EDITORIAL

The Sri Lankan doctors and the challenge for medical leadership

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In an earlier editorial in this journal, Madhiwalla and Roy (1) give a sombre account of the destruction of the Ponnampalam Memorial hospital in Puthukkudiyiruppu by the Sri Lankan air force in February 2009. Although they state in their editorial that the international medical community was silent during the intense final months of the conflict in Sri Lanka, this is not entirely accurate. The British Medical Association, in whose ethics department I work, was paying close attention to the conflict. Members of the Association called on us to intervene. We wrote to the British and Sri Lankan governments expressing grave concern about the humanitarian crisis and urging them to intervene to protect the civilian population and to respect medical neutrality. We were in correspondence with the World Medical Association (WMA). The WMA also issued statements regarding medical neutrality during the conflict (2). The difficulty, and the frustration, a frustration which must be shared by all groups working to protect and promote human rights, is the complete disregard with which these expressions of serious concern were met. In this editorial I look at the role of a small group of medical professionals in the Sri Lankan conflict. As far as possible I want to set aside the specific disputed political context, with its claims and counter-claims about the justice of the causes and the reliability or affiliation of witnesses. Ideally there would be an independent report into the conflict, and something resembling the truth might emerge. Instead I want to look at the role played by these doctors and set it into a deeper context of medical involvement in the witnessing of human rights abuses. Out of this background I want to draw a number of messages about the challenges to medical leadership during times of armed conflict.

Doctors reporting from the frontline

As Madhiwalla and Roy point out, the shelling and subsequent destruction of the Ponnampalam hospital was in direct contravention of Article 14 of the Geneva Convention. It was also in violation of the World Medical Association's statement on regulation in times of armed conflict (3). During the conflict there were also reports in the British press of government violations of the no-fire zone in Mulattivu where at least 50,000 civilians were taking refuge (4), reports that were corroborated by United Nations satellite imagery. According to Human Rights Watch, a leading New York-based human rights organisation, several other hospitals and makeshift clinics were also targeted (5). Fundamental abuses of international law and human rights were not restricted to one side of the conflict. According to US officials, at the same time there were "credible reports" that Tamil Tigers were using civilians as "human shields", and had, on occasion, shot at civilians who were attempting to leave the no-fire zone (1).

Journalists were banned from the conflict zone. During some of the most intense fighting at the end of the war, a small group of doctors kept open lines of communication with the world's media. While working in desperate conditions to try and treat the wounded and dying in the besieged hospitals and makeshift clinics, doctors Thangamutha Sathiyamoorthy, Thurairaja Varatharajah and V Shanmugarajah sent reports to international news agencies, highlighting the shelling of civilians and medical facilities in the "no-fire zone." Despite the impact of these reports in the world media the Sri Lankan government drove the war to its conclusion with horrific civilian consequences.

Although the UN described the actions of the doctors as "heroic,"(6) the government in Colombo dismissed them as agents of the Tamil Tigers. After the fighting had finished the doctors were detained by the Sri Lankan armed forces. A few weeks later they publicly recanted, stating that the reports they gave were exaggerated following pressure from the Tamil Tigers. Amnesty International subsequently raised doubts about the retraction. According to Sam Zarifi, Asia-Pacific director for Amnesty, there were "very significant grounds to question whether these statements were voluntary, and they raise serious concerns whether the doctors were subjected to ill treatment during weeks of detention."(7)

The changing nature of modern warfare

In some respects, the challenges facing the international medical community are not different in kind to those that confront all individuals and groups concerned about human rights in conflict zones. Warfare has changed its shape, and the protocols and conventions drawn up to reflect earlier conflicts are ill-adapted to many modern conflicts. Contemporary wars are seldom fought between opposing and clearly identifiable armies. They are frequently "asymmetric" conflicts, with armies encountering terrorist and guerilla groups, often embedded in and indistinguishable from civilian populations. Battles can be fought in civilian areas,

with civilian hospitals and other healthcare facilities caught up in the conflicts. Hospitals and ambulances have been used to shelter or to carry arms and combatants. The line between the military opponents and the communities in which they live and move can become impossibly blurred. In many conflicts, such as those in Rwanda and Kosovo, sections of the civilian population become the target, as does the medical infrastructure that supports them. In these circumstances, the idea of neutrality itself can become eroded.

