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THE NEUTRALITY OF MEDICAL PERSONNEL DURING ARMED CONFLICT: NORTH WEST AND SOUTH WEST REGIONS OF CAMEROON IN MIND

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Abstract

International law guarantees the right to health for all human beings without discrimination. In the face of armed conflict, the duty to enjoy that right is paramount and the presence of medical personnel cannot be underestimated. Treating the wounded persons during combats is the role and neutrality is the principle. On the field, the neutrality of medics and paramedics is challenged especially military medical personnel who wear the same uniform as the regular soldiers and even carry light fire arms. In the North West and SW regions of Cameroon, medical personnel and institutions have been attacked both by the military and armed separatists fighters, they by violating the neutrality principle and committing war crimes. The aim of this paper is to enlightened parties to the conflict of the indispensable role of medics who should not be attacked. We recommend that proper investigations should be conducted in case of violations for the purpose of prosecution.

Key words: *Neutrality, Armed conflict, medical personnel*

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I. Brief Survey of the Crisis in the North West and South West since 2016

Cameroon is made up of ten (10) regions of which two (the North West and South west) are dominantly English speaking and eight regions French Speaking. Since 2016, Cameroon has been involved in a socio-political crisis in the two English speaking regions. Protests and strikes that led to riots in these two regions related to sectorial demands by lawyers and teachers have escalated into an armed conflict over economic and political marginalization of the Anglophone regions which constitute a minority population.[1] The movement grew to the point where the government's repressive approach was no longer sufficient to calm the situation forcing government to get into some concessions with the major trade Unions involved in the crisis.

The demands later shifted to a political crisis demanding for a review of the form of the State which was never a welcomed ideology by the Government of Cameroon. In November 2017, starting at a low-scale the socio-political crisis turned into an armed conflict with major humanitarian impact. Operation "Ghost towns" were imposed, closing down businesses, schools, and non-circulation of vehicles. This armed conflict involves the regular army (government forces) and the armed separatists referred to as the "Amba Boys" who are seeking to establish a separate State known as the "Federal Republic of Ambazonia".[2] The Fighting between armed separatists and the military resulted to several deaths, injuries necessitating prompt medical intervention but due to the ghost towns and cross fire, access to medical facilities has not been easy.[3]

This conflict has deeply affected human rights and more especially the right to health, as medics, para medics, hospitals, and health units are constantly under attacks, resulting to socio-economic hardship, and so on. This paper will focus on the neutrality and protection of medical personnel in the conflict and crisis situation of the NW and SW regions of Cameroon. But before we proceed it is necessary to distinguish the types of armed conflicts.

II. Distinction between international and non-international armed conflicts

An international armed conflict is a situation where two or more countries are in a state of war involving the use of weapons by their armed forces. This goes in line with the definition posited by Oppenheim, L[4] who defines war as a contention between two or more states through their armed forces, for the purpose of overpowering each other and imposing such conditions of peace as the victor pleases. The element that makes an armed conflict to be international is the involvement of different sovereign states opposing each other.[5] This means that when a foreign state intervenes on the side of the government in purely internal crises, this can never be termed an international armed conflict. The case will be different where the foreign intervention supports the group fighting against the home government in this case we can term it international.[6]

Non-international armed conflicts, on the other hand, refer to situations which involve an armed confrontation between a state government's military forces and a dissident or other organised armed group or two of such organised armed groups fighting each other.[7] As opposed to international armed conflicts which are inter-state confrontation, non-international armed conflicts are intra-state conflicts otherwise known as civil wars. Common Article III to the Geneva Convention does not define what non-international armed conflicts are but Additional Protocol II to the Geneva Conventions provides a definition. According to this Protocol, *non-international armed conflicts are conflicts which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organised armed groups which, under responsible command, exercise control over a part of its territory as to enable them to carry out sustained and concerted military operations*. Article 8 (2) (b) (f) of the Rome Statute takes it further stating that such armed conflicts involve a protracted armed confrontation between governmental authorities and organised armed groups or between such groups.[8]

Even though Common Article 3 does not define what non-international armed conflicts are, like Additional Protocol II[9] it assumes that internal armed conflicts exist when the situation reaches a level that can be distinguished from other forms of violence which involves situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other

acts of a similar nature. From this, it is seen that the threshold of intensity required in that case is higher than for an international armed conflict. Actual practice, in particular that of the International Tribunal for Yugoslavia (CTY) reveals that this threshold is reached every time that the situation can be defined as 'protracted armed violence'.[10] In order to assess the threshold of intensity required for an internal crisis to be considered non-international armed conflict and not mere internal disturbances and tensions, two criteria are taken into consideration, i.e, intensity of violence and organisation of the parties involved in the violence. From the above distinction, the armed conflict in the NW and SW regions of Cameroon, is an internal armed conflict. This distinction is important because medics and para medics are involved in both international and non-international armed conflicts. This demands a knowledge of the notion of medical neutrality.

