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INTERNATIONAL REVIEW OF THE RED CROSS

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GERMAN

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RESISTANCE MOVEMENTS AND INTERNATIONAL LAW ¹

by W. J. Ford

III

16. Administration of Justice

The legal status of members of resistance movements cannot be discussed but in the light of previous court rulings, some of which are very instructive within the scope of the present study. They have been set out below.

The Hostages Trial ².

The military authorities in the U.S. zone of Germany set up military tribunals to try war criminals. The judgment given by American Military Tribunal No. 5 in the Hostages Trial deals to a large extent with the legal status of members of resistance movements. On trial were Field-Marshal Wilhelm List and others.

The third charge related to the issuance and distribution of unlawful orders, which provided, *inter alia*, that captured resistance fighters should not be regarded as prisoners of war and were to be executed without trial.

In his opening statement the prosecutor for the United States Military Government, Brigadier General Telford Taylor, established that the German intelligence service in Yugoslavia had reported the presence of partisan units and the names of their

¹ See *International Review*, October, November 1967.

² *Trials of War Criminals before the Nürnberg Military Tribunals under Control Council Law No 10*, US Government Printing Office, Washington.

leaders, describing the distinctive emblems, the size of the units and the arms they used. Although the German authorities had received this information, they did not order the discontinuance of the execution of prisoners. On the contrary:

“There was no trial, hearing, or court martial for these men who fought as honorable and patriotic soldiers for their nation. The orders distributed to the lowest of units were unmistakably clear. Lueters’ (General Lueters was the German Commander in Croatia) directive to his troops of 7 January 1943 is representative—“Execute and hang partisans, suspects, and civilians found with weapons. No formal proceedings are necessary.”

Nor were the Andartes, the Greek partisans, who by 1943 had begun to constitute a serious threat to the German troops, recognized as privileged combatants.

When dealing with the question whether the Yugoslav and Greek partisans should have been regarded as privileged combatants, the prosecutor took the view that they had not observed the generally accepted rules of Article 1 of the Hague Regulations.

“We may concede that the Germans would have been within their rights in denying them the status of prisoners of war and executing them.”

But the prosecutor seriously doubted whether the Germans, who had committed the crime of launching an offensive war and had violated the law of war themselves, had not forfeited their right to demand that the partisans observe Article 1. It was beyond doubt that in time of war civilians had duties as well as rights. They were obliged to preserve their peaceful character and not to endanger the position of the occupying army if the latter observed the rules of the law of war. But if the occupying troops resorted to a system of terror the civilian population could never be blamed for resisting.

The German Laternser, who conducted Field-Marshal List’s defence, based his argument on Articles 1 and 2 of the Hague Regulations. He referred to the American prosecutor’s statement that the Germans were entitled to deny captured partisans, who had not complied with the generally accepted conditions of Article 1, the status of lawful combatants, and to execute them.

The Yugoslav Government had surrendered unconditionally on 15 April 1941. The defence counsel was of the opinion that this entitled the Germans to rule that any further resistance constituted a violation of the law of war. Of course a military commander might deem it useful to recognize unlawful fighters as lawful combatants if they were under the command of a responsible leader and observed the rules of the law of war or if they fought in large numbers and had formed a *de facto* government. But the question whether and when recognition was to take place was left entirely to the discretion of the military commander, contended defending counsel.

He went on to state that a popular revolt in occupied territory was unlawful. Article 2 of the Hague Regulations recognized as lawful combatants only persons taking part in a *levy en masse* in non-occupied territory who carried arms openly and observed the rules of the law of war. Defending counsel was of the opinion that the occupation of Yugoslavia and Greece was effective. The Germans had deployed their troops in such a way as to enable them to dispatch contingents to any place where they were needed within a comparatively short time.

After having heard the arguments of the prosecutor and defending counsel, the tribunal ruled as follows. The question whether certain acts are punishable or not can generally be solved by answering the practical question: When was the invasion over and when did occupation commence? The term "invasion" should be taken to mean "military operations". A territory can be said to be occupied only if and to the extent to which organized resistance has been broken, the civilian government can no longer perform the duties legitimately entrusted to it and some form of administration has been set up to maintain law and public order. The tribunal ruled that the occupation of Yugoslavia had been completed by the middle of April 1941 and that of Greece by the end of April 1941.

A resistance movement began to develop in the summer of 1941. It spread quickly until resistance operations had acquired the character of a military campaign. But the tribunal was of the opinion that there was no doubt whatsoever that until its departure in 1944 the German army had been capable of controlling Greece and Yugoslavia:

RESISTANCE MOVEMENTS AND INTERNATIONAL LAW

“ While it is true that the partisans were able to control sections of these countries at various times, it is established that the Germans could at any time they desired assume physical control of any part of the country. The control of the resistance forces was temporary only and not such as would deprive the German forces of its status of an occupant. These findings are consistent with Article 42 of the Hague Regulations of 1907 which provide— ‘ Territory is considered occupied when it is actually placed under the authority of the hostile army. The occupation extends only to the territory where such authority has been established and can be exercised.’ ”

The tribunal was of the opinion that the evidence made it clear that the members of the resistance movements—with the exception of some of their groups—had not observed the laws of war. True, some partisan groups were organized in a military fashion and placed under some central authority but instead of uniforms they wore civilian clothes with parts of German, Italian and Serbian outfits. The Soviet star which most of them wore could not be distinguished at a certain distance.

“ This means of course that captured members of these unlawful groups were not entitled to be treated as prisoners of war. No crime can be properly charged against the defendants for killing such captured members of the resistance forces, they being francs-tireurs.”

The tribunal considered that guerilla warfare was waged in Greece and Yugoslavia while these countries were occupied. This indicated the manner in which soldiers or civilians harassed the enemy with their unorganized forces after the government and the bulk of the armed forces had surrendered and the country had been occupied. These guerilla forces are generally not strong enough to engage in open battle. The position of the guerilla fighter resembles that of a spy.

“ Just as the spy may act lawfully for his country and at the same time be a war criminal to the enemy, so guerillas may render great services to their country and, in the event of success, become heroes even, still they remain war criminals in the eyes

of the enemy and may be treated as such. In no other way can an army guard and protect itself from the gadfly tactics of such armed resistance.”

The tribunal further considered that the prosecution had alleged that the civilian population was not held to fulfil its obligations under the law of war towards the occupying power if the latter had invaded and occupied the country in a criminal manner—as in the present case. The tribunal did not share this view. It stated that in judging the actions of the population the question whether the occupation was lawful or not was irrelevant, or to quote Oppenheim/Lauterpacht in *International Law* (II, 1952):

“The rules of international law apply to war from whatever cause it originates”.

The standpoint adopted by the American tribunal can be summarized as follows:

1. The law of war must be applied irrespective of the cause from which the war originates;
2. Members of resistance movements who do not fulfil the conditions laid down in Articles 1 and 2 of the Hague Regulations should accept the greater risk—inherent in their struggle—of their not being treated as prisoners of war when captured;
3. The guerilla resembles the spy in that his actions are considered lawful by his own country and unlawful by the enemy country;
4. Temporary domination by the partisans does not detract from the effectiveness of the occupation if the occupying power is in a position to restore its authority at any moment.

The Trial of the Field-Marsals.

The status of members of resistance movements was also referred to during the trial of Field-Marshal Wilhelm von Loeb and others before U.S. Military Tribunal No. V A. The prosecutor alleged that the accused had issued or distributed orders—such as the Barbarossa order—depriving partisans of the status and rights of prisoners of war. With regard to the Barbarossa order the prosecutor

observed that murder could not have been made easier for German soldiers. The prosecutor quoted a German order issued on 11 November 1942 by the office of General Warlimont, stating that the Russian partisan units were military forces that had been organized long before the war. Their leaders were officers and commissars, who had been left behind the German lines on purpose. They carried out their operations in conformity with a plan drawn up by the Russian High Command. Nevertheless the German order stated that partisans were not entitled to be recognized as lawful combatants. Furthermore, the prosecutor argued that the resistance of the civilian population was the inevitable reaction to the crimes perpetrated by the German armed forces.

