

Development of humanitarian law

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II. GENERAL AND PERMANENT ACTIVITIES

I. DEVELOPMENT OF HUMANITARIAN LAW

Geneva Conventions

New accessions.—In 1967, two more States became parties to the 1949 Geneva Conventions, namely Congo (Brazzaville), by declaration of continuity dated February 4, and Kuwait, by accession on September 2. It was on these dates that the Swiss Federal Authorities received the official deeds of participation.

By December 31, 1967, therefore, the number of States formally bound by the Geneva Conventions of 1949 was 116.

Dissemination of Geneva Conventions.—Resolution XXI, entitled “ Implementation and Dissemination of the Geneva Conventions ”, adopted by the XX International Conference of the Red Cross did not have the effect of bringing knowledge of the Geneva Conventions to the forefront of ICRC concern, because it was already there. This resolution did however lay stress on the obligations in this connection which are explicitly incumbent on States parties to these Conventions.

In the course of the year, 35 governments replied to the Memorandum which the ICRC sent in November 1966 to all Parties to the Geneva Conventions. Some ten governments gave detailed information on the dissemination of knowledge on these Conventions among their armed forces and, in some cases, among the civilian population too. From these communications, it may be concluded that there has been clear progress in this field in a number of countries. In addition, fifteen National Societies have assured the ICRC that they will exert all their influence with the authorities along the lines suggested by the Memorandum. These replies will be included in a report to the XXI International Conference of the Red Cross.

Other action taken by or in co-operation with the ICRC is also worthy of note. We might mention in the first place the " Round Table " at The Hague on August 28, 1967, which is mentioned elsewhere in this report. It was convened to study how the Red Cross could contribute to peace and it fully recognized, in the following terms, the need to intensify dissemination of knowledge on the Geneva Conventions.

This dissemination must be intensified with greater recourse to radio and television, making it more widely understood that these principles are important for peace and by no means signify, even when applied in war, the acceptance of war... Better dissemination presupposes better communication media. Public relations specialists should be called in and modern methods and mass communication techniques used and adapted to the sections of the public they are intended to reach.

ICRC Director-General Jean Pictet published a sixty-page book entitled " The Principles of International Humanitarian Law " devoted to humanitarian law in its widest sense. This book deals with essentials and gives full and concise definitions of legal rules and the principles underlying them; it can be both a reference work for research workers and the basis of much food for thought to members of the Red Cross throughout the world.

Dissemination of knowledge on the Geneva Conventions was discussed during the year at several seminars, meetings and conferences. The regional seminar for National Red Cross and Red Crescent Societies of East Africa, for example, which met in Addis Ababa from January 9-19, 1967, at which the ICRC was represented, adopted recommendation V which reads as follows:

The regional seminar for Eastern African Red Cross and Red Crescent Societies,

considering that the dissemination of knowledge of the Geneva Conventions in peacetime is essential for their adequate application in war;

considering that members of armed forces and all medical personnel in the first place should be familiar with the rules of the Geneva Conventions;

recommends that the National Red Cross and Red Crescent Societies follow up the question of the propagation of the Geneva Conventions in continuous contact with the competent Authorities,

in order to ensure that the syllabus used in the professional preparation of army officers, of doctors, of nurses and of teachers, gives adequate consideration to the matters of the Geneva Conventions and the International Red Cross.

A seminar on dissemination of knowledge on the Geneva Conventions among medical personnel was held at Baska Voda, in Yugoslavia, from December 7-9, 1967; this too was attended by a representative of the ICRC. It recommended *inter alia* the more frequent holding of such seminars throughout the country, and the use of every available mass communication media such as conferences, publications, press, radio, television, etc.

From August 22 to 31, the fourth International refresher course for junior medical officers was held in Munich. Most papers delivered dealt with purely medical subjects. Others, however, were closely connected with the Red Cross Conventions, one of them, for instance, concerned the history of military medicine. The ICRC, which was represented by one of its legal experts, Mr. J. de Preux, submitted two papers: one by Mr. Pictet on the Geneva Convention for the Amelioration of the Condition of the Wounded and the Sick, the other on special agreements covered by the Geneva Conventions.

