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INTERNATIONAL
REVIEW
OF THE RED CROSS



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INTERNATIONAL REVIEW
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COMMEMORATIONS

August 22nd 1989 marked the 125th anniversary of the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. It is indeed remarkable that this text, with its ten brief articles, should have represented such a decisive step forward in the history of humanity. It was the first attempt to codify the law of war and what would later become international humanitarian law.

As Jean Pictet says in an article entitled "The first Geneva Convention" and published on the occasion of the centenary of the Convention's adoption ¹:

"For the first time in history, countries agreed to limit their own powers on the international level in favour of the individual and in the name of an altruistic obligation, recognizing an inviolable space into which neither fire nor sword could penetrate. For the first time, war gave way to law".

This article describes the origins of the initial Geneva Convention, emphasizing both the spirit in which it was conceived and all that rendered it "one of the noblest achievements of the human spirit", to quote the well-known Swiss legal expert Johann Caspar Bluntschli.

The Review is now reprinting this article (see p. 277), which its author, today Honorary Vice-President of the ICRC, has kindly updated, as a tribute to Jean Pictet and in recognition of his essential contribution to the drafting of the 1949 Geneva Conventions and their 1977 Additional Protocols. Indeed, it is largely to Jean Pictet that we owe the development of humanitarian law and the universal authority it has acquired since the Second World War.

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* *

¹ See the August 1964 issue of the *International Review of the Red Cross*.

*The commemoration of 22 August 1864 moreover brings to mind all the efforts made by the ICRC since its founding and the manifold obstacles it had to overcome to succeed in extending humanitarian law to protect the armed forces at sea, prisoners of war and civilians, and to ensure an increasingly strict regulation of the conduct of hostilities and the limitation of the use of certain weapons.*²

Whereas the actual proceedings of the 1864 Conference are familiar to us all—in this connection, the account of its various sessions, published in the August 1964 issue of the Review devoted to the centenary of the original Geneva Convention, makes extremely worthwhile reading—the political and social contexts in which the Conference was held are by no means common knowledge. In his analysis of the Geneva press of that year (see p. 282), André Durand revives the extremely animated debate that arose in reaction to the proposals made by the International Committee. The profusion of ideas that emerged in the latter half of the nineteenth century—concern for social issues and pacifist impulses mingling in a climate of as yet half-hearted internationalism—was such that public opinion in Europe was not yet fully convinced by the principles of humanity and impartiality advocated by the ICRC; two conflicting tendencies held sway, one in favour of supporting specific communities or even countries to the detriment of others, and the other endorsing the ICRC's position that assistance should be given without discrimination. There were even voices that opposed granting any humanitarian assistance at all to war victims in case this should be seen as an incitement to make war and others that considered it more urgent and appropriate to lay down rules protecting the most wretched and destitute members of society.

The reactions of the French-speaking Swiss press, whose influence extended all over Europe, bear witness, above and beyond political interests and social priorities, to the universal scope and irrevocable nature of the treaty adopted in August 1864.

A commemoration provides an excellent opportunity to look back on the past in order to gain a better understanding of the present and build for the future. This special issue of the Review is therefore devoted to those anonymous or unrecognized men and women whose faith, strength of conviction and tenacity helped to mitigate violence and hatred on the battlefields of the world, establish humanitarian rules for combat-

² On 22 August 1989, the Swiss Confederation, which is the depository of the Geneva Conventions, will celebrate in Bern the 125th anniversary of the adoption of the original Geneva Convention. The Review will publish an account of the celebration in its September-October 1989 issue.

ants and non-combatants alike and ensure that those rules were observed up to their formal adoption in August 1864.

Among those remarkable people were medical officers serving with armies in the field. Army doctors have always risen up against the wounded being abandoned on the battlefield and the lack of preparedness of army medical services, especially in the nineteenth century when battles took an increasingly cruel toll of human lives. Faced with either stubborn opposition to reform or sheer opportunism, army medical officers nevertheless gradually succeeded in imposing their views and methods and in achieving a measure of humanity in armed conflicts.

It was the Review's wish to learn more about the work of these physicians. Dr. Jean Guillermand's article (see p. 306) traces the humanitarian efforts made by army doctors back to Antiquity. He describes the concern shared by people like John Pringle, Pierre François Percy, Lucien Baudens and Ferdinando Palasciano, all very early advocates of the granting of neutral status to the wounded and the inviolability of medical staff and establishments.

The Review hereby inaugurates a series of articles devoted to the origins of humanitarian law. We are all aware that humanitarian principles are common to human communities the world over and that they have roots bedded in every soil. Compare different customs, religions and philosophies and you discover that violence can be checked and suffering alleviated. Once the particularities of those customs have been eliminated, says Jean Pictet, "one is left with a pure substance which is the heritage of all mankind".

The texts of ancient India, analysed by Professor L. R. Penna, are extremely significant in this regard (see p. 333). Some of the provisions of the Mahâbhârata and the Manu Smriti (or Laws of Manu) relative to methods and means of warfare and the protection of conflict victims are surprisingly similar to the Hague regulations of 1907 and to certain provisions of the Geneva Conventions and their Additional Protocols.³

*
* *

Another event of capital importance that occurred in August 1989 was the commemoration of the bicentenary of the Declaration of the

³ The Review will subsequently publish studies on the Islamic conception of humanitarian law, the specific contributions of Western Europe and the Spanish-American School to the development of humanitarian law, etc.

Rights of Man and the Citizen (26 August 1789). Although there is no immediate connection between the Declaration and international humanitarian law, their respective rules have one common denominator: the protection of human dignity.

As ICRC Vice-President Maurice Aubert puts it in his comparative study (see p. 349), searching for similarities between the Declaration of the Rights of Man and the Citizen and the Geneva Conventions is tantamount to “analysing the rules of law agreed upon by the collective conscience of mankind”. The principle of non-discrimination, protection against arbitrary behaviour, respect for religious beliefs, the protection of civilian property and so on may therefore be considered as so many points of convergence.

*
* *

In commemorating these two major events — the adoption of the original Geneva Convention and the Declaration of the Rights of Man and the Citizen — we should emphasize not only the amount of ground already covered in the long march towards universal recognition of humanitarian values, but also all that remains to be done to achieve a minimum of protection for human beings in peril, including those who are the victims of disturbances and tension within their own countries. And in this particular instance, commemorating these events means calling once again for mobilization of humanitarian resources and for the development and enforcement of elementary humanitarian rules, so as to avoid the recurrence of tragedies such as those witnessed during the Second World War.

This is also a time to remember how deeply the International Committee was divided, between 1939 and 1945, when countless civilians fell victim to Nazi persecution. The two books that have just come out on this dark chapter of twentieth century history and that are extensively reviewed below (see p. 375) are an invitation to us all to reflect on the lessons that must be drawn, today as in the past, from the pitting of law against violence, reason against fanaticism.

The Review

The First Geneva Convention

by Jean Pictet

In ancient times some of the great commanders were accompanied on their campaigns by their personal doctors. The Romans had at least one doctor for each cohort (about 500 to 600 men), and a legion, which consisted of ten cohorts, had a *medicus legionis*, probably a sort of chief medical officer. At the time of the Crusades, the Sultan Saladin gave an example of humanity by authorizing the doctors of the adverse party to care for the Christian prisoners and then to return through the lines. Arab doctors treated Saint Louis. But it was not until the sixteenth century that an organized medical service was started in European armies. It was still, however, sadly inadequate.

Things improved notably in the eighteenth century as a result of civilizing influences. After the battle of Fontenoy, in 1745, all the wounded were cared for by an entirely effective medical service. Had Henry Dunant been alive then and arrived on the battlefield he would have found no reason to be critical and even less to propose creating the Red Cross.

During the French Revolution and under Napoleon, however, the introduction of conscription led to mass warfare, resulting in a horrifying regression in humanitarian standards. In the second half of the nineteenth century, during the Crimean and Italian wars, 60% of the wounded were to die for lack of adequate care.

The time was therefore ripe for the appeal launched in 1862 by Henry Dunant, the involuntary witness of the tragic aftermath of one of the bloodiest battles in history. And the nineteenth century was not a foolish time. It was a time of much generosity, of great fellowship, the precursor of modern humanitarianism, and the abolition of slavery and the creation of the Red Cross were its two crowning achievements.

We know that a committee of five private individuals was formed on 17 February 1863 to study Dunant's proposals. This was in fact none other than the future International Committee of the Red Cross. These pioneers, most of them without much power or authority, but possessed of an irresistible faith in mankind, were to be the originators of both the Red Cross and the Geneva Conventions.

At the time, the main task was not, as might generally be believed, to establish the principle that the wounded should not be finished off, or that friend and foe should receive the same care. These had already become customary rules, and they were more or less respected at Solferino. It was sufficient for the Convention to confirm the custom by making of it a formal undertaking, valid at all times.

No, the major change which had to be made in international law was to obtain special status, or "neutrality", as it was then called, for all medical personnel. In a complete reversal of the practice at the time, medical personnel would no longer be taken prisoner. They were to be allowed to continue their work and then be handed back to their own armed forces. Thus, no longer fearing the loss of his doctors, the military commander would be able to leave them, in the event of a retreat, with the wounded, and the wounded would no longer, as had so often been the case, be left behind to die.

This idea came to Dunant and his Dutch friend Basting as a blinding revelation in Berlin, where they were taking part in the Statistical Congress.

The notion of neutrality having been favourably received in Berlin, Dunant decided to place it on the agenda of the Conference convened by the Committee of Five in Geneva for October 1863. This he did without consulting his colleagues, whom he knew to be more prudent. This Conference, we know, was to found the Red Cross, by which voluntary aid societies were to be organized in each country, prepared to assist army medical services. Basting won support for "neutrality", in spite of resistance on the part of some of the delegates. The Conference was not, however, empowered to deal with legal questions.

This was to be the concern of the Diplomatic Conference which was convened the following year and which concluded the initial Geneva Convention, praised by the well-known legal expert Bluntschli as "one of the noblest achievements of the human spirit". The Convention firmly established the principle of "neutrality", which was thenceforth to cover, apart from the wounded themselves, the buildings giving them shelter, personnel caring for them and all equipment allocated to them.

One grows accustomed so quickly to the benefits of civilization's great achievements that it is difficult to imagine the paramount importance and influence that the Geneva Convention, with its ten brief articles, had on the law of nations.

Without the Convention, war would in fact have remained what it always had been, the merciless unleashing of barbarism. Certainly war still was that. Now, however, there were limits to the barbarism, for one day in August 1864 States sacrificed a small portion of their sovereignty to the requirements of humanity. Such was the price for a breach in the age-long hatred of man for his fellow man.

For the first time in history, countries agreed to limit their own powers on the international level in favour of the individual and in the name of an altruistic obligation, recognizing an inviolable space into which neither fire nor sword could penetrate. For the first time, war gave way to law.

The Geneva Convention, which was revolutionary for its time, is therefore the cornerstone of all humanitarian law, which aims to protect the victims of hostilities. Its principle, at first limited to wounded soldiers, has gradually been extended to the other categories of persons deserving of special attention.

But that's not all. The impetus given to international law by the 1864 Geneva Convention went much further. It led to the conclusion of The Hague Conventions of 1899 and 1907 governing the conduct of hostilities and limiting the use of certain weapons.

It can even be said that recent efforts to settle conflicts peacefully and to make war unlawful are also indirectly the result of that modest Geneva Convention, the first seed of peace sown in the midst of the fighting.

At the Conferences of 1863 and 1864 another, no less delicate, problem had to be resolved. What banner could these warriors without weapons bear, a banner which would also be the visible symbol of their protection in battle? The answer was the flag which was destined for such noble purpose and which was to be unfurled in the fury of battle all over the world: the red cross on a white ground.

Dunant emphasized the need for an emblem which would be the same everywhere. His colleague, Dr. Appia, proposed the white armlet to the 1863 Conference, but it was pointed out to him that that was the sign already used for parleys and surrender. Someone, apparently the German delegate Loeffler, then suggested that a red cross should be added to it and this immediately won every vote.

“As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours”... That was the text of the Geneva Convention, but in its revised version of 1906. Contrary to popular opinion, the founders of the Red Cross, in creating the new emblem, did not consciously reverse the Swiss colours.

In fact the minutes of the Conferences are silent on this point and no text from that period alludes to such a connection. The express intention of reversing the Swiss colours to form the red cross is indeed only mentioned after 1870.

It should not be forgotten that the red cross on a white ground is a symbol of neutrality and that it is therefore devoid of any national or religious significance. The assemblies which had created it wished it to be thus. The sign of immunity could not assume a political or a denominational sense, since it was to extend over the whole earth and, consequently, to cover people of all faiths or of no faith. The red cross means only one thing on its own, but that is sufficient for it: a man who suffers is no longer an enemy and he will be given aid without distinction, without having to give his name, simply and solely because he is a man and is suffering.

Two years after its conclusion, during the Austro-Prussian war of 1866, the Geneva Convention received its baptism of fire. It gave striking proof of its value, especially at Sadowa, a battle which was almost as murderous as Solferino with its 40,000 dead and wounded. Prussia had signed the Convention, Austria had not. Prussia, however, decided to apply it unilaterally. It had perfectly organized hospitals, the Prussian Red Cross was everywhere at work; everything went the way it was supposed to. The very opposite happened with the Austrian army, which in retreat left its wounded behind without care. The bodies of eight hundred wounded Austrians, left to die, were found in a clearing near Sadowa.

The Geneva Convention was first applied by both parties in a war of exceptional ferocity, the Serbo-Bulgarian war of 1885. First the Serbian army entered Bulgaria, then the opposite happened. The retreating Serbians left behind a considerable number of wounded, but medical detachments stayed with them. The victims were collected and cared for without distinction, medical personnel then passed through the lines and news was exchanged through the ICRC. As a result, the mortality rate of Serbian wounded fell to 2%. This sudden drop could certainly not be ascribed to the Red Cross and the Geneva Convention alone, for antiseptic techniques had also just been developed.

This time the States understood that respect for the Geneva Convention was to their most basic reciprocal advantage. No one would ever again contest this.

To conclude, allow me to quote the great Pasteur: *“Today there are two different laws fighting each other. One law of blood and death which, whilst each day inventing new methods of warfare, forces people to be constantly prepared for the field of battle, and the other, the law of peace, of work, of salvation, which only thinks of delivering man from the scourges which beset him.*

The one seeks nothing but violent conquest, the other only to ease the suffering of mankind. The former would sacrifice hundreds of thousands of lives to the ambition of one man and the latter places one human life far above any victory.”

Jean Pictet

*Honorary Vice-President
of the ICRC*

The Geneva Conference of August 1864 as seen by the Geneva press

by **André Durand**

The Geneva Conference of August 1864 was held behind closed doors. A drawing published in the satirical paper the *Carillon de Saint-Gervais* is indicative of the reaction of journalists to this decision. It depicts three characters, symbolizing three Geneva newspapers, the *Journal de Genève*, *La Démocratie suisse* and the *Carillon de Saint-Gervais*, locked out of the International Congress whose door bears a sign saying “no entry”. The caption translates as follows: *Tribune open to the press, courtesy of the International Congress*.¹ This was probably the first manifestation of a certain reserve which has been apparent on occasion in relations between the humanitarian agencies and the media. Happily, times have changed. Nowadays, information and dissemination have become essential components of the policy of the International Committee of the Red Cross, and it may safely be assumed that a cartoonist illustrating an International Conference would now show the doors wide open.

It must be borne in mind that the 1864 Conference was a diplomatic gathering, convened by the Swiss Federal Council. The Swiss Government possibly had reason to fear that the success of the Conference might be jeopardized by political comment or even incidents. At the time, the policies followed by the big powers were vigorously contested by a section of the Swiss press, particularly the radical press. The empires of the times, which were engaged in a policy of territorial conquest or repression of ethnic minority independence movements,

¹ *Carillon de Saint-Gervais*, drawing by Félix, 13 August 1864, No. 33. See reproduction on page 283.

CONGRÈS INTERNATIONAL DE GENÈVE POUR LES SECOURS AUX BLESSÉS.



Tribune ouverte à la Presse, par le Congrès International.

Carillon - Août 1864.

would not have appreciated their representatives being taken as targets for demonstrations or criticism. It should be noted that the Geneva Conference of 1863, which was organized by the International Committee, had also been a private affair.

Nevertheless, the International Committee was well aware of the value of widespread information and of the need to secure the support of public opinion as a prerequisite for its development. At the Committee's first meeting on 17 February 1863, Dr. Théodore Maunoir had emphasized the fundamental value of information: "*It would be useful if the Committee kept agitating, if the expression may be allowed, for the adoption of our ideas by all, both high and low, by the rulers of Europe, no less than by the peoples*". And in Henry Dunant the International Committee had a first-rate propagandist, a pioneer of what we have come to know as public relations. Thus, it did not neglect the press, which it took pains to keep informed about its plans and achievements.

At that time, the Geneva press was essentially political. Two parties were vying for power—the radical party, in government, and the opposition comprising conservatives, independents and democrats. The radical paper was *La Nation suisse*, which had taken over from James Fazy's *Revue de Genève* in 1860; the conservative organ was the *Journal de Genève*, managed since 1849 by Jacques Adert. Then there was a further daily, *La Démocratie suisse*, founded in 1863 with the participation of John Braillard, representing the democrat party. The leading and longest-standing denominational newspaper was the Protestant weekly *La Semaine religieuse*. The tradition of satirical journals was upheld by Philippe Corsat in the *Carillon de Saint-Gervais*, a humorous paper with a roguish and irreverent outlook quite representative of the spirit prevailing in the working-class quarter whose name it bore.