III. The Notion of Neutrality of Medical Personnel

Medical neutrality in this context refers to a principle of non-interference with medical services in times of armed conflict and civil unrest: physicians be it military or civilians medics must be allowed to care for the sick and wounded, and soldiers must receive care regardless of their political affiliations; all parties must refrain from attacking and misusing medical facilities, transport, and personnel.[11] Concepts comprising the principles of medical neutrality derive from international human rights law, medical ethics and humanitarian law. Medical neutrality may be thought of as a kind of social contract that obligates societies to protect medical personnel in both times of war and peace, and obligates medical personnel to treat all individuals regardless of religion, race, ethnicity, or political affiliation without discrimination. Violations of medical neutrality constitute war crimes outlined in the Geneva Conventions.[12] But who has the status of a medical personnel?

IV. Who is a Medical Personnel?

In a narrow sense, medical personnel would mean both physicians, and nurses. But a commonly accepted definition, of "medical personnel" can be found in Protocol I to the Geneva Convention: *persons assigned exclusively to the search for, collection, transportation, diagnosis or treatment, including first aid treatment of the wounded, sick, and shipwrecked and the prevention of diseases to the administration of medical units or to the operation and administration of medical transport.*[13]

Analysing the position of medical personnel challenges us to look into the inter-faces between International Humanitarian Law (IHL) and Human Rights Law (HRL). This can help us obtain a better understanding of how these two fields can be applied in an inter-related fashion, at a more practical level. We had mentioned earlier, that HRL applies during armed conflict (whether international or non-international). More so, the right to health is also a human right. The ICRC in its study, "health care under attack" gives the following examples. "….*Urban fighting may prevent health personnel from reaching their places of work, first aiders may be unnecessarily delayed at check points and soldiers may forcibly enter the hospital to look for enemies or shield themselves from attack and ambulances may be targeted or illegally used to carry out attacks. Whatever the context, poor security conditions in many parts of the world mean that the poor and sick do not get medical attention to which there are entitled…."*[14]

Furthermore, another issue concern medical ethics; the body of principles adopted by the medical profession regulating ethics of the medical profession. In this connection the

World Medical Association (WMA) has issued a set of guide lines in relation to medical personnel during armed conflict.[15] This guideline focus on medical neutrality of doctors during armed conflict. But now there comes a problem of distinction between military medical and civilian medical personnel. Additional Protocol I makes a distinction between medical personnel of a party to the conflict; which can be military or civilian, as well as medical personnel of Red Cross Societies and other National Voluntary Aid Societies.[16] The body of IHL and related principles of medical ethics provide for the protection of all these types of medical personnel during armed conflict.

Contrary to civilian medical personnel (and medical personnel working for Aid Organizations) military health workers and members of the armed forces work together[17] in this position, military health workers are not to participate in armed conflict as a party of the fighting force but solely in their role of providing medical services. However, they may hold light individual weapons as long as the weapons are only used in self- defence or defence of the wounded in their charge.[18]

V. The Notion of Dual loyalty of Military Medical Personnel

Dual loyalty in this work is loyalty to two separate interests that potentially entails a conflict of interest. Being subject to two diverging professional ethics can leave military medical personnel torn between the wish to act loyally towards colleagues, and the demands of a more outward looking ethics. This tension constitutes a test of integrity, not a moral dilemma.[19] Current international codes of medical ethics generally mandate complete loyalty to patients.[20] In practice, however, health professionals often have obligations to other parties besides their patients, such as family members, employers, insurance companies, and governments, which may conflict with undivided devotion to the patient. Dual loyalty may then emerge as role conflict between the clinical professional duties to a patient and obligations, express or implied, real or perceived, to the interests of a third party such as an employer, an insurer, the state, or in this context, military command.[21] More than civilian medical personnel or medical personnel employed by aid societies, military medical personnel are likely to be confronted with so called “dual loyalty”; they need to navigate between their duty to preserve life and reduce suffering, on the one hand and their professional duty towards their employer, the military on the other hand.[22] Situations may arise where they may be pressured to compromise their professional duty to attend to the sick and wounded for the sake of military objectives. This pressure often comes from their employer, the military.

