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II. GENERAL ACTIVITIES

PRACTICAL APPLICATION AND DEVELOPMENT OF HUMANITARIAN LAW

The Geneva Conventions

Ratification and accession.—By the end of 1962, 91 States were expressly bound to the 1949 Geneva Conventions. In addition 18 newly independent States, although not having deposited any instrument, are also bound to the Conventions by virtue of ratification by the States which previously wielded sovereign power over their territory. In all, therefore, 109 States are bound by the 1949 Conventions. The following is a chronological list of States which declared their accession to the Conventions in 1962: Dahomey (declaration of continuity), Togo (declaration of continuity), Cyprus (accession), Malaya (accession), Eire (ratification), Mauritania (declaration of continuity).

Of the States which have not yet adopted the 1949 Conventions, six are bound by the 1929 version, three by the 1906 version and one by the original Convention of 1864.

Although a certain doubt prevailed concerning the manner in which newly independent States should confirm their participation in the Geneva Conventions or draw up their declaration of continuity of accession, a convenient solution to the problem was found in 1962. As an example we quote the wording adopted by the Republic of Togo: "The four Geneva Conventions of August 12, 1949, relative to the protection of victims of war, are legally applicable within the territory of the Republic of Togo, by virtue of the

ratification of the Conventions by France on June 28, 1951. It is the express desire of the Government of the Republic of Togo to confirm by the present its participation in these four Conventions . . .” Apart from Togo, the States which have expressly confirmed their participation in the Conventions are: Congo (Leopoldville), Ivory Coast, Dahomey, Upper Volta, Nigeria and Mauritania.

Dissemination of the Conventions

Throughout the year, the ICRC continued its efforts for the dissemination of the Conventions. Thus, it published in the four languages most widely spoken in the former Belgian Congo (i.e. Lingala, Swahili, Tchiluba and Kikongo), the booklet entitled “ Brief Summary of the Geneva Conventions for Use by Military Personnel and the Public ”. Certain of the National Societies co-operated in this work with the International Committee by arranging for the translation of some of the texts. This was particularly the case with the Red Cross of the Republic of Viet Nam, which undertook the translation of the summary into Vietnamese. The ICRC has had a new edition printed of its illustrated booklet on the Conventions in nine languages, with texts in the above four languages as well as in French, English, Spanish, Portuguese and Arabic. The United Nations Organization has received 19,000 copies of this booklet for its troops in the Congo.

In co-operation with the League of Red Cross Societies, the ICRC has published another booklet in English, entitled “ The Robinson Family ”. This describes, in the form of a story and often with wit, the experiences of various members of a family in time of war. The author, Mrs. Warburton, was Director of the Junior Red Cross in the United Kingdom for many years. The text is illustrated by Mr. Pierre Leuzinger. This publication describes in a simple and attractive manner the scope of the Geneva Conventions and, by means of practical examples, shows the protection they afford to victims of war.

The ICRC has also prepared a series of colour slides which are available to any National Societies which so desire. The slides

illustrate vividly the essential regulations of the Conventions and are particularly suitable for dissemination to a wide public, especially youth.

In order to facilitate the study of the Geneva Conventions in law faculties and in order to promote their inclusion in university programmes, the International Committee has issued a course of five lessons, covering the following:

1. *The law of Geneva* : the Red Cross and the drawing up of the law of Geneva ; the Geneva Conventions, their place in international law.
2. *The principles of the Geneva Conventions* : the principles and articles common to the four Conventions.
3. *The wounded and sick* : protection of the wounded and sick, medical personnel and material ; the Red Cross emblem.
4. *The status of prisoners of war* : the status of prisoners in international and local conflicts and the rôle of the Red Cross.
5. *Protection of civilians* : protection of civil populations and of individuals, particularly in occupied areas and during internment.

These lessons have been sent to governments and law faculties in the hope that the Geneva Conventions will be included in official teaching programmes incorporating the study of international law. Several affirmative decisions have already been brought to the notice of the ICRC.

Owing to the heavy demand for these lessons, the ICRC has decided to publish them in French, English, Spanish and German. This publication is now available in these languages to those making application.

At the request of one of the governments party to the Geneva Conventions, the ICRC has also drawn up a " Draft Handbook on the Laws and Customs of War ", which is intended in particular for army officers and which summarizes the main provisions of The Hague and the Geneva Conventions in a practical and systematic manner.

Humanitarian Assistance to Victims of Local Conflicts

Article 3, common to the four Geneva Conventions, constitutes a remarkable warranty of humanitarian protection.

In the name of the respect which is due to human beings, States which are parties to these Conventions have in fact agreed to impose, in a certain degree, limits on their own freedom of action with regard to their own nationals in the event of internal disturbances. Thus, international law has penetrated into a sphere hitherto the sole preserve of national law, and the International Committee of the Red Cross is expressly mentioned as being, under certain conditions, competent to guarantee such protection.