The public had already been informed of the results of the October 1863 Conference in an article printed in the *Journal de Genève* on the 30th of that month. The Conference's recommendations and resolutions had been published (*Journal de Genève*, 30 October, and *La Nation suisse*, 2/3 November). In addition, the *Journal de Genève* had published two editorials, on 20 and 21 November 1863, the first devoted to the Conference's general aims and the second to the subject of volunteer relief workers, providing some historical background to the problem of improving the army medical services in various countries.

During the first half of 1864, more diverse and extensive information was made available, both in the press and by way of information booklets, reporting on several important activities undertaken by the

International Committee: promotion of the national relief societies, the dispatch of delegates to the scene of the Schleswig-Holstein war, preparation of a diplomatic conference to consider the recommendations made by the October 1863 Conference.

On 19 January, when announcing that the Zähringen Lion Cross had been awarded to Dr. Appia by the Grand Duke of Baden, the *Journal de Genève* wrote: “*The Grand Duke of Baden is one of the first rulers to demonstrate his interest in the creation of the relief committees for the wounded, an eminently philanthropic project which we owe, as is widely known, to the unflinching efforts of Mr. Henri Dunant*”.

On 20 February 1864, the *Journal de Genève* published a lengthy editorial entitled *Results of the International Conference*, containing the text of the International Committee’s circular inviting governments to take part in a diplomatic conference to give effect to the recommendations of the Geneva Conference of 1863, and a long commentary on the role of relief committees in the Schleswig war and in the American War of Secession. On 27 March, the *Journal* announced that Dr. Appia and Captain Van de Velde were being sent to the scene of the Schleswig-Holstein war. Captain Van de Velde, a former Dutch navy officer, had delivered two lectures on Palestine to the Geneva Geographic Society on 26 February and 4 March (*Journal de Genève*, 24 February) and had probably been in contact with the International Committee on that occasion.

On 6 April 1864, the *Journal de Genève* printed a report of the mission carried out by Dr. Appia, the delegate to the Austro-Prussian forces. This first intervention by the International Committee on the scene of a conflict, undertaken even before the Geneva Convention had been adopted, was used as a supporting argument in favour of the projects put before the next diplomatic conference:

... *Wearing the white armband with the red cross adopted by the Geneva Conference, he was allowed access everywhere his presence was required to fulfil his mission, and was able to bring the wounded some relief on behalf of the Geneva committee. The conference’s work is very well received in all quarters, and its resolutions are generally considered to be quite acceptable. A number of volunteer nurses have already proven their worth in Schleswig, and their services were highly appreciated. In particular, they have passed a crucial test, providing a clear answer to the important question of whether their intervention on the battlefield would not be a hindrance or an embarrassment.*

The latest news (1 April) reports that Mr. Appia was in the front line just when heavy exchanges of artillery fire were about to begin.

The *Journal de Genève* was emerging to some extent as the International Committee's spokesman. *La Nation suisse*, for its part, devoted numerous articles in 1864 to the International Committee's projects, more so than in 1863, when it had confined its coverage to a few general articles on the work of the Committee and the October Conference. However, its interest grew from the beginning of 1864. Its directors had probably become aware of the humanitarian and internationalist dimension of the Committee's ventures. Moreover, General Dufour, the first President of the International Committee for Relief to the Wounded, was held in high esteem and respected by the radical party, and especially its President, James Fazy, for his firm yet balanced attitude to the Sonderbund war in 1847 and for his liberal beliefs which distanced him from any hint of sectarianism. As for Henry Dunant, despite his political opinions more akin to those of the conservative camp, the benevolence he displayed in his struggle against all forms of injustice, and particularly against slavery, won him the sympathy of the radical newspaper. The War of Secession was at its height. *La Nation suisse*, which had actively taken the part of the anti-slavery Federal Government against the Southern Confederation, necessarily supported Henry Dunant in his campaign. Reviewing the work published by Dunant at the end of 1863, *L'Esclavage chez les Musulmans et aux Etats-Unis d'Amérique (Slavery as practised by the Muslims and in the United States of America)*, the radical newspaper wrote, in its edition of 21 February 1864:

... We strongly urge our readers to purchase this work, which is available from the main booksellers in Geneva. We recommend it to all those have not the opportunity to see slavery for themselves in countries where it is still practised, but want to know the true nature of this loathsome institution. The passages it contains are more eloquent than any long narratives; they have the merit of setting out irrefutable facts, in concise terms, and of proving that the followers of the Koran who once traded slaves did so at least with some discernment and humane feelings which show them in a relatively favourable light in comparison with the odious and horrible behaviour of the Christian slave-traders in the South of the United States.

We extend our congratulations to the author of L'Esclavage et chez les Musulmans et aux Etats-Unis. The work is a worthy sequel to the

philanthropic action undertaken by Henry Dunant in his book Souvenir de Solferino (sic) (A Memory of Solferino). Let us hope that both works help to achieve the humanitarian aim which inspired the author.

The public in Geneva still knew little about the work of the United States Sanitary Commission, an organization to assist the wounded set up in New York during the first year of the War of Secession. Its activities had been mentioned very briefly in the *Journal de Genève* article of 21 November 1863 giving background information to the Conference. It was not until February 1864 that the Sanitary Commission began to be known in Europe, through its office in Paris. In Geneva, it became known thanks mainly to Henry Dunant's contacts with William B. Bowles, secretary of the Commission's European office, and through the documents published by Dr. Th. Maunoir. In its 22/23 February edition, *La Nation suisse* devoted an extensive editorial to the work of the United States Sanitary Commission (without actually referring to it by name), describing its structure and activities, in particular for the wounded ("it treats wounded members of the rebel armies on an equal footing with its own") and for the well-being of combatants ("it looks after the physical well-being of an army of 500,000 men scattered over a vast area of the country"). On 25 February, the radical journal announced a collection in favour of those wounded "in the war under way in the United States against the Sonderbundians²", stating that "the editorial staff of *La Nation suisse* will forward donations from the Geneva area to the United States Consulate in Basel".

In the Schleswig-Holstein war, often referred to as the "war of the Duchies", the radical newspaper took the side of Denmark and in its editorials levelled constant attacks against the Austro-Prussian forces and Marshal Wrangel. Committees supporting Denmark's cause were formed in Lausanne and in La Chaux-de-Fonds. On 16 March, *La Nation suisse* published a letter from Professor Galiffe, who undertook to dispatch "lint and bandages without delay and directly to the DANISH army's wounded"³. On 21/22 March, *La Nation suisse*, which appeared

² The author of the article uses this term to draw a comparison between the secession of the Southern Confederation in the United States and that of the Swiss cantons of the Sonderbund in 1847.

³ The letter was signed Galiffe, giving the address 3 rue des Belles-Filles (today rue Etienne-Dumont), first floor. The author was Jean-Barthélemy-Gaïfre Galiffe, commonly called John (1818-1890), Professor of National History at the University (1861-1865). He continued to handle publication of the *Notices généalogiques sur les familles genevoises* (*Genealogical notes on Geneva families*) started by his father Jacques-Augustin, or James (1778-1853). Of his numerous erudite works on history, let us quote one pamphlet which

to have inside information, announced that: “*The central committee founded by our distinguished compatriot, Mr. H. Dunant, to bring relief to the wounded on battlefields, intends to send delegates to the scene of the war in Schleswig-Holstein, and has requested the Federal Council to provide letters of recommendation*”. The article stated that the delegates had not yet been appointed, and that the letters of recommendation were open. More details were given on 30 March: “*We have already had occasion to report to our readers on humanitarian aid, which we owe to the initiative of our distinguished compatriot, Mr. Henri Dunant, with the aim of organizing societies to relieve the wounded on battlefields...*”. The article stated that the Geneva Conference’s plan was being implemented by the population in Schleswig-Holstein in the vicinity of the battlefields, and named the Committee’s delegates. Furthermore, it was announced in the same issue that volunteers had been recruited in Kiel to bring relief to the wounded, without distinction as to nationality.

We thus see two conceptions and two practices emerging with regard to assistance to victims of war. First, the type of assistance provided by the committees founded in Geneva and elsewhere in Switzerland to provide relief to Poland, to the Federal Government of the United States, to Denmark. The aim here was to assist populations or nations which had fallen victim to injustice or aggression. Secondly, the work of the International Committee for Relief to the Wounded, which set out to provide assistance to the medical services of both parties, without discrimination. This practice, which is consistent with the policy of the International Committee of the Red Cross, was highlighted at the International Committee’s meeting of 13 March 1864, when the question of sending delegates to the scene of the war of the Duchies was raised: “*General Dufour stressed our duty, in the present circumstances, to send two delegates, one to Germany and the other to Denmark, if we were to preserve our character as an impartial and international body*”.⁴

The existence of these two approaches—earmarked aid and non-discriminatory aid—has since frequently given rise to comment. The first remark on the subject may be found in a second letter from Professor Galiffe published in *La Nation suisse* on 14 May 1864:

is of relevance here: *La question et la polémique dano-allemandes à propos des duchés de Sleswig et de Holstein* (*The question of Danish-German politics relating to the Duchies of Schleswig and Holstein*), Geneva, J. G. Frick, 1866. In 1866 Galiffe was appointed as Danish Consul and represented Denmark at the 1868 Geneva Conference.

⁴ Minutes of the Sub-Committee of the Society for Relief to the Wounded of 13 March 1864. J. S. Pictet, *The Foundation of the Red Cross — Some Important Documents*, in the *International Review of the Red Cross*, No. 23, February 1963, p. 73.

Some people have recently asked why no Danish committee had been founded in Geneva, along the lines of the one in Lausanne. If they had been following the matter closely right from the beginning, they would have understood that such a measure would be rather inappropriate in a town where, as in most of the other Swiss cantons, the press had opposed from the outset any action which might give the impression that the country was taking sides in an affair which it was thought did not concern it. No doubt it is a good thing that sympathy for Denmark has finally tipped the balance, thereby raising more than the Geneva International Committee could have collected in view of the rigorously impartial role it has set itself

This observation by Professor Galiffe was to earn him the thanks of the Danish delegate to the Conference:

We have learned that Mr. Fenger, a Danish State Councillor and former Minister, delegate to the International Congress, has visited Professor Galiffe to express his compatriots' gratitude for the tokens of friendship which many citizens of Geneva gave the Danish people during the last war (La Démocratie suisse, 16 August 1864).

At that time, the International Committee was working hard to prepare the Diplomatic Conference. Henry Dunant had returned to Paris at the end of March 1864. Pursuing his consultations and representations with the Imperial Government, he had secured France's support to the holding of a European conference, to be convened in Geneva by the Swiss Federal Council. The International Committee was informed of this in his letter of 21 May.

From then on, things moved fast. On 24 May, Gustave Moynier travelled to Bern where he obtained the agreement of the Federal Council, and on 26 May the International Committee addressed to the Federal Council the official request to convene the Diplomatic Conference.

The 28 May edition of *La Nation suisse* contained a glowing review of Henry Dunant's latest work:

A 36-page publication entitled La Charité sur les champs de bataille (Charity on the Battlefield) is now available, the proceeds from the sale of which are to go towards the foundation of the Society for Relief to the Wounded. The publication is the work of Mr. J.-Henry Dunant, the author of Souvenirs de Solférimo (sic), who continues his tireless efforts

to fulfil the philanthropic mission he has launched It contains important documents, the resolutions adopted at the International Conference held [in Geneva] on 26, 27, 28 and 29 October 1863, circulars, the names of members of the Conference, extracts from newspapers which supported the Conference's resolutions and a lithograph portraying a military ambulance. The booklet, printed on quality paper, indicates in a review of the situation that governments are acceding to the Conference's resolutions in quick succession, and invites any societies which are formed to contact the Geneva Society, of which Mr. H. Dunant is the Secretary.

The same edition of *La Nation suisse* announced the second meeting of the Conference:

It is planned to hold a second international conference at Geneva, with the same objective as its forerunner in Octobre 1863, namely to discuss the foundation of societies to bring help to the wounded on battlefields. The societies would be called International Military Nursing Societies (Sociétés internationales des hospitaliers militaires). As decided at the October Conference, the volunteer nurses or first-aid orderlies, under the direction of permanent committees in different countries of Europe, would be attached to the belligerent armies and would all pursue the same philanthropic aim. We express the hope that this humanitarian venture will soon be crowned with success.

The International Committee was probably somewhat distressed to see its plans given such advance publicity, before the States involved had even been officially convened by the Federal Council. Moreover, although very supportive of the Committee's plans, the note in *La Nation suisse* contained an error. The purpose of the Conference was not to discuss the foundation of relief societies (a matter which had already been settled at the Geneva Conference of October 1864), but rather to negotiate neutral status for the military health services and the wounded, and adopt a common emblem to ensure their protection. The International Committee felt that the time had come to set the record straight. Gustave Moynier advised Henry Dunant of this decision in a letter of 1 June 1864:

... I am still awaiting the official reply from the Federal Council in Bern. Meanwhile, we have drafted a Geneva preview for the Journal, to retrace how things developed and specify everyone's precise role in

respect of the forthcoming Congress. We consider it important to publish such a document as soon as the matter is settled, in order to forestall any false rumours. We shall have it printed separately and sent to our correspondents

Before publishing its message, the International Committee waited until the Federal Council had officially contacted the invited States, which it did on 6 June 1864. The article in question, which was published in the *Journal de Genève* on 14 June, was also printed separately. The author was most probably Gustave Moynier himself:

A Diplomatic Congress is to be held in Geneva on 8 October next to discuss the plight of combatants wounded on the battlefield. On the basis of information which we can guarantee to be totally reliable, we are in a position to relate the circumstances which led to this important decision.

*Our readers are aware that an International Conference was held in our town on 26 October 1863 to consider ways and means of remedying the inadequacy of the health services available to armies at war. The Conference was convened at the initiative of a commission of the "Société d'utilité publique" (Public Welfare Society), prompted by the publication of Mr. Henry Dunant's book entitled *Un souvenir de Solferino*. It will also be remembered how readily eminent men from various countries, virtually all delegated by their governments, responded to the appeal launched from Geneva.*

After reproducing the text of the October 1863 Conference's recommendations, the article goes on to describe the role that the International Committee, established as a result of the Public Welfare Society's initiative, had played in bringing about a diplomatic conference, as well as the Federal Council's role in convening it:

The sub-committee of the Public Welfare Society, which had been converted into an international committee responsible for the Conference, then consulted most of the cabinets of Europe to ascertain how far they would be willing to implement the recommendations emanating from the first Conference.

Having received 13 affirmative replies, the Geneva Committee felt that the time had come to call an official Congress in order to draw up an international arrangement which would have force of law among the contracting parties. However, the Committee considered such a step, which could only be achieved through diplomatic channels, to be beyond

its own competence. Accordingly, it requested the Swiss authorities to take the initiative of inviting all the sovereigns to meet to discuss the provisions to be introduced in the law of nations as regards the status of the wounded and persons bringing them relief. The Federal Council acceded to the request, and the Congress is to be held under its auspices.

The article then takes pains to specify France's role—probably in order to make it quite clear that France, while supporting the International Committee's plans, was not the inviting power:

It is quite certain that all States will agree to send plenipotentiaries to Geneva. Not only have we already been advised of the favourable attitude of the majority of States, but also there is likely to be a race to demonstrate charitable generosity, in which no one will wish to appear to be lagging behind. In addition, a mighty military power, France, has announced that it will give the Geneva Committee's venture its whole-hearted support, and its agreement alone will remove many obstacles.

The author of the article concludes by expressing the hope that "*the Geneva Treaty will provide a resounding confirmation of the International Committee's theories*".

Thereafter, and right up to the opening of the Conference, the newspapers announced, as they were informed, the names of the States which were to be represented in Geneva and the names of their delegates, in particular the composition of the Federal Council's delegation: General Dufour, Gustave Moynier and Dr. Lehmann, Chief Medical Officer of the Federal Health Service. At that time, much space in the foreign press was being devoted to commenting on the peace talks in the war of the Duchies, and the local press was busy talking about the preparations for the September celebrations to mark the fiftieth anniversary of the Republic of Geneva's integration into the Confederation, about the contest for the design of a monument to commemorate that event and above all about the campaign for the election of a new Geneva State Councillor, in which the independent Arthur Chenevière was running against the radical James Fazy.

There was, however, one false note in this harmonic concert of approval. It was to be found in the *Carillon de Saint-Gervais*, whose subtitle, *Charivari suisse*, clearly indicates its intention, like the Parisian newspaper of the same name, to take a virulently satirical view of local and foreign political activity. The editor, Philippe Corsat (Pippo), a radical but by nature somewhat of a libertarian, gave vent to his

aversion to war when commenting on the dispatch of the International Committee's delegates to the scene of the war of the Duchies. To his mind, sending relief supplies and volunteer nurses—which is how people often saw the aims of the Convention—freed the belligerent States from their responsibilities and thereby fostered war, whereas priority should in fact be given to the victims of labour. His tirades against the “royal assassins” and “crowned lunatics” would probably not have pleased the representatives of the empires, kingdoms and principalities attending the Conference, if they had had the opportunity to read the *Carillon de Saint-Gervais*.