Just as in the foregoing case, the U.S. Military Tribunal ruled that the status of members of resistance movements was governed by Articles 1 and 2 of the Hague Regulations. Anyone ignoring the conditions laid down in these articles would lose the status of prisoner of war.

When dealing with the Barbarossa order, the tribunal observed that defence counsel had argued that there was no rule of international law stipulating that captured members of resistance movements were to be tried in court. Therefore defence counsel contended that the Barbarossa order, which left the decision on the fate of partisans to an officer, was not unlawful. The tribunal did not share this view. It agreed that it was doubtful whether a trial was required under the provisions of international law but in the light of the great variety of charges it did not doubt the criminal nature of an order authorizing a junior officer to order prisoners to be shot.

*The trial of Carl Bauer and others*¹.

In 1945 the French Permanent Military Tribunal at Dijon tried three German officers who were accused of having ordered, in September 1944, captured members of the Forces françaises de l'Intérieur (F.F.I.) to be shot as a reprisal for their having opposed the German army. The all-important question was the status of the F.F.I. If it could be established that they were privileged combatants,

¹ *Law Reports of Trials of War Criminals*, selected and prepared by the UN War Crimes Commission, 1949 Case No 45.

captured members of the F.F.I. should have been treated as prisoners of war.

The prosecutor argued that Article 2 of the Hague Regulations was applicable. This meant that he was of the opinion that two conditions had been complied with:

1. the territory in which the resistance movement had carried out its operations was not occupied,
2. the civilians had not had time to choose their leaders and to don distinctive emblems.

As regards the first condition it should be noted that the definition of "non-occupied territory" is important. In Article 42 of the Hague Regulations it is stated that a territory is regarded as "occupied" if and to the extent to which the enemy army is capable of exercising its authority. Therefore if the enemy army is not in a position to do so the territory cannot be regarded as occupied. This circumstance obtains when the advancing liberation army gains control of certain parts of the occupied territory. But there is some uncertainty regarding the status of the parts of the occupied territory where the occupying power can no longer exercise complete authority due to the military actions of its opponents. Can the resisting inhabitants concerned be looked upon as privileged combatants? In the case in question the territory where the captured and executed members of the F.F.I. had fought had been liberated by the inhabitants and by units of the army of liberation. But at the time they were taken prisoner the enemy's power had not yet been broken.

It is not clear whether the French tribunal based its ruling on Article 1 or on Article 2 of the Hague Regulations. In this trial the essential fact would seem to have been that the civilians had fought side by side with the invading French troops. The F.F.I. fought against the German army in the ranks of the regular armed forces thus complying with the requirement of responsible leadership. They carried their arms openly. Since witnesses had stated that the captured members of the F.F.I. observed the laws of war (they carried distinctive emblems such as armbands, helmets or overalls)

the annotator wonders if it would not have been better to apply Article 1 of the Hague Regulations.

“ The whole issue of whether the F.F.I. combatants were or were not in territory ‘ not under enemy occupation ’, would have then been immaterial.”

However, it must be remembered that during the weeks when France was liberated large numbers of civilians joined the F.F.I. so very often there was no time to subordinate these new members to leaders and give them distinctive emblems. This may have induced the prosecutor to invoke Article 2 of the Hague Regulations in spite of the fact that the F.F.I. was an officially recognized organization.

*The Trial of Field-Marshal Albert Kesselring*¹.

During this trial, which took place before a British Military Tribunal in Venice in the first few months of 1947, it was established that in his capacity of commander-in-chief of the German forces in Italy Field-Marshal Kesselring had issued an order on 17 June 1944, which said among other things:

- a) “ Der Kampf gegen die Banden muss daher mit allen zur Verfügung stehenden Mitteln und mit grösster Schärfe durchgeführt werden.”
- b) “ Ich werde daher jeden Führer decken, der in der Wahl und Schärfe des Mittels über das bei uns übliche zurückhaltende Mass hinausgeht.”

The prosecutor alleged that the order of 17 June 1944 was contrary to the law of war. He referred in particular to the undertaking contained in paragraph b). He argued that this promise incited the troops to commit excesses.

Defending counsel, however, alleged that the order was meant to make the troops overcome their reticence in their struggle against the partisans. How did the German commanders react to the order of 17 June 1944? According to the prosecutor there was a

¹ *Law Reports 1949*, Case No. 44, H. Laternser, *Verteidigung deutscher Soldaten*, 1950.

causal connection between the orders and the crimes with which the German troops were charged. Obviously the German troops interpreted the order as something more than a mere change of battle tactics.

The documents available do not disclose the tribunal's attitude. But there is the view of the British prosecutor:

“There are some war crimes which are only war crimes in respect to one side. The partisans, for instance (and I say it quite openly), by attacking the German forces in the rear, were guilty of a crime against the German law; I say advisedly against the German law. So far as the Italian and Allied law was concerned they were heroes. They did commit a war crime and if they were captured by the Germans, the Germans were undoubtedly entitled to try them for committing a war crime, and if found guilty of committing that war crime, the Germans were entitled to sentence them to death.”

*The Trial of Bruns and others*¹.

Bruns and others were tried before a Norwegian court in 1946. One of the charges against them was that in their capacities of German police officials they had ill-treated Norwegian civilians during the occupation.

The defence counsel was of the opinion that the illegal military organization of which these civilians were members had violated international law. Therefore the accused had been entitled to resort to retaliatory measures.

The court considered that this military organization received its orders from the Norwegian High Command in Britain and that their task consisted in taking part in the war of liberation and committing acts of sabotage. The court ruled that the resistance fighters involved could not claim the privileges accorded to the combatants referred to in Article 1 of the Hague Regulations since they had no uniforms and no distinctive emblems and did not carry their arms openly. Therefore it was permissible to execute them when they were taken prisoner.

¹ *Annual Digest and Reports of Public International Law Cases*, Case No. 167.

*The trial of Christiansen*¹.

The former commander of the German forces in the Netherlands was tried before a Special Tribunal at Arnhem, which stated in its verdict of 12 August 1948 that in the rules of international law dealing with warfare and occupation no distinction is made between wars started lawfully and unlawful wars, nor between a lawful and an unlawful occupation. The tribunal did not deny that this section of international law was inconsistent. On the one hand it prohibits wars of aggression and on the other hand it guarantees impunity to those who violate this prohibition by starting a war. But the Special Tribunal considered that this inconsistency of international law which, as far as it governed warfare and occupation, was still in full force during World War II, should be seen as a consequence of:

“ . . . the imperfection of the international community at the time the acts proven were committed, which imperfection will have to be accepted by the court as existing law.”

Since in international law no distinction is made between lawful and unlawful occupation, the Court ruled in its verdict that civilians did not violate any legal obligation by committing acts of resistance.

*The Trial of Rauter*².

The former “ Höhere SS- und Polizeiführer ” in the Netherlands was tried before the Special Tribunal in The Hague, which stated in its verdict of 4 May 1948:

“ that seen from the German point of view resistance against the occupying power in the Netherlands should be regarded as unlawful since the members of the Dutch resistance movement did not comply with the requirements laid down in the Hague Regulations to be fulfilled by lawful armed forces. ”

On the other hand the Tribunal emphasized:

“ that the matter allows of a different interpretation when viewed from the Dutch angle since the occupying power exerci-

¹ *Het Proces Christiansen*, Bronnenpublicaties Processen No. 4, 1950.

