

Development of humanitarian law

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PART III

The third part of the Report deals firstly with the International Committee's action for the development of humanitarian law and the implementation of the Geneva Conventions. It also gives a survey of the work of the ICRC in relation with International Red Cross agencies, international institutions and other organisations for mutual aid. In conclusion, it describes the measures taken for the diffusion of information of Red Cross interest.

1. Development of Humanitarian Law

1. THE GENEVA CONVENTIONS

(a) General remarks.

On August 22, 1864, in the Alabama Room of the Geneva Town Hall, the plenipotentiaries of twelve States signed the first Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field. They established the fundamental principle that the wounded and sick, whatever their nationality may be, shall be collected and cared for. The International Committee—the guardian of the Red Cross principles—has made tenacious efforts to improve this first code of humanitarian law. It has continued to be the promoter, and the principal architect, of the successive Geneva Conventions and, on several occasions, it has convened conferences of international experts, in order to consult them upon the modifications proposed.

In the form which was given to them on August 12, 1949, the four Geneva Conventions, devoted to the protection of all war victims, represent an imposing volume of 429 articles which specify the status of wounded and sick combatants, prisoners of war and internees, and the civilian population, in the event of armed conflict, civil war or disturbances. The ICRC and its services continue their efforts for the improvement of humanitarian law. The interest shown by many countries in its work encourages it to continue its efforts.

(b) New ratifications.

Early in 1954, the ICRC sent out the *Appeal of the Three Presidents*¹, with a view to accelerating the universal implementation of the Geneva Conventions. The appeal was sent to the National Societies of countries which had signed but had not yet ratified the Conventions, and to non-signatory countries which had not yet notified their accession.

The ICRC expressed the hope that these States would ratify or adhere to the Conventions at the earliest possible date, in conformity with the fifteenth *Resolution* of the *XVIIIth International Red Cross Conference*, voted unanimously, without opposition or abstentions, in 1952.

By the terms of the articles common to the four Geneva Conventions², ratifications and accessions are notified in writing to the Swiss Federal Council, and come into effect six months after the date of their deposit.

In its previous report, the ICRC published the chronological list of the thirty-two ratifications or accessions which took place before January 1, 1954. Since that date fourteen States have ratified or acceded to the Conventions³, i.e. Turkey (February 10),

¹ That is to say, the Presidents of the Standing Commission, the League of Red Cross Societies and the ICRC. See *Report on the Work of the International Committee of the Red Cross (January 1 to December 31, 1953)*, pages 59 and 60).

² First Convention, Articles 57 and 61.

³ The dates on which the declarations reached the *Federal Political Department* in Berne appear in brackets; the States marked by an asterisk have deposited instruments to confirm reservations made at the time of the signature.

Liberia (accession, March 29), Cuba (April 15), USSR (May 10), Rumania * (June 1), Bulgaria (July 22), Byelorussian Soviet Socialist Republic *, Hungary *, the Netherlands *, Ukrainian Soviet Socialist Republic (August 3), Ecuador (August 11), German Federal Republic (accession, September 11), Poland * (November 26), Thailand (accession, December 29).

By December 31, 1954, the total number of ratifications and accessions had reached forty-six, of which the list, in chronological order, is given below :

Geneva Conventions of August 12, 1949 — Ratifications and Accessions

No.	Countries	Year	Ratifications	Accessions
1	Switzerland	1950	March 31	
2	Jugoslavia		April 21	
3	Monaco		July 5	
4	Liechtenstein		September 21	
5	Chile		October 12	
6	India		November 9	
7	Czechoslovakia		December 19	
8	Holy See	1951	February 22	
9	Philippines		March 7	
10	Lebanon		April 10	
11	Jordan		May 29	
12	Pakistan		June 12	
13	Denmark		June 27	
14	France		June 28	
15	Israel	July 6		
16	Norway	August 3		
17	Italy	December 17		
18	South African Union	1952	March 31	
19	Guatemala		May 14	
20	Spain		August 4	
21	Belgium		September 3	
22	Mexico		October 29	
23	Egypt		November 10	
24	Japan	1953	April 21	
25	San Salvador		June 17	
26	Luxemburg		July 1	

No.	Countries	Year	Ratifications	Accessions
27	Austria	1954	August 27	August 29
28	San Marino			
29	Syria		November 2	November 14
30	Viet Nam			
31	Nicaragua		December 17	
32	Sweden		December 28	March 29
33	Turkey		February 10	
34	Liberia			
35	Cuba		April 15	
36	USSR		May 10	
37	Rumania		June 1	
38	Bulgaria		July 22	
39	Byelorussian SSR		August 3	
40	Hungary		August 3	
41	Netherlands		August 3	
42	Ukrainian SSR		August 3	
43	Ecuador		August 11	September 3
44	German Federal Republic			
45	Poland		November 26	December 29
46	Thailand			

(c) Commentary on the Conventions.