After recalling that the King of Prussia had accepted “dressings for the wounded”, Corsat writes:

... What a good idea! What a wonderful idea! I, who am a former barber's assistant⁵, I'll come with you. But, as we go off to the war waged by the strong, those invested with divine right, against a small people, not to free Holstein from the domination of a king, but to share it out among themselves, as we go off to relieve the wounded, do not forget, Messrs. Dunand⁶, Appia and friends, that behind me there are out-stretched hands, hands which have never fired blindly, have never obeyed the order to shoot, have never killed nor wounded anyone, the out-stretched arms of our own wounded, our compatriots and brothers, the arms of workers who crumble under the weight not of cannons but of safety deposit boxes, not of rifles but of bank accounts, weapons belonging to the rich who have shot them to pieces and ground them down with work and misery ...

So, remember, proud orderlies, that when I put on the nurse's uniform given to me by the kings, I have the impression that it would be better to make the soldiers themselves fairly and squarely responsible for obeying the chiefs of the royal brigands who have taken them from their fields and workshops to offer them up as cannon fodder; that, to put an end to war, it might be better to start by treating the crackpot cretins, the raging madmen who hold the destiny of their people in the palm of their hand; that it would be better to calm those crowned lunatics who, tiring

⁵ In the days of barber-surgeons, Philippe Corsat had completed an apprenticeship as a barber's assistant with a relative in Lyon, and exercised the profession of barber for a while in Geneva. See Jean Pierre Chuard, *Philippe Corsat (1809-1874), éditeur du "Carillon de Saint-Gervais" et ses amis vaudois*, taken from the *Revue historique vaudoise*, 1981.

⁶ *Sic.* As stated earlier, the International Committee delegates were Captain Van de Velde and Dr. Appia.

of animal meat, spill human blood and laugh at the stupidity of their slaves, their servants, the peoples who bleed to death in order to quench their thirst.

So, as we go to relieve the wounded, to do our humanitarian duty, I say to myself that it would be more humane to gain the esteem of the wounded who cry misery in silence in our own country rather than to be awarded medals by kings for mopping up war's horrors and disgraces; that by going to do what is their job, the prime responsibility of those who kill and order others to kill, we are helping them make savings on their budget which they will spend to improve their cannons, asphyxiating rockets and stunning bombs.

Yes, I'll come with you, Sirs, let us make haste to treat those wounded in ungodly wars! But, please, let us not forget that war must be ended by its own excesses, that the children of the people must rise up against the crowned brigands, including its own sent to the butchery ... who must bear the consequences of their abject obedience ... Then I will go with you to relieve those wounded in the royal wars, but on condition that you refuse the medals awarded by those who are the cause of all the deaths and wounds.

Corsat took the subject up again on 6 August, in a parody proposing his own peace programme for the Congress.

La Démocratie suisse devoted two editorials to the Geneva Congress, in its editions of 19 and 21 July. These two articles were probably written by Henry Dunant, or at least inspired by him. Indeed, lengthy passages were reproduced in the pamphlet he published in late July or early August, entitled *Le Congrès de Genève — Août 1864*. In the first of the two, the editor, after reviewing Henry Dunant's proposals and the resolutions of the Conference of October 1863, goes on to say that:

It is highly important that we should lend our name to an idea embracing humanity and progress. Indeed, this Congress which is barely mentioned in Geneva, is much more highly appreciated abroad.

The objective of the Congress is not in the least utopian. Since war is an unavoidable evil, there is considerable value in endeavouring to make it a less cruel affair ...

In the editorial on 21 July, the editor describes the results achieved in America as regards relief for the wounded, and makes what is apparently the first reference, alongside the Sanitary Commission, to the Christian Commission, an offshoot of the Christian Youth Union:

Mr. Dunant's initiative is a charitable one, and it is for this reason that it has survived. Only false ideas die and pass into oblivion.

Moreover, the idea has already been partly put into effect. North America, which when it comes to taking practical measures is not afflicted by the same hesitations as our old Europe, has taken the first step towards the goal pursued by the International Congress, a first step which has been a success.

Two free associations were recently formed in New York. One, called the Sanitary Commission, has set itself the task of supplying Unionist soldiers with the clothing and supplies they are often lacking. The other, called the Christian Commission, is more akin to the work of volunteer nurses; its workers distribute relief, follow the armies, run the ambulance service and treat the wounded even within firing-range of the enemy ...

The author concluded by expressing the hope that the State representatives' stay in Geneva would serve to dispel "*the false ideas prevailing elsewhere on the abuse of democracy*" and that they would return home "*praising the hospitality with which they were received and admitting the merits of our republican Constitution after having understood how order can be born of true freedom*". This hope was to be somewhat dented by the political riot of 22 August.

On the eve of the Conference, the International Committee published in the *Journal de Genève* (7 August 1864) an important communication on its true objectives, which were often misunderstood. It was pointed out that the purpose this time was to implement the recommendations of the 1863 Conference, in other words to secure neutral status for the wounded and anyone providing them with treatment:

The Federal Council has invited various governments to send delegations to Geneva to take up the specific matter of neutrality. We are in a position to state that it is quite possible or even probable that this meeting of the Congress will generate, in some form or other, an international treaty under which the contracting powers undertake to grant neutral status to severely wounded soldiers and the medical staff giving them treatment, in other words not to take them as prisoners of war ...

*

* *

By taking on an international character right from its very inception, the Red Cross placed itself in the internationalist current which characterized the second half of the nineteenth century. At that time, two large international organizations were developing or being formed. The first, which emerged from the pacifist movement, made itself known at the Peace Congresses, the first of which was held in London in 1847, followed by Brussels, Paris, Frankfurt and soon after Geneva in September 1867 and Lausanne in 1869. The second, the International Working Men's Association, was established in London in September 1864, less than one month after the Geneva Diplomatic Congress. At the same time, a section of the Workers' International was being formed in Geneva⁷, and indeed it was in Geneva from 3 to 8 September 1866 that the first congress of the International took place after the founding congress in London.⁸

To the objectives of these two movements, that is, the struggle against war and the struggle for emancipation of workers, the Red Cross added a third: the struggle against suffering. The origins of the Red Cross were completely different from those of the other two movements and it necessarily adopted a different approach. The organizations struggling against war and social misery were striving for fundamental reform of the structures of society, which could only be brought about in the long term. The International Committee, on the other hand, was undertaking emergency action. It was thus obliged, by definition, to accept society as it was, to admit that war was a reality and to negotiate with those who were in a position to declare or wage war. Highlighting the fact that a utopian attitude "*which would never have achieved anything tangible*" had no place at the Geneva Conference of 1863, the *Journal de Genève* had written that. "*It is with this in mind that in their opening addresses General Dufour and G. Moynier took care to forestall in advance any involvement of the theory of universal pacification*".⁹ This attitude could have met with criticism or even hostility on the part of the progressive pacifist and workers' movements, some sections of which might have considered that the organization of relief might

⁷ *Journal of the International Working Men's Association*, French-speaking Swiss Section, Geneva, December 1865.

⁸ Antony Babel, *La Première Internationale, ses débuts et son activité à Genève de 1864 à 1870 (The First International, its early days and its activities in Geneva from 1864 to 1870)*, Vol. VIII of the Publications of the Faculty of Economic and Social Science of the University of Geneva, Georg & Co., Geneva, 1944, pp. 256 ff.

⁹ *Journal de Genève*, 20 November 1863.

indirectly serve the interests of those responsible for war and that priority should be given instead to the struggle against social misery.

These objections could not be neglected at a time when the emerging Red Cross was endeavouring to establish itself independently of any political considerations. On the opening day of the Conference, in its 8/9 August edition, *La Nation suisse* published a lengthy article on the event, signed with the initial L., in which the question of the Red Cross relationship with the phenomenon of war and social problems was scrutinized and analysed. In the article the author refers to the criticism and objections levelled at the new humanitarian movement in order to refute them. However, the attention he gives them shows that he realizes their importance and feels that it is useful to take them up and contest them.

After paying tribute to the “*citizen who launched the movement*” and recalling the “*work, often held up by setbacks, which had been accomplished in order to secure the now certain implementation of what was a benevolent idea*”, the author of the article discusses a first objection to the effect that humanitarian assistance would foster war:

In marking our support for the Congress and expressing our most sincere wishes for its full success, we wish to avoid any misunderstanding, and to eliminate any suspicion that such a congress might ultimately enable States waging war on their neighbours to devote fewer troops to the health services, to convert nurses into soldiers and to save the lives of some soldiers so that they can bear arms again and resume the destructive task for which they are sent to the battlefield.

To believe that the International Congress meeting in Geneva could have this effect would be tantamount to believing that it would be of no use to the people, but only to those who have the power to declare and wage war, tantamount to believing that, unknown to its sponsors and those under whose auspices it is held, the Congress will serve to perpetuate the horrors of the battlefield. This is inadmissible and runs contrary to logic and common sense; yet here and there we find people who are not afraid to make such assertions. According to them, the best and most effective way of preventing slaughter on the battlefield is to let it happen, so that, if possible, it produces even more horrendous results than at present. In other words, in the minds of such opponents, evil can only be cured by the excesses of evil itself.

All new ideas, even the most generous, at some stage come up against strong opposition. It should therefore not be surprising to find that there is no exception to this rule for the idea of charity on the scene of fighting,

provided by men from all nations, without distinction as to nationality, be the armies involved monarchist or republican, irrespective of whether they are fighting for despotism or freedom.

There is even less justification for such assertions, the author goes on to say, insofar as *“there is no question of suspecting Switzerland, which has convened the Geneva Congress, of acting blindly and of being misled by a benevolent idea”*.

The author subsequently evokes the day when war will be banned, when peoples *“realize that they all share the same interests, and will no longer march against one another in destructive confrontation but will move forward together hand in hand, to foster all that is good and useful, to install fraternity and liberty. We trust that this day is not far off, but it has still not yet arrived, and our own and other generations will have passed on before seeing it.*

Thus, for some time to come, war must still be seen as a possibility; and if war is an unavoidable evil, all that mankind can honourably do is mitigate its effects. Independently of any political conviction, philanthropy makes this a duty ...

The author then refutes the argument that official relief is or at least should be sufficient: *“The truth is plain to see, proven by statistics: fewer men die in fighting from the bullet or from fire than from the lack of prompt and effective first-aid ...”*.

Then comes an argument which does not seem to have been raised by the delegates at the Congress—equality of treatment would not only be guaranteed for the wounded of different nationalities, but also the wounded of different ranks:

That is undeniable, but it is no less undeniable that first-aid assistance given to wounded soldiers is granted first and foremost and more promptly to senior officers who, by virtue of their position and rank, have their own doctors; if they are wounded, the attention of the medical corps is immediately focused on them, and they are given a more comfortable place in the ambulance. In view of their numbers and their exposed position in the heart of the battle, junior officers and simple soldiers cannot rely on such swift and diligent attention.

This is one of the disparities which the Geneva Conference is designed to eliminate, by providing sufficiently large numbers of relief personnel to ensure that all sufferers receive first-aid ...

The author then replies to a second objection—should priority not be given to victims of work?

Of course, in discussing the question of alleviating this frightful calamity which is war, we are not shying away from a second objection raised by the aforementioned opponents. There are victims, no less worthy of pity than the wounded on the battlefields, in the very heart of our cities and in the tiniest villages. Humble and honest workers, injured during their daily toil, people whose invalidity is caused by the kind of work which sustains, rather than by the work of Bellona which kills as an honour, the host of workers who from one dawn to the next face a whole range of dangers. These people, it will be said, warrant as much attention as conscripts who go to slaughter for a futile cause, to fulfil a personal ambition, a covetous desire for a stretch of land. Yes, we concur, this army of workers to whom society owes life, bread and comfort deserves the philanthropist's concern as much as soldiers, and we even suggest that they deserve it more and with greater honour.

However, this admission does not mean that the Geneva Congress is concerned with a secondary issue, or that it aspires to an aim which can be ignored. The two actions are not mutually exclusive, and just as we applaud the efforts of the noble men who will apply the idea of charity on the battlefield put forward in Souvenir de Solférino, we also applaud and encourage those who endeavour to apply charity in their everyday work.

In conclusion, *La Nation suisse* proffers the idea that assisting victims of war gradually bring about the abolition of war itself:

The Congress currently being held in Geneva therefore has our full backing; even more so since we recognize that it will have an effect reaching far beyond the momentary aid given to the wounded on the battlefield. We are convinced that the organization of first-aid dispensed to wounded soldiers by civilian health corps will instill and spread, even in the minds of the peoples most enslaved by the cult of war, the discredit with which men of heart contemplate war. We are certain that the presence of legions of voluntary relief workers following the belligerent armies will give those who organize battles food for thought and will make them understand that such massacres are worthy only of barbarian times, that they are the shame of the nineteenth century, and that men must cease honouring the most artful carnage. It is above all on that score that we welcome the Geneva Congress.

The radical newspaper therefore gave the Congress its unreserved support. This was all the more welcome insofar as, in the bipartisan political situation which prevailed in Geneva at the time, it placed the International Committee's ventures above party wrangling. It should also be pointed out that the two needs which it deemed just as important as relieving the victims of war, namely the campaign for peace and the attenuation of social misery, have since been incorporated in the programme of action of the Red Cross and Red Crescent Movement.

Thereafter, the press issued daily bulletins on the organization of the Conference and the composition of delegations. On Thursday, 11 August, *La Nation suisse* published the following commentary:

The first meeting of the International Congress in Geneva took place on Monday, at 1 p.m. The Congress elected its Chairman, General Dufour ...

The Congress is private, in other words no-one from outside is allowed to attend the discussions. Only the plenipotentiaries in possession of proper credentials are entitled to enter the meeting room. An exception has, however, been made for Mr. Henry Dunant, Secretary of the International Committee.

In fact, four observers were allowed into the Conference, but not given the right to participate in the discussions—Henry Dunant, Dr. Maunoir and Dr. Appia, in their capacity as members of the International Committee, and Captain Van de Velde, delegate of the International Committee and the Geneva Danish Relief Society. The *Carillon de Saint-Gervais* of 20 August, under the headline “*Work of the Congress*” spoke ironically of the “exception” enjoyed by Henry Dunant. The author, Pipoi (i.e. Pippo), imagined a conversation between a man named Fouillet and a doctor, clearly meant to represent Henry Dunant:

Fouillet — *Well then, Doctor, what was said at the Congress?*

Doctor — *They forgot me at the first meeting. When they let me in, I was not allowed to speak.*

Fouillet — *What, you, the instigator? Small wonder, my friend!... Now I understand why you sulk so ...*¹⁰

On Friday 12 August¹¹, *La Nation suisse*, under the headline “*Second Geneva Conference*”, devoted an article to the international confer-

¹⁰ *Carillon de Saint-Gervais*, article “*Work of the Congress*”, 20 August 1864, No. 34.

¹¹ Issue wrongly dated, Friday 11 August.

ence which brought together in the Palais de l'Athénée the delegates of the relief societies assembled in Geneva. This was an unofficial meeting, convened by the International Committee separately from the Diplomatic Congress, which was held at the Town Hall. The Athénée conference was described as a "semi-public" event, which probably meant that persons from outside the conference could attend. Accordingly, *La Nation suisse* was able to print a detailed report of the conference, beginning with a reminder of the role which the Congress would play in favour of peace:

A meeting of the International Committee for Relief to the Wounded was held yesterday, Wednesday, at 6.30, in one of the rooms in the Athénée.

Believing that the Congress currently being held in Geneva constitutes a first step on the road to universal peace, and that everything associated with this venture is of the highest significance for the whole of mankind, we hasten to give our readers a report on this supplementary meeting, which, while it does not enjoy the same diplomatic and official status as the meetings of the Congress itself, is nevertheless of immense interest to everyone who wishes to see the horrors of war gradually disappear ...

The newspaper goes on to conduct a review of the conference, summarizing the statements of the various delegates, in particular the addresses delivered by Charles J. P. Bowles¹², delegate of the United States, and Dr. T. Maunoir, concerning the role of the United States Sanitary Commission in favour of the wounded. The *Journal de Genève* of 13 August in turn devoted a large article to meetings held at the Athénée.

Little news was available on the debates of the International Conference since they were *in camera*. Yet there appear to have been some leaks, a fact which *La Nation suisse* protests against on 13 August:

The Paris newspapers, including the Havas agency and La Presse, are in a privileged position in comparison with the Geneva press. Mr. Emile de Girardin's newspapers and the eminently trustworthy agency known by the name of Havas have received from the International Congress information which might have been considered confidential right up to the last minute. Here is what, thanks to inside help, the aforementioned papers tell us about the Geneva Congress ...

¹² Brother of William B. Bowles.

La Nation suisse then printed the eleven articles of the draft Convention, based on the text published by *La Presse*. On 18 August, *La Nation suisse* reiterated its comments, while rectifying an error made by the Paris newspaper, which had stated that only France and Switzerland had accredited plenipotentiaries empowered to sign.

On 18 August, the *Journal de Genève* in turn announced that the members of the Congress were still meeting at the Town Hall, where diplomatic privacy was still rigorously observed:

A committee of diplomats has been appointed to prepare the draft concordat. In this connection, we must point out that most of the States attending the Congress are officially represented by delegates holding full powers to sign on behalf of their rulers... . It is expected that the treaty will be signed at the Town Hall by all the plenipotentiaries on Monday next.