Health professionals and human rights abuses

Another key challenge facing the international medical profession is the difficulty of supporting individual health professionals who find themselves caught up in these conflicts. A significant strand of the developing health and human rights movement in recent decades has involved a recognition that, as a result of their role, doctors and other health professionals are often among the first to encounter individuals and groups who have been subject to human rights violations. Doctors can have complex professional affiliations and be subject to competing obligations, working in custodial settings, employed directly or indirectly by the state. Doctors have roles to play in some judicial procedures, in psychiatric institutions, and work alongside the police and the armed forces. Partly as a result, doctors are often seen as having particular obligations in relation to human rights, obligations that are acknowledged and reinforced by professional bodies such as the World Medical Association.

During times of armed conflict, however, many of the roles and professional affiliations of medical practitioners can be subject to extreme additional ethical stresses. It can also be personally hazardous. The eyewitness reports and subsequent recantation of the Sri Lankan doctors suggest the kind of pressures that doctors can be put under by different parties to a conflict. It also makes clear the enormous personal risk that health professionals can be exposed to, risks that are both physical and psychological. They can also be, in the broadest sense, moral and reputational risks, as dispute rages about their reliability and partiality.

It would seem however that there is another asymmetry here, an asymmetry of obligation. It can feel slightly in bad faith to write from the safety of a wealthy London-based organisation highlighting doctors' responsibilities in relation to human rights, yet being effectively powerless to intervene to protect those who chose to shoulder precisely those responsibilities. This is perhaps the greatest challenge facing the international medical profession in its commitment to human rights. There are many aspects of it, but one of the most significant is the absence of robust safeguards and sanctions.

The weaknesses of current safeguards and sanctions

Nine years ago, in its 2001 handbook, *The Medical Profession and Human Rights*, the BMA stated:

> Conflicts throughout the twentieth century illustrate some of the limitations of international humanitarian law and the Geneva Conventions clearly reflect the compromises necessary to get international agreement to such principles and by the context in which they were developed. They were conceived as only applicable to war between armies of opposing states…this no longer reflects reality. (8)

Although Common Article 3 of the Conventions applies to non-international conflicts, such as civil war and hostilities internal to a party, and additional protocols – specifically protocol II – have been added to the four main Geneva Conventions to try and provide additional legal protection for civilians caught up in internal conflicts, current safeguards still lack teeth. Aggressors can still violate fundamental human rights with relative impunity. What options does the international medical profession have to try and influence this?

Conclusion and suggestions for the future

The current mix of international declarations and global human rights sanctions does not yet serve to protect medical staff caught up in times of conflict and the position of those associations championing human rights in health can be an uncomfortable one. Although we have to be wary of being naïve here, and accept that conflict within sovereign states presents huge challenges for international oversight and regulation, here are some tentative suggestions:

- The impact of media reporting by the doctors in the conflict zone significantly affected international opinion. National and international medical associations need further to consider how they can work effectively with the world's media to draw attention to violations of medical neutrality.
- For many years the BMA has worked to forge links with other national medical associations in order to promote an international human rights agenda in healthcare. Further attention needs to be given to the development of a coherent international medical voice with meaningful representation from the medical associations of nation states.
- Attention could again be given to the possible appointment of a UN Rapporteur on the Independence and Integrity of Health Professionals – a role that could usefully supplement the Rapporteur on the Right to the Highest Attainable Standard of Health.

- The international medical profession needs to consider how it can most effectively support the work of the international human rights monitoring and treaty bodies, including specifically the work of the International Criminal Court with the goal of developing more robust and effective sanctions.

"In war," said Aeschylus, "truth is the first casualty." Looking back over the conflict in Sri Lanka, it is easy to think that unless we can find ways of supporting health professionals who are willing to bear witness to human rights violations, international medical solidarity might be another.

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