

Practical application and development of humanitarian law

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VI. PRACTICAL APPLICATION AND DEVELOPMENT OF HUMANITARIAN LAW

From its origin the International Committee of the Red Cross has been concerned with the promulgation of the rules on which humanitarian law is based today.

The First Geneva Convention of 1864 drawn from a draft project of the Geneva Committee, was in fact the starting point of successive modifications which have affirmed the respect of the human person by the protection of victims of conflicts (the traditional field of Red Cross activities), regulations for armaments and methods of warfare or, yet again, the organisation throughout the world of campaigns for the prevention of certain social evils.

The First Geneva Convention incorporated into international law humanitarian principles which, until then, were only of a moral nature. It was also the beginning of multilateral agreements of an universal scope such as the Hague Convention of 1899 and 1907 respecting the Laws and Customs of War and the various Pacts or Conventions set up under the auspices of the League of Nations, and later, by the United Nations, for the prevention of slavery, the drug traffic, etc.

Since its foundation in 1863, the International Committee of the Red Cross, with the experience acquired on battle-fields has devoted its efforts in particular to the development of the Geneva law whose object is to protect war victims. Nevertheless, the ICRC has never ceased to seek information concerning the progress of other branches of humanitarian law, and even to lend its assistance if it thought it would serve a useful purpose.

Thus, when the XIXth International Conference of the Red Cross was held it submitted the "Draft Rules for the Limitation of the Dangers incurred by the Civil Population in Time of War"¹ which are at present being examined by Governments. In conformity with its traditional duties the International Committee of the Red Cross continued to work, in 1957, for the development of humanitarian law.

It pursued its efforts towards the dissemination of the Geneva Conventions, in particular by distributing an illustrated booklet in nine languages (French, English, Spanish, German, Arabic, Chinese, Hindi, Japanese and Russian), giving a summary of the Conventions by pictures which it published in 1956.

The ICRC also continued its work on the Commentary on the Geneva Convention of 1949 concerning the wounded, sick and shipwrecked of armed forces at sea and the Convention on Prisoners of War. It also replied to numerous legal enquiries on the subject.

GENEVA CONVENTIONS OF AUGUST 12, 1949

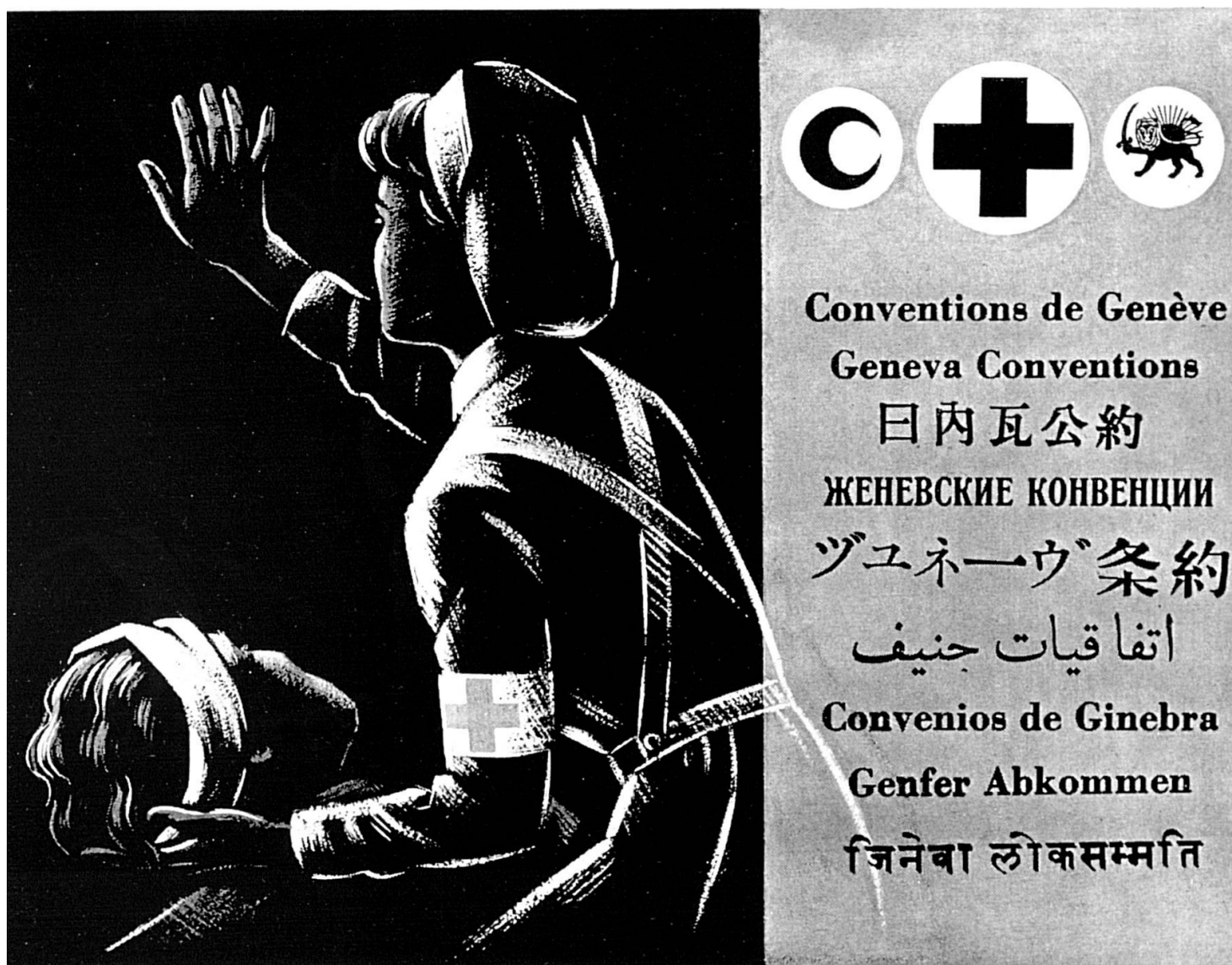
(1) RATIFICATIONS AND ACCESSIONS.