² *Het Proces Rauter*, Bronnenpublicaties Processen No. 5, 1952.

ses *de facto* authority which is not legitimate so that in general the population of an occupied territory does not owe the occupying power any obedience either ethically or legally; that as a result underground resistance against the enemy in occupied territory may be lawful; that there is no question of inconsistency in this because there are other similar contingencies in the laws of war, in particular in espionage, which is regarded as lawful although the belligerent party that captures an enemy spy is entitled to punish him, even kill him.”

Therefore the population of an occupied territory is not obliged by law to obey the occupying power. The Hague Regulations are based on the principle that international law does not express an opinion on the question whether or not a war or occupation is lawful and consequently on the question whether or not the resistance is lawful.

The Special Court of Cassation, too, ruled in its judgment of 12 January 1949 in the case of the former police commander that “there can be no question of any legal obligation on the part of individual civilians to obey the enemy”.

*The Trial of Quirin and others*¹.

Warfare not protected by the laws of war is not only the type waged by means of arms but includes other forms such as psychological warfare and sabotage. Persons who indulge in these forms of warfare do not belong to the regular armed forces as a rule. But in some cases members of the regular forces do operate as agents or saboteurs, which makes it necessary for them to conceal their military identity. In the trial of Quirin and others, the Saboteur Trial, an American court had given a ruling on the position of members of the armed forces who, by engaging in such activities, give up their status of protected persons under the laws of war.

Quirin and his colleagues were trained as saboteurs in Germany and were subsequently smuggled into the United States with stocks of explosives. Immediately after they had been put on shore they

¹ *Annual Digest and Reports of Public International Law Cases 1941-1942*, Case No. 168.

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buried their uniforms and explosives and proceeded to various places in the United States. Within a month they had all been rounded up. The prisoners were brought before a military court and accused of having violated the laws of war.

“ . . . by passing through our defence lines in civilian dress in order to commit sabotage, espionage and other hostile acts . . . ”

The Supreme Court considered that it was not improper to apply the laws of war to this case. The laws of war were taken to mean

“ . . . that part of the law of nations which prescribes, for the conduct of war, the status, rights and duties of enemy nations as well as of enemy individuals ”.

By committing acts that violated the laws of war the accused had qualified themselves as unlawful combatants who, according to the Supreme Court, distinguished themselves from lawful combatants in that

“ Lawful combatants are subject to capture and detention as prisoners of war by opposing military forces. Unlawful combatants are likewise subject to capture and detention, but in addition they are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful ”.

Spies, who stealthily collect military information on behalf of the enemy, and persons who penetrate the enemy lines in civilian dress to bring death and destruction to the country of the enemy are not privileged combatants; they violate the law of war and should be tried before a military tribunal. The Supreme Court quoted a number of cases tried before military tribunals from which it appears that this view was generally held in the past, both before and after the adoption of the U.S. Constitution.

Spies and saboteurs are most certainly not privileged under the laws of war. But must they be regarded as people who violate the law of war? It can hardly be said that they should. The practice of using spies and saboteurs, one adopted generally by belligerent States, is not regarded as a violation of the law of war, so it would seem contradictory to maintain that espionage and sabotage are

violations of the law of war. The reason for not treating captured spies and saboteurs as prisoners of war cannot be found in any rule of the law of war. They are regarded as outlaws merely because the injured State wishes to protect itself against espionage and sabotage. The State concerned is anxious to render such dangerous and clandestine activities ineffective. Therefore invoking the law of war in such cases would hardly seem defensible.

A peculiar case was that of a Yugoslav businessman who was arrested in 1961 by order of the public prosecutor at Constantz. He was accused of having killed two German soldiers in Zagreb in 1941. The public prosecutor maintained that he did not belong to the army. According to the indictment he was a member of a group of partisans when he and two others killed two German sentries. The German courts were thought to be entitled to deal with the case. The West German Minister of the Interior declared that if the accused could prove that he was in the regular army at the time of the alleged offence, he would immediately be released.

After a vigorous protest by the Yugoslav Government, the man was set free. The matter was not carried far enough to enable the court to give a ruling on the legal status of Yugoslav partisans.

In his article, L. C. Green observes that many resistance movements did not fulfil the conditions laid down in Article 1 of the Hague Regulations.

“ Néanmoins, puisque l’occupation des territoires en cause était illégale comme constituant un acte d’agression contraire au pacte Briand-Kellogg, on pouvait soutenir que l’occupant n’avait pas à se plaindre si ceux contre lesquels il menait une guerre illégale n’apportaient pas une attention scrupuleuse aux lois de la guerre, dans la mesure où leur activité contre les forces occupantes était en jeu. D’autre part on ne pouvait s’attendre à ce qu’un seul belligèrent — l’agresseur — acceptât d’être lié par les lois de la guerre alors que son adversaire ne l’aurait pas été. ”

(To be continued).

Dr. W. J. FORD

INTERNATIONAL COMMITTEE OF THE RED CROSS

THE ACTION OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS IN THE CONGO AND RWANDA

I. OAU request to the ICRC

In September 1967, the Organization of African Unity (OAU), meeting in Kinshasa, adopted a certain number of resolutions. One of these called upon the mercenaries to leave the Congo and offered to effect this by peaceful methods, with the help of the appropriate international institutions. Following on this resolution, Mr. Mobutu, in his capacity as Chairman of the OAU Conference, appealed to the International Committee of the Red Cross to help him in this task. He also declared that he would like to make contact with a representative of the ICRC.

The International Committee replied that it would willingly send a delegate to Kinshasa to examine how it could eventually be of assistance to the OAU, but pointed out that, if it was called upon to intervene, it was to avoid further bloodshed. This position was in direct accordance with the spirit of Resolution X of the XXth International Conference of the Red Cross which, in particular, "encourages the International Committee of the Red Cross to undertake . . . every effort likely to contribute to the prevention or settlement of possible armed conflicts".

It added that, naturally, the formal agreement of all the parties concerned on the principle and the methods of application of the OAU resolution would previously have to be obtained.

Mr. R.-J. Wilhelm, Assistant Director at the ICRC, accordingly left Geneva on September 19 for Kinshasa where he had discussions on two occasions with Mr. Mobutu, Head of the Congolese State. The latter stated that he was then acting in his capacity as chairman of the fourth ordinary session of the OAU Conference and more especially as responsible for the execution of the plan drawn up to

implement the aforesaid resolution. He pointed out that he considered it expedient to communicate the text of the resolution to the mercenaries and that these in their reply had agreed to conform to that resolution. They had asked that the operation be placed under ICRC auspices, but also that the Congolese nationals, who were with them, and who were known as "Katanga gendarmes", should also have their own and their families' lives spared and be able to leave Congolese territory.

Mr. Mobutu added that taking the work of the special committee into account, he, in his capacity as chairman of the OAU and especially on behalf of the commission's member countries, could agree to the particular request included in the reply made by J. Schramme, leader of the mercenaries. However, as President of the Congolese Government, he stated that his government could not agree to the Katanga gendarmes' leaving national territory and being exempt from any action against them, unless they proceeded to Zambia, the country of reception as arranged by the OAU Special Committee. At the same time, the Congolese Government made it known that it would grant an amnesty to those of its nationals wishing to return to their own country and not emigrate to Zambia.

It was on the basis of these various indications that the ICRC agreed, in principle, to lend its assistance to the operation of the peaceful evacuation of those who had been entrenched in Bukavu. However, the re-establishing of a normal situation in that area raised problems which had to be resolved in turn.

The International Committee had first of all to study practical methods for a plan to evacuate the mercenaries, the Katanga gendarmes and their families, such as was proposed by the OAU and accepted, as we have said, by Colonel Schramme, subject to certain guarantees. To this end, the ICRC sent out eight delegates who went respectively to Kinshasa, Kigali, Bukavu, Lusaka and Malta¹.

