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III. Developments in International Law

RATIFICATION OF THE 1949 CONVENTIONS

Switzerland, whose representative had acted as President of the Diplomatic Conference, was the first of the sixty-one signatory States to ratify the four Geneva Conventions of August 12, 1949.

On February 23, the Parliamentary Commissions dealing with the question under the chairmanship of M. Max Petitpierre, President of the Swiss Confederation, were received at the Committee's headquarters by M. Ruegger and given a general outline of responsibilities undertaken by the ICRC. Switzerland ratified the four Conventions shortly afterwards, on March 31.

Jugoslavia ratified on April 21. Further ratifications took place during the year: Monaco (July 5); Liechtenstein (September 21); Chile (October 12); India (November 9) and Czechoslovakia (December 19).

ENTRY INTO INTERNATIONAL LAW

An Article common to the four Conventions specifies that they shall come into force six months after not less than two instruments of ratification have been deposited.

The second ratification having been notified to the Swiss Government, guardian of the Conventions, on April 21, 1950, the Conventions came into force as between Switzerland and Jugoslavia on October 21, 1950. They have thus become part of International Law, and non-signatory States may now adhere.

The Conventions come into force for each State six months after the deposit of its instrument of ratification, or of the notification to the Swiss Government of its adhesion.

ATOMIC WEAPONS AND NON-DIRECTED MISSILES

The Diplomatic Conference, during its discussions, decided that the question of atomic weapons and non-directed missiles lay outside its terms of reference; it was a problem which was still under consideration by the United Nations. The use, limitation or prohibition of weapons are matters coming under the Hague Conventions, not those of Geneva.

None the less, recent scientific discoveries in the field of atomic energy raise grave problems for the protection of civilians and threaten the very foundations of the Geneva treaties.

It was for this reason that the International Committee decided to address the following message to the High Contracting Parties signatory to the Geneva Conventions for the protection of the victims of war.

Geneva, April 5, 1950.

On August 6, 1945, when the first atomic bomb exploded, the world saw in it at first only a means of ending the War. Soon the destructive capacity of this arm became known, and increasing alarm came with the realisation. Since then, the civilised world has been hoping to see a reaffirmation of the rules of law and their extension to ensure protection against such means of destruction. Not only has this hope been belied, but there is already talk of arms still more destructive. Scientists have it that entire cities can be instantly wiped out and all life annihilated for years over wide areas. Mankind lives in constant fear.

It is the province of Governments to draw up the laws of war. The International Committee of the Red Cross is well aware of this fact, and it realizes that the establishment of such laws involves political and military problems which are by their very nature outside its scope. Nevertheless, on the morrow of the formal signature of the four Geneva Conventions for the protection of the victims of war, the Committee feels that its duty is to let Governments know of its anxiety.

The protection of the human person against mass destruction is intimately bound up with the principle which gave rise to the Red Cross: the individual who takes no part in the fighting, or who is put *hors de combat* must be respected and protected.

The International Committee has not waited until now to take up the question. On September 5, 1945, scarcely a month after the release of the first bomb, it drew the attention of National Red Cross Societies to the grave problem posed by the atomic arm. This step was in itself a logical sequence in the attitude the Committee had taken to the development of modern warfare. From 1918 onwards, it had begun to collect documentation on the protection of civilians against aerial warfare and might be considered in this respect as a pioneer of civilian air-raid precautions. The Committee at the same time endeavoured to secure from the Powers an undertaking to refrain from the bombardment of non-military objectives. A series of proposals was laid before one of the first Assemblies of the League of Nations, with the object of eliminating certain methods of warfare introduced during the first World War. Supported by the conclusions reached by experts and backed by the documentation it had brought together, the Committee later addressed to the Disarmament Conference an appeal for the absolute prohibition of aerial bombardment.

During the second World War, the Committee repeatedly called upon belligerents to restrict bombardment to military objectives only, and to spare the civil population. The most important of these appeals, dated March 12, 1940, recommended that Governments should conclude agreements which would confirm the immunity generally accorded to civilians and prohibit all attacks against them. Similarly, the International Committee on several occasions advocated the creation of safety zones and localities. All these efforts proved fruitless.

The War once over, the International Committee did not relax its efforts. The Preliminary Conference of National Red Cross Societies, which met at Geneva in 1946, adopted a Resolution recommending, *inter alia*, the prohibition of the use of atomic energy for war purposes. Armed with this text, the International Committee presented a report to the XVIIth International Red Cross Conference (Stockholm, 1948) recalling the above facts, and proposed the confirmation of the 1946 Resolution, after extending it to cover all non-directed weapons. The Conference voted the following Resolution:

The XVIIth International Red Cross Conference,

considering that, during the Second World War, the belligerents respected the prohibition of recourse to asphyxiating, poison and similar gases and to bacteriological warfare, as laid down in the Geneva Protocol of June 17, 1925,

noting that the use of non-directed weapons which cannot be aimed with precision or which devastate large areas indis-

criminally, would involve the destruction of persons and the annihilation of the human values which it is the mission of the Red Cross to defend, and that use of these methods would imperil the very future of civilisation,

earnestly requests the Powers solemnly to undertake to prohibit absolutely all recourse to such weapons and to the use of atomic energy or any similar force for purposes of warfare.