An important feature of this body of IHL is that it applies the vast majority of norms only during international armed conflict, while a limited set of rules apply in situations that can be characterised as non-international armed conflict. The applicable norm during non-international armed conflict is mostly common article 3 to the Geneva Convention (GC) as well as Additional Protocol II to the GC. (if the threshold for the application of the protocol have been met)[23] Cameroon has not ratified the Geneva Conventions and its Additional Protocol, but Customary International Humanitarian law (CIHL) is universal and therefore applicable to all conflicts, be it international or non-international. In this light, Customary International Humanitarian law is applicable to the armed conflict of NW and SW regions of Cameroon. Common Article III to the Geneva Conventions is gaining grounds as CIHL norm and some opinions holds that it ought to be applicable.[24] More so, the

international community in judging whether they have been human rights violations, war crimes, crimes against humanity in an armed conflict area, reference is usually made to the standards set in the Rome Statute or Geneva Conventions and its Additional Protocols whether a State has ratified it or not. This will determine whether the internal armed conflict will be referred to the ICC or not irrespective of whether the said State is a signatory or not to the Rome Statute. The cases of Sudan and that of Libya are instructive in this regard.

VI. Legal basis for the protection of medics and para medics in armed conflict

Many international conventions, Customary International Humanitarian law, and national laws seek to protect medics and para medics in armed conflicts. For the purpose of this work, it would be important to examine some of these conventions.

VII. The Universal Declaration of Human Rights of 1948

The right to medical care is also provided under Article 25 of the Universal Declaration of Human Rights, an instrument accepted by most as international customary law. Access to health care is also articulated in several other important instruments of international human rights law. Article 25 of the UDHRs is to the effect that "*everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing, and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control"*. Under this article "circumstances beyond his control" encompass situations of armed conflict and social unrest. The UDHRs is applicable at all times. Even though, it does not mention neutrality of medics and para medics, an infringement on that principle of neutrality of medical personnel by any party to the armed conflict will definitely infringe the right to health.

VIII. The UN Convention on the Rights of the Child (1989)

Article 24 (1) of this convention is to the effect that "*State Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services*". Cameroon ratified this convention on 11th January 1993 and therefore it is applicable in the NW and SW regions. During armed conflicts, children are of serious concern because they are more vulnerable. Therefore access to medical personnel ought to be on neutral grounds, whether there are children of those who belong to armed groups or those who of the regular security forces.

VIIII. The International Covenant on Civil, Economic, Social and Cultural Rights of 1966

Under Articles 2.2 and 3 of the ICESCR, the right to health must be exercised without discrimination. Access to health care for the wounded and sick must be equitable. This obligation is immediate and non-derogable. Article 12 further states that "*State parties to the present covenant recognized the right of every one to the enjoyment of the highest attainable standard of physical and mental health"*. Cameroon has ratified this convention on the 27 of June 1984 and therefore, it is applicable in the NW and SW regions. Any abuse or violation of the principle of neutrality of medical personnel in that region because of the armed conflict, would definitely be an abuse of the highest attainable standard of physical and mental health of the population of the NW and SW which is a war crime.

X. Additional Protocol II to the 1949 Geneva Convention on the protection of civilians in non-international armed conflicts

Though the State of Cameroon has not ratified this convention, it represent the international standards to be respected with respect to those wounded, sick or in needs of medical attention by medical personnel during internal armed conflicts. This convention warrants the protection of "*person hors de combat*" as Article 7 stipulates that:

(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.

Under the Rome Statute of the International Criminal Court, the murder of wounded and sick people, as well as other inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health, may amount to crimes against humanity.

Xi. Resolution 37/194 of the UN General Assembly on the Principles of Medical Ethics

This UN General Assembly principles states that in situations of armed conflict, States should not punish medical personnel for carrying out medical activities compatible with medical ethics or compel them to undertake actions that contravene these standards**.** Though, this resolution has no binding force, it is a recommendation for member states of the United Nations to be respected in times of armed conflict and civil unrest, Cameroon not exempted.