The head of the ICRC special mission in Africa, Mr. R. Gafner, then arrived in Bangui in order to ensure that the security troops, earmarked by the Organization of African Unity, could in fact be made available to establish a protective screen around Bukavu at

¹ See *International Review*, November 1967.

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the time of the withdrawal of the mercenaries and the Katanga gendarmes.

However, contrary to the plan drawn up, the Central African Republic was not in a position to provide these troops, who were to be the essential element in the plan for peaceful evacuation.

The head of the ICRC mission, then went to the Ethiopian capital where he made a further study of the situation with Mr. Diallo Telli, Secretary-General of the OAU. From Addis Ababa he then left for Kigali and Bukavu. On his return to Kinshasa on October 30, he resumed his talks with Mr. Mobutu, President of the Republic of the Congo on finding, as a matter of urgency, a security force preferably of one nationality.

It should finally be pointed out that, at the ICRC's request, the Zambian authorities, in accordance with their offer of asylum previously mentioned, had taken all the necessary material and legislative measures to receive those Katanga gendarmes who might choose to be considered as political refugees. The ICRC, for its part, assured itself, with the help of several States, of the subsequent use of a certain number of aircraft for an eventual evacuation from the Congo.

II. Renewal of fighting around Bukavu

It was then that the ICRC delegates learned on October 30, that fierce fighting had broken out again in the Bukavu area.

It was essential as a matter of urgency to obtain an immediate and lasting cease-fire order from Mr. Mobutu, otherwise the ICRC would be unable to pursue the mission of peaceful evacuation which it had accepted to undertake.

Mr. Gafner was received on November 1 by Mr. Mobutu who informed him that a cease-fire could only be ordered 48 hours before the actual withdrawal of the mercenaries in accordance with the OAU plan. From Geneva, the International Committee, in vain, repeated its request for a cease-fire through its delegate in Kinshasa and also by a message addressed to the President of the Republic of the Congo direct. Colonel Schramme, for his part, had made it known to the ICRC that he would accept the cease-fire, if the National Congolese Army would do the same.

However, wishing at least to assume its traditional rôle of protection and aid to refugees, in the spirit of the Geneva Conventions, and in order to help in saving thousands of human lives, the ICRC delegation at once drew up a programme of relief to the victims of the hostilities in the Bukavu area, arranging, in particular, for the urgent evacuation of the wounded to Rwanda and other eventual countries of reception.

The head of the ICRC mission, in addition, drew the attention of the Congolese authorities to the situation of the women and children and also of the wounded in the fighting zone. In fact, the humanitarian principles demand that such persons be spared in all circumstances and treated humanely.

It should also be pointed out that the ICRC delegates were able to observe that the mercenary forces holding Bukavu treated their prisoners in accordance with the principles of the Geneva Conventions.

On November 5, Colonel Schramme had Bukavu evacuated and withdrew to Rwanda territory with 2,500 persons, of whom 1,500 were women and children. They all laid down their arms. They were welcomed by the authorities of Rwanda and given shelter in a large disused factory, the outlying portions of which were guarded by troops of that country. The wounded were given treatment on the spot by a doctor-delegate of the ICRC, or in neighbouring hospitals.

III. Assistance to gendarmes and mercenaries having taken refuge in Rwanda

In view of this new situation, the ICRC, in the very spirit in which the OAU had approached it, considered it would have failed in its humanitarian mission if it had abandoned these refugees to their fate, now that they were unarmed and their lives threatened. It therefore decided to continue its action of assistance on their behalf and, at the urgent request of the Rwanda authorities, to find other countries of asylum. In fact, Zambia which had declared itself prepared to resettle the Katanga gendarmes and their families, numbering about 2,400, on its soil and which had actually sent a preparatory mission of inquiry to them in Bukavu to that effect,

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then made it known that it was no longer in a position to receive them, unless it was expressly requested to do so by the Congolese Government.

On November 9, Mr. Gafner returned to Geneva to report. He informed the ICRC of the assurances given by Mr. Mobutu. The latter had made it known that, as regards the Katanga gendarmes and their families, he approved in principle of their transportation to Zambia, but on condition that these were informed of the amnesty measures of the Congolese Government for those amongst them wishing to return to their own country. The ICRC delegate in Rwanda received urgent instructions to make this known as soon as possible, and in the presence of the Congolese ambassador in that country.

In so far as the mercenaries of European stock were concerned, President Mobutu stated that he was prepared to accept their evacuation, in accordance with the OAU resolution, provided their countries of origin took steps to prevent their taking up arms again in Africa.

At the same time, the ICRC delegate in Rwanda reminded that country's Head of State that eventual extradition to the Congo of all the refugees from Bukavu would be contrary not only to the spirit of the OAU resolution, but also to the principles of international law.

Several days later, the OAU Special Committee decided to meet in Kinshasa in order to examine measures necessitated by the situation. At one of these meetings, Mr. Gafner and Mr. Wilhelm were briefly able to explain the ICRC's point of view. The Special Committee then proceeded to Rwanda.

There, the OAU representatives on a number of occasions interrogated the refugees in the camp in which they were being sheltered temporarily. As a result of repeated contacts, first a part, then the total number of Katanga gendarmes consented to return to the Congo, placing their trust in the promised amnesty guaranteed by the OAU and agreed to desist from seeking asylum in another African country. The Organization of African Unity having also stated that it would undertake the evacuation to the Congo of the 2,400 or so Katanga refugees and their families, the International Committee of the Red Cross considered its intermediary to be no

longer necessary in this repatriation for which the countries concerned and the OAU henceforth alone assumed responsibility. Furthermore, the delegates of the ICRC had not been in a position to verify whether all the Katanga refugees had been given a free choice or had been under pressure.

Moreover, the ICRC, after being informed officially of the final decisions which the OAU Special Commission had made, published the following communiqué on November 20:

The ICRC had accepted, in the spirit of a resolution adopted by an International Conference of the Red Cross, to lend its aid to the humanitarian solution of the problem raised by the refugees coming from Bukavu, in order to avoid bloodshed, which has so far been achieved.

Henceforth, the ICRC will continue to concern itself with the case of these refugees, both black and white, since the Red Cross makes no distinction of race or political opinion.

It will therefore, as formerly, ensure their supplying and also caring for the wounded, which without the ICRC would be entirely lacking. It will also see, as far as possible, to their safety.

The ICRC will not however be able to participate in transporting the Katangese to the Congo, unless verification of individual wishes is renewed under its control and on fresh bases giving every guarantee to those concerned of free choice and of asylum in a country prepared to receive those who do not wish to return to their places of origin.

Similarly, as regards the white mercenaries, the ICRC will not take part in any negotiations which might tend to subordinate the freedom of human beings to financial considerations.

In the furtherance of its mission, the ICRC will remain in touch with the OAU, from which it is still waiting for the final resolution taken by that organization's Special Commission.

Finally, after hearing its delegate who had returned from Kinshasa with the latest news of his mission in Kigali, the International Committee sent a message on November 24 to the Chairman of the Special OAU Committee in which, whilst affirming its permanent humanitarian principles, it defined its position. The essential parts of this message were as follows:

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The ICRC is prepared to continue its humanitarian aid for the time being, and as hitherto, to the mercenaries and Congolese nationals having taken refuge in Rwanda, especially as regards food and medical care.

As regards the Katanga gendarmes, the ICRC notes that according to procedure decided upon under the sole responsibility of the OAU, these persons will be returning to the Congo under guarantee of an amnesty accorded by President Mobutu. The ICRC therefore considers that its intermediary is no longer required for the repatriation of the Katanga gendarmes. However, the International Committee would be ready to participate in the transporting of these refugees, if the OAU Commission accepted that a further individual verification of free choice of destination was undertaken by the delegates of the ICRC, in accordance with procedure to be determined with the Chairman of the Commission. It would, furthermore, be a question of finding a country of asylum for those opting for the status of political refugees.