In addition, the ICRC held from April 3 to 7 a second training course for people offering their services to the ICRC. It was attended by some 40 participants.

A final word should be mentioned of the informative talks to the many visiting individuals and groups who come each year to ICRC headquarters.

Text-book for African Schools.—Over the last few years, a number of new States have appeared on the map of Africa. The increase in their number has had as a consequence a welcome and exceptionally rapid extension of the Red Cross. However, it must be admitted that recently created African National Societies are not yet adequately equipped and that their standing in the eyes of governments and populations could be better.

The ICRC, which has recognized these Societies, is not responsible for their development but it is not indifferent and gives attention to the spread of knowledge on humanitarian rules not only among participants in Red Cross work but also among the general public

which may one day benefit therefrom. In this connection the ICRC believes that the best way of making the Red Cross and the Geneva Conventions widely known is through courses at schools. Schooling is wide-spread throughout Africa and offers the surest and most efficient network of communication. The ICRC has therefore published a text-book intended for primary school level in order to reach not only city dwellers but also rural populations which are more frequent beneficiaries of assistance and relief actions.

The ICRC received close co-operation from the League in editing this text-book and valuable advice from leaders of African Red Cross Societies and specialists in education. The book is entitled "The Red Cross and my Country", contains 127 pages and has many drawings. It is available in French and in English. With reference to many daily events, it is written in a manner intended to make children feel that they are directly concerned with such events—war and natural disaster—and to make the Red Cross, its emblem and its principles familiar to children, so that they will take it upon themselves to assist the work of the Red Cross in the knowledge of the benefits it provides in time both of peace and of war. Stress is also laid on the importance of the Geneva Conventions.

In May, the ICRC assigned a delegate to a public relations mission in several West African countries with a view to arranging for the introduction of courses on the Red Cross in school programmes. This proposition met with a favourable response from all the governments concerned.

With such support, and thanks to the Swiss Government, whose financial backing was decisive, the ICRC planned the circulation of the book in nine French and English speaking countries of Africa. At the beginning of the second half of the year, no less than 125,000 text-books were sent to West Africa. The French version went to the Ivory Coast, Upper-Volta, Togo, Dahomey and Mali; the English version to Gambia, Sierra Leone, Liberia and Ghana.

Thus began the first phase of this operation. It is still only in the experimental stage but it is hoped that in a few years, hundreds and thousands of school children will be familiar with the elementary principles transcending racial and political differences and contributing to the spirit of assistance and peace among nations.

Protection of Civilian Populations

Legal Protection Against the Dangers of Indiscriminate Warfare.— Throughout 1967, particularly during the first half, the ICRC actively continued its work to follow up the important resolutions on this subject adopted by the XX International Conference of the Red Cross.

Resolution XXVIII, in particular, laid down certain essential principles for the protection of civilian populations. These principles are shown in the Memorandum quoted in full below. They should be observed by “ every government and authority responsible for the conduct of hostilities during armed conflicts ”.

The same resolution urged the ICRC to continue its efforts for the development of humanitarian law in this particular field. This task has been made more difficult by the troubled situation prevailing in the world. That is why the ICRC decided to consult a number of noted experts (legal advisers, tacticians, parliamentarians) from several continents and representing the main currents of thought today.

Consultations were held with some fifteen people in thirteen countries (Finland, German Democratic Republic, Federal Republic of Germany, India, Iran, Japan, Norway, Pakistan, Poland, United Kingdom, United States of America, Turkey, and Yugoslavia). They were consulted either during trips they made to Switzerland or by ICRC representatives when travelling abroad, particularly by Mr. Pilloud, Director, and Mr. Wilhelm, Assistant Director.

