

The practical application and development of humanitarian law

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III. THE PRACTICAL APPLICATION AND DEVELOPMENT OF HUMANITARIAN LAW

THE GENEVA CONVENTIONS OF AUGUST 12, 1949

Ratifications and Accessions. — In the period between the two International Red Cross Conferences (Toronto, 1952, and New Delhi, 1957), the ICRC has continued its efforts to promote general ratification of the Geneva Conventions of 1949. Its approaches to Governments and National Societies have enabled appreciable progress to be made. To the twenty ratifications or accessions previous to the Toronto Conference, at the time of the publication of this report a further forty-four can be added, including twelve given in 1956. In that year the Federal Political Department in Berne notified all the parties concerned of the deposit of instruments of ratification by Venezuela (February 13), Peru (February 15), Greece (June 5), Argentine Republic (September 17), Afghanistan (September 26), the People's Republic of China (December 28), and the accessions of Panama (February 10), Iraq (February 14), Libya (May 22), Morocco (July 26), Laos (October 29) and the German Democratic Republic (November 30).

The ICRC hopes that other ratifications or accessions will be made known before the XIXth International Red Cross Conference is held.

Table IV

**LIST OF STATES PARTY TO THE GENEVA CONVENTIONS
OF AUGUST 12, 1949 ¹**

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

¹ Taking into account the previous Conventions (1864, 1906, 1929), the total number of States party to the Conventions is 89.

² During the first months of 1957, four further ratifications or accessions were recorded by the Federal Political Department in Berne, namely, those of Iran, Haiti, Tunisia and Albania. The States signatory to the Geneva Conventions of 1949 whose ratifications were not notified at the time of publishing this report were: Australia, Burma, Bolivia, Brazil, Canada, Ceylon, Colombia, Costa Rica, Ethiopia, Ireland, New Zealand, Paraguay, Portugal, United Kingdom and Uruguay. Accessions are shown by an asterisk.

DISSEMINATION OF THE GENEVA CONVENTIONS AND RED CROSS PRINCIPLES. — Early in 1956 the French edition of the *Commentary on the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War* was published. This work concerns a new Convention which “corresponds to the fundamental aspirations of the peoples of the world and defines the essential rules for that protection to which every human being is entitled”. Recent events have shown how uncertain the respect of the human person becomes in times of conflict. The unleashing of violence and angry passions has led to deportations and to harsh treatment which world conscience is desirous of prohibiting for all time. It was in this spirit that the Fourth Convention has taken into account suggestions and past experience which will serve to restore respect for the human person which is the keystone and very foundation of humanitarian law. If this *Commentary* were to give rise to comments and suggested amendments, likely to strengthen the theoretical principles of the Red Cross, the Red Cross movement, as a whole, could only gain thereby. During the year, the Legal Department of the ICRC continued to analyse the 143 Articles of the *Third Geneva Convention relative to the Treatment of Prisoners of War* with the object of preparing a third volume of the *Commentary* to follow the two others published previously¹.

In order to spread knowledge of the four Geneva Conventions of August 12, 1949, and to facilitate their application, the ICRC sent out a pocket-size illustrated booklet entitled “*Geneva Conventions*”. This booklet, with coloured illustrations, is intended to inform the general public of the principal provisions of the Conventions by means of brief comments in nine languages, i.e. French, English, Spanish, German, Arabic, Chinese, Hindi, Japanese and Russian. Copies have been sent to all National Red Cross, Red Crescent and Red Lion and Sun Societies, to government departments and to various organisations and associations interested in the subject.

¹ See *Commentary — I Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* — Geneva, 1952, and *Commentaire — IV^e Convention de Genève relative à la protection des personnes civiles en temps de guerre* — Geneva, 1956.

Two booklets in Arabic were published — *Summary of the Geneva Conventions for Members of the Armed Forces and the General Public*, and *The Red Cross and Red Crescent movement throughout the World*, which met with a favourable reception from the leaders of Red Crescent Societies, and the civil and military authorities of Moslem countries, in particular Egypt, Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, the Sudan, Syria, Tunisia and the Yemen.

Another important work, "Red Cross Principles", to which reference was made in the last Annual Report ¹, was translated and published in English, German and Spanish in the course of the year.

Repression of Breaches of the Geneva Conventions. — Under the auspices of the ICRC, a meeting of experts was held in Geneva from October 8 to 12 to examine the question of the repression of breaches of the Geneva Conventions.