In 1957 the Swiss Federal Council in Berne announced the deposit of the instruments of ratification of the Geneva Conventions by Iran (February 20, 1957), Albania (May 27, 1957), Brazil (June 29, 1957) and the United Kingdom of Great Britain and Northern Ireland (September 23, 1957). In addition, the following Powers have acceded to these Conventions : Haiti (April 11, 1957), Tunisia (May 4, 1957), Democratic Republic of Viet Nam (June 28, 1957), Democratic People's Republic of Korea (August 27, 1957), the Sudan (September 23, 1957). These various ratifications or accessions brought the number of Powers party to the Geneva Conventions to 69 on December 31, 1957.

The International Committee of the Red Cross, whenever it was possible to do so, made representations to the Governments or National Societies of the countries not yet bound by these Conventions, to hasten the procedure of ratifications or accessions.²

¹ See pp. 80 to 84.

² The States signatory to the Geneva Conventions for which ratifications had not been received up to December 31, 1957 are the following : Australia, Burma, Bolivia, Canada, Ceylon, Colombia, Costa Rica, Ethiopia, Ireland, New Zealand, Paraguay, Portugal and Uruguay.



Dissemination of the Geneva Conventions by pictures: the cover of an illustrated booklet in nine languages published by the ICRC

(2) STUDIES CONCERNING THE GENEVA CONVENTIONS.

Rescue craft.

The Second Geneva Convention of 1949 contains provisions (mainly in Article 27) for the protection of rescue craft and the coastal installations for their use.

The International Life-boat Conference has made efforts on several occasions to obtain efficient protection for the crafts and their crews. It has approached the Belgian and Swiss Governments on the subject and made very active efforts to induce the various States to interpret these provisions of the Second Convention in a favourable sense.

Article 22 of this Convention provides for the notification of the characteristics of hospital ships and rescue craft. The text is not very explicit, however, as regards the procedure for notification and, therefore, at the request of the Belgian Government, the Swiss Federal Authorities were requested to send a note to all the States signatory to the Geneva Conventions with a view to the conclusion, between the High Protecting Parties, of a new agreement whereby the information and characteristics concerning rescue craft would be transmitted in peace time to the ICRC in Geneva, which would assemble this information and give periodic advice of it to the States concerned. Some twenty Governments have so far responded favourably to this suggestion. The ICRC had previously stated that it was prepared, at the request of the States concerned, to accept these duties; it would seem therefore that a positive result is in view and the ICRC is following the question.