For lack of information on the debates in the Congress, the newspapers fell back on reports of the receptions and festivities organized for delegates. There were indeed many such events: Monday 8 August—invitation by Gustave Moynier, at the Paccard country house in Sécheron¹³; 9 August—reception at Colonel Edmond Favre's property La Grange¹⁴; 11 August—reception at the country residence in Versoix of Théodore Vernes, Secretary of the Paris Relief Committee¹⁵; 12 August—reception at the villa in Sécheron of François Bartholony, vice-president of the Paris Relief Committee¹⁶; 13 August—dinner offered by the Swiss Federal Council at the Metropole Hotel, attended by the President of the Confederation; on Sunday 14 August, a boat trip on the lake had to be cancelled on account of a violent storm, which caused extensive damage on the lakefront; 17 August—dinner offered by the State Council at the Ecu Hotel in Geneva, at which State Councillor Moïse Vautier, President of the Military Department, raised a toast to peace:

¹³ Villa Moynier, today the headquarters of the University Institute of European Studies.

¹⁴ Now owned by the town of Geneva.

¹⁵ Villa Fleur-d'Eau. It was in this villa that the first talks between Reagan and Gorbachev took place on 19 November 1985.

¹⁶ Today the Museum of the History of Science. The spelling "Bartholoni" was officially restored in 1896 (Galiffe, *Notices généalogiques*, vol. IV, p. 511).

Mr. Vautier hopes that the day will come for mankind when war will be impossible; meanwhile, he believes that meetings such as the Congress will pour scorn on this scourge and will, in any case, help to relieve much suffering and attenuate much pain in the future (Journal de Genève, 19 August 1864).

The *Carillon de Saint-Gervais* did not miss the opportunity to poke fun at and caricature this abundant series of banquets and sumptuous parties, which its editor presents as working meetings:

First meeting. *Tuesday. Two thousand dead bottles lying on the floor, five hundred partridges, trout, patés, etc. buried or tended.*

Second meeting. *Wednesday. Even more victims, a veritable Solfarino*¹⁷

It must be realized, however, that as host to representatives of princedoms, monarchies or empires, Geneva wished to demonstrate that despite its reputation for republican simplicity and Calvinist reserve it knew how to receive guests properly. Furthermore, contacts established outside the meetings in the wonderful surroundings on the lakeside could help to create a harmonious atmosphere, at a time when some of the States represented were at war. The American newspaper *The Sanitary Commission Bulletin* remarks on this aspect in an article transmitted by the correspondent of the *New York Evening Post* covering the Geneva Congress. The author, after analysing the results of the Congress, dwells at length on the sumptuous events organized for the delegates, in particular at Colonel Edmond Favre's house, "a model of elegant taste, ... well stored with fine paintings by Calame, original statuary by Canova, exquisite bronzes and objets d'art, and books of rarest value in every department of knowledge", that of Théodore Vernes, "one of the millionaires of Geneva", and François Bartholony's country seat at Sécheron, which "is perhaps only surpassed by that of the Princess Borghese at Rome, or that of the Palavicini family at Pegle". He concludes:

Certainly the members of this International Congress have reason for congratulation that they held their deliberations in so hospitable an atmosphere; and perhaps their success in endeavoring to mitigate the

¹⁷ *Carillon de Saint-Gervais*, 20 August 1864, see note 10. The text published in the *Carillon* actually read: "Solfarino".

*horrors of war may be traced more or less to this hospitality and universal sympathy in their important mission.*¹⁸

The signing ceremony took place on Monday, 22 August. That day, which also saw the proclamation of the results of the State Councillor election held the previous day, was marked by violent riots in which five people died and many were injured. As the signing ceremony got underway, demonstrators invaded the Town Hall and briefly attempted, as a result of a misunderstanding, to break into the room in which the Conference was holding its deliberations.¹⁹

It may seem surprising that the Conference should have decided to hold the signing ceremony the day after an election. It was indeed well known that the proclamation of results was traditionally accompanied by violent public demonstrations. However, things had not originally been scheduled that way. The final text of the Convention, which had been adopted in the meeting on Thursday, 18 August, should have been signed on Friday 19th. However, firstly it was impossible to have the documents calligraphed in such a short time, and secondly a number of representatives were still awaiting the authorization to sign. It was therefore agreed to postpone the signing ceremony until Monday 22, on the understanding, in accordance with a declaration made by Gustave Moynier, that the deadline for registration would be set on the Friday evening.

Nevertheless, the delegate of the Kingdom of Belgium, Auguste Visschers, did not receive his Government's instructions until the Saturday evening, by which time the protocol of the Convention had already been produced in twelve copies, the list of signatories including neither the name of the Kingdom of Belgium nor his own. At the insistent request of Gustave Moynier, the calligraphers spent their Sunday recopying the preamble to include the name of the Kingdom of Belgium and of its representative²⁰.

¹⁸ *The Sanitary Commission Bulletin*, New York, Vol. I, 15 September 1864, No. 22, p. 677-678.

¹⁹ See André Durand, *La journée du 22 août 1864*, in *Bulletin de la Société Henry Dunant*, No. 13, 1989.

²⁰ The first version of the Protocol indeed bears the following additions, in Gustave Moynier's handwriting, in the list of reigning monarchs: His Majesty the King of the Belgians; and in the list of signatories: Auguste Visschers, Officer of the Order of Leopold, Councillor of the *Conseil des Mines*. In recognition of this favour, Auguste Visschers in turn made arrangements for Gustave Moynier to be awarded the Order of Leopold.

After 22 August, the Geneva newspapers devoted their supplements and the major part of their coverage to the riots, the burning issue of who was responsible, news of the wounded, statements made by demonstrators and witnesses, the occupation of the Canton of Geneva by federal battalions and a report on the trial of the accused, which lasted until 30 December. These circumstances eclipsed the conference somewhat, although the newspapers did print the words of thanks addressed by the members to the Swiss Federal Council and the town of Geneva:

The generous ideal for which the International Committee in Geneva has become the mouthpiece, and which the Federal Council has helped materialize, has today become a reality and will remain one of Switzerland's crowning achievements.

... The Convention for the protection of wounded soldiers will go down in history as an eminently humanitarian work, and its memory will be inseparable from the hospitality provided by Geneva, this generous city which has received us in such a friendly and cordial manner. We leave extending to Geneva our most sincere wishes for prosperity, and for the glory and happiness of Switzerland.

Geneva, 22 August 1864

Delegates to the Congress²¹

Finally, *La Nation suisse* of 25 August contained the list of signatory States²², and on 31 August the *Journal de Genève* published the complete text of the Convention.

André Durand

André Durand, a former delegate-general at the ICRC, has published *History of the International Committee of the Red Cross—II. From Sarajevo to Hiroshima*, Henry Dunant Institute, Geneva, 1984. He is the author of a number of articles on the history of the Movement, several of which have been published in the *Review*.

²¹ *Journal de Genève*, 24 August 1864.

²² With one error, the Kingdom of Saxony is included instead of the Grand Duchy of Baden.

**RETRACING THE ORIGINS
OF INTERNATIONAL HUMANITARIAN LAW**

**The contribution of army medical officers
to the emergence of humanitarian law**

by Dr. Jean Guillermand

I. The heritage of history

The part played by army medical officers in the beginnings of the humanitarian movement that led to the foundation of the Red Cross 125 years ago is all too often unrecognized. Until the foundation of societies for the relief of the wounded brought their names into the limelight, their writings were hardly known outside their small professional circle, although they had taken part in international exchanges that were in themselves remarkable. Their position was made all the more difficult by their feeling bound to protest at the shortcomings of a service of which they were active members, but in whose decisions they had no voice.

This situation reached its peak in the mid-nineteenth century, when a new generation of firearms suddenly vastly increased the number and seriousness of wounds. The outraged consciences of civilians who had seen the effects of the new firearms on the battlefields of the Crimea and Italy led to the foundation of the Red Cross. Its founders' merit is beyond doubt. That their ideas coincided with the already long-standing humane concerns of army medical officers and army surgeons does nothing to lessen that merit. These doctors and surgeons, whose calling was to relieve suffering, saw the steadily worsening conditions imposed on combatants by more sophisticated weaponry, and were inevitably appalled by the mounting toll of suffering inflicted on the wounded. Several of them were among the founders of the first societies for the relief of the wounded. All of them had inherited a long tradition which in the end did more to promote international conventions than is

normally realized. Anniversaries of this kind legitimately invite historical survey which may be an opportunity to pay deserved tribute to authentic pioneers, of whom there was no lack in their ranks.

First of all I would repeat the basic principle that care for the wounded, without distinction between friend and foe, is a rule of ethics with which every doctor, military or civilian, must comply. Except in those dark times, some of them recent, in which barbarism has imposed its own brutal reasoning, this rule has been commonly accepted and respected by all military leaders.

It is as old as scientific medicine itself. The **Hippocratic Oath** obviously applies to the private practice of medicine, but the Book of Precepts contains more general advice. Its Precept 6 clearly states that compassion for suffering, wherever the sufferer comes from and whether he is rich or poor, is inseparable from love of medicine¹:

Ἦν δὲ καιρὸς

εἶη χορηγῆς ξένῳ τε ἔοντι καὶ ἀπορέοντι, μάλιστα ἑπαρκέειν τοῖσι
τοιουτέοισιν· ἦν γὰρ παρῆ φιλανθρωπίη, πάρεστι καὶ φιλοτεχνίη.

And surely enough, the doctors of ancient Greece practised Socrates' precepts many times, both in internal wars between city states and in the wars against the Persians.

Ctesias of Cnidus is a famous example of this. He lived at the end of the fifth century BC, in the troubled times following the Peloponnesian war when, like the other Greek city states of Asia Minor, his native city was torn between Persian, Athenian, and Spartan influences. Taken prisoner by the Persians, such was his reputation that he was taken into the court at Babylon and was even given an official post. Diodorus the Sicilian in his *Historical Library*, and Plutarch in his *Life of Artaxerxes*, quoting sources now lost, mention several exemplary episodes in the life of this expatriate doctor. He accompanied Artaxerxes to the battle of Cunaxa (401 BC) against Cyrus and the Greek army of the Ten Thousand led by Clearchus the Lacedemonian. Faithful to his dual loyalties — to the sovereign who had honoured him and to

¹ "If the opportunity occurs to relieve the suffering of a stranger or of someone in need, these are the people to help first, for one cannot love medicine without loving mankind."

his countrymen — he tended Artaxerxes' wound, but after the death of Cyrus and the betrayal of Clearchus he intervened to obtain less rigorous conditions of imprisonment for Clearchus, but could not prevent his execution by the Satrap Tissaphernes. He was later closely involved in the negotiations of the Athenian Strategus Conon with Artaxerxes to defeat the Spartan projects, and in 397 BC returned to his native city bearing letters from the Persian king.

Other examples, even late ones, such as that of **Tribunos of Edessa**, mentioned by Procopius of Caesarea in the time of Justinian (Persian Wars, II, 28), are typical of the doctors in the Greek tradition, who rose above the passions of war and were often chosen as negotiators of the highest order.

With the beginning of the Christian era came fresh encouragement to show charity towards an enemy. This is illustrated by the parable of the Good Samaritan (St. Luke 10), and more strongly in the exhortation to works of compassion contained in the recital of the last judgement (St. Matthew 25). To Christians, especially Christian doctors, a defeated, humiliated, and wounded enemy is the very image of Christ in his suffering, and their compassionate response is natural and spontaneous.

This attitude is, indeed, an essential part of the Code of Chivalry that inspires early mediaeval literature. It says little about doctors (the fund of knowledge of Western doctors was small indeed) but comes down decidedly on the side of compassion. Thus in the twelfth-century romance entitled *Raoul de Cambrai* (which is founded on fact) two wounded enemies, Bernier and Gauthier, are brought back to the royal palace, where their wounds are tended with equal care by the same doctors; and it tells how a truce was arranged after the battle of Origny, as often between knights of enemy armies, though more to give the dead Christians burial than to care for the wounded. Doctors had little to do with it; it was first and foremost a matter of honour between enemy leaders, and when, in Raoul de Cambrai's *Chanson de Geste*, Guerri le Sor breaks the truce on finding his nephew's body, he is berated for a serious breach of the Code of Chivalry.

In the long-drawn-out Crusades both sides showed extremes of motive and behaviour; neither camp was wholly barbaric nor wholly magnanimous. The Crusaders acted barbarously at the sack of Jerusalem in 1099, and the Arabs when they blinded 300 Frankish prisoners, an atrocity said to have prompted the foundation by St. Louis of the Hôpital des Quinze-Vingts for the blind.

Examples of generosity are Saladin's clemency, especially to the Knights Hospitallers of St. John, after the recapture of Jerusalem in 1187. But there are just as many examples of Crusader generosity, some of them reported by Arab historians. Thus the Chronicle of the historian Ibn-Alatyr records that in the year 502 of the Hegira (1108), after the battle of Tell Bascher in Syria, the victorious Count Baudouin and Josselin collected and cared for the Muslim wounded²:

كثير من المسلمين. ففعلا معم للجبل وداويا الجرحى وكسرو
العراة وسيرام الى بلادهم

In all these circumstances, whether treatment of the wounded was harsh or mild depended ultimately on the military leader.

Only much later, from the sixteenth century onwards, were doctors and their science granted greater recognition. Only then do they appear regularly — initially as implementing and later as bringing about the first acts of humanity, and humanitarian conventions, between belligerents.

One of the first acts of this kind was in 1552, after the Emperor Charles V raised the siege of Metz, leaving behind him many wounded and sick soldiers of his army. The Duke of Guise sent Ambroise Paré and other surgeons into the field to look after them. **Ambroise Paré** describes the incident in his *Voyage de Metz* as follows:

We went to their camp, where we found several corpses unburied, and the earth all disturbed, as in the Saint Innocent cemetery in some great epidemic. They had also left a lot of sick men in their tents, pavilions and shelters ... On the orders of the Duke of Guise the dead were buried and the sick cared for.

The armies had also left many of their wounded soldiers in the Abbey of St. Avold, having had no means of bearing them away. The Duke of Guise sent them food in sufficient quantity for all, and ordered me and the other surgeons to go to them and dress their wounds and bring them

² "They gave kindly welcome to several Muslims who had asked them for refuge, dressed their wounds, gave clothing to the naked, and sent them all back to their own country."

*remedy, which we did of a good heart, although we thought that they would not have done as much for our men.*³

At the end of the sixteenth century and in the seventeenth century, especially in Flanders, the whole style of war changed. Towns fortified according to the new technique required by the growing power of artillery all had hospitals; armies in the field, particularly besieging armies, had mobile hospitals; and in all these hospitals, fixed and mobile, served growing numbers of surgeons engaged for the duration of a campaign and skilled in extracting bullets by the various techniques amply codified since the time of Ambroise Paré.

Campaigns were decided by sieges and capitulations of fortified places, even more than by pitched battles. Under a rule for which the initial credit is undoubtedly due to Spanish generals, cartels regulating capitulations contained as a matter of course clauses prescribing good treatment for the wounded and sick and for the doctors and surgeons looking after them.

Ernst Gurlt's collection of these cartels contains more than 50 of them concluded between the end of the sixteenth and the beginning of the eighteenth century.

The earliest is that granted by Alessandro Farnese after the surrender of Tournai on 30 November 1581. Its terms are recorded by A. G. Chotin from the copy preserved in the city's archives. The city was to pay an indemnity of 200,000 florins, the unfortunate defenders were granted a general amnesty, and the sick and wounded were guaranteed similar treatment when they recovered:

As to the captains, officers and soldiers, whether of this country or foreigners, and whether from the garrison or from the castle, His Highness, desiring to treat them benevolently, grants them leave to withdraw with their flags on their shoulder, bearing their matchlocks with lighted matches, their drums, and such goods and baggage as they can carry with them.

³ «On alla à l'endroit de leur campement, où l'on trouva plusieurs cadavres non encore enterrés, et la terre toute retournée comme l'on voit le cimetière Saint Innocent durant quelque grande épidémie. De même ils avaient laissé nombre de malades dans leurs tentes, pavillons et abris... Monseigneur de Guise fit enterrer les morts et soigner les malades.

De même les armées avaient laissé dans l'abbaye de Saint-Avoid beaucoup de leurs soldats blessés, faute de moyens pour les faire emmener. Monseigneur de Guise leur envoya des vivres en quantité suffisante pour tous, et il me commanda, ainsi qu'aux autres chirurgiens, d'aller les panser et leur porter des remèdes: ce que nous faisons bien volontiers, quoique nous croyions qu'ils n'eussent agi de même envers les nôtres».

*As for the wounded and sick who by reason of their infirmity cannot leave at the same time, his intention is that when they are in better health they shall enjoy the same advantages as their companions and that all shall be given a passport and escort to conduct them until they are out of danger.*⁴

In prolonged sieges, truces for the care of the wounded came back into favour at that same time. At the siege of Casale, on 15 September 1630, a truce between the Spanish Marquis de Santa Cruz and the French governor de Toiras allowed the wounded and sick to leave the town and assigned a place for their treatment:

1. His Lordship the Marquis de Santa Cruz assigns to the Lord de Toiras the domain of Mirabello or Mirebeau in the Montferrat country for the duration of the truce, to send his wounded and sick there and have them looked after there, with licence to bring them back to the Citadel whenever he shall so desire.