These purely private discussions, following a questionnaire completed beforehand by the persons consulted, provided the ICRC with useful advice on how it could follow up the resolution of the XX International Conference. Without going into details of all the advice it received, the following features may be noted:

Firstly, Resolution XXVIII is in itself a goodly step in the right direction and is consistent with current principles of the law of nations. We must however go even further and endeavour to have States explicitly recognize these principles, to which they would then be more formally bound.

Secondly, most of the people consulted did not believe that at present the majority of governments could come to agreement on an international treaty in this particular sphere. However, such an agreement must be our final aim. Until such time as it is achieved, we must seize every opportunity to bring home the principles enunciated in Vienna, confirm them and if possible extend them. It was the general consensus that an intermediary objective could be the approval by the United Nations of a resolution in the nature of a declaration.

These conclusions induced the ICRC to send all governments a Memorandum on May 19; it was also circulated to National Societies as circular 468 on May 24.

We give below the text of this Memorandum which, by chance, reached the governments shortly before the outbreak of hostilities in the Middle-East:

I.

As a result of its humanitarian action in connection with armed conflicts, the International Committee of the Red Cross has become ever increasingly aware of the imperative necessity for nations to renounce force as a means of settling disputes, to agree to reduce armaments and to establish peaceful and confident relations amongst themselves. The Red Cross contributes, within its own sphere of action, by every means available to it, towards these ends.

Until such time as these objectives have been achieved—and so long as the scourge of armed conflicts, even of a limited nature, continues to subsist or to arise—it is, however, of paramount importance that the humanitarian rules destined to safeguard the essential values of civilisation and to facilitate thereby the re-establishment of peace should be strictly observed in such extreme situations. These rules are laid down, in particular, in the Geneva and Hague Conventions as well as in customary law. The International Committee desires to issue a solemn reminder of this necessity, which has incidentally been recalled by various International Conferences of the Red Cross, at which the Governments were represented.

II.

As a result of technical developments in weapons and warfare, given also the nature of the armed conflicts which have arisen in our times, civilian populations are increasingly exposed to the dangers and

consequences of hostilities. The International Committee, which has long been deeply concerned by this grave threat, is certain that it reflects public opinion by calling once again the earnest attention of all Governments to the principles which the XXth International Conference of the Red Cross, at Vienna in 1965, proclaimed in its Resolution No. XXVIII, thereby confirming the prevailing law.

Indeed, in its Resolution—the full text of which is attached hereto—the Conference solemnly declared that:

all Governments and other authorities responsible for action in armed conflicts should conform at least to the following principles:

- *that the right of the parties to a conflict to adopt means of injuring the enemy is not unlimited;*
- *that it is prohibited to launch attacks against the civilian populations as such;*
- *that distinction must be made at all times between persons taking part in the hostilities and members of the civilian population to the effect that the latter be spared as much as possible;*
- *that the general principles of the Law of War apply to nuclear and similar weapons.*

In order for these principles to be fully operative, the International Committee urgently requests Governments to sanction them and, if need be, to develop them in an adequate instrument of international law. The International Committee is prepared to assist in drawing up such an instrument.

In addition, without awaiting the entry into force of this instrument and the possible achievement of an agreement between the Powers concerned for the formal prohibition of weapons of mass destruction, the International Committee invites the Governments to reaffirm, as of now, through any appropriate official manifestation, such as a resolution of the United Nations General Assembly, the value they attach to the principles cited above. Moreover these principles could henceforth be referred to in the instructions given to the armed forces.

III.

Another aspect of this problem is also of deep concern for the International Committee and calls for the sympathetic attention of Governments.

The observance of rules destined, in case of armed conflicts, to safeguard essential human values being in the interest of civilisation,

it is of vital importance that they be clear and that their application give rise to no controversy. This requirement is, however, by no means entirely satisfied. A large part of the law relating to the conduct of hostilities was codified as long ago as 1907; in addition, the complexity of certain conflicts sometimes places in jeopardy the application of the Geneva Conventions.