XII. The U N Convention against Torture and Other Cruel Inhuman and Degrading Treatment of 1984

Cameroon ratified this convention on 19th December 1986, as such it is applicable in the NW and SW regions. In certain circumstances, the denial of medical treatment may constitute cruel, inhuman and degrading treatment, or even torture. For example, denial of the right to medical treatment because the wounded person belongs to an armed group or member of the forces of law and order, may amount to cruel, inhuman and degrading treatment, or even torture. In this regard, article 2(2) of this convention is instrumental as it states that "*no exceptional circumstances what so ever whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture"*

Xiii. General Comment No. 14 of the United Nations Economic and Social Council (General Comment No. 14) states that the right to health contains the core obligations to maintain essential primary health care, access to minimum essential food, basic shelter, housing and sanitation, and an adequate supply of safe and potable water, as well as the obligation to provide essential drugs. These core obligations are non-derogable and require States to respect, protect and ensure the right to health in conflict and crisis situations. These conventions are applicable in Cameroon as ordained by Article 45 of the 1996 Constitution, amended in 2008 that states *" duly ratified international treaties and conventions shall be come a source of law, if the other parties are respecting same".*

XIV. The situation of medical personnel in the NW and SW conflict zone

In the NW and SW regions of Cameroon, the armed militias do not have medical personnel but there are government and

private hospitals in all these areas. The armed conflict in the NW and SW regions has seriously affected these institutions and their personnel in performing their duties. Medical personnel in these institutions either face threats from armed separatists and the regular forces of law and order, thereby bringing to challenge their ethical duty of neutrality in armed conflict. Even other medical personnel from NGOs that are active in the area on humanitarian grounds to give medical care to persons injured due to fighting have come under attacks. In June 2018, Medicin Sans Frontier opened temporary mobile clinics in Kumba town (SW regions) to provide primary health care consultation for the displaced and wounded. This was then extended to Buea and Bamenda in the SW and NW region respectively and other remote areas where large numbers of people were caught up in fighting between the Military and Armed Groups. The integrated health facility in Tole was burnt down on the 30th October 2018 by the military during fighting between the military and armed groups. The medical personnel of the unit was equally vandalised or attacked by the military. Health personnel in Ekondo Titi and Idenau in the SW region and Buabua in the NW region recorded attacks on their health personnel by the military.[25]

On 12th February 2019, the Kumba District hospital was attacked and burned down by the Cameroon armed forces forcing patients and medical staffs to flee for their lives.[26] Sources say the attacked was carried out by military men who burned down the hospital suspecting it of treating wounded separatists fighters[27].

On Thursday, February 4, 2021 in the early hours, "Doctors without Borders" (DWB) ambulance was fired at by armed men while responding to a call on their way to Muyuka, South-West Cameroon. The ambulance was hit and the accompanying nurse was injured. "Doctors without Borders" condemns this attack on their ambulance. "Doctors without Borders'' medical teams have been responding to those hors de combat, those injured and the sick who cannot have access to healthcare in the North-West and South-West Cameroon since May 2018 on neutrality basis.[28] Despite this neutrality grounds, other health personnel have been attacked without any justified reasons.

Nancy Azah and her husband Njong Paddisco, nurses who ran separate clinics in the small town of Mbengwi in Cameroon's English-speaking Northwest Region were shot by the military even after presenting their professional Identity Cards, while on their way to attend to people wounded in between separatist's fighters and regular government forces confrontations. The couple's death provoked outrage among medical staff who say they are being threatened by both sides of the conflict: government security forces accuse them of treating armed fighters and hiding some in hospitals while the armed separatists accuse medical staff of disclosing their identities to the military.[29]

On 26 December 2020, in Bambui Township, Tubah sub-division, Northwest region, members of the Cameroon Armed Forces stormed the Tubah District Hospital, and killed a patient. The bike rider who was transporting a patient to hospital was killed on grounds that he was separatists fighter[30]

Security forces and armed separatists have both attacked hospitals and medical staff on multiple occasions. On July 6, 2019, separatists killed a "Doctors without Borders" community health worker working in the South-West region, after accusing him of collaborating with the military.[31] Security forces damaged a health facility in the North-West region on June 30 and arbitrarily arrested seven health workers in the