*... At the request of the Lord de Toiras and in addition to those persons who shall be necessary at Mirabello to serve and assist the sick, the Lord de Toiras shall be allowed to place several reliable officials to see that the said sick and wounded soldiers shall not abscond; and when the truce finishes and His Excellency decides that the Lord of Toiras shall withdraw his sick, he shall be bound to give him three days advance notice.*⁵

Medical personnel were of course involved in these arrangements, and are implicitly mentioned in the second article of the Convention

⁴ «Et en ce qui concerne les capitaines, officiers et soldats, tant étrangers que du pays, de la garnison ou du château, Son Altesse, voulant les traiter avec bienveillance, leur accorde de se retirer avec leurs enseignes sur l'épaule, leurs armes mèche allumée, leurs tambours, et les biens et bagages qu'ils pourront emporter avec eux.

Quant aux blessés et aux malades, qui, en raison de leur infirmité ne pourront sortir en même temps, son intention est, quand ils se porteront mieux, qu'ils jouissent des mêmes avantages que leurs compagnons, et qu'il soit donné aux uns et autres passeport et escorte pour les conduire jusqu'à ce qu'ils soient hors de danger».

⁵ «Le Seigneur Marquis de Sainte-Croix donne pour quartier au Seigneur de Toiras le domaine de Mirabello, ou Mirebeau, situé dans le Montferrat, pendant la durée de la trêve, afin d'y envoyer les blessés et malades et les y faire soigner, d'où il pourra les retirer pour les faire rentrer dans la Citadelle quand il lui plaira.

... Suivant la demande qu'en a faite le Seigneur de Toiras, on lui permet qu'outre les personnes qui seront nécessaires au lieu dit de Mirebeau pour le service et l'assistance des malades, il puisse placer quelques hommes de confiance pour prendre garde que lesdits soldats malades et blessés ne prennent la fuite. Et lorsque la trêve finira et que Son Excellence aura décidé que le Seigneur de Toiras retire ses malades, il aura obligation de lui en faire donner avis trois jours à l'avance».

of Casale; but also they are increasingly the subject of special measures which are spelled out in particular articles of capitulations. The oldest example of this is the capitulation of Breda granted by the Marquis of Spinola on 2 June 1625, article 2 of which reads:

*2. Similarly the chaplains, Quarter-Masters' staff and surgeons of regiments and companies ... with their wives and children, servants, horses, and all equipment shall be included under the first and previous article and shall enjoy the benefit and tenor of that article.*⁶

The privileges repeatedly granted to the seriously sick and wounded and to the medical personnel who had stayed with them led to the first mentions of respect for military hospitals, amounting in some cases to their declaration as neutral.

The most revolutionary document of this kind is the Act of Safeguard decreed on 23 August 1677 by the Duke of Villa-Hermosa, Governor of the Netherlands, in favour of the French military hospital at Marchienne-au-Pont near Charleroi, which had been captured a fortnight previously with its wounded and personnel. The Act is recorded as follows by Surgeon General E. Evrard of the French Army Medical Corps:

By virtue of the fact that we have taken, and take, and place under the protection and special safeguard of His Majesty and ourself:

1. the Directors, Controllers, doctors, surgeons and other officers of the hospital of His Most Christian Majesty at Marchienne-au-Pont,

2. the sick soldiers in that hospital until their recovery and their leaving the said hospital,

3. all the servants, property, installations and all other things that have been there in any way whatsoever,

we request and require you most expressly in the name of His Majesty not to levy or allow to be levied any tax on food, or to commit or allow any exaction or violence of any kind, in respect of the said hospital, or its Directors, Controllers, doctors, surgeons, other officers, and sick soldiers until their recovery and departure from the hospital, their servants, movable property and other things enumerated above, under pain of incurring the disavowal of His Majesty and ourself, and of punishment for disobedience to our safeguards and commands.

⁶ «2. De même, que les aumôniers, commissaires des revues, chirurgiens des régiments et des compagnies... avec leurs femmes et enfants, serviteurs, chevaux, armes et bagages, seront compris sous le premier article, et jouiront du bénéfice et de la teneur de celui-ci».

We therefore desire and command that a full copy of this safeguard granted by ourself, checked by Master Lambert, Director of the said hospital, shall serve the above-mentioned officers as authority to come and go between the aforesaid Marchienne-au-Pont and Charleroi.

This safeguard shall be valid for so long as there are sick persons in the said hospital.

Done in camp at Thieu, 23 August 1677.⁷

In this already very elaborate form this Act is unique in seventeenth-century military jurisprudence, but the vast increase in the numbers of treaties that include clauses protecting wounded and sick and medical personnel is a landmark in the humanitarian movement leading to the foundation of the Red Cross.

At the end of the seventeenth century, acts of capitulation obviously following the same models habitually distinguish two categories in dealing with sick and wounded in enemy hands: those who can be moved are returned in protected convoys or boats, under the surveillance of doctors and surgeons covered by the same arrangement; the others are given emergency treatment on the spot by doctors and surgeons of their own nationality, until they can be repatriated under arrangements carrying the same guarantees as for the previous category.

This is undoubtedly a step forward — realistic rather than altruistic perhaps, since such measures were reciprocal, but not without a feeling

⁷ «En vertu du fait que nous avons pris et que nous prenons et mettons sous la protection et la sauvegarde spéciale de Sa Majesté et sous la nôtre:

1^o) les Directeurs, les Contrôleurs, les médecins, les chirurgiens et les autres officiers de l'hôpital de l'Armée du Roi très-chrétien établi à Marchienne-au-Pont,

2^o) les soldats malades qui y sont, jusqu'au jour où ils seront guéris et sortiront du dit hôpital,

3^o) tous les serviteurs, les biens, les installations, et toutes les autres choses qui y ont été en quelques manières que ce soit,

— nous vous demandons et vous ordonnons très expressément au nom de Sa Majesté de ne faire ni permettre que soient faites aucune imposition de vivres, aucune exaction ni violence d'aucune sorte, envers ledit hôpital, le Directeur, les Contrôleurs, les médecins, les chirurgiens, les autres officiers, les soldats malades jusqu'au jour où ils seront guéris et sortiront de l'hôpital, les serviteurs, les biens meubles et autres choses énumérées ci-dessus,

— sous peine d'encourir le désaveu de Sa Majesté et de nous-même, et d'être punis comme contrevenants à nos sauvegardes et commandements.

Aussi nous voulons et commandons que la copie intégrale de la présente sauvegarde accordée par nous, collationnée par le sieur Lambert, directeur du dit hôpital, serve aux officiers ci-dessus mentionnés pour pouvoir aller et venir du dit Marchienne-au-Pont à Charleroi.

La présente sauvegarde restera en vigueur tant qu'il y aura des malades dans ledit hôpital.

Fait au camp de Thieu, le 23 août 1677».

of military honour, especially on the Spanish side. The whole conception of war by professional armies was also influenced by the first treatises on international law. The *De jure belli* of the Spanish Dominican friar Francisco de Vittoria in the sixteenth century, the *Disputatio XIII—De bello* of the Spanish Jesuit Francisco Suarez, and the *De jure belli et pacis* of the Dutchman Hugo de Groot at the beginning of the seventeenth century, adopt St. Augustin's definition of a just war but also set out the duties of moderation, particularly towards the weak, incumbent on combatants.

This was a real advance, but made little difference to the actual application of such measures, which always depended on the personal decision of the victor. And he, though increasingly bound by custom as it became more established, had to take equal account of military realities.

Secondly, these rules applied only to professional armies, who often had more in common with their enemy counterparts than with their fellow countrymen. They were *ipso facto* inapplicable to unregimented combatants, as in 1690 the Piedmontese Barbets, and in 1704 Cavalier's Camisards, found to their cost.

Lastly, although military medical officers and surgeons were the essential and often esteemed bearers of aid to the wounded and sick, they took no part in decisions regarding them and had no opportunity of stating their own views. One can only suppose that, had they done so, they would, like their precursor Ambroise Paré, have confirmed that they approved of such measures and that they applied them "with a good heart".

In the eighteenth century, the century of bold intellect, the very basis of thinking changed. The appeal to reason took precedence over the appeal to religion. The philosophers' attitude to war is well known from Rousseau's *Contrat social* and Voltaire's *Le monde comme il va* and *Dictionnaire philosophique*. It is often forgotten that in essence these ideas began in England at the end of the seventeenth century, and came mainly from **John Locke**, doctor, philosopher, and apostle of tolerance, who was one the first men to postulate inprescriptible rights. His *Treatises of Government* (1690) begins:

The State of Nature has a Law of Nature to govern it, which obliges every one: And Reason, which is that Law, teaches all Mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his Life, Health, Liberty, or Possessions.

Every one as he is bound to preserve himself, and not to quit his Station wilfully; so by the like reason when his own Preservation comes not in competition, ought he, as much as he can, to preserve the rest of Mankind, and may not unless it be to do Justice on an Offender, take away, or impair the life, or what tends to the Preservation of the Life, the Liberty, Health, Limb or Goods of another.

The right to life and health (unfortunately forgotten in the Declaration of 1789) follows logically from English thought — it was England that produced the *Habeas Corpus*. In Locke's view there had to be overwhelming reasons, in fact peril to his own life, before he could feel justified in attempting another person's life, even indirectly; except in that single circumstance, respect for the life and health of others was an inescapable duty.

The first proposal for permanent neutrality of military hospitals is consonant with that thinking. It came from another humanist English doctor, **John Pringle**, whose military career began in 1743, when England entered the War of the Austrian Succession. Pringle, an Edinburgh professor, served under his friend the Earl of Stair, the Commander-in-Chief of the English troops in the German campaign, with the title of "Physician general to His Majesty's Forces". He writes in his *Observations on the Diseases of the Army*, published ten years later, that he proposed that military hospitals should be declared neutral because he had seen the immense harm done to wounded and sick by the difficulties of running such military hospitals during wartime operations:

During the late war, one considerable step was made for their improvement. Till then it had been usual to remove the sick a great way from the army, whereby many were in a manner lost before they came under the care of the physicians; or which was attended with equally bad consequences, if the hospitals were nigh, they were for the greater security to be frequently shifted, according to the changes of the camp. But the Earl of Stair, my late illustrious patron, being sensible to this hardship, when the army was encamped at Aschaffenburg, proposed to the Duke of Noailles, of whose humanity he was well assured, that the hospitals on both sides should be considered as sanctuaries for the sick, and mutually protected. This was readily agreed to by the French General...

This agreement was strictly observed on both sides all that campaign; and tho' it has been since neglected, yet we may hope that on future occasions, the contending parties will make it a precedent.

This agreement set out in advance the principles to be respected during a campaign. It was the first of its kind, and was made possible by the coincidence that the key posts were held by three eminent men who knew and esteemed each other and were all imbued with the philosophy of the Enlightenment.

The agreement was applied at once, and is mentioned in the letters of the Marshal de Noailles to Louis XV, collected by C. Rousset. On 28 June, five days after the Battle of Dettingen, the Marshal wrote to his sovereign as follows:

When the enemy retired he left behind him some of his wounded on the battlefield, and a larger number in the two villages which we had occupied at first, where I have just sent a guard at their request, to ensure the safety of their men and ours.

The agreement between the two Commanders-in-Chief exists in an official translation, whose successive stages can be seen. The French War Commissary Etienne de Silhouette was sent to the Earl of Stair on 10 June 1743 at Aschaffenburg to “establish a preliminary basis for a treaty of exchange and to decide on the proposal that the sick from both armies could be left in hospitals”. He sent with his report a draft which follows the usual wording except in its first article. That article had been specially requested by the Earl of Stair, and provided implicitly for the neutralization of hospitals. It reads:

Art. I. That sick persons on either side shall not be made prisoner and may safely remain in hospitals or be sent under the generals' respective passports.

After the Battle of Dettingen (23 June) the “Treaty and Convention for the sick, wounded and prisoners of war” signed in Frankfurt on 18 July 1743 by the Comte de Ségur and Marshal von Chanclos very largely followed the terms of the draft of 10 June, especially in articles XLI and XLII, which deal especially with sick and wounded persons:

XL I. That both sides shall care for the wounded; that their medications and food shall be paid for; that their cost shall be repaid by both sides; and that it shall be permitted to send them surgeons and their domestic servants with Generals' Passports.

XLII. That the sick on both sides shall not be made prisoner; that they may safely remain in the hospitals, where each of the belligerent

parties and their auxiliaries shall be free to provide them with a guard. That guard, and the sick persons, shall be sent back under the respective Generals' Passports by the shortest route, and shall not be interfered with or arrested.

The same conditions shall apply to the War Commissaries, Chaplains, Doctors, Surgeons, Apothecaries, Medical Orderlies, Servants and other persons required to look after the sick, who shall not be made prisoner and shall be sent back in the same way.

The more general and less formal wording of the Gentlemen's Agreement between the Earl of Stair and the Marquis de Noailles, concluded at Pringle's instigation and reported by him, is perhaps preferable to that of the Treaty of Frankfurt; but although the wording of that treaty followed the spirit of the seventeenth-century cartels, it undoubtedly went much further by setting out guarantees of safe treatment in the hospitals and stipulating that the sick, and the medical personnel looking after them, should not be made prisoner.

Although not mentioned by name, the principles of the philosophy of the Enlightenment are also evident in the wording of the treaty and in the preliminary negotiations before the Battle of Dettingen. Both the treaty and the preliminary negotiations pay particular attention to medical care of the wounded; and in the liberal climate of the century this consideration became a usual one.

II. The time of proposals

The agreement on the protection of hospitals, concluded by the Earl of Stair and the Marquis de Noailles in June 1743 at Aschaffenburg at the instigation of the English doctor John Pringle, and confirmed by the *Treaty and Convention for the sick, wounded and prisoners of war* signed in Frankfurt on 18 July after the Battle of Dettingen, is a landmark — halfway through the century of Enlightenment — in the progress of humanitarian law as applied to war.

Ten years later, in 1753, John Pringle wrote in his medical history of the campaign that he regretted that the agreement had lapsed at the end of the campaign, and expressed the hope that it would serve as a model for future conventions. That hope was fulfilled a few years later.

During the Seven Years War (one of the bloodiest of the century) the Convention of 1743 was reactivated on two occasions. The first was

the new “Treaties and Conventions for the sick, wounded and prisoners of war” concluded on 6 February 1759 in Sluys between the Marquis du Barrail, commanding the French troops, and Henry Seymour Conway, major-general of the English troops. The second was on 7 September 1759 in Brandenburg, between the Marquis de Rougé, commander of the French troops in Germany, and the Baron von Buddenbrock, major-general of the Prussian troops.

On both occasions articles XLI and XLII of the Convention of 1743 were reproduced word for word (in articles XXVI and XXVII at Sluys, and XXVII and XXVIII at Brandenburg). The Brandenburg Convention was officially ratified by the King of Prussia and the King of France (on 9 September by Frederick II and on 19 September by Louis XV) who “approved, ratified and confirmed” the treaties made by their plenipotentiaries.

Thus in the reign of Louis XV, who had already shown his solicitude for the wounded after the Battle of Fontenoy, these two conventions reinstated the rules inherited from the War of the Austrian Succession and applied them to the equally long and bloody Seven Years War.

They were echoed in the writings of army medical officers who had enthusiastically supported the proposal made in 1743 by John Pringle, himself an army medical officer, that hospitals be recognized as neutral.

For example, the English army medical officer **Donald Monro** wrote in 1764, in his *Account of the Diseases which were most frequent in the British Military Hospitals in Germany* (translated in 1769 by his French colleague **Lebègue de Presle** under the title *Médecine d’armée, ou traité des maladies les plus communes dans les camps et les garnisons*):

In the Time of Service the Commander in Chief generally orders the Hospitals to be established in Towns or Villages that least interfere with the military Operations, to which the Sick and Wounded can most easily be conveyed; and which he can best protect from the Insults of the Enemy...

It would be a right Measure, in the Beginning of every War, to settle by a Cartel that military Hospitals on both Sides should be considered as Sanctuaries for the Sick, and mutually protected; as was agreed upon between the late Earl of Stair, who commanded the British Troops, and the Duke de Noailles, who commanded the French in the Campaign in Germany in the Year 1743.

A few years later, in 1772, a high-ranking French army medical officer, the Inspector of Military Hospitals, **Jean Colombier**, published

a bulky *Code de médecine militaire*. In its first volume, entitled *De la Santé des gens de guerre* (Health in the Forces) he writes (in article III):

Commanders should assign safe places to which wounded may be brought and where they will be safe in all circumstances...

Places of asylum for wounded and sick should be respected. It is customary that they shall not be maltreated; on the contrary, generals take particular care that they shall lack for nothing.

The French Revolution could not do otherwise than adopt these magnanimous ideas, in spite of its aversion for rules inherited from the *Ancien Régime*. It did so in 1793, and deserves all the more credit for doing so then because it was at war with the whole of Europe. As part of the reorganization carried out by the war department of the Committee of Public Safety, the decree of 25 May 1793 on the treatment of enemy prisoners devotes an entire article to respect of the humanitarian clauses:

THE NATIONAL CONVENTION,

... being convinced that it is in the interest of the belligerent nations to hand over to each other without delay those of their defenders placed by the fortune of war in each other's power, and that they should conciliate in these kinds of calamities all that justice, humanity and loyalty demand of them;

having heard the report of its war committee, DECREES as follows:

Art. 26. Sick or wounded enemy prisoners shall be cared for in the military hospitals of the Republic, both ambulatory and sedentary, with the same care as French soldiers; and their pay and allowances shall then be subject to the deductions made in similar circumstances from the pay and allowances of the officers and soldiers of the Republic; it being understood that this provision, which is dictated by justice and humanity, shall be reciprocally observed by the enemy towards French prisoners.

