ever be the better option for a wounded soldier? To approach this question, Messelken investigates some of the moral aspects of battlefield euthanasia. By arguing in analogy to physician-assisted suicide in civil settings an answer to the question of the morality of physicians involvement in battlefield euthanasia is sought. It is then contrasted with the empirical aspects that the military environment adds to the problem in order to reach an adequate conclusion.

In the fourth chapter, **Lajos Németh** looks on a different set of issues, which are related to *Military Medical Ethics in Peacekeeping Operations*. The contribution is inspired by the author's experience in the Hungarian Armed Forces that, after becoming a member of NATO in 1999, faced new ethical challenges in combat health support. Even though Németh is starting from the fact that International Humanitarian Law and the fundamental rules of medical ethics are the same for medical officers of all countries, he suggests that the perception and the ability to act ethically and according to these rules may differ from one country to another. In this line of argument, he outlines the place of peacekeeping operations in different modes of deployment and shows how the nature of a conflict or a war determines the ethical issues related to it. Finally, he analyses some ethical problems from the perspective of a military medical officer who works in a country that is undergoing a change of its political system.

In the fifth chapter, **Andreas Stettbacher** discusses some important *ethical aspects of amputation, namely in the context of disasters*. He presents relevant principles of the surgical aspects of amputation in disaster contexts and introduces a triage process. The decision to amputate and the consequences of triage are then further elaborated from an ethical perspective. Finally, the author argues in favour of the establishment of ad hoc ethical committees in order to meet ethical and moral dilemmas with regard to the decision to amputate or not in disaster contexts.

In the sixth and last chapter, **Caroline Clarinval** takes up a *Neglected Debate on Humanitarian Values*. Drawing on her field experience with the ICRC and a review of the self-conception of humanitarian actors, she looks at the way that humanitarian values influence the disaster management discourse. The chapter starts with a presentation of current models of disasters that usually distinguish five phases of a disaster. This mainstream approach is then criticized, as it does not pay enough attention to the context of disasters and, as a result, does not promote a sustainable long-term redevelopment of the affected area. The second part of the chapter illustrates how humanitarian values enter the disaster management discourse and demonstrates how the current concepts of disasters are value-laden, too. Finally, the paper links the two discussions in order to foreshadow a new conceptual model for disaster management.

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We are indebted to all authors who delivered us their manuscripts and to all participants for an open and fruitful input during the workshop discussions.

More information: <http://workshop.melac.ch/>

Abstract

Military necessity is a concept fraught with ambiguity and its relationship to medical ethics and medical necessity remains unexplored. This article opens with a revised definition of military necessity that accounts for just wars and respect for basic human rights as nations wage war in self-defense and/or to rescue others from grave human rights abuses (humanitarian intervention). Military necessity is characterized by an ethical and not a legal definition so that there may be situations in war where the ethical imperative of military necessity overrides the black letter of the law as it pertains to the administration of impartial medical care during armed conflict (case 1). In other situations, military necessity will override norms of medical ethics that prohibit physicians from taking part in weapons design (Case 2) or in the development of enhancement technologies aimed at improving a soldier's war fighting capabilities (Case 3). In all of these cases, there are grounds for preferring military necessity to medical necessity. This paper concludes with an integrated definition of military medical necessity that emphasizes the medical means required to prevail in just war.