Several surveys of important articles of the Geneva Conventions of August 12, 1949, concerning the *treatment of prisoners of war* (Third Convention) and the *protection of civilian persons* (Fourth Convention) have been published in the *Revue internationale de la Croix Rouge* ¹. The members of the Legal Department continued the analysis of the 159 articles of the Fourth Convention, in view of the preparation of the second volume of the Commentary, which is nearly finished ².

¹ See below, page 76.

² See Report on the Work of the *International Committee of the Red Cross (January 1 to December 31, 1952)*, Geneva 1952, page 60.

(d) Information Notes.

Distribution was made among National Red Cross Societies, by means of the *ICRC Information Notes*, of replies to their requests for information concerning the Geneva Conventions, of 1949 and cognate questions. The fourth issue of May 1954 contained the Summary of the first numbers issued. The fifth publication appeared in November 1954.

(e) Instruction of army services and the population.

The States party to the 1949 Conventions have undertaken to disseminate the knowledge of the Geneva Conventions as widely as possible and, in particular, to include the study thereof in their programmes of military and civil instruction, in order that the principles may become known to the entire armed forces and the population.

The measures taken by governments consist essentially of the distribution of the Conventions to officers, medical personnel and chaplains, either in full or in the form of extracts accompanying texts concerning the operations of war. A more simple document is often distributed to troops during their training courses. In the army services of various countries, training courses and lectures for officers have been instituted to give instruction on the basic principles (treatment of prisoners or enemy wounded when captured, questioning of captives, behaviour of troops towards the civilian population and partisans in occupied territory, safeguard of hospitals, etc.).

In several countries where members of the teaching profession are provided with documentation concerning the Geneva Conventions, the universities have included the study of humanitarian law in their programmes; it would be most advisable for this example to be followed by all the States party to the Geneva Conventions.

Moreover, numerous Red Cross Societies have continued the instruction of their active members on the subject ; in Germany, in particular, some thirty jurists of different nationalities, the representatives of National Red Cross Societies, held a meeting for the study of a programme for the methodical dissemination of the Conventions. The methods adopted consisted of four lectures (each of two hours' duration) accompanied by practical examples : (*First Lecture* : The significance of the Geneva Conventions ; *Second Lecture* : The Red Cross Emblem used as a Symbol of Protection ; *Third Lecture* : Captivity and Internment ; *Fourth Lecture* : The Protection of Civilians in Occupied Territory. Jurists who attend courses of this description will thus be in a position to give adequate instruction to Red Cross personnel. It is, in fact, necessary for National Red Cross Societies to be able to count, in future, upon the services, not only of doctors but also of jurists who are capable of giving them information on all questions relating to the Geneva Conventions, in particular the correct use of the Red Cross Emblem.

The ICRC has made a collection of the information made available to the public by National Red Cross Societies in Australia, Austria, Belgium, France, Germany, Greece, Indonesia, the Netherlands, Norway, Spain and Switzerland. It will be pleased to send this information, on request, to the National Societies who desire to spread the principles of the Geneva Conventions, in their turn.

(f) Official translations.

The official text of the Conventions exists in French and English. The Powers party to the Geneva Conventions of 1949 have published versions in their respective national languages, i.e. Arabic, Czech, Danish, German, Hebrew, Italian, Norwegian, Polish, Rumanian, Russian, Serbo-Croat, Spanish, Swedish and Turkish. Translations in Chinese, Flemish, Indonesian, Korean and Persian have also been published.

2. LEGAL PROTECTION OF CIVILIAN POPULATIONS FROM THE DANGERS OF MODERN WARFARE

In its *Appeal of April 5, 1950*¹, concerning the use of atomic weapons and non-directed missiles, the ICRC raised the very important question whether the new methods of warfare—which lead to indiscriminate mass destruction of defenceless persons—were compatible with the observance of humanitarian regulations which have their specific basis in the distinction between combatants and non-combatants, and whether their use would not compromise the results achieved so far in regard to the legal protection of non-combatants.

Since the Appeal was sent out, no essential development has occurred to dispel the fears which inspired it.