The following experts were present :

Mr. Joseph Y. Dautricourt, Judge at the Brussels Court of Justice, Deputy of the Belgian Army Advisory Council, Brussels; Representative in Belgium of the 1953 Committee on International Penal Law, Editor of the «*Revue de droit pénal et de criminologie*»; *Colonel G. I. A. D. Draper*, formerly Assistant Director of the Army Legal Services; Professor of International Public Law at the London University Law School; *Professor John Graven*, Professor of Penal Law and Procedure; Dean of the Faculty of Law; Judge at the Supreme Court of Appeal, Geneva; President of the Swiss Group of the International Bureau for the Unification of Penal Law; Science Editor of the «*Revue internationale de Criminologie et de police technique*»; *Professor Hans-Heinrich Jeschek*, Professor of Penal Law; Director of the Institut für ausländisches und internationales "Strafrecht", Freiburg-im-Brigau; *Mr. Monroe Leigh*, Assistant General Counsellor for International Affairs, U.S. Department of Defence; *Dr. W. A. Mouton*, Captain in the Royal Netherlands Navy; Judge at the Special Supreme Court of

¹ See Annual Report for 1955 (p. 45).

Appeal for War Crimes and Treachery; *Mr. René Paucot*, Magistrate, Assistant Director for Criminal Affairs, Ministry of Justice, France, Lecturer on Law Practice, Faculty of Law, Paris.

The Commission carefully studied the model law submitted by the Belgian Standing Commission for the Study of Questions of Penal Law. It ascertained that the theoretical basis of continental law (in France, Belgium, the Netherlands, etc.) would make it necessary to promulgate a special law for the repression of breaches of international conventions—such as the Netherlands law already in force or the Belgian model law—whereas no special law was required in Anglo-Saxon legislation. In Anglo-Saxon countries the repression of grave breaches was attached to legislation for the repression of “war crimes” for which sanctions could be applied, even if such cases were not covered by the legislation of the country concerned. The experts nevertheless endeavoured to define certain concepts and, in particular, the meaning of grave breaches. In the absence of a general model law—which it would be impossible to enact or even to frame at the present stage in the evolution of law—they hoped to establish a few principles which would be acceptable to all concerned and serve as a basis for future national legislation or regulations.

The experts' conclusions will enable the ICRC to state its opinion whenever it is questioned by Governments on this difficult problem, on which the implementation of the Geneva Conventions largely depends.

Development of International Medical Law. — The ICRC has spared no effort to spread knowledge of the Geneva Conventions and the principles of international humanitarian law. It had already applied to numerous universities requesting that the study of the subject (which had developed considerably during the past few years) should be included in their syllabus. It has also followed with close attention the question of international medical law and the observance in all circumstances of the rules of medical ethics.

In 1956 the ICRC thus took part, at Liège in April, and at Geneva in September, in meetings concerned with international medical law, which were attended by representatives of the International Committee of Military Medicine and Pharmacy, the World Medical Association, and an observer of the World Health Organization.

The discussions concerned the protection of medical personnel of all categories in time of conflict and disturbances, and the meetings enabled a certain number of rules for such protection to be drafted. These rules, based on the principles set forth in the Geneva Conventions, reaffirm the right of all wounded and sick persons to be given treatment, and the duty incumbent upon every doctor to give his services, without any discrimination. In the performance of his duties the doctor should be respected and protected¹.

During the meetings a code of medical ethics in times of conflict was prepared, and the principal medical organisations concerned assisted with the drafting of the code.

Legal Protection of the Civilian Population. — As is known, the ICRC had prolonged to the end of February, 1956, the time-limit set for National Societies to inform it of their comments on its *Draft Rules for the Protection of the Civilian Population from the Dangers of Indiscriminate Warfare*. This extra time made it possible for several Societies to make detailed and very interesting comments on these humanitarian rules, which will be the most important item for discussion by the next International Red Cross Conference.

A study of these various comments led the ICRC to the conclusion that while many suggestions for amendments submitted by National Societies could be accepted without difficulty, others nevertheless called for careful examination, all the more so as they often concerned important points of the *Draft Rules*, such as the general principles, the definition of

¹ As a general rule, civilian doctors are not authorised to wear the red cross emblem; a special emblem, a red caduceus on a white ground, has been created for their use.

military objectives, weapons with uncontrollable effects and the question of sanctions or supervision.

The ICRC therefore invited several Red Cross Societies which had expressed the wish to have a further discussion on the *Draft Rules*, to send representatives to a working party in Geneva. These were the National Societies of the German Democratic Republic, the German Federal Republic, Belgium, France, India, Japan, Jugoslavia, Mexico, the Netherlands, Norway and Switzerland.