South-West region on July 6, 2019. On June 10, at 2 p.m., 2019, following clashes between separatists and soldiers, including some from the Rapid Intervention Battalion (BIR), a grenade was fired into the courtyard of the district hospital in Bali, North-West region, leading to the death of one cardiac patient, injuring at least four others, and destroying four vehicles.[32] It should be recalled that this is not the first time that this particular hospital has been targeted in fighting between separatist fighters and Cameroon armed forces. In 2018, separatists looted hospital supplies in Bali. In July 2019, a grenade, allegedly fired by the military, injured a patient and destroyed the roof of the Bali District Hospital. In January 2020, soldiers forcibly entered the Bali, Shishong cardiac center, St. Maria Soledad hospital in Bamenda, Banso Baptists hospital, and Mbingo hospital looking for wounded separatists causing panic among patients.[33]

A laboratory technician in the person of Dorothy Veranso, who worked in the nearby English speaking town of Batibo, told "Deutche Welle" (DW) that she was a victim of an attack when five wounded people were rushed to the health center, she said that "*as we started attending to them, the military came in, beat us and took the wounded away, all patients escaped for their lives*".[34] It should be recalled that both mission and government hospitals in Nguti, Widkum, Acha Tugi, Bamenda, Muyuka, Ekona, Mbonge, Belo, Ndop, Banso, Tadu, Mbam, Ngarbuh, Mbengwi, Batibo, etc have been attacked either by the separatists fighters or the forces of law and order. In 2020, Jamilatou, a State Registered Nurse with the General Hospital in Shishong, received a bullet on her chest from the military that saw her quit the stage. At the time of her demise, she was heavily pregnant, wearing her nurse's uniform together with her nursing crown on her head. In 2018, the ambulance of the Cardiac Center Shishong was confiscated by the separatists fighters with its very expensive equipment and medications amounting to about 150, 000 dollars, (75 million FCFA) negotiations to get them back failed. That same year the ambulance of St. Martin de Porres Hospital, Njinikom- one of the health institution was set on fire with all the medications and equipment. The doctor, nurses and a sister were beaten and punished to trek for five kilometres without shoes by the military[35]. Also, on the night of Sunday breaking Monday March 1st 2021 in Kikaikelaki, Bui Division in the NW region of Cameroon, the military attacked and set ablaze a BBH Medical laboratory, a building hosting "life abundant primary health care projects".[36] With the prevailing situation, the Governor of the NW region of Cameroon Mr Lele L'Afrique banned "Doctors without Borders" from operating in the NW region of Cameroon. His decision stipulated that "*the partnership between Doctors without Borders, DWB/ MSF and St. Maria Soledad Catholic Hospital Bamenda as well as similar partnership with other health facilities in the NW region are with effect from the date of signature of this decision, suspended*"[37].

On December 2020, Retired Justice Aya Paul Abine testified that while he was receiving treatment at the Mbingo Baptist Hospital in the SW, military men came and removed a suspected separatist's fighter from the hospital and he was shot death at Likumba- a locality in the South West Region of Cameroon.[38] Finally, Mohamed Mustafa Kongnyuy, a suspected separatist's fighter was removed from the Bamenda Regional hospital where he was receiving medical attention by elements of GMI (mobile police team- Bamenda). While in their camp they plastered bullets in his wounds and wrote on his medical booklet that the patient was recovering.[39]

XV. The Principle of Neutrality and Medical units

Medical units, such as hospitals and other facilities that have been set up for medical purposes, must be respected and protected in all circumstances. Medical units may not be attacked and access to them may not be limited.[40] Parties to an armed conflict must take measures to protect medical units from attacks, such as ensuring that they are not situated in the vicinity of military objectives and to ensure neutrality, they too may not allow any of the parties to use their units as hide out during armed conflict.[41]

XVI. The Principle of Neutrality and Medical transports

Medical transports here mean, any means of transportation that is assigned exclusively to the conveyance of the wounded and sick, medical personnel and/or medical equipment or supplies. They must be respected and protected in the same way as medical units. If medical transports fall into the hands of an adverse party, that party becomes responsible for ensuring that the wounded and sick in their charge are cared for.[42] In 2018, the ambulance of the cardiac center Shishong was confiscated by armed separatist's fighters with its very expensive equipment and medications amounting to about 150, 000 dollars without any justifications or grounds, negotiations to get them back failed. That same year the ambulance of St. Martin de Porres Hospital, Njinikom- one of the health institution in the NW was set on fire with all the medications and equipment. The doctor, nurses and a sister were beaten and punished to trek for five kilometres without shoes by the military[43]. There was no justification and we therefore hold the view that this is a serious violation of neutrality of medical personnel amounting to war crimes. It is recommended that Medical transports in times of armed conflict, should use their emblems to clearly mark their medical transports on the ground at sea and in the air to avoid attacks.