This merely carries on a long-standing tradition of military hospitals. One cannot help thinking (although with no direct evidence) that Jean-François Coste, the former Chief Medical Officer of the French Expeditionary Corps in America and a great champion of military hospitals, who was then Chief Military Medical Officer and a member of the Military Health Board, was partly responsible.

Five years later, under the *Directoire*, at the height of the war with England, army medical officers were given important responsibilities in connection with the cartel for the exchange of prisoners signed in London on 19 September 1798; that is, they were required to select the wounded and sick unfit for further service, who were unconditionally set free, as were military medical officers themselves:

Art. 5. Prisoners of either side (except officers) whose wounds, age or infirmities make them unfit for further service, and children under the age of 12, shall be sent back to their home country irrespective of the number or equality of the exchange; but the selection of such persons shall be the entire responsibility of the Agents or surgeons of the country in which they are detained.

Art. 6. Surgeons, surgeons' assistants, assistant commissaries (or pursers), secretaries, food supplies clerks (or pursers-stewards), chaplains and school teachers, not being listed in the category of combatants, ... shall not be regarded as prisoners of war and shall consequently be free to return immediately to their own country without being entered on the list of persons for exchange.

The sweeping changes of that time in organization and battle technique countered these generous ideas with a new and merciless code of military practice that was seen at its worst in the Napoleonic campaigns. Battles can be won by surprise attacks, which can keep down casualties if they shorten a campaign, but the results are very different when they end in disaster; disasters mean heavy casualties. Army medical corps were too small, and the wounded and sick were left — to use the phrase repeatedly occurring in unilateral proclamations — “to the care and humanity of the Allied Powers”.

This aberration was not passed over in silence by humanist military doctors, particularly French and German ones, who remembered the treaty of 1743.

Prominent among them was **Pierre François Percy**, the oldest of the celebrated surgeons of the *Grande Armée*, who, when the German campaign opened in 1800, was in a position very like John Pringle's in the same area 56 years earlier. That is, he was the Chief Surgeon of the army entering the campaign, already well known for his scientific works on war surgery; and he was friendly with the Commander in Chief, General Moreau, with whom he had served in Flanders and Italy and whose humanism and rectitude he admired. After passing two convoys of Austrian wounded evacuated towards hospitals in the inter-



Baron Antoine-Jean Gros (1771-1835)

**Napoleon on the battlefield at Eylau
(9 February 1807)**

The Louvre INV 5067

Photo R.M.N.

In this famous painting, the artist depicts **Pierre François Percy**, surgeon general of the *Grande Armée*, showing the Emperor a Russian cavalryman he has just operated on and seems to be protecting.

Percy's own account of this fierce battle, in which acts of bravery rivalled acts of brutality, throws some light on the scene: "There is no pity in the Army. All you can see are soldiers inflamed by combat, courageous and intrepid officers... only in the hearts of the surgeons have compassion, philanthropy, love for one's fellow man, found refuge."

ior of the country, and seeing near Neuburg the ambulance of the Leclercq Division kept prudently too far from the fighting to be of use, he suggested to General Moreau on 30 April 1800 that he should revive the historic Aschaffenburg Agreement on the inviolability of medical personnel and wounded. General Moreau at once agreed, and Percy drew up a very elaborate draft for submission to general Kray, the Austrian Commander in Chief.

The text of this draft was found in Percy's manuscripts and was reported in 1827 by his nephew Charles Nicolas Laurent. It is virtually a forerunner of the Conventions of 64 years later.

General Kray, commanding the Austrian army, and General Moreau, commanding the French army, being desirous of reducing as far as possible the disasters of war and mitigating the plight of soldiers wounded in action, agree as follows:

ARTICLE 1. — Military hospitals shall be considered as inviolable sanctuaries, where unfortunate valour shall be respected, succoured and always free, whatever the army to which these hospitals belong and on whatever site they are established.

ART. 2. — The presence of these hospitals shall be indicated by notices erected in the paths leading to them, so that troops shall not approach them and that when passing them they shall observe silence and cease to play their drums and instruments.

ART. 3. — Each army shall be responsible for the upkeep of these hospitals after losing the country in which they exist, as if that country were still in its power. Their installations shall continue to belong to it; their expenditure shall be defrayed by it; there shall be no change in the running of these establishments, and the orders given for their safeguard shall be agreed upon between the heads of the service and the commander of the foreign forces.

ART. 4. — The armies shall each facilitate the delivery of supplies to the other's military hospitals situated in any countries occupied by them, and shall cause all objects necessary to the wounded and staff of the hospitals to be supplied by the inhabitants, or shall supply them themselves against reimbursement of the cost, or may even detain hostages or goods until the goods supplied have been paid for.

ART. 5. — Military personnel cured of their wounds shall be returned to their own army under escort. The escort shall cause them to be provided with food and carts on the way, and shall accompany them as far as the outposts of the army to which they are proceeding. Similarly,

when the hospital is completely evacuated, an escort shall be granted to protect the convoys of carts laden with goods, unless such goods are retained to guarantee payment of the expenditure incurred for the said hospital.

This convention shall be applicable only to wounded soldiers and shall be published in the army orders of both sides and read out twice a month in every corps. All brave soldiers are asked to carry out the prescriptions of these articles loyally and humanely, and each army promises to punish in exemplary fashion any person contravening them.

Unfortunately, the resemblance with the events of 1743 stops short at the early stages. The Earl of Stair's opponent was the Marquis de Noailles, who shared his humanitarian outlook; but General Moreau's adversary was General Kray who, full of self-importance as newly appointed Commander in Chief, rejected the proposal as inimical to military efficiency.

In the long run General Kray's refusal did nothing for his career — he was relieved of his post some months later after suffering an uninterrupted series of defeats at the hands of Moreau — nor for the fortune of war of the Austrian armies, who were finally crushed at Hohenlinden; but it certainly deprived the humanitarian impulse of an opportunity that might have brought the age of the great Conventions years nearer.

Other army medical officers too regretted that the great principles of the eighteenth century had been jettisoned. Some of them, even some of the lowliest, saw clearly the potential benefits of the international convention they ardently desired. This was true of **Jean Philippe Graffenauer**, a humble doctor in the Grande Armée, who after seeing his hospital at Dargun, Pomerania, pillaged by Swedish troops wrote in a letter of April 1807 published in 1809:

It would surely be desirable for hospitals to be declared neutral by a reciprocal convention between the belligerent powers. The unfortunate sick and wounded in the hands of doctors and surgeons should not be regarded as prisoners of war; still less should their doctors and surgeons be so regarded. The place of refuge of unfortunate war victims should be considered a sacred place and respected by all nations. But unfortunately we have not yet reached that degree of humanity.

Graffenauer could not foresee what frightful disasters the wounded soldiers would suffer from the medical unpreparedness that reached its

peak in the last Napoleonic campaigns. Prussia was at the heart of the decisive events of 1813, and drew conflicting conclusions from them: the doctors were appalled by the plight of the wounded left uncared for; but the strategists explored the new principles they had absorbed and were to develop in ensuing years.

In this concert of discord the doctors' voice went unheeded. Not that they lacked courageous spokesmen: **August Ferdinand Wasserfuhr**'s proposals of 1820 for the reform of the Prussian Army Medical Service (*Beitrag für die Reform der Königlich-Preussischen Militär-Medizinal-Verfassung*) describe the pitiful condition of the sick and wounded in the Prussian (and other) armies, caused by inattention to the conditions in which army medical officers had to work, and by the lack of elementary rules of protection. He ends his preface by exhorting the competent authorities to promote a humanitarian convention that he saw as essential in future conflicts:

It is to be hoped that the memory of these horrors will not again go unnoticed, and that in the end all nations will sign a convention recognizing that captured wounded and sick combatants are not enemies, and undertaking not only to allow all hospitals to function without interference in accordance with the regulations made by the officials in charge of them, but also to give them the necessary assistance. All sick and wounded falling into enemy hands should be allowed to stay in their hospital under the care of their doctors until they are restored to health, and all the permanent invalids among them should be allowed to return freely to their own country, and be granted a passport for that purpose, without subsequent exchange.

Compassion for wounded brothers left without aid is the first of all human duties; should it not be raised to the status of international law? What enemy can still be harmed by a bleeding and exhausted combatant? Could any nation refuse to allow the wounds of its most unfortunate sons to be dressed? If only the ministers of Europe could see just once a stricken battlefield where suffering men groan unheeded and unpitied, consumed by hunger and thirst and their soul torn by pain and anguish, they would surely want to do what they have so long neglected, and are still neglecting.

Koblenz, 21 May 1820.⁸

⁸ «Möchte diese Erinnerung an jenes unedle Betragen nicht abermals unbemerkt bleiben, und möchten endlich alle Nationen den Bund schliessen, auch die gefangenen kranken und verwundeten Krieger für unfeindlich zu erklären, und sich verpflichten, nicht nur alle Hospitäler nach den Anordnungen ihrer Dirigenten frei wirken zu lassen,

At this very time, however, in Prussia, Karl von Clausewitz was elaborating military theory in the light of the Napoleonic wars. His *On War* (*Hinterlassene Werke über Krieg und Kriegführung*), published after his death in 1832, takes an exactly opposite stance to Wasserfuhr's magnanimous one:

*In our times some philanthropic souls have lightly imagined that there is a clever way of disarming and defeating adversaries without wounding too many of them, and that this should be the purpose of the art of war. However satisfying this aberration may appear it has to be got rid of; in anything as dangerous as war, the mistakes kindness can lead to are the worst of all.*⁹

Throughout the first half of the nineteenth century Clausewitz's ideas had the approval of European general staffs. This was the worst time of all for army medical corps, which were starved of resources and, especially in France, placed under the rigid control of the Quartermaster-General's department.

A rude awakening came in the wars of the mid-nineteenth century (the Crimean War of 1854-1856 and the Italian campaign of 1859), which inaugurated a new generation of firearms with dreadful results. Rifled barrels and cylindro-conical projectiles led to an appalling increase in the number of wounded, and inflicted much more serious

sondern ihnen auch die nöthige Unterstützung zu gewähren. Alle Kranken und Verwundeten, welche in feindliche Hände gerathen, müssten daher ihrem bestehenden Hospital und ihren Aerzten so lange gelassen werden, bis sie hergestellt sind, und alle wirklichen Invaliden müssten ohne weitere Auswechslung, mit Pässen versehen, nach ihrem Vaterlande frei zurückkehren dürfen.

Sollte man die erste aller menschlichen Pflichten — Mitleiden mit dem verwundeten hilflosen Bruder, — sollte man diese nicht zu einem Völkerrechte erheben wollen? Welchem Feinde kann denn der blutende und erschöpfte Krieger noch schaden? und sollte sich eine Nation wohl weigern können, die Wunden ihrer unglücklichsten Söhne verbinden zu lassen? Hätten die europäischen Minister nur einmal jene Schlacht und Leichenfelder gesehen, wo unbedauert und ungehört der Jammer ächzt, wo Durst und Hunger glühen, und Schmerz und Angst die Seele zerreisst, gewiss, sie würden thun, was sie so lange versäumten.

Coblenz, den 21. Mai 1820».

⁹ «Nun konnten menschenfreundliche Seelen sich leicht denken, es gebe ein künstliches Entwaffnen oder Niederwerfen des Gegners ohne zu viel Wunden zu verursachen, und das sei die wahre Tendenz der Kriegskunst. Wie gut sich das auch ausnimmt so muss man doch diesen Irrthum zerstören, denn in so gefährlichen Dingen, wie der Krieg eins ist, sind die Irrthümer welche aus Gutmüthigkeit entstehen grade die Schlimmsten.»

wounds. The carnage at Solferino prompted Dunant's reaction and the foundation of the Red Cross, but army medical officers trying to cope with the new battlefield conditions also bore witness to the changes that were making it so much more difficult for them to do their duty. Two army medical officers of very different function and rank expressed ideas similar to Dunant's only a few years before Solferino.

The first of these two officers, **Lucien Baudens**, Inspector of Army Medical Services, was sent to the Crimea in July 1855 after the medical disasters of the first winter of the campaign. His report, published in 1857, describes the terrible conditions of wounded and sick soldiers cared for by all too few doctors. Describing the unfortunate Traktir episode of 16 August 1855, when the Russian batteries covering the retreat of their troops fired on the doctors who had come to collect and care for the Russian wounded, he recommended that there should be a single distinctive sign, the same for all countries. His proposal was clearly set out in the *Revue des Deux Mondes* of 15 February 1857, as follows:

Such mistakes would be impossible if by agreement between nations, doctors and hospital staff wore a distinctive sign, the same in all armies and all countries, by which they would be easily recognized by both sides.

Although this proposal came from an illustrious surgeon, the supreme authority in the French Army Medical Corps, and was reproduced in the volume published after his death in 1858, it was passed over in silence by the French military authorities.

Three years later **Ferdinando Palasciano**, a Neapolitan surgeon, tried to suggest means to prevent a repetition of the disastrous plight of the wounded in the Crimea and at Solferino. When on 28 April 1861 he submitted to the *Accademia Pontaniana* of Naples the programme of a competition offering prizes for the best memoirs about war surgery, he declared that nations should facilitate the surgeons' task by recognizing that wounded combatants and the sick were neutral for the whole duration of their treatment, and providing an unlimited increase in the numbers of medical personnel throughout the war (*il principio della neutralità dei combattenti feriti o gravemente infermi per tutto il tempo della cura, e l'aumento illimitato del personale sanitario durante tutto il tempo della guerra*).

Almost at the same time in Paris, on 30 April, Henri Arrault, a pharmacist supplying the French armies, included in a notice on the

subject of the reintroduction of light ambulances a proposal that the staff and equipment of military ambulances should be recognized as inviolable. Arrault did not directly mention the wounded, proposing only that they should be handed over to the surgeons of the victorious army so that surgeons taken prisoner could be repatriated at once.

Palasciano refuted this suggestion as detrimental to proper care of the wounded. He believed on the contrary that it was absolutely necessary to reinforce the medical personnel on the battlefield immediately after a battle, and to pool all available resources.

To this end, he made his second speech on neutrality to the Naples Academy on 29 December 1861. In this he set forth a coherent doctrine in six points, as follows:

For this purpose it would suffice for the belligerent armies to be required to:

1. Return to each other all wounded prisoners immediately after every engagement.

2. Have all combatants too badly wounded to bear immediate transport looked after on the site of the engagement by medical personnel of their own country.

3. Medical personnel in numbers proportionate to the numbers of wounded left for treatment on enemy territory would go there with a safe conduct and an escort, would stay there as long as necessary, and would then also be returned in a time of truce to the outposts or enemy frontier.

4. All necessary food, lodging and medicaments in enemy territory would be supplied by the local commissariat in exchange for an order from the attending physicians, to be re-valued after the war.

5. As regards besieged places, besides the aforesaid return of wounded by both sides, the besieged might be allowed to evacuate their own wounded provided a neutral state was willing to take them in, and when they were not generously offered asylum by the besieging forces.¹⁰

¹⁰ «Perciò basterebbe che gli eserciti belligeranti fossero obbligati a

1°. farsi reciproca restituzione di tutti i prigionieri feriti, immediatamente dopo ogni combattimento.

2°. a far curare sul sito stesso del combattimento dal proprio personale sanitario tutti i combattenti che per la gravità delle riportate ferite non potessero impunemente soffrire un immediato trasporto.

3°. Il personale sanitario in proporzione degli uomini feriti lasciati in cura sul territorio nemico vi passerebbe con salvocondotto e scorta: vi resterebbe fino al cessar del bisogno e poscia sarebbe ugualmente restituito in momento di tregua agli avamposti o alla frontiera nemica.

The basis of Palasciano's doctrine was that wounded soldiers should be regarded as neutral and be unconditionally exchanged as soon as they were fit to travel; and that the most seriously wounded should be cared for on the spot, preferably by surgeons from their own country, who should where necessary be reinforced by other such surgeons travelling under adequate protection to join them. This evidently implied that the other requirement laid down from the first, namely that the army medical corps should be reinforced for the duration of the war, should also be complied with.

Palasciano's speech, just one year before the *Memory of Solferino*, was unfortunately heard by nobody outside the *Accademia Pontaniana*. Italy was at grips with all the problems of rapid reunification; it was not the best time for an Italian proposal, particularly one from Naples. Neither was Palasciano any the more heeded in Geneva at the Conference of 1863 and the Congress of 1864, for he was not a member of the Italian delegation. The early death of Lucien Baudens in December 1857 deprived the final debate of yet another champion of internationalized care for the wounded.

The medical profession was, however, well represented at the 1863 Conference (by 18 of the 31 delegates) and the 1864 Congress (by 12 of the 26 participants). Dr. Louis Appia and Dr. Théodore Maunoir, the two doctors of the Committee of Five, were prominent in both; and the Prussian representative **Dr. Friedrich Löffler**, and the Netherlands representative **Dr. Jan-Hendrick Basting**, were instrumental in putting forward the proposal (first made in the Berlin Circular of September 1863 and later in the recommendations added to the Resolutions of the Conference) that ambulances, military hospitals, and wounded should be recognized as neutral.