Members of police forces

The International Federation of Police Officers has for some years been in contact with the ICRC, and had special discussions with it of late years, in connection with the application to members of the police forces of the provisions of the Fourth Geneva Convention relative to the Protection of the Civilian Population. In 1956 this Federation adopted a draft declaration relative to the application of the Fourth Convention to police officers.

International Medical Law

For several years, as from the Second World War, the medical world has felt a need for explicit regulations concerning the rights and duties of members of the medical profession, first of all by national legislation and later by international regulations. Circumstances have caused many doctors to find themselves placed under the authority of foreign administrative bodies and this experience, often of a distressing nature, has aroused a wish for the medical profession to be subject to uniform regulations.

The previous Annual Report ¹ referred to meetings held between the International Committee of Military Medicine and Pharmacy, World Medical Association, and the ICRC, attended by an observer of the World Health Organisation. Various contacts were also made with the "Comité pour la neutralité de la médecine", in Paris whose work is followed by the ICRC.

In 1957 the regulations which were discussed during the meetings and considered likely to ensure the care of the wounded and sick in all circumstances, and the protection of doctors in the performance of their duties, were finally adjusted and adopted by these associations, together with draft rules concerning medical ethics in war time.

These draft rules mention, in particular, a distinctive emblem (a red Aesculapian staff on a white background) for the protection of civilian doctors not on the staff of a civilian hospital who, it will be recalled, are not authorised by the Fourth Convention to make use of the Red Cross emblem.

The ICRC submitted the results of this work to the XIXth International Conference of the Red Cross which noted them with satisfaction and gave its support by adopting the following resolution :

" The XIXth International Conference of the Red Cross, considering the efforts already made by the International Committee of the Red Cross to minimise the suffering caused by armed conflicts of all types, expresses the wish that a new provision be added to the existing Geneva Conventions of 1949, extending the provisions of Article 3 thereof so that :

¹ See Annual Report for 1956, p. 51.

- (a) the wounded may be cared for without discrimination and doctors in no way hindered when giving the care which they are called upon to provide in these circumstances,
- (b) the inviolable principle of medical professional secrecy may be respected,
- (c) there may be no restrictions, other than those provided by international legislation, on the sale and free circulation of medicines, it being understood that these will be used exclusively for therapeutic purposes,

furthermore, makes an urgent appeal to all Governments to repeal any measures which might be contrary to the present Resolution."

DRAFT RULES FOR THE LIMITATION OF THE DANGERS INCURRED BY THE CIVILIAN POPULATION IN TIME OF WAR

The Annual Report for 1956 mentioned the work of the ICRC for the purpose of restating and defining, in view of the development in methods of warfare, the rules for the protection of the civilian population in time of war.

This work reached a conclusion by the publication in autumn 1956 of "Draft Rules" which were submitted to the XIXth International Conference of the Red Cross. The Conference considered them to be in conformity with Red Cross ideals and the requirements of humanity.¹

Legal Aid to Aliens

The VIth Conference of Non-Governmental Organisations interested in Migration held in Geneva from August 9 to 13, 1957 adopted a resolution which recommended in particular the creation in Geneva of an "International Centre for the Co-ordination of Legal Assistance", with the close co-operation of the International Committee of the Red Cross, for the purpose of:

- (a) Placing all relevant information at the disposal of the legal assistance agencies existing in various countries, and facilitating the exchange of information between those agencies ;
- (b) Encouraging co-operation between those agencies and promoting the establishment of new legal assistance agencies wherever they are deemed necessary ;

¹ See Summary of the discussions of the Conference, pp. 80 to 84.

- (c) Facilitating contacts between national agencies to assist them in settling difficult cases, especially those entailing co-ordinated action in several countries ;
- (d) Communicating expeditiously to member organisations all information relating to legal assistance agencies throughout the world, and in particular soliciting the answers required to the questionnaire drawn up by the New York Working Party.

