

Practical application and development of humanitarian law

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II. GENERAL ACTIVITIES

PRACTICAL APPLICATION AND DEVELOPMENT OF HUMANITARIAN LAW

The Geneva Conventions

The Geneva Conventions form the basis of humanitarian law. The ICRC, which is the promoter of these instruments, attaches particular importance to their dissemination and adoption by all the countries of the world.

In 1958, there was a further increase in the number of States party to the four Geneva Conventions of August 12, 1949. The following accessions were notified: Dominican Republic (January 22), Ghana (August 2), Indonesia (September 30), Cambodia (December 8), Mongolian People's Republic (December 20). There was also one ratification, by Australia (October 14)¹. Thus, by the end of 1958, seventy-five States were party to the Geneva Conventions.

The Legal Department of the ICRC has completed the Commentary on the Second Convention of 1949 relating to the humanitarian rules to be observed in the event of war at sea, as well as that on the Third Convention, relative to prisoners of war. These two volumes are now available.

This marks the completion of a long-term and extensive juridical undertaking. The four Geneva Conventions of 1949, which form the

¹ The date shown in brackets is the date on which the notification of accession or instruments of ratification were deposited with the Swiss Federal Political Department, at Berne.

fundamental basis of humanitarian law, are now provided with a practical juridical commentary which could hardly have been more comprehensive.

The English translation of these two volumes is in course of preparation.

The illustrated booklet in nine languages¹, giving a summary of the principal provisions of the Geneva Conventions for the general public, continues to prove a great success. By the end of 1958, the first edition was almost exhausted. The ICRC is considering publishing a second edition with some amendments which would make it still more effective.

Lastly, in Resolutions XXIX and XXX, the XIXth International Conference of the Red Cross emphasized the advisability of spreading knowledge of the Geneva Conventions among young people. Following those Resolutions, the ICRC and the League of Red Cross Societies have jointly approached UNESCO and the International Bureau of Education with a view to the inclusion of this matter on the agenda of a future International Conference on Public Education.

Furthermore, the International Committee and the League considered that a plan of action in this field would be useful for the National Societies, particularly for the Junior Red Cross. The two institutions consulted two experts on this subject, Miss B. Coke, Director of the British Junior Red Cross, and Mr. G. Fehr, Director of the Junior Red Cross of the German Federal Republic. These experts were in Geneva from November 2 to 12, and took part in the meetings of the International Committee and the League with a view to the implementation of the above-mentioned Resolutions. The results of this study are encouraging and a plan of action has been drawn up.

International medical law

The ICRC has already had several discussions with the International Committee of Military Medicine and Pharmacy and the World Medical Association, attended also by an observer from the World Health Organization. A certain number of general principles and rules concerning the medical profession in war-time were then formulated.

¹ See Annual Report for 1957, p. 60.

A further meeting on the same subject, with the same participants, took place in the spring of 1958 at Antwerp. The subjects discussed were medical ethics in war-time and, in particular, the choice of a distinctive emblem for use by doctors and medical personnel not entitled to display the red cross emblem.

Protection of civilians

The XIXth International Conference of the Red Cross, which met at New Delhi in the autumn of 1957, took note of the “ Draft Rules for the Limitation of the Dangers incurred by the Civilian Population in Time of War ” drawn up by the ICRC ¹. The Conference approved the action taken and requested the ICRC to transmit the Draft Rules to the Governments, together with the record of its discussions on the subject.

This task was completed by the ICRC in the spring of 1958. A considerable amount of work was involved. The verbatim record of the discussions at New Delhi had been made in English only, and it was therefore necessary to transcribe the text of speeches made in other languages from the tape recordings of the proceedings. In addition, it seemed advisable to submit the records of the speeches to those who had delivered them, for a final check. After this had been done, the whole record then had to be translated into the three working languages of the Conference (English, French, Spanish).

Thus, in May 1958 the ICRC was able to forward to all the Governments a document comprising 184 pages containing a record of the discussions at New Delhi on the Draft Rules. This document is entitled: “ XIXth International Conference of the Red Cross: Final Record concerning the Draft Rules for the Limitation of the Dangers incurred by the Civilian Population in Time of War, April 1958 ”.