The essence of the Red Cross contribution lay in two ideas: first, that the sick and wounded of all belligerents should be cared for without discrimination and with the help of volunteers; and secondly, that medical personnel and equipment should be respected. Naturally the army medical officers fully and unhesitatingly supported the second of these proposals, and left their mark even more clearly on the final version of the 1864 Convention.

4°. Tutto l'occorrente in vitto, alloggio e medicine sul territorio nemico sarebbe somministrato dal Commissariato del luogo contro voglia dei medici curanti, da esser rivaluto dopo la guerra.

5°. Per le piazze assediate, oltre la medesima restituzione reciproca dei feriti, potrebbe esser permesso agli assediati di far sortire i propri feriti, sempre che uno stato neutro voglia riceverli e quando la generosità degli assediati non offrisses loro un asilo».

That Convention, however, differs in some important respects from the proposals that army medical officers has been putting forward with remarkable continuity since 1743.

The first five articles of the 1864 Convention set out the conditions in which ambulances, military hospitals and the personnel serving them, including civilian volunteers, are recognized as neutral (only when wounded are present). Only one article (Art. 6) deals with the wounded. The word "neutrality" is not used in relation to them, and although the conditions on which they may be repatriated after capture are mentioned, they are left largely to the discretion of the military command.

The army medical officers' proposals, made by Pringle in 1743, Percy in 1800, Wasserfuhr in 1820, and Palasciano in 1861 — four army medical officers of different nations that had often been at war with each other — sprang from a common concern different from, and even contrary to, the provisions of the 1864 Convention. The doctors' overriding concern was that the wounded themselves should be recognized as neutral, and therefore that the places in which they were cared for should be considered inviolable and the persons caring for them should be allowed to do so without let or hindrance. Their proposals were justified by the humanitarian feeling undoubtedly contained in them, but just as much on the grounds of efficiency, in their view equally legitimate. They saw the hazards of transporting wounded to crowded hospitals in rear areas, and tardy operations in the worst possible conditions, as the main reason for the unacceptably high mortality of wounded after great battles, and believed that there could be no improvement unless surgeons could operate with a minimum of delay in comparatively peaceful conditions. They themselves, however, were proud of serving in their own army and identified themselves with their brothers in arms; they rejected any suggestion that their own persons should be regarded as neutral and that they should be bound by the duties of neutrality. It was their duties rather than themselves that they wanted to be recognized as neutral.

After the War of the Duchies (the Schleswig-Holstein war) of 1864 and the war of 1866 involving Austria, Italy and Prussia, this difference of attitude became more marked at the Paris Conference of 1867. Drawing their conclusions from both wars, the army medical officers present — **Dr. Löffler** for Prussia and **Dr. Chenu** for France — stated clearly the views of the army medical corps and wholeheartedly affirmed that wounded combatants were neutral. These proposals were added to the additional articles approved in Geneva in the following year.

Plainly, army medical officers played no small part in the process that led to the foundation of the Red Cross, and in preparing the constituent texts. They have undoubtedly been a power for good in bringing about the arduously won alliance between the new movement depending on international consensus and armies rightly proud of their traditions. Their disinterestedness has never been seriously questioned by anyone who has seen them at work. This, and their no less certain attachment to the army of their own country, made it impossible to accuse them of defending the vested interests of their profession — an accusation that might otherwise have been provoked by their obstinate stand on principles in fact adopted in the interests of the wounded.

The unanimity of army medical officers on this fundamental issue explains their firm and unfailing support for Red Cross work within the army. That support, still further consolidated in the world wars in which they served, is as lively and vigorous today as when the Red Cross was founded 125 years ago.

Dr. Jean Guillermand

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Written and customary provisions relating to the conduct of hostilities and treatment of victims of armed conflicts in ancient India

by Professor L. R. Penna

INTRODUCTION

Two thousand years before Grotius, Rachel, or Ayala recalled Europe to humanitarianism, ancient Indians had a body of rules for governing the relations between the States of the sub-continent in the event of armed conflicts. According to Professor A. L. Basham:

“...in no other part of the ancient world were the relations of man and man, and of man and the state, so fair and humane... No other ancient law-giver proclaimed such noble ideals of fair play in battle as did Manu. In all her history of warfare Hindu India has few tales to tell of cities put to the sword or of the massacre of non-combatants. The ghastly sadism of the Kings of Assyria, who flayed their captives alive, is completely without parallel in ancient India. There was sporadic cruelty and oppression no doubt, but in comparison with conditions in other cultures, it was mild. To us the most striking feature of ancient Indian civilization is its humanity.”¹

The Hindus gave no special name to humanitarian law. In Sanskrit there is no term equivalent to *strictissimi juris* for dissociating positive

¹ A. L. Basham, *The Wonder That Was India* (1981), p. 8.

law from ethical and religious ideals. Ancient Hindu law was founded on the social and sociological concepts of a pastoral people, and was necessarily influenced by the theological tenets and philosophical theories of the Vedic Aryans. Ancient Hindu law is therefore an admixture of religion and ethics with legal precepts.

The Hindus preferred to base the rules relating to interstate relationships on *dharma*, as the sheet anchor of common humanity. *Dharma* pervades Hindu philosophical thought and social structure. It is an expression of wide import and refers to the aggregate of religious, moral, social, and legal duties and obligations. Law is a branch of *dharma*, called *dharmashastra*.

SOURCES OF HINDU HUMANITARIAN LAW

1. *Srutis*

Sruti literally means “which is heard”. For the ancient Hindu, law was a Revelation, immutable and eternal. Hindu sages are believed to have attained such great spiritual prowess that they could communicate directly with God, and God had revealed the sacred law to them. That revelation is contained in *Srutis*: the four *Vedas* — *Rig*, *Yajur*, *Sama*, and *Atharva* — and their respective appendices, the *Brahmanas*. The approximate Vedic period is 4000 to 1000 BC.

2. *Smritis*

Smriti literally means “what has been remembered”. *Smritis* are based on the recollections of sages, who were the repositories of the sacred Revelation. They are divided into *Dharmasutras* and *Dharmashastras*, or earlier and later *smritis*.

a. *Dharmasutras* expound on the *Vedas* and deal with the duties of men in their various relations. They refer to many previously existing, unrecorded customs making up the rules of law and set forth jurisprudential concepts. They bear the names of their authors, known as *Dharmasutrakars*; of greatest significance are Gautama, Baudhayana, Apastamba, Harita, Vasistha, and Vishnu.

b. *Dharmashastras* consist of *Acharya* and *Prayashchitta* (rules for religious observance and expiation), and *Vyavahara* (civil law).

c. *Manu Smriti*² has always been considered the supreme authority. Compiled around 200 BC, it is divided into twelve chapters and has 2,694 verses. A number of commentaries have been written on Manu Code.

d. *Yajnavalkya Smriti* is based on Manu Smriti, but is more logical and synthesized.

e. *Narada Smriti* emphasizes that custom overrides any text of law.

f. *Puranas*, a compendium of legends and religious instructions, are, according to Professor Derett, “unquestionable *dharmashastra* material”.³ There are 18 chief *Puranas*, of which the better known are the *Vayu*, *Vishnu*, *Agni*, *Bhavisya*, *Bhaqwatta*, *Marsya*, *Kurwa*, and *Markendeya Puranas*.

g. *Upanishads*, 112 speculative and mystical scriptures of Hinduism, are best known for their doctrine of *brahman*, the ultimate and universal reality of pure being and consciousness, and the identification of *brahman* with *atman* (the inner self, or soul), by whose realization man transcends joy, sorrow, life, and death, and is wholly freed from transmigration.

3. Digests and commentaries

They cover the period from 700 AD to 1700 AD

² *Manu* in Sanskrit means “man”, and in Hindu legend refers to 14 progenitors, each ruling the world for one *manvantara*, or 4,320,000 years. The first *Manu* was called *Swayambhuva*, son of the self-existent. According to the *Mahabharat*, this *Manu* wrote the renowned *Manu Smriti*. It is said originally to have consisted of 100,000 verses. Modern scholars have dated *Manu Smriti* between 600 BC and 300 AD. It contains rules on the observance of ceremonies and rituals, and on moral and social instruction.

Vaivasvata, son of the Sun, the *Manu* of the present age, is the 7th *Manu*. Hindu legend, whose different versions are to be found in *Mahabharat*, depicts him as the hero, the Noah of the Hindu story of the flood.

Of the many English translations, “The Laws of Manu”, vol. XXV of the *Sacred Books of the East*, ed. F. M. Muller (1886), is quite significant. Chapters and verses are referred to in the traditional way.

³ J. D. M. Derett, *Religion, Law, and State in India* (1968), p. 99.

In *Ganga Sahai v Lekhray Singh*, [1866] 9 I L R (All) 253, the Allahabad High Court “reckoned” that the *Puranans* are “a supplementary to the scriptures, and as such, constitute a fifth Veda”.

See M. N. D. Shastri, *Agni Purana: A Prose English Translation* (1967), and *Ancient Indian Tradition, Mythology Series* (1970), several volumes, for texts of the *Puranas*.

4. Custom

The essential attributes of custom are that it must be ancient, reasonable, must have been observed continuously, and must be indisputable.

5. The epics

The epic literature of the *Mahabharat* and *Ramayan* are of considerable importance for humanitarian law because the references to the precepts of war, the means of warfare, and the treatment of combatants and non-combatants bear a startling resemblance to the modern concepts enunciated in the Geneva Conventions and their Additional Protocols.

The *Mahabharat*,⁴ written by the ancient sage Vyasa (c. 200 BC), is the account of a dynastic struggle between two cousins, the Pandavas and Kauravas, which culminated in the battle of Kurukshetra (c. 900 BC). On the battlefield, Arjuna, the third of the five Pandava brothers, is overcome with anguish when he sees in the opposing army many of his kinsmen, teachers, and friends. Krishna, the charioteer, reveals himself as the incarnation of the God Vishnu, and in the exalted *Bhagavad Gita* persuades Arjuna to fight by instructing him in spiritual wisdom and the means of attaining union with God. The twelfth book of the *Mahabharat*, known as *Shanti Parva*, is a collection of many disparate passages on statecraft and human conduct.

The *Ramayan*,⁵ by the sage Valmiki (c. 300 BC), also contains passages on statecraft and warfare. Like the *Mahabharat*, it incorporates material from Vedas, and it narrates the adventures of Ram, the seventh incarnation of Vishnu. Ram was deprived by guile of the throne of Ajodhya and forced into long exile with his wife Sita and brother Lakshman. Ravan, the demon king of Lanka, infatuated with Sita, abducts her. Ram makes an alliance with the monkey king Sugriv and his general Hanuman (monkeys are to be rationalized as aborigines)

⁴ For an English translation, see P. C. Roy, *The Mahabharata*, 11 vols. (1919-1935). Citations are from the *parvas* (parts), chapter and verse.

A new English translation in several volumes is by J. A. B. van Buitenen, *Mahabharata*, University of Chicago Press. Vols. 1 (1973), 2 (1975), 3 (1978), cover only up to the 4th book of *Mahabharat*.

⁵ For an English translation, see N. Raghunathan, *Srimad Valmiki Ramayanam*, 3 vols. (1981-1982). References are to *kanda* (part), chapter and verse.

A new English translation in several volumes is being published by the Princeton Library of Asian Translations under the general editorship of Robert P. Goldman and with the title *The Ramayana of Valmiki — An Epic of Ancient India*. Vols. 1 (1984) and 2 (1986) cover only up to the 2nd part of *Ramayan*.

and fights a mighty battle in Lanka to recover Sita. Eventually he is restored to his rightful throne.

6. Arthashastra and other political texts

No general survey of the sources of Hindu law can omit the Arthashastra of Kautilya, also known as Chanakya or Vishnugupta. This masterly treatise on ancient Indian polity deals, *inter alia*, with rules relating to the conduct of war.

CONDUCT OF HOSTILITIES

1. Jus in bello

Humanitarianism raised the laws of warfare in ancient India to such a high level that the distance of centuries vanishes in the mist of time. While humanitarianism contributed to the high order of interstate relations and international custom, chivalry ennobled the ideal of warfare and its practice in general conformed to that lofty ideal. Humanitarianism of the laws regulating wars in ancient India has been succinctly explained by Prof. Basham:

For (the more orthodox texts), the major motive of war is glory, not gain. War is not merely a means to an end, but part of the warrior's dharma and good for its own sake... Rules of fair fighting are laid down. For the later sources, such as Manu, a battle was ideally a gigantic tournament with many rules... Homage and not annexation was the right fruit of victory...

... the chivalrous rules of war, probably based on very old tradition, and codified in their present form among the martial people of Western India in post-Mauryan times, must have had some effect of mitigating the harshness of war for combatants and non-combatants alike. It is doubtful if any other civilization set such humane ideals of warfare.⁶

The underlying rationale of international humanitarian law, by which the rigours of wars have been to a large extent mitigated, is also reflected in the *Mahabhart*. In words reminiscent of the Martens Clause, Bhisma counsels abstention from fruitless acts of hostility, insolence,

⁶ *Supra* no. 1, p. 127.

and haughty speech, and he recommends humane treatment of the conquered.⁷

The idea that men are the work of one Creator and that they are all His children was propounded in the *Upanishads* and gradually led to better treatment of the conquered by the conqueror.

In the *Ramayan* one notices that the laws of war were humanized. War was a game to be fought fairly. The rule of the game was chivalry and not chicanery. Soldiers fought with arms and not by resorting to stratagems. Hanuman had sought Sita's permission to slay the female slaves who had tormented her during her captivity by Ravan. Sita advised Hanuman to forgive those guilty of iniquitous acts. It was proper to show compassion, even to those who deserved chastisement and extirpation.⁸

The *Puranas* reiterate the laws enunciated in the *Dharmasutras* and epics. Laws of war humanized conflict, and people were advised to show kindness to their enemies. In a style typical of Rousseau, they stated that the aim of an armed conflict was not unnecessary slaughter but to attain success in the war with as little oppression as possible. The *Siva*, *Brihadharma*, and *Padma Puranas* enumerated the protected persons who could not be killed.

2. Military Objects

The ancient Indians made a distinction between military objects that could be the target of attack and non-military objects that could not be attacked. Places of religious worship, houses belonging to persons who were not participating in the war, or property that was not in the possession of armed forces could not be attacked or destroyed, in accordance with recognized custom and spiritual texts. Warfare was, as a rule, confined to combatants. Consequently, the objects of attacks were the armed forces wherever they existed, and neither cities nor towns were allowed to be ravaged during the war or even while the armed forces were marching through.⁹

Dharmayudha, the Hindu conceptualization of "just war", was, according to the *Agni Purana*, to leave the fruit and flower gardens, temples, and other places of worship unmolested.

Megasthenes, the Greek ambassador of Seleucus Nicator at the Court of Chandragupt Maurya at Pataliputra, chronicled:

⁷ *Santi Parva*, 102.34-38.

⁸ *Yuddhakanda*, p. 116.

⁹ N. Singh, *India and International Law*, vol. 1 (1973), pp. 72 ff.

*Whereas among other nations it is usual, in the contests of war, to ravage the soil, and thus reduce it to an uncultivated waste, among Indians on the contrary, by whom husbandmen are regarded as a class that is sacred and inviolable, the tillers of the soil, even when the battle is raging in their neighbourhood, are undisturbed by any sense of danger, for the combatants of either side in waging the conflict make carnage of each other but allow those engaged in husbandry to remain quite unmolested. Besides, they neither ravage an enemy's land with fire, nor cut down its trees.*¹⁰

A millennium later, Hiuen Tsang recorded: "Petty rivalries and wars were not infrequent, but they did little harm to the country at large".¹¹

The distinction made between civilians and belligerents bears a surprising similarity to Articles 48, 51 (1), and 52 (1 and 3) of Additional Protocol I.

3. Instruments of Warfare

The military literature of ancient India is full of detailed descriptions of the weapons used in ancient warfare. The weapons consisted of *Astra* and *Sastra*. The former were thrown by means of charms, machines, or fire. They were charmed or tubular. The latter were weapons which could inflict cuts.

The *Riq Veda* refers to *Prajanya*, the celestial arrow with an iron head dipped in poison. *Mahabharat* refers to clubs, iron balls, rocks, *sataqhnis*, darts, maces, spiked bludgeons, scimitars, lances, mallets, axes, *kampanas*, swords, nails, short clubs, battle axes, razors, arrows with bone tips, discs, snake-headed shafts, and spears. Reference is also made to *Bharqava*, weapons which shot millions of sharp blazing arrows resembling snakes, probably venom-tipped. There are also references to *aqnibana*, arrows whose heads were wrapped in a combustible substance and set on fire, *Asani* and *Vajra*, meaning "lightning" (apparently some electric energy was generated from them), and *Sam-mohan bann* which rendered those it struck unconscious.

The *Atharva Veda* refers to enchantment as a means of winning battles. *Mantra Yudha*, viz. imprecations directed against a hostile enemy, a charm to ensure victory in war, a talisman to check the

¹⁰ See J. W. McCrindle, *Ancient India as described by Megasthenes* (1926), p. 33.