XVII. The Principle of Neutrality and Humanitarian relief workers

Under IHL, if a civilian population lacks essential supplies, the party concerned has the obligation to ensure that humanitarian assistance is provided. It may therefore have to allow an organization or a third State to enter its territory to provide humanitarian assistance or even to request it.[44] This obligation is circumscribed by the requirement to secure the consent of the receiving party; however, to justify its refusal, the receiving party must produce reasons whose validity cannot be contested. In occupied territory, the Occupying Power does not have the option to refuse. All States and all parties to an armed conflict must allow and facilitate the unimpeded passage of humanitarian relief health workers on their territories to populations in need, subject to their right of control.[45] This obligation is not limited to parties to the conflict; it also applies to third States through which relief consignments must pass in order to reach populations in need.[46] Health is an essential needs for the population and therefore where they have suffered injury and in needs of medical relief during armed conflict, relief efforts in that area may be offered by NGOs like Doctors without Borders. The principle of neutrality therefore applies to them.[47] In carrying out relief efforts they should discriminate on whatever grounds.

XVIII. Use of the distinctive emblems protected under the Geneva Conventions and their Additional Protocols

The responsibility for authorizing the use of the red -cross, red- crescent and red crystal emblems, and for suppressing misuse and abuse, rests with the State, which must regulate their

use in accordance with the terms of the Geneva Conventions and their Additional Protocols. States should therefore adopt internal measures to: identify and define the emblems that have been recognized and are protected by the State; determine which national authorities are competent to regulate and monitor the use of the emblems; decide which entities are entitled to use the emblem;[48] and identify the uses for which permission is required. States must enact domestic legislation prohibiting and punishing unauthorized use of the distinctive emblems and their denominations at all times, for any form of personal or commercial use, and prohibit imitations or designs that could be mistaken for the emblems. States should also take measures to prevent the misuse of the emblems by the armed forces.[49] Medical personnel in times of armed conflict should wear armlets and carry identity cards displaying the emblem. This will identify them so that the parties to the conflict should not launch any attacks on them.

XVIIII. Repression of violations or attacks on medics, paramedics, hospital units and transports

International law demands that measures should be implemented at the national level to ensure an effective system for fixing individual criminal responsibility and for suppressing crimes against the wounded, sick, medical personnel, medical units and medical transports during armed conflicts and civil unrest.[50] Under Article 2 of the ICCPR, States have an obligation to enact legislation to give effect to the rights contained in the Covenant and to provide effective remedy. This might require States to enact criminal sanctions for certain violations. In this light section 148 of the Cameroon Penal Code[51] titled "refusal of service" punishes any civil servant, having been lawfully required, refrains from performing any duty of his office with imprisonment for from 3 months to 2 years. However, in our context this is applicable only to medics and para medics in government hospitals. A careful perusal of Law No. 90-036 of 10 August 1990 relating to the Organization and Practice of Medicine in Cameroon is silent on the issue of refusal of service by practitioners in general and those of the private sector in particular. However, a panacea to this problem is provided for in section 45 of the Constitution of Cameroon, as the lacunas' in this regard are filled by international law. Also, Section 283 of the Penal Code captioned "Failure to Assist" punishes "whoever fails to render assistance to a person in danger of death or grievous harm, whether by his own endeavours or by calling for help, where such assistance involves no risk to himself or to any other person shall be punished with imprisonment for from 1 month to 3 years or with fine of from 20,000 FRS to 1 million or with such fine and imprisonment. Whoever in this context include health personnel who refused to treat a wounded armed separatist fighter or a member of the regular Forces of Law and Order is guilty of failure to assist. This article of the penal code seems to guarantee neutrality of medical personnel who find themselves in that situation where they are faced with victims who are in need of assistance. On the field that seems not to be the case because in Bamenda the hospitals were instructed not to treat any bullet wounds without informing the forces of law and order. This neutrality principle in Cameroon operates only in principle and not in reality.