This document, which the ICRC sent to all the Governments and the National Red Cross Societies, for their information, was accompanied by a memorandum signed by the President of the ICRC, dated May 12, 1958. After recalling that the New Delhi Conference had considered that a set of rules revising and extending those previously accepted was highly desirable, the memorandum went on to state:

¹ See Annual Report for 1957, pp. 80-85.

“ . . . Reference has sometimes been made, in this connection, to the work and discussions on disarmament. The International Committee is of the opinion that the object of those discussions, for which the Red Cross would be the first to hope for a successful conclusion, is quite distinct from that involved in setting up rules for the purpose of protecting the civilian population in time of war. This task — in which no inter-governmental organisation is engaged at the present time — will never dispense with the need to try to achieve the object of the discussions on disarmament, but the two undertakings are not by any means mutually exclusive. On the contrary, until such time as these discussions have attained their object, the reaffirmation of the few essential rules for protection could also — even to a slight degree — increase a feeling of security among peoples and thus help to strengthen that confidence between States to which the people of the world aspire.

“ The International Committee would therefore be grateful if Governments would give due consideration to the texts submitted for their attention and to the recommendation of the XIXth International Conference of the Red Cross.

“ The drawing up of the rules recommended by the New Delhi Conference is now a matter for Governments. Nevertheless, the Conference resolution urges the International Committee to continue its efforts. This appeal strengthens the Committee in its resolution to continue its studies, in the light of the Conference discussions and in the humanitarian spirit which has prevailed in its previous efforts, with a view to assisting progress towards an international agreement — the logical conclusion of this work.

“ On the completion of its studies, and following consultations which may possibly be held on the subject, and when the documents appended have duly been examined by the recipients, the International Committee will submit, if its studies enable it to do so, some definite proposals to the authorities concerned.

“ It would be of great interest to the International Committee to receive suggestions from the Governments concerning future work in this connection .”

In September 1958, at the working and information meeting held at the ICRC headquarters on the occasion of the 78th session of the Executive Committee of the League of Red Cross Societies, the representatives of the International Committee emphasized that it was now pri-



marily for the Governments to take further action in this field. They thanked the National Red Cross Societies for the interest which they had taken in the work, and asked them to use their influence with their Governments in order that the latter give consideration without delay to the documents which had been despatched to them in May.

By the end of the year, some thirty Governments had acknowledged receipt of these documents. A number of them indicated briefly that the Draft Rules and annexed documents had been transmitted to the competent services which would study them and forward to the ICRC any remarks or suggestions which they might wish to make.

International legal status of civil defence personnel

The ICRC has given attention to other aspects of the problem of the protection of civilians in time of war. Thus, it was represented at the Third International Civil Defence Conference, held at Geneva from May 12 to 16, 1958.

The agenda for this conference included an item on the legal status of civil defence personnel. A representative of the ICRC specified the conditions to be fulfilled by such personnel, under the law of nations, in order to enjoy some measure of immunity in war-time. Following this statement, and after a discussion in which the ICRC had a further opportunity to express its views, the Conference adopted a resolution requesting the Governments to draw up a code for civil defence personnel, clearly defining their rights and duties.

Acting on an initiative of the ICRC the Conference also approved the adoption by medical civil defence personnel of the medical emblem, i.e. the staff of Aesculapius, red on a white ground. This emblem would be reserved for the members of such personnel who are not entitled under the Geneva Conventions to display the red cross emblem. At another international meeting, consideration will be given to the question of a possible emblem for use by all civil defence personnel.

Since the matters discussed at this Conference were of particular interest to the Red Cross, a circular letter, prepared jointly by the ICRC and the League of Red Cross Societies, which had also been represented at the Conference, was sent to all the National Societies ¹.

¹ Circular No. 425 of February 6, 1959.

Application of humanitarian principles in the event of internal disturbances

For a long time past, the ICRC has given attention to the problem of assisting the victims of internal conflicts and disturbances. This matter has become all the more pressing since most of the conflicts in which it has had to intervene in recent years have been precisely internal in nature. Of course, Article 3 common to the four Geneva Conventions provides some basis for action by the ICRC; the latter also endeavours to take action, however, even when that text is not legally applicable, merely on the basis of Red Cross principles.

