

Development of international law

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PART III

Part III of this Report deals first with the part played by the ICRC in the development of international law, and secondly with its relations with Red Cross agencies and with the other relief organisations and international institutions.

I. Development of International Law

RATIFICATION OF THE GENEVA CONVENTIONS OF AUGUST 12, 1949

Seven new accessions and ratifications were recorded during the year by the Federal Political Department in Berne, namely the accession of the South African Union (March 31), and the ratifications by Guatemala (May 14), Spain (August 4), Belgium (September 3), Mexico (October 29) and Egypt (November 10). The Philippines which had ratified the First Convention (Wounded and Sick) on March 7, 1951, deposited the instruments for the ratification of the Second, Third and Fourth Conventions in Berne on 6 October 1952¹.

Therefore by 31 December 1952, the States which had ratified or acceded to the four Geneva Conventions of 12 August

¹ Under one of the Articles appearing in all four Geneva Conventions of 12 August 1949 (Article 61 of the First Convention) ratifications and accessions of Governments to the Conventions are notified in writing to the Swiss Federal Council, and take effect six months after they are received. The Swiss Federal Council communicates the ratifications and accessions to the Governments of all the countries, in whose name the Conventions have been signed, or whose accession has been notified.

1949 (the essential purpose of which is the protection of the human being) numbered 23, as follows, in chronological order:

Belgium, Chile, Czechoslovakia, Denmark, Egypt, France, Guatemala, the Holy See, India, Israel, Italy, Jordan, Jugoslavia, Lebanon, Liechtenstein, Mexico, Monaco, Norway, Pakistan, the Philippines, the South African Union, Spain and Switzerland.

The Federal Political Department further announced the receipt of a statement by the Chinese People's Central Government of its intention to ratify the Conventions.

The Toronto Conference in *Resolution 15* appealed for the ratification of the Conventions. The Resolution was passed unanimously ¹.

On 26 September 1952 the Council of Europe adopted *Recommendation 29*, inviting every member State to ratify or accede to the Geneva Convention for the Protection of Civilians in Time of War ².

COMMENTARY ON THE NEW GENEVA CONVENTIONS

The value of reading or studying the Convention will be enhanced by a knowledge of the underlying reasons for their elaboration, the discussions of the Diplomatic Conference of which they were the products, and the connections which exist between their clauses and explain their meaning.

The International Committee of the Red Cross has therefore thought fit, in response to a number of requests, to embark on a *Commentary* on the new Conventions, independently of the pamphlets for general information which it has already devoted to the subject.

The *Commentaire de la Première Convention de Genève de 1949*, which came out during the year ³, is a volume of 542 pages,

¹ See Chapter II, below, page 68.

² See below, page 62.

³ *Les Conventions de Genève du 12 août 1949. Commentaire* published under the direction of J. Pictet, Director for General Affairs of the International Committee of the Red Cross.

La Convention de Genève pour l'amélioration du sort des blessés et des malades dans les forces armées en campagne, Geneva, International Committee of the Red Cross, 1952. 8vo, 542 pages, unbound 12 francs, bound 15 francs.

which contains a complete analysis of the provisions of the traditional " Geneva Convention " for the amelioration of the condition of sick and wounded in armed forces in the field, the fundamental charter of the National Red Cross Societies.

All those who, on behalf of Governments, the armed forces or the National Red Cross Societies, incur responsibilities in the implementation of the Geneva Conventions, as well as the numerous persons, military or civilian, for whose benefit the Conventions were concluded, will find in this work an analysis of the provisions which concern the respect and care of the sick and wounded of armed forces in the field, the protection of medical personnel in their service, and the establishments and material belonging to them, as well as the use of the Red Cross emblem and its protection against abuse.

But the *Commentaire* has other interesting features. It goes beyond the material which was hitherto the traditional substance of the First Convention, and analyses the new rules of an altogether general character included by the 1949 Diplomatic Conference in identical terms in each of the four Geneva Conventions. It deals for example with the implementation of the Conventions in different cases of conflict, especially in civil wars, and with the scrutiny of the Conventions by the Protecting Powers or their substitutes, and the penal sanctions for breaches of the same, which are of importance to wide circles ¹.