An attack on medics, hospital units, para medics and ambulance where they are treating wounded during armed conflict, be it in international or non-international armed conflict amounts to war crimes.[52] In this light, Law No. 2017/012 of 12 July 2017 to lay down the code of Military Justice in Cameroon in its section 8 provides that (1) the Military Tribunal shall have

exclusive jurisdiction to hear and determine military offences and war crimes.

All the above cited cases in the NW and SW regions of Cameroon are war crimes that necessitate effective investigations and prosecution. If the government fails to carry out thorough and transparent investigation it could be concluded that they are unable to or unwilling to investigate. Thus, may trigger a UN Security Council resolution referring the matter to the International Criminal Court of Justice as was the case with Libya.

XX. Conclusion

Major international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the Convention Against Torture (CAT), provide a concrete foundation upon which the norms of medical neutrality stand. The ICCPR, for example, forbids arbitrary arrest and detention of medics and para medics during conflict and crisis situations. The arbitrary arrest and detention of medical personnel violates these international treaty.[53] The ICESCR codifies the right to health and explicitly calls on governments to provide access to medical care in a non-discriminatory manner for those in needs during crisis. Acts including the wilful blocking of medical care or the arbitrary arrest of caregivers may violate these treaties, which are binding on parties. Additionally, the CAT forbids governments from engaging in torture and acts of cruel, inhuman, and degrading treatment. This prohibition on government action relates to all potential victims, including individuals in need of medical care. Subjecting patients or those in need of medical services to torture or cruel, inhuman, and degrading treatment stands in clear violation of the CAT.[54] In the ongoing crisis in the NW and SW regions of Cameroon, medical neutrality is violated be it by the separatists' fighters or by the regular forces of law and order, amounting to war crimes. We suggest the creation of the position of a United Nations Special Rapporteur on the Protection and Promotion of Medical Neutrality on the ground and to investigate violations of medical neutrality in the ongoing armed conflict within the NW and SW regions of Cameroon be it by the Armed Separatists fighters or the regular Forces of Law and Order for eventual accountability.