In so far as the white mercenaries are concerned, of whom it is essentially question in the last OAU resolution, the ICRC will in no way take part in negotiations for indemnification demanded by the Congo. On the other hand, the International Committee could lend its aid in their evacuation should a neutral intermediary be necessary.

The ICRC is always prepared to send out a further mission to the Chairman of the Special Commission of the OAU to examine in greater detail any proposal likely to lead to a solution of the mercenaries from Bukavu.

*

At the end of November, the International Committee was continuing its work of assistance, within the limits mentioned above. However, it should be pointed out that by then the repatriation of the Katanga gendarmes to the Congo, organized by the Congolese authorities alone, had started and was being pursued without the ICRC having been invited to lend its aid to that operation.

ANNEXES

We give below our translation of letters which Mr. J. D. Mobutu, Chairman of the Fourth Session of the Conference of Heads of State and Government of the Organization of African Unity and President of the Democratic Republic of the Congo, sent on September 16 and October 2, 1967, to Mr. S. A. Gonard, President of the ICRC :

Kinshasa, September 16, 1967

Dear Mr. President,

I have the honour to inform you that the Conference of Heads of State and Government of the OAU unanimously adopted, on September 14, 1967, a resolution on the question of the mercenaries besieged in the eastern part of the Democratic Republic of the Congo (Bukavu).

In execution of operative paragraph 2 of this resolution demanding the surrender and immediate departure of the mercenaries from Congolese territory, the Conference of Heads of State and Government has appointed a Committee under the chairmanship of His Excellency Ismail-Azhari, President of the Republic of Sudan and comprising the Heads of State of Burundi, the Central African Republic, Rwanda, Sudan, Zambia and Ethiopia.

On behalf of all the Heads of African State Members of the OAU, this Committee has drawn up the following plan of action which it would wish to be carried out under the auspices of the International Committee of the Red Cross:

1. The mercenaries must lay down their arms and leave Congolese territory, under the protection of an armed detachment from the Central African Republic, for Kamembe airport in the Republic of Rwanda;
2. two C-130 aircraft, supplied by the Republic of Zambia and displaying for the occasion red cross markings, will transport the disarmed mercenaries to Geneva, headquarters of the International Committee of the Red Cross, via Athens;
3. the African Heads of State and Government of the OAU have unanimously decided definitely to forbid these mercenaries to enter or stay in any member country of the OAU.

The Heads of State and Government of the OAU and the Select Committee which drew up the foregoing plan having expressed the

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wish that you be closely associated in the solution of this urgent and important problem, I have the honour to send you a copy of the resolution AHG/Res. 1 (IV) requesting you kindly to give it all the attention required to put it into effect.

On behalf of the OAU, I hold myself at your disposal to draw up with you, or a representative you may care to appoint, the practical arrangements for implementing the attached resolution as soon as possible. If the solution by peaceful means as described above, and for which your help is requested, were impeded for any reason whatsoever, there would be no alternative but the immediate use of a large armed force in a combined operation by African States in accordance with operative paragraph 3 of the attached resolution.

In drawing your attention once again to the extreme urgency which the Heads of State and Government of the OAU attach to the rapid solution of this question, I have pleasure in expressing to you on their behalf our confidence and the assurance of our highest consideration.

Chairman of the Fourth Ordinary
Session of the Conference of Heads
of State and Government of the
Organization of African Unity.

(signed) Joseph-Désiré MOBUTU
Lieutenant General

Kinshasa, October 2, 1967

Dear Mr. President,

Further to my letter of September 16, your reply of September 19 and the information conveyed to me by your delegate in Kinshasa concerning the position of the International Committee, I have the honour to bring the following to your notice.

As Chairman of the fourth Session of Heads of State and Government of the Organization of African Unity (O.A.U.), and being responsible for the execution of Resolution No. 49 of September 14 on the subject of the mercenaries, I informed the latter, through a neutral intermediary in whom I have confidence, of the proposals contained in that resolution, in order to obtain their agreement; this objective was achieved.

Enclosed herewith is the original of document No. 4 containing a statement which I recognize as valid and in which the mercenaries confirm their agreement subject to certain conditions. In document

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No. 5, the original of which is also attached hereto, they express the wish that the operation referred to in document 4 be carried out under the auspices of the International Committee of the Red Cross.

Pursuant to the work of the fourth session of the OAU Special Commission for the implementation of the resolution concerning the mercenaries and, in particular, bearing in mind the intentions manifested by the Member States of that Commission, I accept completely on their behalf the tenor of the statement contained in document No. 4 attached hereto.

However, with regard to the Congolese nationals mentioned in that statement, I wish to declare, in my capacity as Head of the Government of the Democratic Republic of the Congo, that:

- the Congolese Government intends to grant an amnesty to those of its nationals who wish to return to Congolese territory; and
- will raise no objections whatsoever to the removal to and settlement in Zambia of those Congolese nationals who accept the offer of asylum which has been extended to them by the President of that State. On the other hand, it must reserve the right to take legal action against any of them who go to other countries.

On behalf of the Organization of African Unity, I express the hope that the information and documents I have the honour of sending you with this letter will be sufficient to authorize the International Committee to consider as fulfilled the conditions upon which it made its assistance in this affair contingent. In compliance with your institution's wish, I am prepared to delegate to Geneva in due course one or two representatives whose names I shall communicate to you, in order to reach a joint agreement on ICRC assistance and arrangements for evacuation of the mercenaries.

Finally, I would add, with reference to my letter of September 16, that the Republic of the Congo (Brazzaville), Uganda, the Republic of Tanzania and the Democratic Republic of the Congo were also represented on the special committee set up by the recent OAU conference in Kinshasa to carry out the resolution relating to the mercenaries.

I have the honour to be, Sir,

Yours very truly,

(signed) Lt. Gen. J.-D. MOBUTU
President of the Republic

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DOCUMENT No. 4

Provided that all our group—including the Congolese members—shall have their lives spared and be permitted to leave Congolese territory, we answer “yes” to the proposals made to us by the OAU in its resolution of September 13, 1967.

We are prepared on these terms to cease hostilities, lay down our arms, and leave the territory of the Congo for a freely chosen destination as soon as we consider that adequate arrangements have been made for our safety with the assistance of the proper international organizations.

Signed in Bukavu
on September 24, 1967

J. SCHRAMME

DOCUMENT No. 5

Bukavu, Congo
September 29, 1967

Further to our acceptance, as witness document No. 4 signed by us on September 24, of the proposals made to us by the OAU, we confirm that it is our express wish that the planned operation according to the aforesaid document be carried out under the auspices of the International Committee of the Red Cross.

(signed) J. SCHRAMME

*EXTERNAL ACTIVITIES***Nigeria**

On his return to Switzerland, Dr. Edwin Spirgi, head of the medical team of the ICRC installed since the beginning of the conflict at the hospital at Achi, reported on the alarming situation prevailing in Biafra on the humanitarian level.¹

In his report to the International Committee, Dr. Spirgi pointed out the considerable amount of work devolving on the ICRC medical team on account of the great number of wounded pouring into that hospital. He also stated that medicines are at present lacking and that the assistance of the ICRC in personnel and medical relief remains extremely necessary, as this totally isolated region receives no other form of humanitarian aid.

On the basis of its delegate's report, the ICRC has decided to continue its action in Biafra by sending a fresh replacement team and despatching emergency medical relief. In view of the fact that no normal landing ground any longer exists in Biafra, the ICRC found itself obliged to charter a special aircraft of "Balair" to transport this personnel and relief to their destination. The flight of this aircraft, with red cross markings, was notified to the two parties in conflict. The ICRC aircraft left Basle on November 11. After landing at Douala to load a stock of medicines awaiting transit, it arrived in Lagos on November 12, where it remained grounded until all arrangements were made between the belligerents for the onward passage to Biafra. When all difficulties had finally been overcome, the special ICRC aircraft was able to leave Lagos

¹ See *International Review*, August, September, October and November 1967.

on November 17 for Santa Isabel (Fernando Po), whence it flew to Port Harcourt in Biafra. From there, the team and the medical relief supplies were transported by road to Achi, some 300 miles to the North.