The ICRC and the League, in accordance with the wishes expressed by the XVIIth and XVIIIth International Red Cross Conferences, had already considered favourably the establishment of such a body provided that it could be organised to act in accordance with Red Cross principles.

The need for giving legal assistance to aliens and the quality of the services given varies from country to country. Some, like the United States, already have an official organisation which gives legal assistance and free legal advice, to the poor, and this organisation meets requirements for the most part. Indeed aliens, including refugees and stateless persons, benefit from it in the same way as citizens. Elsewhere the conditions under which legal assistance is given are in general less favourable, and despite the devoted work of a large number of non-governmental organisations, in the foreground of which may be mentioned the International Social Service, there seems to remain much to do not only in extending legal assistance itself but also in co-ordinating efforts to provide it.

The question was discussed at the XIXth International Conference of the Red Cross. The Chairman of the International Humanitarian Law Commission thanked the ICRC and the League for their efforts in this field and the Conference passed a resolution approving the Report of the ICRC.

There can be no question of the International Centre which is to be established giving direct legal assistance. The limited tasks incumbent upon it are, moreover, quite clearly defined in the resolution mentioned above. If it succeeded, however, in co-ordinating the activities of bodies which fulfil the same functions as the Red Cross legal assistance sections mentioned above it would be doing useful work, especially in assisting the organisations concerned to obtain the support from various sources of which they may have need.

GENEVA CONVENTIONS OF AUGUST 12, 1949

List of States party to the Geneva Conventions.

No.	Date	Countries	No.	Date	Countries
	1950			1954	
1	March 31	Switzerland	33	Feb. 10	Turkey
2	April 21	Jugoslavia	34	March 29	Liberia *
3	July 9	Monaco	35	April 15	Cuba
4	Sept. 21	Liechtenstein	36	May 10	U.S.S.R.
5	Oct. 12	Chile	37	June 1	Rumania
6	Nov. 9	India	38	July 22	Bulgaria
7	Dec. 19	Czechoslovakia	39	Aug. 3	Byelorussian S.S.R.
	1951		40	Aug. 3	Hungary
8	Feb. 22	Holy See	41	Aug. 3	Netherlands
9	March 7	Philippines (First Convention only)	42	Aug. 3	Ukrainian S.S.R.
10	April 10	Lebanon	43	Aug. 11	Ecuador
11	May 29	Jordan *	44	Sept. 3	German Fed. Rep.*
12	June 12	Pakistan	45	Nov. 26	Poland
13	June 27	Denmark	46	Dec. 29	Thailand
14	June 28	France		1955	
15	July 6	Israel	47	Feb. 22	Finland
16	Aug. 3	Norway	48	Aug. 22	United States of America
17	Dec. 17	Italy		1956	
	1952		49	Feb. 10	Panama *
18	March 31	Union of South Africa *	50	Feb. 13	Venezuela
19	May 14	Guatemala	51	Feb. 14	Iraq *
20	Aug. 4	Spain	52	Feb. 15	Peru
21	Sept. 3	Belgium	53	May 22	Libya *
See No.9	Oct. 6	Philippines (Second, Third and Fourth Conventions)	54	June 5	Greece
22	Oct. 29	Mexico	55	July 26	Morocco *
23	Nov. 10	Egypt	56	Sept. 18	Argentine Republic
	1953		57	Sept. 26	Afghanistan
24	April 21	Japan *	58	Oct. 29	Laos *
25	June 17	Salvador	59	Nov. 30	German Dem. Rep.
26	July 1	Luxemburg	60	Dec. 28	People's Republic of China
27	Aug. 27	Austria		1957	
28	Aug. 29	San Marino *	61	Feb. 20	Iran
29	Nov. 2	Syria	62	April 11	Haiti *
30	Nov. 14	Rep. of Viet Nam *	63	May 4	Tunisia *
31	Dec. 17	Nicaragua	64	May 27	Albania
32	Dec. 28	Sweden	65	June 28	Dem. Republic of Viet Nam *
			66	June 29	Brazil
			67	Aug. 27	Dem. Rep. of Korea *
			68	Sept. 23	United Kingdom and Northern Ireland
			69	Sept. 23	Sudan *

* Accessions are shown by an asterisk