Almost at the same moment, the International Congress of Military Medicine and Pharmacy, also meeting at Stockholm, adopted a similar Resolution.

Today, in recalling to Governments the Resolution of the XVIIth Red Cross Conference, the International Committee feels obliged to underline the extreme gravity of the situation. Up to the Second World War it was still to some extent possible to keep pace with the destructive power of armaments. The civilian population, nominally sheltered by International Law against attack during war, still enjoyed a certain degree of protection, but because of the power of the arms used, were increasingly struck down side by side with combatants. Within the radius affected by the atomic bomb, protection is no longer feasible. The use of this arm is less a development of the methods of warfare than the institution of an entirely new conception of war, first exemplified by mass bombardments and later by the employment of rocket bombs. However condemned—and rightly so—by successive treaties, war still presupposed certain restrictive rules; above all did it presuppose discrimination between combatants and non-combatants. With atomic bombs and non-directed missiles, discrimination become impossible. Such arms will not spare hospitals, prisoner of war camps and civilians. Their inevitable consequence is extermination, pure and simple. Furthermore, the suffering caused by the atomic bomb is out of proportion to strategic necessity; many of its victims die as a result of burns after weeks of agony, or are stricken for life with painful infirmities. Finally, its effects, immediate and lasting, prevent access to the wounded and their treatment.

In these conditions, the mere assumption that atomic weapons may be used, for whatever reason, is enough to make illusory any attempt to protect non-combatants by legal texts. Law, written or unwritten, is powerless when confronted with the total destruction the use of this arm implies. The International Committee of the Red Cross, which watches particularly over the Conventions that protect the victims of war, must declare that the foundations on which its mission is based will disappear, if deliberate attack on persons whose right to protection is unchallenged is once countenanced.

The International Committee of the Red Cross hereby requests the Governments signatory to the 1949 Geneva Conventions, to take, as a logical complement to the said Conventions—and to the Geneva

Protocol of 1925—all steps to reach an agreement on the prohibition of atomic weapons, and in a general way, of all non-directed missiles. The International Committee, once again, must keep itself apart from all political and military considerations. But if, in a strictly humanitarian capacity, it can aid in solving the problem, it is prepared, in accordance with the principles of the Red Cross, to devote itself to this task.

For the International Committee of the Red Cross :

Leopold BOISSIER

Paul RUEGGER

Vice-President,

President

Chairman of the Legal Commission

Government replies to the above Appeal were published in the *Revue*, and show how widely the Committee's anxiety is shared.

Replies were received from the following :

Ireland, Spain, Switzerland, Vatican, Liechtenstein, Salvador, Guatemala, Costa Rica, Dominican Republic, Yemen, Great Britain, Venezuela ; ¹

Norway, Haiti, Peru, United States of America, Ethiopia, Bolivia, Canada, Nicaragua, Belgium ; ²

Colombia, Australia, Italy, Burma, Chile, Sweden, Denmark, Austria, Philippines, Israel, Afghanistan, Siam ; ³

India, South Africa, France, New Zealand, Greece, Egypt, Turkey, Syria.⁴

LECTURES ON THE CONVENTIONS AT THE INTERNATIONAL LAW ACADEMY

During its 1950 Session, the International Law Academy at The Hague invited M. Jean Pictet to give a course of lectures on " The Red Cross and the Geneva Conventions ".

¹ Cf. *Revue internationale*, January 1951, pp. 19-27 ;

² *Ib.*, February 1951, pp. 144-152 ;

³ *Ib.*, April 1951, pp. 299-308 ;

⁴ *Ib.*, June 1951, pp. 484-489.

More than two hundred persons of many different nationalities followed the lectures ; the study circles afterwards were also very well attended. Many students took the subject in the examination for the Academy Diploma—seeming to indicate a lively interest by law students in a matter which, for most of them, was quite unfamiliar.

INTEREST IN THE NEW CONVENTIONS

The Conventions have aroused widespread interest also in other quarters. The Committee has been asked for information, or invited to explain or interpret various points. Governments and National Societies in particular have written. The Legal Service, which is making a detailed study of the texts, has tried to meet these requests, recalling however that the ICRC has no competence to give binding interpretations, a faculty which belongs to the Governments party to the Conventions.

The Committee published editions of the new Conventions shortly after their signature. To facilitate study, they are published with marginal notes, a detailed contents table and an introduction. There has been a very large demand, and the volume has been communicated to Legal Faculties throughout the world with the suggestion that the Conventions be included in the course of study.

National Societies have received material to help make the Conventions known and speed up ratification. The Legal Service has produced an " Analysis " for their use in two volumes of roughly a hundred pages each, providing a first Commentary on the Conventions.

INTERNATIONAL CIVIL LAW CONGRESS

The Committee was represented at the International Civil Law Congress, held at Rome from July 8 to 16 at the headquarters of the International Institute for the Standardization of Civil Law, with the President, M. Pilotti, in the Chair.