DISSEMINATION OF THE GENEVA CONVENTIONS

The necessary measures have been taken in several countries to encourage the dissemination of the Geneva Conventions of 1949 among the armed forces and for their study to be included in military training programmes. Interesting information on

¹ 206 copies of the French edition have been presented by the ICRC to the Foreign Affairs Ministries, the National Red Cross Societies, the international organisations, and to various experts and publications dealing with International Law, while 507 bibliographical notices have been sent to national administrations, libraries and universities. An edition in English is in preparation.

the subject has been received from the United States of America ¹, India, Pakistan and the South African Union.

A similar effort has been made in various Universities.

A translation of the Conventions has been made into Arabic, in addition to those already existing in several other languages ². This version in Arabic, which is due to the initiative of the Egyptian Government, has been adopted by Saudi Arabia, Iraq, Jordan and Syria.

The Summary of the Geneva Conventions, edited by the ICRC in the three official languages, has been translated into Greek and Italian ³.

The full texts of the new Conventions of 1949 and the Resolutions of the Diplomatic Conference of Geneva (April 21 - August 12, 1949) have been reproduced in the ninth edition of the Handbook published by the ICRC and the League ⁴ as well as in the Treaty Series, Volume 75, edited by the United Nations Secretariat in New York.

LEGAL INFORMATION

The ICRC has decided to publish a selection of the legal opinions it has given, especially to National Red Cross Societies, in reply to questions addressed to it on the subject of the Geneva Conventions. Some of these questions are of general interest, and may meet the wishes of a number of Red Cross Societies. But in compliance with the implicit wish of those putting the questions the analysis of the replies takes no account of the

¹ See the *American Journal of International Law*, January 1952, page 143, and the *Revue internationale de la Croix-Rouge*, June 1952, pages 496-498.

² It should be noted in this connection that the authentic texts of these instruments of humanitarian law are in French and English, and that the Swiss Federal Government, the depositary of the Conventions, has made official translations in Russian and Spanish. Translations also exist in German, Chinese, Danish, Flemish, Indonesian, Iranian, Norwegian, Polish, Serbo-Croat, Swedish, Czech, Hebrew, etc.

³ *The Geneva Conventions of August 12, 1949. Brief Summary for Members of the Armed Forces and the General Public*, 1951.

⁴ See below, Chapter IV, page 81.

origin of the questions, and refers only in general terms to the subjects raised. The two first volumes of these Legal Information Notes appeared in 1952.

A list of the principal publications of the ICRC containing analyses or commentaries with regard to particular Articles of the Geneva Conventions will be found below ¹.

IMPLEMENTING OF CERTAIN PROVISIONS OF THE GENEVA CONVENTIONS

Protection of Children.

The Council of Europe asked for the International Committee's advice on the implementing of certain provisions of the Fourth Geneva Convention of August 12, 1949, particularly in regard to the protection of children in time of war. The International Committee's reply was transmitted to the Committee on Social Questions of the Council of Europe, which made a Report to the Consultative Assembly ².

The following is an extract from the Report :

The application of such practical measures is primarily a national question ; they are the responsibility of the individual States, assisted by the private and public organisations, and in particular by the National Red Cross Societies.

It is obvious that the International Committee must also play a leading rôle. It supports the action of the National Societies and places its experience in these matters at the disposal of the States.

Furthermore, the International Committee of the Red Cross was the initiator of the Geneva Convention, and it has never ceased to work to the end that International Law should give the individual a greater measure of protection against the risks of war. It therefore seems peculiarly fitted for this task, and its world-wide and humanitarian character strengthens its authority in the matter.

¹ See below, Chapter IV, page 84.

² See *Council of Europe*, Document 77, Report of the Social Questions Committee.