No one can remain indifferent to this situation which is detrimental to civilian populations as well as to the other victims of war. The International Committee would greatly value information on what measures Governments contemplate to remedy this situation and in order to facilitate their study of the problem it has the honour to submit herewith an appropriate note.

As mentioned in the latter part of this Memorandum the ICRC took the opportunity to draw the attention of governments to a related problem with which it is concerned, namely, that part of the law of war relating to the conduct of hostilities is obscure and old-fashioned—and hence ineffective as a safeguard for civilian populations. For that reason, it was deemed necessary to include in the document accompanying the Memorandum and entitled “ Summary Review of International Law Rules concerning the Protection of Civilian Populations against the Dangers of Indiscriminate Warfare ” a list of restrictions in force (limitations relating to persons, places and weapons), and the same document singled out points on which regulations are urgently required.

In response to this Memorandum, many governments informed the ICRC that they had forwarded these documents to their relevant departments for thorough study. The results of these studies will no doubt be conveyed to the ICRC in 1968.

In addition, the idea of a United Nations General Assembly resolution confirming the Vienna principles received attention from ten governments. Those governments informed the ICRC that they would in principle be prepared to take the initiative in submitting such a resolution or would support such a resolution if circumstances gave sufficient grounds to do so.

This does not seem to have occurred, as the XXII General Assembly of the United Nations ended in December without being called upon to consider a resolution sanctioning the principles proclaimed at Vienna. It is true that the Assembly’s predominant concern was to achieve some progress in the non-proliferation of

nuclear weapons, so that most of its other problems were deferred. However, the ICRC intends to continue its efforts without respite in order to ensure the wide dissemination of these principles and obtain an official governmental demonstration reinforcing these basic standards.

Special guarantees for civil defence organizations.—Concomitantly with its efforts for legal protection of civilian populations in general, the ICRC continued its work in connection with Resolution XXIX of the XX International Conference of the Red Cross. This resolution was designed to strengthen the guarantees of the law of nations in favour of civil defence organizations so that they may at all times carry out their activities for the benefit of civilian victims of hostilities.

Before convening a further meeting of experts, as requested by the resolution, the ICRC deemed it expedient to proceed, in conjunction with the relevant departments of governments which displayed particular interest in this problem, to preliminary studies which might facilitate the drawing up of international regulations in this field. It also encouraged governments to hold consultations among themselves on certain aspects of the intended regulations; this was done particularly by the governments of Nordic countries.

On May 2 and 3, 1967, the ICRC had an important discussion in Geneva with a delegation from the Scandinavian countries. It comprised Mr. Muller (Assistant Head of Swedish Civil Defence), Mr. Onsrud (Head of Norwegian Civil Defence), Mr. Schulz (Head of Danish Civil Defence) and Mr. Warras (Secretary General of the Finnish Red Cross and representative of the Finnish Civil Defence). This delegation conveyed to the ICRC the results of discussions which had been going on for several months among the civil defence services of Nordic countries. The delegation also submitted draft regulations which were based on their consultations. The ICRC representatives expressed their institution's gratitude for this work and also their point of view on some of the controversial aspects of the draft.

In accordance with the planned programme, the ICRC convened an advisory panel at the beginning of November. It consisted of experts invited in their personal and private capacity. Five ac-

cepted the invitation, namely Mr. Haug, Secretary General of the Swiss Red Cross; Mr. Jacovljević, Legal Consultant to the Yugoslav Red Cross; Mr. Muller, Assistant Head of Swedish Civil Defence; Mr. Schlögel, Secretary General of the German Red Cross in the Federal Republic of Germany; and Mr. Warras, Secretary General of the Finnish Red Cross.

During its proceedings from October 31 to November 3, 1967, the advisory panel endeavoured to draw up, on the basis of the text submitted by the Nordic countries, as mentioned above, and bearing in mind the proposals made by the ICRC at the Vienna Conference, preliminary draft regulations for submission to the official experts' meeting referred to in Resolution XXIX. The panel reached unanimous agreement upon a number of points.