Indeed, since the signature of Article 3, the International Committee has had to intervene in a large number of serious situations during the course of internal conflicts of widely varying character, in Guatemala, Nicaragua, Kenya, Algeria, the Congo and in other places.

In order to lend weight to its dealings with governments, the ICRC has twice had recourse to consultations with international experts in 1953 and 1955, and each served to reinforce the ICRC's determination to render assistance to victims of internal conflicts and disturbances.

At the Board of Governors of the League of Red Cross Societies in Prague, in September 1961, the Yugoslav Red Cross proposed the examination of "the legal protection of victims of armed internal conflicts and similar events". This suggestion was approved and the ICRC was requested to draw up a report on the matter, for submission, together with any relevant proposals, to the next International Conference of the Red Cross.

In point of fact, the ICRC has never ceased to give this question consideration. Furthermore, its experience in the countries mentioned above has strengthened the basis of Red Cross doctrine. However, having in mind the report and the proposals to be submitted at the next deliberative assembly of the Red Cross, the International Committee decided once again to consult a Committee of Experts. This was convened by the International Committee and held its sessions in Geneva from October 25 to 30, 1962.

The Committee of Experts consisted of Professor Roberto Ago

of Rome, Professor Frede Castberg of Oslo, Professor Paul Cornil of Brussels, Colonel G. I. A. D. Draper¹ of London, Professor Jean Graven of Geneva, Professor Nihat Erim of Ankara, Professor Roger Pinto of Paris, Professor Carlo Schmid¹ of Bonn, Professor Georges Ténékidès of Athens, Professor Erik Husfeldt of the Danish Red Cross, Mr. J. J. G. de Rueda of the Mexican Red Cross, Dr. Bosko Jakovljevic of the Yugoslav Red Cross, Mr. Paul Ruegger, Member of the ICRC, Professor Jacques Freymond, Member of the ICRC, Colonel Samuel Gonard, Member of the ICRC. Mr. Nihat Erim was elected chairman and Mr. Pinto rapporteur.

The first task undertaken by the Committee was to define the term "armed conflict". Its existence within the meaning of article 3 is undeniable, if action hostile to a legally constituted government is collective and is the object of a minimum of organization; in this respect and without it being necessary that these circumstances be cumulative, account must be taken of such considerations as duration of the conflict, the number of officers in the rebel groups, their establishment or their action in any part of the territory, the degree of insecurity, the existence of victims, the means brought into operation by the legal government for re-establishing order, etc. Furthermore, and this is of particular importance, the humanitarian action, when firing has ceased, must be extended to deal with circumstances arising from the conflict, just as a doctor follows up the progress of his patient after an operation, until recovery is complete.

As for the actual implementation of the humanitarian standards laid down in article 3, this necessarily implies the recognition and respect of the Red Cross emblem and of the conditions under which it may be used, as well as respect of the principles of medical secrecy and neutrality. It is, in particular, forbidden to take any measures, penal, administrative etc., against doctors, nurses and medical personnel for having taken care of persons to whom article 3 relates. It is also forbidden to restrict the sale and distribution of medical supplies. Medical care, however, is not the only issue involved.

¹ Colonel Draper and Professor Schmid, who were unable to come to Geneva, were sent a copy of the report with which they declared their agreement.

The prohibition of the taking of hostages implies condemnation of any idea of collective responsibility.

As for internees and detainees, there is an obligation for the parties to the conflict to allow and facilitate visits by ICRC delegates, the transmission of family information, correspondence and relief, whether the latter be of a legal, religious, intellectual or material nature.

However the parties to a conflict may conceive the application of article 3 of the Geneva Conventions to the situation under consideration, the ICRC's right of initiative remains valid. It is objective and should be exercised in the name and interest of the international community as a whole. This right may not be denied the ICRC in the event of internal disturbances, where the ICRC's presence and action are essential in order to ensure respect for the humanitarian principles defined by the Geneva Conventions.

In order to accomplish such a heavy task, the ICRC would not be able to forgo the co-operation of the National Red Cross Societies. Humanitarian action in internal disturbances as well as in the case of international conflict, implies the adoption by these Societies of a steadfast structure capable of withstanding as far as possible the upheaval of war or civil war, e.g. decentralization, popular representation on national and regional committees, preparation for setting up ad hoc committees during crises, insistence on independence from and impartiality toward governments. In any case, it is inadmissible that members of National Societies be impeded and, even less so, detained, for their humanitarian action during a conflict. The International Committee of the Red Cross will always be ready to maintain with an organization of the Red Cross which is not recognized any connection it considers expedient for humanitarian proposals without this having any effect on the legal status of the organization in question.