In 1953 and 1955, it called two meetings of international experts at Geneva, and these provided an opportunity to reaffirm certain principles which might serve to support humanitarian action by the ICRC¹. In 1958, the Legal Department tried to draw information from recent events which might be of use for the fresh consultations which are planned.

Due to the understanding attitude of certain Powers, the ICRC has been authorized to visit political detainees, although the latter were deprived of their liberty in circumstances which cannot be described as conflicts or disturbances of the usual kind.

Legal assistance to aliens

In accordance with Resolution XVI of the XIXth International Conference of the Red Cross (New Delhi, 1957), the ICRC has continued to study the question of legal assistance to aliens in countries where none is given to them.

It took an active part in the creation of an "International Centre for the Co-ordination of Legal Assistance", which was established at Geneva in June 1958, under the auspices of the Conference of Non-Governmental Organizations interested in Migration. The principal aims of the Centre are as follows:

to place all relevant information at the disposal of non-governmental organizations concerned with legal assistance, and to facilitate the exchange of information among them;

¹ See Annual Report for 1953, p. 66 and Annual Report for 1955, p. 47.

to encourage co-operation between those organizations for the development of legal assistance and the establishment of new agencies wherever they are deemed necessary, particularly for migrants and refugees;

to maintain contact between governmental and intergovernmental authorities, as well as with professional associations of jurists, in order to develop legal assistance, particularly to migrants and refugees;

to arrange for the publication of notes, documents and information likely to sustain public interest in the development of legal assistance.

The Centre is administered by a Bureau consisting of three members. The representative of the International Committee of the Red Cross to the Conference of Non-Governmental Organizations interested in Migration was elected President.

Shortly after the establishment of the Centre, the International Bar Association (an important professional body with 140,000 members among jurists and advocates throughout the world) announced its intention of setting up a reference bureau to facilitate professional relations between jurists for the development of legal assistance and the solution of difficult cases in which the legislation of several countries had to be taken into account.

In July, the International Committee instructed Mr. Coursier, Member of the Legal Department, to attend the General Assembly of the International Bar Association in Cologne and to approach the rapporteur for the proposal, with a view to co-ordinating the activities of the above-mentioned bureau with those of the International Centre for the Co-ordination of Legal Assistance. The President of the Centre subsequently went to Baden to attend the Congress held there by European and international associations for the study of the refugee problem, in order to inform them of the new opportunities of legal assistance for refugees. The Office of the United Nations High Commissioner for Refugees has agreed to make a financial contribution to assist the work of the new International Centre.

Telecommunication between hospital ships and armed forces

In 1949, the Geneva Diplomatic Conference adopted a resolution (No. 6) recommending that the Governments should draw up regulations

to ensure the best possible communications between hospital ships on the one hand, and land, naval and air forces on the other. The Italian Government drew up a first set of draft regulations, which it was intended to submit to a Committee of Experts convened for that purpose; due to various circumstances, however, the meeting could not take place.

In the course of 1958, the question was taken up anew by Swedish experts, who submitted to the ICRC a series of proposals with a view to implementing the 1949 resolution. The Governments directly interested were approached as well as the Swiss Federal Government, which acts as depositary for the Geneva Conventions. Finally, it was agreed to convene a meeting of experts with specialized knowledge of telecommunication at sea in war-time. It should thus be possible to achieve a positive result.

RELATIONS WITH RED CROSS INSTITUTIONS

In 1958, as always in the past, the ICRC remained in close contact with the various National Red Cross (Red Crescent, Red Lion and Sun) Societies as well as with their federative body, the League of Red Cross Societies. In addition to the joint monthly meetings of the directorate of the League and the ICRC, held alternately at each institution's headquarters to discuss matters of common interest, various meetings took place to consider special subjects.

Official recognition of National Societies

Under its Statutes, the ICRC is instructed to grant official recognition to new National Red Cross and Red Crescent Societies; in 1958 it recognized two Societies: the Moroccan Red Crescent on August 7, and the Libyan Red Crescent on October 5. These two Societies thus became members of the International Red Cross.

Relations with National Societies

The New Delhi Conference, in autumn 1957, gave the members and staff of the ICRC an opportunity to establish and renew contact with