This new team, accompanied by Dr. Spirgi as far as its place of work, received a moving welcome on its arrival at the hospital.

It should be recalled that on Federal territory a medical team, directed by Dr. Kaare Sandnaes and placed at the ICRC's disposal by the Red Cross of Norway, is still continuing its activity. At first installed in the hospital at Uromi it was, after the incident which took place there, moved to the hospital at Agbor, a locality situated on the road leading from Benin-City to Onitcha.

Near East

Release of civilian prisoners at Atlith camp.— The ICRC delegation in Israel recently intervened on behalf of 40 Egyptian civilian prisoners interned at Atlith, released and repatriated on October 24 to El Arish and Gaza.

On November 15, 80 Egyptian civilian prisoners were then released and repatriated to Egypt, 400 others to El Arish and 81 to Gaza.

On November 17, ICRC delegates accompanied 50 wounded Egyptians released from Atlith camp and conducted them by air to Cairo.

Situation of refugees in Jordan.— According to the ICRC delegation in Amman, the approximate number of refugees and displaced persons in Jordan on October 1 totalled 204,000, of whom 101,000 were former refugees registered with UNRWA, 93,000 new refugees not registered with UNRWA and 10,000 from the Gaza strip.

Most of the camps which were in the Amman area have been moved to the Jordan valley, where the climate is more favourable in winter.

Inhabitants of the Gaza area leaving for Jordan, whose numbers were more than 200 daily in September, decreased to 50 in November.

Repatriation to Egypt. — The ICRC delegations in Gaza and Cairo have set on foot the voluntary repatriation of Egyptians from Sinai and the Gaza strip to Egypt. So far more than 4,000 persons have thus been repatriated.

Aden

In view of the renewed disturbances in Aden, shortly to become independent, the ICRC sent out there another delegate, Mr. R. Troyon, to assist André Rochat, the ICRC's delegate-general for Arabia who was already in Aden.

On November 16 the ICRC delegates co-operated with the British authorities in evacuating to Cairo, for their own safety, a number of FLOSY members who had been in detention. They also escorted outside the British sector the remaining detainees released by the NLF.

On November 7 a large convoy of ambulances and lorries bearing the red cross emblem took supplies to the Salom psychiatric hospital, from which they removed a number of wounded who had not been cared for. On November 13, the ICRC delegate went by ambulance to the scene of heavy fighting, to attend to the casualties.

On November 28, in order to deal with the acute shortage of medical care in Aden, the International Committee sent three doctor-delegates there. These are Dr. A. Narakas, Dr. J. Parramore, and Dr. Bloudanis.

This medical delegation will take charge of the Queen Elizabeth Hospital in Aden which the British medical services have evacuated.

Greece

The Greek Government has again given permission to a mission of the International Committee to go to Greece to visit internment camps and prisons in which there are persons having been arrested as a result of the events last April. This mission, the fourth of its kind, consisted of Dr. J.-L. de Chastonay and Dr. J. Chatillon.

The ICRC delegates noted that the number of internees on Yioura island had been considerably reduced. Some of these had been released, whilst the majority had been transferred to the island of Leros. Detention conditions have been improved and the authorities have recently sent blankets for the winter months. Arrangements have been made for medical care in the camps and, whenever necessary, internees are transferred to hospitals where they have been seen by the doctor-delegates, who have also concerned themselves in the situation of indigent internees and detainees, families deprived of all means of support and of the health of political personalities detained in Athens or its surroundings. In addition, the ICRC delegates were able to visit detainees in the Korydallos prison after they had been sentenced by courts-martial. After their visits, these delegates were received by Mr. Totomis, Minister of the Interior, to whom they submitted their observations and requests.

Mr. C. Ammann, Assistant Director and Head of the Relief Section of the ICRC, then went to Athens at the beginning of November where he had discussions with the leading members of the Hellenic Red Cross concerning aid which could be brought to detainees and their families in need, thanks to relief entrusted to the ICRC and which is stored in Piraeus.

*IN GENEVA***New members of the International Committee**

Meeting in plenary session, the International Committee of the Red Cross elected the following new members: Mrs. Denise Bindschedler-Robert, Mr. Marcel Naville and Dr. Jacques F. de Rougemont.

Mrs. Denise Bindschedler-Robert was born at Saint-Imier and educated at La Chaux-de-Fonds and, after studying at Berne and Lausanne universities, was called to the bar in 1945.

Four years later she was received Doctor of Laws at the University of Berne, after submitting a thesis on Swiss neutrality.

A legal expert at the Federal Political Department she was, in 1949, a member of the Swiss delegation at the Diplomatic Conference which resulted in the signing of the four Geneva Conventions.

Later, she co-operated with Professor Paul Guggenheim in drawing up a treaty of public international law.

Since 1956, she has been in charge of teaching public international law at the Graduate Institute of International Studies where she was appointed Professor extraordinary in 1964.

In addition to the important study which we have mentioned, Mrs. Bindschedler-Robert has published articles in various reviews concerning, in particular, problems raised on the international level by Swiss neutrality and questions relating to the Red Cross. One of these studies was entitled " Genfer Konventionen und Rotes Kreuz ".

Born in 1919, Mr. Marcel Naville studied in Geneva where he obtained a degree in arts at that University.

Attached to the Foreign Section of the Federal Political Department, he subsequently became a member of the ICRC legal depart-

A meeting of experts

The ICRC had submitted to the XXth International Conference of the Red Cross a report on the status of civil defence personnel. Following up Resolution XXIX adopted on that subject by the Conference, the ICRC convened a meeting in Geneva from October 31 to November 3, 1967, of an advisory group of experts on the position of civil defence bodies.

It was a question of drawing up a draft regulation to ensure in time of war to members of the civil defence services a status similar to that enjoyed by hospital personnel. Experts from Germany (Federal Republic), Finland, Sweden, Switzerland and Yugoslavia, leading members of National Societies and of the Civil Defence Services took part in the work, together with representatives of the International Committee.

The general outline of a draft regulation was able to be determined, study of which will be continued by the ICRC's legal department in co-operation with the experts consulted. The draft will be the subject of a further meeting of experts and will be submitted to the next International Conference of the Red Cross.

Annual Report 1966

The International Committee has published its *Annual Report* for 1966.¹ Events obliged it to undertake a considerable number of tasks in the five continents and these are described, showing how the Red Cross intervened in very diverse circumstances in one country after another. Actions of a general character were also pursued, in particular in the field of international humanitarian law. Mention should also be made of its permanent tasks such as those of publicising the Geneva Conventions.

In the report can be found a statement of the institution's financial position, which has already been produced in a previous publication, followed by a table enumerating the amount of relief distributed or transmitted by the ICRC during the same period which shows the extent of the work carried out in that connection.

¹ Geneva, 1967, 84 pages. This report is published in French, English and Spanish; the German edition is mimeographed. It is available at a cost of 7 Swiss francs.

An anniversary

Fifty years ago, the Nobel Peace Prize was awarded to the ICRC by the Nobel Committee of the Norwegian Parliament. This news was given to Geneva by a despatch on December 10, 1917 from Christiania. The Bulletin international des Sociétés de la Croix-Rouge¹ expressed itself as follows on the subject.