Having thus taken note of the position in international law, humanitarian, common and traditional, as it stands at present, the Committee expressed the opinion that these conclusions and observations could some day be included in documents tabled for a diplomatic conference, convened in order to revise the Geneva Conventions on this point.

Development of International Medical Law

As is known, the ICRC and the two large international organizations of military and civilian doctors, the World Medical Association and the International Committee of Military Medicine and Pharmacy, set up a Working Party several years ago for joint study of certain aspects of protection for the medical professions in time of war¹. The ICRC advised the National Societies in its circular No. 425 dated February 9, 1959. The results were, moreover, submitted to the Council of Delegates of the International Red Cross in October 1961 at Prague.

The measures adopted by the Working Party aim at strengthening in a practical manner the protection due to civil medical personnel in times of conflicts of all descriptions. In order to achieve this object it is necessary on the one hand to proclaim and to have certain essential rules of the profession recognized : political neutrality, the exclusive attention to victims, aid without discrimination, and, on the other hand, to accustom all categories of medical personnel and the public to the displaying of a special distinctive sign, the Staff of Aesculapius, red on a white ground. In order to give these measures the maximum effect, the States are invited to accord their agreement, indeed to give them the sanction of law.²

In order to examine the result of the deliberations of the Council of Delegates at Prague, the Working Party met for its IXth Discussion at Liège on January 30 and 31. The representatives of the three above-mentioned organizations took part in this discussion at which an observer of the World Health Organization was also present. Furthermore, representatives of the League of Red Cross Societies and of the Medico-Legal Commission of Monaco were invited to follow the debates.

The following resolution was adopted :

The Working Party,

Desirous of seeing the measures proposed for the protection of civil

¹ See Annual Report 1958, pp. 43-44; 1957, pp. 62-63.

² This has already been done by certain States: Argentine, Liechtenstein, Luxembourg and Brazil.

medical personnel accepted without delay by the largest possible number of States and given sanction if need be by national legislation,

records with satisfaction the resolution adopted on this subject by the National Red Cross Societies meeting in the Council of Delegates at Prague in October 1961,

voices the wish that between now and the forthcoming International Conference of the Red Cross, the National Societies will be able, together with the professional organizations concerned in their countries, to intervene effectively with their Governments to have the proposed measures accepted,

calls upon all the national organizations comprising doctors, dentists and nurses, not only to support the efforts being made by the Red Cross Societies, but also to put these measures into operation, especially those connected with the emblem of the Staff of Aesculapius and requests the World Medical Association to transmit this recommendation to these organizations,

requests the three institutions represented on that body to intervene with the World Health Organization in order that the latter submit, in a form which it may itself decide, the result of the studies of the Working Party to the favourable attention of the member States so that they may accept its application,

invites the International Committee of the Red Cross to continue the study, if necessary, of an eventual transposition of the proposed measures into rules of positive international law.

The participants in this IXth Discussion had the opportunity of being present at and in taking part in the deliberations of the Commission of International Medical Law of the International Law Association, which had been convened by the same organizers on the same dates, also at Liège. They were most interested in certain subjects discussed by this Commission and in particular by its efforts for drawing up a Statute for "medical institutions". This question, which is entirely new, will no doubt be further considerably developed.

The Commission has furthermore expressed its wish to see improvements made in the protection of medical aviation and especially of helicopters engaged in evacuating the wounded. It has learned with satisfaction that the ICRC, which also shares this desire, considers making a study of this problem in the near future.

With regard to the approach to the World Health Organization, which is called for in the resolution quoted above, this took place

by means of a letter written jointly by the three institutions involved—the International Committee of the Red Cross, the International Committee of Military Medicine and Pharmacy, and the World Medical Association—to the Director-General of the World Health Organization.

International refresher course for military medical officers

A first international refresher course for young military medical officers took place in 1959 at Macolin (Switzerland)¹. It was organized by the Swiss Army Medical Service under the auspices of the *International Committee of Military Medicine and Pharmacy* with the co-operation of the International Committee of the Red Cross, the *World Medical Association* and the *World Health Organization*. This experiment was a resounding success and had worldwide repercussions. In continuation of this programme, and thanks to the generous co-operation of the Italian Army Medical Service, a second course was organized and held in Florence from June 6 to 16, 1962. More than 110 medical officers from 24 different countries attended the course, which confirmed the conclusions to be drawn from the Macolin experiment, that is, that the group briefing of doctors can contribute to mutual assistance on a professional level with a view to the most effective relief services to victims of conflicts. The ICRC was represented at this course by one of its members, Brigade-Colonel Hans Meuli, Doctor of Medicine, former Director of the Swiss Army Medical Service, and by Mr. J.-P. Schoenholzer, Member of the Legal Department of the ICRC. The course covered the four following subjects: Medicine and hygiene, nautical and aeronautical medicine, surgery, international medical law.