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[9] Additional Protocol II, art 1(2).
[10] ICTY, Prosecutor v. Tadic, case No IT-94-1. Decision on the defence motion for interlocutory appeal on jurisdiction, 2 October 1995. Para 70. See also Article 8(2) (b) (f) of the Rome Statute which makes mention of protracted armed conflict between governmental and organised armed groups or between such groups.
[11] *"The Geneva Convention of 12 August 1949" (PDF). Retrieved 15 May, 2021*
[12] Sperry, C.S. (1906), "The Revision of the Geneva Convention, 1906", Proceedings of the American Political Science Association, 3: 33,
[13] Article 8(3) in conjunction with Article 8(5), Protocol I to the Geneva Convention of 12th August 1949.
[14] ICRC 2012 b Study Report on health care under attack.
[15] Regulations in times of armed conflict, adopted by the 10th World Medical Assembly, Havana, Cuba October 1956.
[16] Article 8 (3) (a) and (b) of the said Protocol I.
[17] The term "civilian medical personnel" refers to medical personnel who are not members of the armed forces but who have been assigned by a party to the conflict exclusively to medical task. Further see Customary International Rules Rule 25.
[18] See Article 22 of Additional Protocol 1.
[19] Peter Olsthoorn, Dual loyalty in military medical ethics: a moral dilemma or a test of integrity? J R Army Med Corps, 2019 Aug;165(4):282-283
[20] World Medical Association. International Code of Medical Ethics: Declaration of Geneva. Adopted by the 3rd General Assembly of the World Medical Association. London, England, Oct1949. Amended by the 22nd World Medical Assembly, Sydney, Australia, Aug 1968, and the35th World Medical Assembly, Venice, Italy, Oct 1983. Available at: www.wma.net/e/policy/17-a-e.html.
[21] Leslie L., et al. Dual Loyalty among Military Health Professionals: Human Rights and Ethics in Times of Armed Conflict, February 2006 Cambridge Quarterly of Healthcare Ethics 15(4):381-9
[22] See inter alia, International Dual Loyalty Working Group, 2002, pp 31, 32.
[23] According to Additional Protocol II, Article 1, this convention does not apply to situations of international disturbances and tensions, but rather to internal conflicts in which the organise armed groups exercise such control over a part of the territory that they are able to carry out sustained and concerted military operations-a requirement that is not mentioned for Common Article 3 of the GCs.
[24] Fieldings, Op. cit. p 12.
[25] Amnesty International Cameroon Report at https:// www. Amnesty. Org. 3rd May 2020.
[26] https://cm.usembassy.gov/**burning**-of-**kumba**-district-**hospital**/. 3rd May 2020
[27] https://www.voanews.com/africa/cameroon-hospital-attacked-medical-staff-patients-flee. 3rd 2020
[28] Doctors Without Borders ambulance fired on in South-West Cameroon, https://reliefweb.int/report/cameroon/doctors-without-borders-ambulance-fired-south-west-cameroon, consulted 9th May 2021.
[29] https://www.dw.com/en/medical-staff-targeted-in-cameroons-english-speaking-regions/a-45119170, Consulted 9th May 2021.
[30] ttps://reliefweb.int/report/world/attacks-health-care-monthly-news-brief-december-2020, Consulted 9th May 2021.
[31] Doctors Without Borders ambulance fired on in South-West Cameroon, https://reliefweb.int/report/cameroon/doctors-without-borders-ambulance-fired-south-west-cameroon, consulted 9th May 2021
[32] https://reliefweb.int/report/world/attacks-health-care-monthly-news-brief-december-2020, Consulted 9th May 2021
[33] https://www.hrw.org/news/2020/07/27/cameroon-civilians-killed-anglophone-regions, 9th May 2021.
[34] Attacks on hospitals by both the military and armed separatists have left medical professionals in the Anglophone regions of Cameroon concerned for their lives. Available at amp. Dw. Com. Consulted 9Th May 2021.
[35] Source from an interview with Sheytata, health personnel of Shishong Hospital, 7th May 2021.
[36] https://mimimefoinfos. Com/bui-division-soldiers-burn-healthcare facility in Kikaikelaki/ consulted 9th May 2021.
[37] See, Regional Decision No 966-RD/E/GNWR/22/IGRS and North West Residents express concerns as government suspends key Doctors Without Borders Partnership, December 10, 2020. Available at mimimeforinfos.com. Consulted 7th May 2021.
[38] Retire Chief Justice Aya Paul Abine Interview at the Equinox Television with Babila Jonathan, 2020.

[39] Source from the submissions of Barrister Shey Oliver Ngwan before the Bamenda Military Court Session on 2019.
[40] Rodrique Ndi, Kongnso Emile Tata, "Medical Errors in Health Care Institutions in Cameroon: Setting the Platform for Legal Interventions". *Indian Journal of Health and Medical Law*. 2020; 3 (1): 28-38p
[41] Burkle FM et al, The Changing Face of Humanitarian Crisis, Brown Journal of World Affairs, Brown Univeristy, Providence RI, Spring Issue: May 2014, PP 29-42.
[42] Advisory service on international humanitarian law ,international committee of the red cross
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[43] Source from an interview with Sheytata, health personnel of Shishong Hospital, 7th May 2021.
[44] Ibid. file:///c:/users/kongnso%20emile%20tata/desktop/health-care-law-factsheet-icrc-eng.pdf 9th may 2021.
[45] "UN : More aid Workers killed than peacekeepers » Breaking News, August 19, 2009, Aid Workers Security Databased, Project of Humanitarian Outcomes 2012.
[46] Ibid.
[47] North West Residents express concerns as government suspends key Doctors Without Borders Partnership, December 10, 2020. Available at mimimeforinfos.com. Consulted 7th May 2021.
[48] For more information on the use of the emblem, please refer to the fact sheet prepared by the Advisory Service of the ICRC and titled The Protection of the Red Cross/Red Crescent Emblems.
[49] World Medical Association Regulation in Times of Armed Conflict and other situations of Violence. Available at: https:// www. wma.net/en/ 30 Publications /10 policies/a 20/ Accessed 10, May 2021.
[50] For more information on the repression of violations, please refer to the fact sheet prepared by the Advisory Service of the ICRC and titled Penal Repression: Punishing War Crimes.
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[53] *"Physicians for Human Rights - PHR Criticizes Iran for Trying AIDS Doctors on Secret Charges". Physicians for Human Rights. December 31, 2008. Retrieved May 18, 2021.*
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