It is now for the ICRC to give final form to this panel's conclusions and suggestions. It will then be able to decide on convening, possibly for the Autumn of 1968, a meeting of experts to draw up an official draft for submission to the XXI International Conference of the Red Cross.

The Red Cross as a Factor in World Peace

Since the end of the First World War, every International Conference of the Red Cross has laid emphasis on the institution's important contribution to the spirit of peace in the world.

In this connection, the XX International Conference (Vienna, 1965) inscribed the following proposition among the institution's fundamental directing principles: "The Red Cross promotes mutual understanding, friendship, co-operation and lasting peace amongst all peoples". It also adopted a resolution, No. X, urging all governments to settle their international disputes by peaceful means, and encouraging the ICRC to undertake, within the framework of its humanitarian mission, every effort likely to contribute to the prevention of conflicts. Consistent with the spirit of this resolution, the ICRC intervened in the Congo and Rwanda in 1967, at the request of the Organization of African Unity, as mentioned earlier in this report.

It seemed to the ICRC that its efforts to promote the spirit of peace could be taken a stage further. During discussion of resolution

X, it proposed that it call a "round table meeting" to permit a broad exchange of views on "the present and future Red Cross contribution, by practical measures consistent with its essential principles, to the spirit of peace, understanding among nations and the prevention of war". To follow up these suggestions which were approved by several National Societies, and taking advantage of the presence in The Hague of the many Red Cross delegates who had come to attend the Board of Governors' meeting at the beginning of September, the ICRC organized the "round table" in that town. Some twenty senior members of the Red Cross took part on August 28 in this informal discussion. From National Societies there were:

Dr. Rito Alcantara	President, Senegalese Red Cross Society
Mr. Walter Bargatzky	President of the Red Cross in the Federal Republic of Germany
Mr. José Barroso Chávez	President of the League of Red Cross Societies and President of the Mexican Red Cross
Mgr. Donaldo Chavez Nuñez	President of the Nicaraguan Red Cross Society
Dr. Z. Darwiche	Director of the Syrian Red Crescent Society
Dr. Ahmed Djebli Elaydouni	President of the Moroccan Red Crescent
Dr. Irena Domanska	President of the Polish Red Cross
Mr. G.I.A.D. Draper	Legal Adviser, British Red Cross Society
Mr. A. van Emden	Director-General, Netherlands Red Cross
Mr. Agustin Inostrosa	President, Chilean Red Cross
General C. K. Lakshmanan	Secretary-General, Indian Red Cross
Dr. Werner Ludwig	President, Red Cross Society of the Democratic Republic of Germany
Mr. Jovica Patrnogic	Secretary-General, Yugoslav Red Cross Society
Dr. Zdenek Stich	President, Czechoslovak Red Cross Society
Mr. Olof Stroh	Secretary-General, Swedish Red Cross Society

Mrs. D. Tumendelger

President, Red Cross Society of the
Mongolian People's Republic

General A. E. Wrinch

National Commissioner, Canadian Red
Cross Society

The ICRC was represented by Mr. Samuel Gonard, its President, Mr. Siordet, Mr. Pictet, Mr. Pilloud and Mr. Wilhelm, whilst Mr. Beer and Mr. Abut represented the League of Red Cross Societies.

With working documents which had been circulated beforehand, the participants in the "round table" concentrated on two aspects of the subject for discussion. Their first consideration was the extent to which Red Cross relief work was of itself a contribution to peace. They then reviewed activities which the Red Cross might undertake specifically to contribute to peace. They discussed peace through education; co-operation with official and private organizations concerned with similar problems; the struggle against discord among nations; causes of conflict. The "round table" also brought out the contribution to peace of direct contact among Red Cross members, and it examined how this can be re-inforced by organization.