In October 1953, the ICRC discussed with a few representatives of Red Cross Societies, the question of the danger to which the civil population, and the action of the Red Cross itself, would be exposed, by the use of certain modern weapons. The discussions reinforced the International Committee's idea of making a careful survey of the laws applicable to all forms of aerial bombardments, and of reaffirming certain principles in regard to the minimum protection for civilians which should be recognised in all circumstances. Having decided to entrust the survey to a Commission of Experts from various countries, fully qualified by their knowledge of law, military strategy or the effects of aerial bombardments, it undertook the preparatory work for the meeting, and took the necessary steps to convene the experts.²

The initiative was by no means an innovation, being part of a long series of work which the ICRC had undertaken since 1920, with a view to establishing regulations, in regard to aerial warfare

¹ See *Appeal of the International Committee of the Red Cross, April 5, 1950, concerning atomic weapons and non-directed missiles. Replies of Governments, Geneva, 1952.*

² See *Commission of Experts for the legal protection of civilian populations and victims of war from the dangers of aerial warfare and blind weapons, and Collection-Constitutional texts and documents concerning the legal protection of populations and war victims from the dangers of aerial warfare and blind weapons. Idem Commentary on the Provisional Agenda, Geneva 1954.*

in particular, for the protection of the civilian population. Moreover, the initiative is also part of the International Red Cross movement which has made obvious, in several resolutions adopted by its International Conferences, and again on recent occasions, its anxiety concerning the effects of aero-chemical warfare, and has earnestly requested the authorities to come to an agreement for the prohibition of the use of weapons of an indiscriminate nature.

The Commission met at the ICRC headquarters in Geneva from April 6 to 13, in the presence of M. Paul Ruegger and Frédéric Siordet, President and Vice-President of the ICRC, M. Léopold Boissier, Member of the ICRC, Head of the General Affairs Department, General Henri Guisan and other Members of the ICRC, its Directorate and Legal Department.

The Meeting was composed as follows :

Major Richard R. Baxter, Judge Advocate General's Office, Department of the Army, Washington (U.S.A.).

Professor Maurice Bourquin, Professor at the University of Geneva and the Graduate Institute of International Studies, Geneva, Brussels (Belgium).

Mr. Georges Cahen Salvador, President of Section to the " Conseil d'Etat ", Paris (France).

Professor E. J. S. Castren, Professor at the University of Helsinki (Finland).

Dr. Jugi Enomoto, Lawyer, former Professor at the Naval College, Tokyo (Japan).

Captain C. B. Falls, Fellow All Souls College ex " Chichele " Professor (History of War) University of Oxford, London (UK).

His Exc. Y. D. Gundevia, Ambassador of India in Switzerland, Berne (Switzerland) and New Delhi (India). At present Deputy High Commissioner for India (London).

Dr. R. Janovic, Medical General, Yugoslav Armed Forces
Belgrade (Yugoslavia).

Professor J. La Pira, Mayor of Florence, Ex-Senator,
Florence (Italy).

Dr. M. W. Mouton, Captain, Royal Netherlands Navy,
Wassenaar (Netherlands).

Mr. Hans Rumpf, Ex-Major-General in charge of Fire Ser-
vices, Elmshorn (German Federal Republic).

Major-General A. E. D. Tobiesen, Head of the Civil Defence
Services, Oslo (Norway).

Dr. M. Tsuzuki, Professor emeritus of the University of
Tokyo, ex-titular Professor of Surgery of the Faculty
of Medicine, Tokyo (Japan).

Mr. R. T. Yingling, Legal Adviser's Office, State Depart-
ment, Washington, D.C. (USA).

Major R. J. E. M. van Zinnincq-Bergmann, Royal Nether-
land Air Force, Wassenaar (Netherlands).

Dr. A. Costedoat, Medical Inspector-General, Technical
Adviser to the Ministry of Public Health, Paris (France).

The Commission was presided by M. F. Siordet, assisted by
MM. M. Bourquin, E. J. S. Castren, Vice-Presidents, W. Mouton
and R. R. Baxter, Rapporteurs.