Moreover, the Consultative Assembly of the Council of Europe approved a resolution recommending the Committee of Ministers to invite all Member States of the Council of Europe :

to ratify or support the Geneva Convention of August 12, 1949, on the Protection of Civilians in time of war ;

to take appropriate measures to provide the protection advocated in that Convention in close collaboration with the National Red Cross Societies, private and public humanitarian bodies and the International Committee of the Red Cross.

This recommendation, which was numbered 29, was passed by the Assembly on 26 September 1952.

In its Circular No. 399 of 15 April 1952 ¹ the ICRC drew the attention of the National Red Cross Societies to the need for thorough study of the problem of the identification of children, and the importance of practical action on the subject in peacetime. Replies were received from Germany, Australia, Austria, Ceylon, Spain, the United States, France, Luxemburg, Norway, New Zealand, Peru, Portugal, Switzerland and Venezuela. The question was also discussed at joint meetings of the ICRC and the International Union for Child Welfare.

It should be added that the provisions of the Fourth Geneva Convention, which were laid down in anticipation of armed conflict, with regard to the identification of children (Article 24, paragraph 3) are equally applicable in the case of inundation, earthquakes or other public disasters.

The ICRC is well aware that certain Governments and National Red Cross Societies have already been concerned with this important question ; but it is of opinion that the various enquiries and proposals cannot but benefit by comparison with a view to the selection of the best ideas which they contain.

Hospital and Safety Zones.

Article 14 of the Fourth Geneva Conventions invites the ICRC to lend its good offices with a view to facilitating the esta-

¹ See the *Revue internationale de la Croix-Rouge*, April 1952, pages 322-323.

ishment of safety zones. With this idea, and in the hope of encouraging such undertakings, the International Committee has drawn up a programme, which it submitted to the National Red Cross Societies in its Circular No. 398 of 20 March 1952. The National Red Cross Societies seem to be in a favourable position to lend useful support in this connection to the governmental authorities of their respective countries.

The proposal in question is based on the principles contained in the draft agreement annexed to the Fourth Geneva Convention. Though the proposal is not obligatory, and the Powers concerned may feel called upon to change it, it was none the less drawn up carefully and adopted by the Diplomatic Conference of 1949. That gives it undoubted value. It is accordingly important that the zones to be created should conform to rules which have already been approved in principle by the enemy, and should therefore in all probability be finally approved by the latter.

The ICRC is of course entirely at the disposal of National Societies to afford them such assistance or advice as they may desire. It would be well for these Societies to inform it of the result of their considerations, so as to enable it to draw lessons which will benefit the Red Cross as a whole ¹.

NON-DIRECTED WEAPONS AND ATOM BOMBS

The replies from Governments to the International Committee's Appeal of 5 April 1950 have been published in the *Revue internationale de la Croix-Rouge*, and were in addition off-printed in 1952 ². An annex to the present Report contains the texts of the two Resolutions adopted by the XVIIIth International Red Cross Conference concerning bacteriological and atomic weapons respectively ¹.

¹ The Circular and its annexes are reproduced in the *Revue internationale de la Croix-Rouge*, April 1952, pages 312-321.

² The collection contains the replies of 43 Governments.

³ See Annex IV, *Extracts from the Toronto Resolutions, Resolutions 17 and 18*, below, page 119.

INTERNATIONAL INFORMATION OFFICE FOR MILITARY
MEDECINE AND PHARMACY

The ICRC participated in June 1952 in the XVth Congress of the International Information Office for Military Medicine and Pharmacy in Liège and Brussels.

These meetings were concerned in particular with the problems relating to the identification of medical and religious personnel in armed forces ¹, and with the retention and release of medical and religious personnel retained with prisoners of war. The ICRC has been requested to draw up a model agreement on this point, and enquiries have been made from the directors of the military medical services of a certain number of countries. The information received is being considered by the ICRC with a view to arriving at a final text for the model agreement.

¹ See *Part I*, Chapter II, above, page 25.