

# The development of international law

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### III. The Development of International Law

#### REVISED AND NEW DRAFT CONVENTIONS AS PLACED BEFORE THE STOCKHOLM CONFERENCE

As stated above, the ICRC continued the work of drafting amendments to the existing Conventions and preparing a new one.

After the Conference of Government Experts (April, 1947), the ICRC also sought the opinion of Governments not represented at that meeting. The Austrian, Greek, Hungarian and Rumanian Governments sent Experts to Geneva for a discussion with ICRC representatives from June 9 to 12, 1947; other Governments forwarded their comments in writing.

The ICRC thereupon submitted its final drafts to the Committee of National Red Cross Societies for the study of the Conventions. The meeting of this Committee on November 15 and 16, 1947, and its general approval of the ICRC drafts, have been referred to above (p. 28).

The ICRC also made contact, in connection with special aspects of the work, with organisations such as the International Union for Child Welfare<sup>1</sup> and the International Committee of Military Medicine and Pharmacy.

The ICRC's Draft Conventions meanwhile received their final shape early in 1948, and were sent in May to all Governments and National Red Cross Societies, with a view to their discussion and approval by the XVIIth International Red Cross Conference<sup>2</sup>. As the Conventions involved such a wealth of complicated detail, the ICRC reserved the right to amend the drafts at any time up

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<sup>1</sup> See above, p. 26.

<sup>2</sup> See above, pp. 31-32.

to the date of their discussion by a Diplomatic Conference, should continued study by the ICRC experts show amendment to be necessary.

In May 1947, the ICRC approached the Swiss Government — Switzerland being guardian of the Geneva Conventions — with a request to arrange, in consultation with signatory States, for the holding of a Diplomatic Conference which would have the powers necessary to authenticate revised or new Conventions.

Seeing the paramount importance of the interests involved, the ICRC did not let the occasion pass without doing everything it could to arouse public interest in the revision of the existing Conventions and the drafting of a new one for the protection of civilians.

#### STANDARDISATION OF PENAL LAW

The ICRC accepted invitations to take part in two *Congresses on Penal Law*, because of their relation to the legal studies which form part its normal activities, and also in view of the particular bearing of Penal Law on the new Conventions.

The first of these meetings was the VIIIth International Conference for the Standardisation of Penal Law, convened at Brussels by the Belgian Government in July, 1947, and the other, the Vth International Congress on Penal Law, held in Geneva towards the end of July, 1947. The Agenda of both had items of direct interest to the work of the ICRC Legal Division.

The Committee was represented at Brussels by MM. Siordet, Pilloud and Pierre Boissier, and at Geneva by the same delegation, led by Professor Carry, member of the Committee.

#### PENAL CLAUSES OF THE CONVENTIONS

The XVIIth International Red Cross Conference adopted a Resolution (No. 23), reading as follows :

The XVIIth International Red Cross Conference,  
having examined the Report of the International Committee of

the Red Cross on the repression of violations of the humanitarian Conventions,

recommends that the International Committee continue its work in connection with this important question and submit proposals to a later Conference.

In the course of the Stockholm Conference, the ICRC stated that, in its view, expert assistance would be required for the drafting of proposals sufficiently comprehensive to be submitted to Governments taking part in the Diplomatic Conference. In December 1948, the Committee were happy to welcome to Geneva the following experts, who met under the chairmanship of M. Max Huber : Professor Lauterpacht, of Cambridge University; Colonel Phillimore, barrister-at-law, member of the British Prosecution before the International Military Tribunal; Captain Mouton, Judge of the Netherland Supreme Court of Appeal; and M. Jean Graven, Professor of Penal Law in the University of Geneva.

The assistance lent by these eminent authorities who, together with the ICRC representatives, exhaustively studied the question, led to the drafting of four new Articles. The subject of one of these is of particular gravity. It may be described as a first step towards the introduction of penal legislation of an international character, since it defines as crimes *sui generis*, offences known in ordinary parlance as "war crimes".

The draft Articles were included in the *Remarks and Proposals* which the ICRC presented to the Geneva Diplomatic Conference in April 1949.