The International Committee is aware of the value of this high distinction of which it is the recipient. It fully appreciates the honour it has been given, especially in view of the large number of serious contestants. To this it pays tribute to its predecessors and those who showed it the way to be followed, to Gustave Moynier, its President for forty years and to its actual President, Mr. G. Ador, whom it is entitled to name, since he is at present performing other duties and that it is due to his largeness of heart, his exceptional qualities and his personal and devoted labours that the International Prisoners of War Agency in Geneva was created, organized and developed.

The International Committee sees in this recompense for its work and the appreciation of its efforts, a powerful encouragement for it to persevere in the task to which it has been assigned by international agreements, namely the constant and active concern in the improvement of the position of the wounded, sick and prisoners, in a spirit of neutrality and absolute impartiality, in accordance with its motto *Inter Arma Caritas*.

In 1901, the first Nobel Peace Prize was awarded to Henry Dunant who shared it with Frédéric Passy. The ICRC received it in 1917, as we have recalled, and again in 1945. Finally, in 1963 it was honoured by this high distinction in conjunction with the League of Red Cross Societies.

¹ Published by the ICRC, Geneva, January 1918.

*THE INTERNATIONAL COMMITTEE'S ACTION
IN THE NEAR EAST*

A delegate's account

As is known, the ICRC is continuing its activity in various countries of the Near East. It is concerning itself at the same time with prisoners of war, internees and refugees. It is also trying to resolve in a practical way certain problems which affect civilians more especially. Mention was made in the last issue of the *International Review* of the repatriations of Egyptian civilians which took place in October and for which one of the ICRC delegates assumed practical responsibility. On his return to Geneva he gave an account which we consider to be of interest.

It should first of all be recalled that it was a question first of all of women and children who had arrived from the El Arish area and who, through the ICRC's intermediary, were to return to their own country across the Suez canal. To this group permission had been given to be joined by some sick whose condition demanded special care.

The operations could only succeed with the agreement of both sides, Egypt and Israel in this case, for the express purpose of reuniting families. The ICRC's task was first of all to obtain the necessary authorizations and to that end to draw up lists of persons wishing to return West of the canal. These lists were then sent to the ICRC delegation in Cairo which submitted them to the appropriate authorities and returned them, once they had been approved, to the International Committee's sub-delegation in Gaza.

Everything was then ready for the start of this humanitarian action which we now describe and which was carried out with the practical assistance of the ICRC. Indeed it was the Red Cross which

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to some extent "neutralized" the part of the Suez Canal military zone across which the civilians passed. In fact, since the beginning of hostilities, the only contacts established between the two banks were made thanks to the presence of the International Committee and its representatives. One of these, Mr. J. Eggimann, has given us this account of one repatriation operation which was, moreover, preceded and followed by several others.

"As soon as the agreement of the Egyptian authorities was confirmed for the repatriation of the civilians, we immediately went to El Arish to settle with the military governor questions of control, information and the assembling of the persons concerned. We submitted for that purpose a list of 600 names received from the Egyptian Government and which stated who were to be admitted. Of the 6000 civilians who had announced themselves two months previously some of these under their own resources had left for Jordan by the Allenby bridge. The lists given to us by the Egyptian Government were not in fact up-to-date and we therefore had to carry out an accurate check to discover the amount of transport to be organised.

Two days later we were able to inform Mr. Boisard, the ICRC delegate in Cairo, of the exact number of civilians who would be arriving at El Qantara for this repatriation operation, arranged to take place at 11 hrs. on October 9, 1967. The Israeli liaison officer dealt with transport arrangements and drew up a time-programme.

We arrived at El Arish at 7 hrs. and supervised the departure of the civilians who had been assembled in a former Egyptian camp. Everything went according to plan and the convoy, consisting of ten buses, two ambulances, four lorries loaded with baggage, a military escort and a vehicle with red cross markings, left camp at 8.45 hrs.

In another Red Cross vehicle, together with the liaison officer, we arrived at El Qantara at 10.30 hrs.¹

The operation did not start until 14.30 hrs. The first batch consisted essentially of mothers with their children, numbering 564 in all.

¹ *Plate.* Egyptian civilians arriving at El Qantara... then embark to cross the Canal, under the control of ICRC delegates.

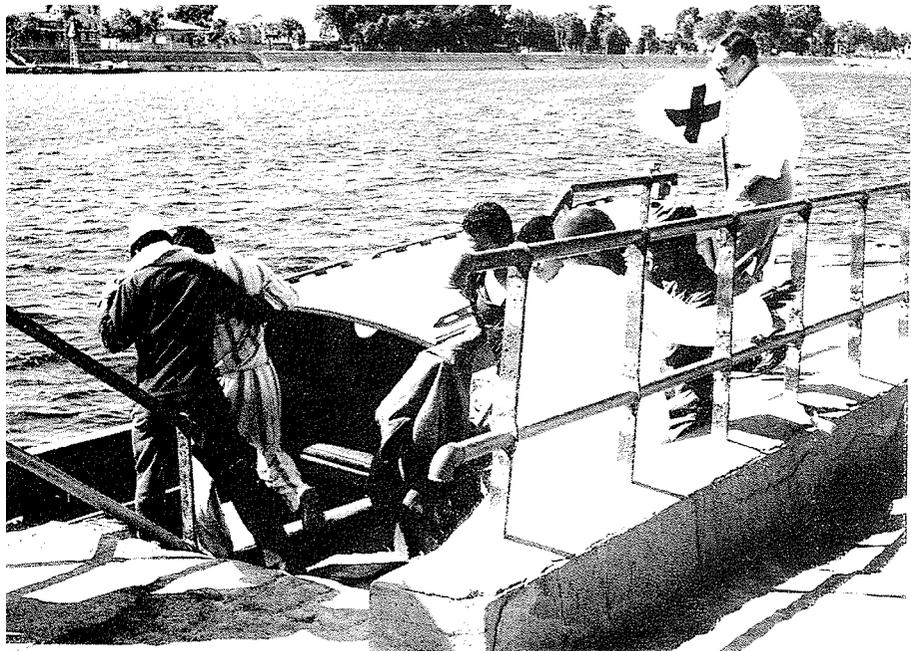


Egyptian civilians arriving at El Kantara...

EGYPTIAN CIVILIANS REPATRIATION

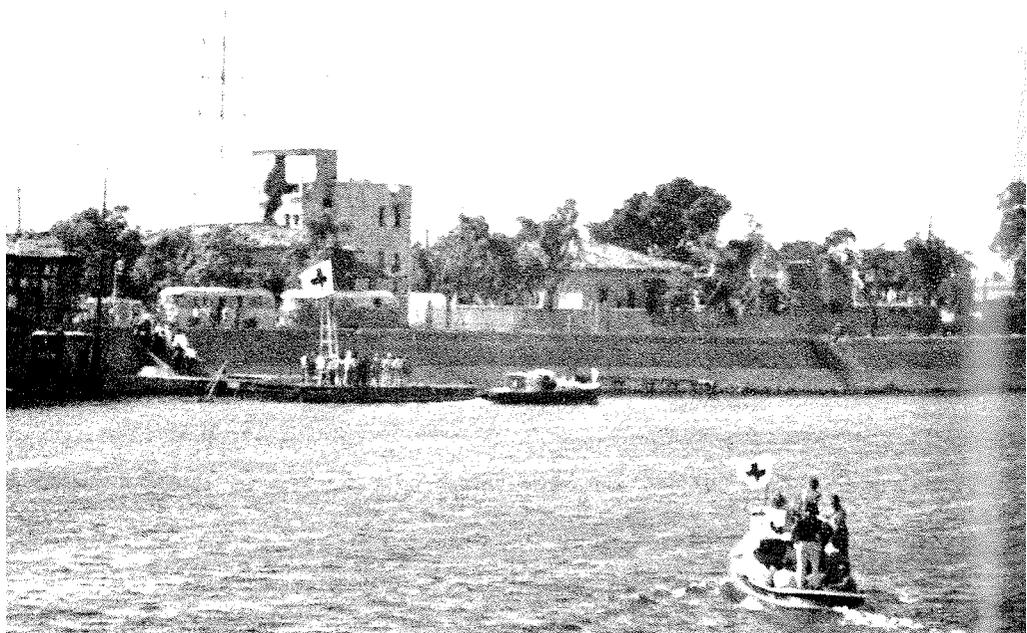
... then embark to cross the Suez Canal, under the control of ICRC delegates.