Mr. J. Pictet, ICRC Director-General, who chaired the "round table" briefly reported on the meeting to the Council of Delegates, stressing that it could not but carry out a preliminary examination, in view of the wide scope of the subject. He added that a detailed report would be sent to all National Societies and that, in accordance with the unanimous recommendation of the participants, a second "round table" would be convened before the XXI International Conference, so that the ICRC might submit more definite proposals to that Conference.

Structure, organization and procedure of the International Conference of the Red Cross

The Standing Commission of the International Red Cross, at its meeting on October 3, 1966, asked the ICRC and the League to study questions arising from the structure, organization and

procedure of the International Conference of the Red Cross. The two institutions therefore set up a Joint Study Commission which after thorough consideration, submitted a full report to the Standing Commission. In addition, the Standing Commission sent all National Societies a questionnaire requesting their comments on certain points.

After the Standing Commission itself had examined the matter, its Chairman, the Countess of Limerick, submitted its conclusions to the Council of Delegates at The Hague on September 6, 1967. These conclusions are quoted below:

I. Structure of the Conference

1. *Participation of Governments.*—It was agreed that the Statutes of the International Red Cross should not be altered as regards the participation of Governments in international conferences. The suggestion that Red Cross conferences with Government attendance should be replaced by regular diplomatic conferences was considered impracticable, since it was not for the Red Cross to instigate such diplomatic conferences.

It was noted that Governments had no right to propose items for the Agenda of the Conference except in accordance with article 9 of the Rules of Procedure (which authorises the Conference Bureau to add items to the Agenda if requested to do so by five delegations each belonging to a different country). It was not, however, thought justifiable to propose an alteration of the Rules of Procedure to enlarge the powers of Governments in this respect.

It was agreed that the Standing Commission should, in future, take particular care to refer to the Council of Delegates, rather than to the Conference, matters which were of little interest to Governments.

2. *Powers of the Conference.*—The Commission considered that no alteration of the Statutes on this point was necessary.

II. Organisation and Procedure of the Conference

1. As regards the *frequency, duration, time given to plenary meetings, number of commissions, documentation, interpretation and translation*, no changes in the present practice were considered necessary.

2. *Agenda.*—It was considered that the Agenda was a decisive factor for the success of the conference and that it qualified the questions raised by many other points in the questionnaire, i.e. number of commissions, composition of delegations, etc. The Standing Commis-

sion should, therefore, give particular attention to the establishment of the Agenda of the next International Conference, and should at the same time consider the comments on this subject made by the National Societies.

3. Method of drafting resolutions.—The Standing Commission thought that a drafting committee of three persons, each one knowing one of the working languages of the Conference, should be set up for each conference commission. These three committees would later amalgamate to constitute the drafting committee for the plenary meeting which would thus be composed of at least 9 persons.

III. Questions Concerning the Standing Commission

1. Method of election of members.—It was felt that, in future, conferences should adhere more closely to the method of election laid down in the Statutes. The Chairman of the Conference would call attention to this at the opening of the Conference and circulate to delegations the procedures to be followed for this election. The Joint Committee was also asked to consider whether the Conference Bureau could undertake to screen candidates nominated for membership of the Standing Commission in order to ensure that only those with the highest qualifications were presented to the Conference for election.

2. Composition and number of members of the Standing Commission.—It was agreed not to suggest any alteration to the Statutes in this respect, thus leaving the present number of elected members unchanged.

3. Powers of the Standing Commission just prior to the opening of Conferences.—Experience has shown that, during the period before the Conference, certain decisions relating to organisation have to be taken.

It was observed that in accordance with the Statutes and Rules of Procedure, the Standing Commission and the host organisations are responsible for the organisation and preparation of the Conference, and it is therefore for these two bodies to make the necessary decisions on the spot before the opening of the Conference.

It was thought that whilst the Standing Commission could not be requested to be present *in corpore* at the seat of the Conference a week or two before its opening, the Commission should entrust its Chairman or one or more of its members with this duty.

Some of the conclusions reached require further study by the Joint Committee and the various points of procedure will be considered again at the next meeting of the Standing Commission.