The Experts confirmed that certain fundamental principles
of the laws of war, such as the prohibition of the employment of
arms, projectiles or material calculated to cause unnecessary
suffering¹—principles established before the development of air-

¹ See *Handbook of the International Red Cross*, 10th Edition, Geneva,
1953, Page 33, *Regulations concerning the laws and customs of war on land*,
Annex to the Hague Convention of October 18, 1907, Art. 23.

craft—remained valid and were, in consequence, applicable to aerial warfare. Several experts underlined that the value and *military* advantage of indiscriminate bombing were in no way comparable with the efforts it required, or the destruction of property and loss of human lives it caused. Moreover, the majority of the Experts were of the opinion that aerial warfare was a form of conflict which had the most urgent need for regulations. They considered that such regulations would be of great use in cases of *internal disturbances*. In particular, they reached the conclusion that, in some circumstances, military requirements should give way to those of humanity. To quote the striking remark of one of the Experts, the Mayor of Florence: “ *The generations alive today have no right to destroy the wealth which has been given to them to pass on to future generations* ”.

But, in confirming the validity of certain principles, the experts recognised the difficulty of translating those principles into precise stipulations applicable to aerial bombardments. In addition, some underlined certain technical factors of modern aerial warfare which aggravated military requirements, and which even humanitarian regulations should take into account. As the meeting took place shortly after the hydrogen bomb tests, the vision of its devastating effects, on a scale beyond all human control, often overshadowed the experts' discussions ; they were therefore of the opinion that an effort to regulate the question would have no great chance of success unless States could reach an agreement for the prohibition of such weapons.

The ICRC kept the National Societies informed of its work by information notes sent out on April 23 and May 14, 1954. The notes were accompanied by a summary of the opinions expressed by the experts and the collection of documents prepared for the Commission.

In May 1954, during the Session of the League Board of Governors in Oslo, the ICRC gave some details of the question, which was the subject of a survey by its Vice-President, M. Frédéric Siordet. The Board unanimously adopted a resolution, submitted

by the President of the Brazilian Red Cross¹, requesting the ICRC to study the question of additions to the Geneva Conventions in order to protect civilian populations from the dangers of blind weapons and mass destruction.

In November the ICRC gave detailed information on the progress of its work to the representatives of Red Cross Societies assembled in Geneva to attend the meeting of the League Executive Committee²; M. Frédéric Siordet, Vice-President of the ICRC, recalled the reasons which had led the ICRC to deal with the problem, and a member of the Legal Department gave a detailed survey of the studies which had been undertaken. After hearing the explanation given the representatives approved the International Committee's action and expressed their wish to assist its efforts in view of the adoption of a draft project of essential regulations for the protection of civilian populations from the dangers of modern warfare.

While negotiations are being pursued on a governmental level, on the subject of disarmament and the prohibition of weapons of mass destruction, the Red Cross should, as a whole, make every effort on the humanitarian level to reaffirm, to give precise form to, and induce Governments to admit, the regulations and essential limitations for the protection of populations, which belligerents should always respect, whatever weapons may be employed.

¹ The text of the resolution was the following :

“ The Board of Governors,

Considering the resolution passed in its present session exhorting the Powers to renounce the use of atomic weapons, chemical and bacteriological warfare,

Considering the fact that the role of the Red Cross is to protect civil populations from the devastating and indiscriminating effects of such warfare,

Requests the International Committee of the Red Cross to make a thorough examination of the subject and propose at the next International Conference of the Red Cross the necessary additions to the Conventions in force in order to protect civilian populations efficiently from the dangers of atomic, chemical and bacteriological warfare.”

² See below page 64.

4. PROTECTION OF POLITICAL DETAINEES

In a previous report the ICRC gave a survey of its initiative in convening a Commission of International Experts in Geneva, to study the question of assistance to political detainees¹. When consulting them upon this serious and difficult problem, it had no intention of encroaching upon the rights of States; it merely wished to reassure people of all nations with regard to the humane treatment which should be provided for persons for whom a Power may consider it necessary, at any time, to take severe measures.

The consultation was invaluable for the ICRC, which is always anxious to extend its humanitarian initiatives, as well as for the victims of internal disturbances who place their confidence in the Red Cross.

In 1954, the ICRC was able to take practical measures in this connection, in Guatemala²; its intervention constituted one of the first applications of the general provisions of the Geneva Conventions of August 12, 1949. The latter provide that in the case of *civil war or internal disturbances, the essential principles of humanity should be observed*.

II. The Red Cross Institutions

1. INTERNATIONAL RED CROSS

(a) International Red Cross Conference.

In 1954 the ICRC examined various questions connected with the preparation of the XIXth International Red Cross Conference, which is due to be held in New Delhi.

¹ See *Report on the Work of the International Committee of the Red Cross* (January 1 to December 31, 1954), Geneva 1954, Annex, *Report of the Commission of Experts for the examination of the question of assistance to political detainees*, Pages 84 to 91.

² See below, pages 36 to 38.