In addition, by a circular letter of April 19, the International Committee informed the other National Societies of this meeting and stated that it was naturally open to all Societies which wished to co-operate in the work. The Polish Red Cross took the opportunity of sending a representative to the meeting, while delegates of the Czechoslovak Red Cross attended the first sessions.

Seventeen persons in all, representing twelve National Societies, regularly followed the work of the meeting, i.e. Dr. B. Graefrath, Legal Adviser, and Mr. H. Fichtner, Head of the Foreign Relations Department, *Red Cross in the German Democratic Republic*, Dr. Kramarz, Assistant Secretary-General and Legal Adviser, *Red Cross in the German Federal Republic*, Mr. H. van Leynseele, Counsel at the Supreme Court of Appeal, representing the Belgian Red Cross, Mr. G. Cahen-Salvador, Honorary Vice-President of the Council of State, Administrator of the *French Red Cross* and Médecin-Général Inspecteur Costedoat, Technical Adviser to the Ministry of Public Health, Mr. J. Fautrière, Sous-Préfet H.C. and Mr. J.-P. Pourcel, of the French Civil Defence Department, Major-General Rao, Director of the Army Medical Services, for the *Indian Red Cross*, Dr. Juji Enomoto, Professor, representing the *Japanese Red Cross*, Mr. J. de Rueda, Delegate of the *Mexican Red Cross* to the ICRC and the League, Lieutenant-General J. D. Schepers, Member of the High Court of Military Justice, representing the *Netherlands Red Cross*, General A. Tobiesen, Head of the Civil Defence Department, delegate of the Norwegian Red Cross,

Miss D. Zys of the *Polish Red Cross*, Dr. H. Haug, Secretary-General of the *Swiss Red Cross*, Mr. B. Jakovljevic, Legal Adviser to the *Jugoslav Red Cross* and Captain J. Patrnic. The Colonel-Divisionnaire Karl Brunner, Expert ad hoc of the ICRC also gave his co-operation in the work.

The discussions of this working group, presided over by one of the Vice-Presidents of the ICRC¹, continued without interruption from May 14 to 19, at the ICRC headquarters.

During this session, followed by all with the closest attention, and at which a most understanding attitude was shown as well as a wish to reach the solutions which were the most consistent with Red Cross principles, not only were the experts able to discuss the points of view raised by their Societies after studying the *Draft Rules* but, on many points, the exchange of ideas revealed general opinions shared by all.

In a special report² sent to the Red Cross Societies which took part in the meeting, the ICRC stated what the results of the discussions had been. The commentary appended to the final version of the *Draft Rules* also refers to these discussions in explaining amendments made to the previous text. A few of the more salient points are given below.

The experts confirmed that their Societies were opposed to the idea of total warfare, which is so contrary to the principles and the work of the Red Cross. They also stressed that they considered it most important that the new rules should in no way give the impression that acts of war are legitimate, and showed their preference for texts, and the introduction of a preamble, likely to dispel any confusion on that point. They also considered it necessary to specify more clearly the relationship between the new rules, of which the essential purpose was to protect the population against armed attacks or their effects, and the Fourth Geneva Convention of 1949 or the

¹ Mr. F. Siordet.

² Report on the Advisory Working Party of Experts, June 1956.

Hague Conventions, in order that the protection conferred by those Conventions upon civilian persons in times of conflict should in no case be underestimated.

With regard to other very important questions—weapons with uncontrollable effects, reprisals, sanctions—which in some cases and in other gatherings might become of a political nature, the experts were of the opinion that the contribution which could be made by the Red Cross would be all the more valuable if it were confined to its own purely humanitarian and general sphere. For the new rules which will be submitted to the next International Red Cross Conference, although they have deliberately been drafted, for greater effectiveness, in the form of an international convention, must nevertheless be viewed exclusively in relation to the Red Cross, that is to say, they must be presented as an appeal to world conscience and to that of Governments in particular.

With the help of the valuable information drawn from the discussions of the working party, and the remarks and suggestions submitted by the National Red Cross Societies, the ICRC prepared the text of the *Draft Rules* which will serve as a basis for the discussions of the XIXth International Red Cross Conference. Under the title *Draft Rules for the Limitation of the Dangers incurred by the Civilian Population in Time of War* the new version (printed) was sent in the autumn of 1956 to all the National Societies and Governments taking part in the Conference, in order that all concerned might have sufficient time to study it. The ICRC sincerely hopes that the National Societies and Governments which will be represented at the supreme deliberative assembly of the Red Cross will give the new text the same thorough and fruitful scrutiny as that afforded to the first version.