The sick also embarking...

... then, craft cross the Canal, below the flag of the Red Cross.



Since no means of transport were any longer available, two craft arrived from Ismailia. They sailed under the protection of large white flags with the red cross emblem. They traversed the Canal several times in both directions.¹ At embarkation and disembarkation points there were flags of the Red Cross flying and near them stood the ICRC delegates as a guarantee of strict neutrality.

The operation ended without incident at 5.30 p.m., and the craft returned to their bases, together with the ICRC representative in Egypt. ”



¹ *Plate.* Craft crossing the Canal, under the flag of the Red Cross.

M I S C E L L A N E O U S

IN SUPPORT OF THE EFFORTS OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS

In adopting resolutions, two international organizations have recently given their full support to the ICRC's efforts to limit human suffering during armed conflicts.

In fact, the Executive Committee of the Commission of the Churches on International Affairs, on August 7, 1967, adopted a Resolution on *Limitations in Modern Warfare*. Shortly afterwards the Central Committee of the Oecumenical Council of Churches, meeting in Heraklion, Crete, approved this text and requested the leading members of that Commission to take the necessary measures to attain the objectives mentioned therein. This text reads as follows:

The World Council of Churches and its Commission on International Affairs have sought to encourage the solution of international disputes by methods other than war. They continue to encourage progress toward disarmament or the international control of armaments and to support the development of institutionalized measures for peaceful change, peace-keeping and peaceful settlement.

These objectives have not yet been attained. Wars continue to plague mankind and modern warfare becomes increasingly devastating and indiscriminate,

We commend to governments for their urgent and positive action the declaration of the International Conference of the Red Cross at Vienna in 1965:

- *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.*

Governments who have not become parties to the Geneva Conventions of 1949 should do so, and those who have become parties should honour their commitment. Furthermore, all governments should be aware that they are bound by such laws of warfare as have grown into general rules of customary international law (e.g. the prohibition of chemical and biological warfare).

In addition, we urge that the laws of warfare be expanded to include more recently developed weapons which produce new horrors of human suffering, such as napalm bombs.

We support the initiative of the International Committee of the Red Cross in urging governments to seek agreement on a more comprehensive international instrument. Meanwhile pending the development of a more comprehensive international instrument, we urge appropriate action by the U.N. General Assembly to secure these ends during an intermediate period.

The World Council of Young Women's Christian Association meeting in Melbourne in September 1967, passed a *Resolution on Peace and on the Progressive Reduction of Warfare.*

After stressing that the building of the world community makes demands on every available positive force, deeply concerned by the present situation and convinced of the urgent necessity of action in favour of peace :

The Council of the World YWCA

- *asks member associations to express their concern to their respective governments and to urge them to honour the regulations laid down in the 1925 Geneva Protocol and the other conventions in the protection of the victims of war, as part of customary international law;*
- *supports the initiative of the International Committee of the Red Cross in urging governments to seek agreement on more comprehensive instruments aimed at mitigating the suffering of the victims of war by prohibiting the use of nuclear weapons and of more recently developed weapons which produce new horrors of human suffering.*

**INTERNATIONAL REFRESHER COURSE
FOR YOUNG MILITARY MEDICAL OFFICERS**

The *International Review* mentioned last April that a fourth International course would be organized, which in fact took place from August 22 to 31, 1967 in Munich.

Organized successively at Macolin (Switzerland), Florence and Madrid, these courses bring together military medical officers from many parts of the world, in accordance with the best traditions of medical ethics, the "Declaration of Geneva" appearing as the heading on the programme printed for the occasion. Addresses were delivered by leading personalities from various countries.

In Munich, there were more than twenty lectures on subjects of a purely medical character, of which two can be cited: "the Significance of Psychiatry in the Medical Services of the Armed Forces" and "First-Aid on the Battlefield", or concerning the "Concept of Humanism in the Training of Soviet Medical Officers" etc...

As at previous courses, the ICRC and the League of Red Cross Societies had been invited to participate in the work. Amongst those organizing the course mention should be made of a member of the ICRC, Brigade-Colonel H. Meuli. Mr. J. de Preux delegated by the International Committee, read a paper, written by Mr. J. Pictet, on the Geneva Convention for the amelioration of the wounded and sick in armed forces in the field and himself presented an account on the subject of special agreements in the Geneva Conventions. Mr. J. Vittani, representing the League, described problems involved in the planning and organization of aid measures in the event of natural and other catastrophes.

INTERNATIONAL PROTECTION OF REFUGEES

In October 1967, there entered into force the Protocol whose effect will be to implement, for further groups of persons, the provisions of the 1951 Convention relative to the status of refugees.

According to the United Nations High Commissioner for Refugees, this protocol, an important step in international protection, will enable hundreds of thousands of new refugees, especially in Africa and Asia, to benefit from the Convention of 1951 which stipulates the fundamental rights of refugees and guarantees them minimum standards of treatment.

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EXTRACT FROM THE STATUTES OF
THE INTERNATIONAL COMMITTEE OF THE RED CROSS

(AGREED AND AMENDED ON SEPTEMBER 25, 1952)

ART. 1. — The International Committee of the Red Cross (ICRC) founded in Geneva in 1863 and formally recognized in the Geneva Conventions and by International Conferences of the Red Cross, shall be an independent organization having its own Statutes.

It shall be a constituent part of the International Red Cross.¹

ART. 2. — As an association governed by Articles 60 and following of the Swiss Civil Code, the ICRC shall have legal personality.

ART. 3. — The headquarters of the ICRC shall be in Geneva.

Its emblem shall be a red cross on a white ground. Its motto shall be “*Inter arma caritas*”.

ART. 4. — The special rôle of the ICRC shall be :

- (a) to maintain the fundamental and permanent principles of the Red Cross, namely : impartiality, action independent of any racial, political, religious or economic considerations, the universality of the Red Cross and the equality of the National Red Cross Societies;
- (b) to recognize any newly established or reconstituted National Red Cross Society which fulfils the conditions for recognition in force, and to notify other National Societies of such recognition;

¹ The International Red Cross comprises the National Red Cross Societies, the International Committee of the Red Cross and the League of Red Cross Societies. The term “*National Red Cross Societies*” includes the Red Crescent Societies and the Red Lion and Sun Society.

- (c) to undertake the tasks incumbent on it under the Geneva Conventions, to work for the faithful application of these Conventions and to take cognizance of any complaints regarding alleged breaches of the humanitarian Conventions;
- (d) to take action in its capacity as a neutral institution, especially in case of war, civil war or internal strife; to endeavour to ensure at all times that the military and civilian victims of such conflicts and of their direct results receive protection and assistance, and to serve, in humanitarian matters, as an intermediary between the parties;
- (e) to contribute, in view of such conflicts, to the preparation and development of medical personnel and medical equipment, in co-operation with the Red Cross organizations, the medical services of the armed forces, and other competent authorities;
- (f) to work for the continual improvement of humanitarian international law and for the better understanding and diffusion of the Geneva Conventions and to prepare for their possible extension;
- (g) to accept the mandates entrusted to it by the International Conferences of the Red Cross.

The ICRC may also take any humanitarian initiative which comes within its rôle as a specifically neutral and independent institution and consider any questions requiring examination by such an institution.

ART. 6 (first paragraph). — The ICRC shall co-opt its members from among Swiss citizens. The number of members may not exceed twenty-five.



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