In order to illustrate the spirit and the deep significance of this course, we would recall the fine words of the former Inspector-General of the Belgian Army Medical Service, Dr. Demolder, which were quoted in Florence by the Secretary-General of the ICMMP, Dr. General Voncken :

² See *Annual Report 1959*, p. 49.

“ On the battle-front whence we pick up our wounded, on that strip of land, at a time when it belongs to no one, we must know what colleagues we shall meet. If the firing forces us to withdraw, we shall know with whom we are leaving our fallen ; and if we must deliver up our ambulances, we shall know to whom we are handing them over.”

Protection of the civilian population

In its Resolution No. XIII, the XIXth International Conference of the Red Cross (New Delhi, 1957) requested the ICRC to pursue its efforts for the protection of the civilian population against the evils of war and, in particular, to transmit to governments for examination the Draft Rules submitted to the Conference and which had been mentioned several times in previous Annual Reports.

On the occasion of a meeting of the Board of Governors of the League in Athens, in September 1959, the Vice-President of the ICRC mentioned at a briefing, that the ICRC had already submitted the document to governments in May 1958, but that the replies did not for the moment give cause to hope that any agreement would be reached on that basis.

Although the position has not appreciably altered since that time, the ICRC has continued, these last few years, actively to pursue its endeavours in accordance with the resolution mentioned above. Indeed, the efforts it has deployed in various spheres to consolidate immunity to certain categories of workers bringing relief to victims (civilian medical personnel, civil defence personnel, etc.) presuppose, in order for them to be effectual, that the general principle of respect for non-combatants shall always be observed and that indiscriminate hostilities shall always be considered to be contrary to the spirit of the Geneva Conventions.

Thus, for want of a better outlook for the adoption of an over-all set of rules, the ICRC has carefully studied the means of asserting this fundamental principle and of ensuring observation thereof on a much larger scale. In order to carry out this investigation under the best of conditions, the ICRC decided to hold consultations with

prominent personalities from the main regions of the world and who, through their contact with public opinion and their knowledge of military, legal or scientific problems, may be well qualified to give authoritative opinions.

These consultations were prepared in minute detail in 1961 and were begun in the spring of 1962. They retained a private character, being either individual or in small groups, particularly due to the language question. These consultations have taken place in Geneva or elsewhere when members or staff of the ICRC were able to combine them with journeys for other purposes. In this way, in 1962, consultations were held with some 15 leading personalities in ten different countries.

Although these discussions altogether produced valuable results, there still remain personalities in all the main regions of the world whose opinions the ICRC is desirous of recording. Therefore, before reaching any conclusions or making any public statements, the ICRC has decided to continue its consultations. In this respect, the journey of two of its delegates to the Middle East in December enabled the ICRC to make useful contact with a view to subsequent discussions.

In another sphere of civilian population protection, the ICRC had to arrange a series of consultations with governments. The question involved was that of the position in international law of civil defence organizations.

The 1961 Annual Report gave a lengthy account of the meeting of experts which the ICRC had convened in a non-official capacity in order to examine means of strengthening the protection which humanitarian law can afford to the organizations mentioned. In particular, these experts were of the opinion that an ad hoc regulation going beyond the scope of Article 63 of the Fourth Geneva Convention was necessary in order to guarantee civil defence personnel that privileged status which is essential to the discharge of its function.

In the last analysis, the efficacy of any regulation depends on the extent to which it is approved by governments. Therefore, before drawing up the draft of the regulation which the experts would like to see, the ICRC has deemed it expedient to hold unofficial consultations with several governments to examine the

chances of such a procedure's being widely approved. For this purpose, the ICRC first of all turned to those governments which have endowed their civil defence organizations with a non-military character. These consultations required a great deal of travelling. The National Red Cross Societies concerned were very helpful in this connection.

In 1962 approaches of this sort were made to ten governments. They should be continued according to plan in 1963 in order to allow the ICRC to obtain an accurate estimate of the possibility of consolidating, in humanitarian law, the status of civil defence personnel.

LEGAL ASSISTANCE

The ICRC has continued to give support to the International Centre for the Co-ordination of Legal Assistance, which is a body attached to the International Council of Voluntary Agencies, in Geneva, and which carries out its functions from the ICRC premises in co-operation with the Legal Department. This body continues its work in close co-operation with the United Nations Office of the High Commissioner for Refugees.

RELATIONS WITH THE RED CROSS INSTITUTIONS

Official recognition

On November 1, 1962, the ICRC officially recognized two National Red Cross Societies, that of the Upper Volta and that of Sierra Leone. The number of officially recognized National Societies is therefore now 90.

International Red Cross meetings

The President of the International Committee, Mr. Léopold Boissier, the President of the League, Mr. John MacAulay, and the