¹¹ Quoted in S. V. Viswanatha, *International Law in Ancient India* (1925), p. 18.

advance of a hostile enemy, a hymn of war drums for victory, an incantation to render poisoned arrows innocuous, or a spell for the destruction of the enemy, had its place in ancient warfare too.

According to *Manusmriti*: “When he (the king) fights with his foes in battle, let him not strike with weapons concealed (in wood), nor with (such as are) barbed, poisoned, or the points of which are blazing with fire”.¹² In a similar way, Yajnavalkya proclaims that he who kills his opponents in war with weapons, carried openly, not covered or disguised, goes to heaven like ascetics.¹³ In prohibiting the use of concealed weapons the *Dharmashastras* apparently enjoin the carrying of weapons openly and not surreptitiously, a requirement of Article 13 (2) (c) of the First and Second Geneva Conventions, and Article 4A (2) of the Third.

This principle is also found in *Mahabharat*.¹⁴

The *Puranas* refer to certain hyper-destructive weapons such as *Brahmastra* and *Pasupatastra*. Lakshman in *Ramayan* and Arjun in *Mahabharat* were prevented from using them because they could cause indiscriminate loss of life.

4. Combatants and non-combatants

The distinction made between combatants and non-combatants in modern humanitarian law was recognized by the ancient Hindus.

Killing a foe in war was holy, righteous, and lawful. Gautama's *Dharmasutra* provides: “No sin (is committed) by injuring or slaying (foes) in battle”.¹⁵ Dying a hero's death was the highest honour for a Kshatriya (a member of the Hindu royal and warrior caste). Manu stated: “Those kings who, seeking to slayeth other in battle, fight with the utmost exertion and do not turn back, go to heaven”.¹⁶

Immunity from killing was given to some protected persons on grounds of humanity and justice. As the idea of fair fighting existed, enemies in war were to be defeated in open conflict.

Those who were incapable of protecting themselves or who were incapacitated were to be spared. In prohibiting killing in the following cases, Manu recognized the contemporary concept of *hors de combat*:

¹² Manu Smriti, 7.90.

¹³ Yajnavalkya Rajadharama Prakaranam, pp. 322-3.

¹⁴ Shanti Parva, 11.3.

¹⁵ Sacred Books of the East, vol. II (1876), 10.17.

¹⁶ Ibid., 7.89.

Let him not strike one who (in flight) has climbed on an eminence, nor a eunuch, nor one who joins the palms of his hands (in supplication), nor one who (flees) with flying hair, nor one who sits down, nor one who says 'I am thine';

Nor one who sleeps, nor one who has lost his coat of mail, nor one who is naked, nor one who is disarmed, nor one who looks on without taking part in the fight, nor one who is fighting with another (foe);

Nor one whose weapons are broken, nor one afflicted with (sorrow), nor one who has been grievously wounded, nor one who is in fear, nor one who has turned to flight.¹⁷

According to Gautama it was sinful to kill:

... those who have lost their horses, charioteers, or arms, those who join their hands in (supplication), those who flee with flying hair, those who sit down with averted faces, those who have climbed (in flight) on eminences or trees, messengers, and those who declare themselves to be cows or Brahmanas.¹⁸

Vridha-Harita exempted spectators from killing.¹⁹

Sankha, Yajnavalkya's commentator, states that one soldier should not kill another while the latter is drinking water, eating his meals, or taking off his shoes; nor should one kill a woman, a female elephant, a charioteer, a bard, or a Brahman; nor should one who is not a king kill one who is a king.²⁰

Baudhayana added:

those who are in fear, are intoxicated, insane or out of their minds, (nor with those) who have lost their armour, (nor with) women, infants, aged men, and Brahmanas.²¹

For Apastamba:

The Aryas forbid the slaughter of those who have laid down their arms, of those who (beg for mercy) with flying hair or joined hands, and of fugitives.²²

¹⁷ *Ibid.*, 7.91-93.

¹⁸ *Ibid.*, 10.18.

¹⁹ 7.216, quoted by P. V. Kane, *History of Dharmasastra*, vol. III (1973), p. 208.

²⁰ *Ibid.*, p. 210.

²¹ *Sacred Books of the East*, vol. XIV (1882), I.10.18,11.

²² *Ibid.*, Vol. II, II.5.10,10-11.

The *Mahabharat* made it a sin to kill one not actively engaged in combat. The episode of Srutayudha makes it clear that one who killed a non-combatant would incur an eternal curse. Srutayudha had made a mace which, if used against a non-combatant, would kill the user. He had hurled it against Janardana, who was not engaged in the fighting, and so it boomeranged and killed Srutayudha.

War, according to the *Mahabharat*, was a manly sport in which people were eager to display their prowess. The *dharma* of the Kshatriya was to fight and maintain law and order. War was to be waged according to the rules, fairly and not deceitfully. Bhishma lays down the principle of the fair fight:

*A Kshatriya must not put on armour for fighting a Kshatriya unclad in mail. One should fight one — and abandon the opponent when the latter becomes disabled and to fight an army clad in armour by putting on armour ...one should not on horseback proceed against a car warrior. A car warrior is to proceed against a car warrior. Neither poisoned nor barbed arrows should be used. These are instruments of the wicked. One should fight righteously without yielding to wrath or being fond of unnecessary slaughter. The righteous should always act righteously towards those who are righteous. Even he that is wicked should be subdued with fair means. It is better to lay down life itself in observance of righteousness than win victory by sinful means.*²³

Fair fight was *Sanmukha Yudha*, that is, to fight openly face-to-face and not strike from behind.

War being an act of heroism, in the *Mahabharat* it is a sin to fight a fugitive or the unarmed. Karna exclaimed:

*Brave warriors that are observant of the practice of the righteous never shoot their weapons at persons with dishevelled hair, or at those that have turned their faces from battle or at a Brahmana or at him who joins his palms, or at him who yields himself or beggeth for quarter or one who has put his weapons or whose arrows are exhausted or at one whose armour is displaced or at one whose weapon has fallen off or broken.*²⁴

²³ *Shanti Parva*, 95.6-16.

²⁴ *Karna Parva*, 90.109-110.

Bhishma's attitude towards the rules of war was that:

*No one should slay those that are asleep, or thirsty, or fatigued or those whose accoutrements have fallen away or one that has set his heart on final emancipation or one that is flying away or one that is walking (unguarded) along a road or one engaged in drinking or eating or one that is mad, or one that is insane or one that has been wounded mortally or one that has been exceedingly weakened by his wounds or one that is staying trustfully or one that has begun any task without having been able to finish it, one skilled in special art or one that is in grief or one that goes out of the camp for gathering forage or fodder or men who set up camp or camp followers or those that wait at the gates of the king or his ministers, menials or army chief or chief of the servants.*²⁵

The *Siva*, *Padma*, and *Brihaddharma Puranas* reiterate the same categories of persons not to be killed, except that the last one adds to the list "one who is engaged in sexual intercourse".²⁶

In *Ramayan*, Lakshman is infuriated because the Indrajit fight incognito, and is about to massacre the Rakshasas. His brother Ram counsels him not to kill those who have retired from battle, hidden themselves, sought shelter, asked for mercy, become bewildered, and fled.

Again, when Vibhishan approached Ram seeking refuge, Sugriv, Ram's ally, advised against asylum, for Vibhishan could have been a fifth columnist of Ravan, or having left Ravan, could leave Ram also. Granting asylum, Ram exhorts:

O slayer of foes, even a wicked-minded enemy, if he, with folded palms, and a poor heart, craveth for thy shelter, should not be slain. If an enemy, proud or terrified seeketh shelter in fight, he should be saved by a great man even at the risk of his own life. One who from fear, ignorance, or wilfully doth not protect him who seeketh his shelter perpetrates a might iniquity, blamed by all. When a person is slain before him whose shelter he hath taken he taketh away all the virtues of his protector. So great is the sin in not affording shelter unto those who seek for it, it standeth in the way of heaven, bringeth in calumny and destroyeth the strength and prowess. I shall, therefore, follow the excellent

²⁵ *Shanti Parva*, 100.27-29.

²⁶ *Ibid.*, 62.56-59.

*words of Kundu — leading to piety, fame, and heaven. I always declare 'no fear' unto all creatures, whenever any person approaching me says, 'I am thine' and seeketh my shelter. O Sugriva, do thou soon bring him here — whether he be Ravana or Vibhishana.*²⁷

Ancient treatises on political science have the same mandates. The *Sukraniti* in addition enjoins that:

the old and the youngsters should not be slain and so also it is not proper to kill the woman or only the king".²⁸ Even the down-to-earth pragmatist Kautilya pleads that "when attacking the enemy's camp, they should show safety to those fallen down, those turning back, those surrendering, those with loose hair, those without weapons, those disfigured by terror and to those not fighting."²⁹

From the above discussion, it is thus clear that the parties to the armed conflict were not entirely free to choose the means and methods of warfare. In terms identical to the requirements of Article 22 of the 1899/1907 Hague Convention, Article 12 of the First and Second Geneva Conventions, and Articles 35 and 41 of Additional Protocol I, the right to kill an enemy was conditioned by various restraints and many categories of persons could not be killed. Even the distinction between civilians and belligerents made in Article 23 of the 1899/1907 Hague Convention and Article 51 of Additional Protocol I was in practice in ancient India. The immunity of the Brahmins is identical to the protection afforded to religious personnel under Articles 24 of the First and 36 of the Second Geneva Conventions.

TREATMENT OF THE VICTIMS

1. Treatment of the sick and wounded

Persons who were spared from being killed were either to be taken as prisoners or set free. In the *Puranas*, there are instances of humane

²⁷ *Yuddhakanda*, 18.27-34.

²⁸ *Ibid.*, 4.1177-1179.

²⁹ R. P. Kangle, *The Kautilya Arthashastra*, Part II (1972), 132.4.52.

treatment of enemies. Kalki entreated the widows of Mlechchas to desist from fighting. When they finally agreed, they were set free and proper arrangements were made for the funeral of their husbands.³⁰ Many men who surrendered their arms were reprieved and their lives spared.³¹

One of the duties of the infantry soldiers, according to *Agni Purana*, is to carry the dead and wounded from the battlefield to a place of safety. Warriors in chariots helped to carry the wounded.

In this publication, which commemorates the 125th anniversary of the 1864 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field, it is significant to note that the ancient Indians had provided for the prompt treatment of the wounded and sick on the battlefield. There is evidence that a medical corps was present. In the *Mahabharat*, it is stated that physicians, markets, conveyances, oxen, machines, arms, and prostitutes accompanied the army. The *Bhishma Parva* states that doctors well versed in extracting splinters of arrow-heads from the body approached with their instruments to extract darts from the Bhishma's body.

In formulating the marching lines of the army, Kautilya proposed: "Physicians with surgical instruments, blunt instruments like (tweezers), medicines, curative oils and bandages in their hands and women (nurses) looking after the food and drink of the army should stand behind the soldiers uttering encouraging words."³²

The requirement that the auxiliary corps "should stand behind the soldiers" suggests that they, including the medical corps, were positioned in a place of comparative safety and not exposed to the dangers of war. "Women ... uttering encouraging words" implies that female nurses alleviated the suffering of the sick and wounded. The Red Cross spirit thus hovered over the battlefield.

In the spirit of Article 6 of the 1864 Convention requiring protection for and care of the sick and wounded, the *Mahabharat* enjoined compassion towards a wounded enemy. This was prompted by humane motives. A wounded foe was either to be sent home or, if he was taken prisoner, his wounds were to be carefully tended by skilful surgeons. Bhishma in this context commanded: "When in consequence of a quarrel between righteous kings, a righteous warrior falls into distress, his wounds should be attended to and when cured he should be set at liberty. This

³⁰ *Kalki Purana*, pt. 3, ch. 1.

³¹ *Matsya Purana*, 59.113.

³² 10.3.47. See also Kane, *op. cit.*, p. 208.

is the eternal duty.”³³ Protection was afforded to a “righteous warrior”, i.e. one who was fighting according to the laws and not one who was engaged in *Kutayuddaha*, i.e. a war fought disregarding the laws. This is similar to Article 13 of the First and Second Conventions, which qualifies as “protected persons” those who carry arms openly and conduct operations in accordance with the customs and laws of war. Likewise, the repatriation of the sick and wounded is similar to Article 6 of the 1864 Convention, and the carrying of wounded to safety like Article 15 of the First Convention.

2. Prisoners of War (POWs)

The practice of taking POWs existed in India, and the treatment granted them was generous and humane. According to the *Mahabharat*: “Enemies captured in war are not to be killed but are to be treated as one’s own children.”³⁴

During the Vedic times, the *Dasyus*, or aborigines, were made slaves if taken prisoner. In classical Sanskrit *dasa* means “bondsmen”, while the feminine form, *dasi*, is used in the sense of “slave girl”. In the *Riq Veda* these words were used in this sense. Though many of the vanquished aborigines were enslaved, some seem to have come to terms with the conqueror and one *dasa* chief is mentioned as following Aryan ways and patronising the brahmanas.³⁵ According to the *Mahabharat*, a vanquished person should be the victor’s slave, and captives will serve the master until ransomed.

The Puranas also mention POWs being taken as slaves. Even women were captured and enslaved. In referring to slaves in ancient India, one should bear in mind that *dharma* did not recognize slavery. Indeed, Megasthenes wrote that there were no slaves in India. Their treatment as depicted in *Arthashastra* was not the same as in ancient Rome or Greece. Slaves in ancient India were not Aryans, yet had the protection of religion and law. Enslavement was more a type of captivity.

In the later days, POWs were taken as slaves to be released when the war ended. The *Agni Purana* enjoined the monarchs to abstain from taking captives and declared: “A king should treat a prisoner of war ransomed and liberated as his own begotten son. A defeated army should not be fought again ... The wives of the defeated king do not

³³ *Shanti Parva*, 95.13-14.

³⁴ *Ibid.*, 102.32.

³⁵ See S. Puggot, *Prehistoric India* (1950), p. 155.

pass to the victor. Of the five means of appeasing the wrath of a strong adversary by gifts, the fifth one is setting at liberty prisoners captured in war.”³⁶

According to the *Mahabharat*, female POWs were induced to marry someone of the victor’s choice. If they declined they were sent back to their homes under escort.

Kautilya advised that all POWs should be released.

3. Enemy occupation

The position of *Dharmashastras* on enemy occupation was made clear by Yajnavalkya: “Whatever is the king’s duty towards his own subjects in his ancestral realm, the same obligation in its entirety devolves on him when he makes himself master of another kingdom. After the conquest is completed, he must maintain intact the practices, contracts, and family traditions of that country.”³⁷

The *Mahabharat* enjoined: “The victor should protect the land newly conquered from acts of aggression. He should not cause his troops to pursue too much the routed foe.”³⁸

If the people did not submit and resisted the conqueror no consideration was to be shown. *Levée en masse*, however, was allowed only in exceptional circumstances.

For Manu, the purpose of war was not territorial expansion but to establish mutual assistance, goodwill, and to gain an ally. Therefore, he advised the conqueror to install a new king following the conquest, to respect the local laws, religions, and customs, and “to make authoritative their (conquered) laws as declared”.³⁹

Arthashastra is permeated with the international consciousness of that age, and exhorts the king not to “covet the land, property, sons, or wives of the slain one”.⁴⁰

Kautilya suggests consolidation through conciliation in administration of the conquered territory.

³⁶ 236.61-65.

³⁷ 1.342-343.

³⁸ *Shanti Parva*, 100.273.

³⁹ 7.203.

⁴⁰ 7.16.26-30.

CONCLUSION AND APPRAISAL

“The past can never be effaced since the recollection of it is an element in shaping the future,” declared James Bryce. Without access to the grassroots of a civilization one remains only at the mercy of hope. An enquiry into the past gives an insight into the ethos of a society and the psychology of its people. International humanitarian law has been an ever-growing discipline. In applying existing humanitarian law and shaping and developing it, in making potential law viable, a study of the traditional values of any constituent society is necessary.

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From the Declaration of the Rights of Man and of the Citizen of 26 August 1789 to present-day international humanitarian law

by Maurice Aubert

1. Did the 1789 Declaration pave the way for international humanitarian law?

At first glance, the Declaration of the Rights of Man and of the Citizen has no connection with the 1864 Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field. The former laid the basis for human rights as we know them today and the latter marked the advent of international humanitarian law.

When, in August this year, France and the entire world celebrate the 200th anniversary of this charter of the rights of man, the States party to the Geneva Conventions, together with the 148 National Red Cross or Red Crescent Societies, will recall that the month of August likewise saw the adoption of the initial Geneva Convention 125 years ago and also marks the fortieth anniversary of those now in force. Apart from the coincidence of occurring in the same month, are these events interlinked in any way?

The lawmakers of 1789 were inspired by the works of Rousseau and Voltaire, both of whom proclaimed that men were naturally free and equal. But these philosophers' thinking went further than that. For Rousseau, warfare was not a man-to-man relationship, but a relationship between States; thus, those who laid down their arms ceased to be enemies.¹ When, in *Candide*, Voltaire describes the horrors of war,

¹ Rousseau, Jean-Jacques, *Du Contrat social*, Livre I, chap. 4, Edition Garnier Flammarion, Paris, 1966, pp. 47-48.

does he not seek to elicit the reader's condemnation of its pointlessly cruel aspects?² It is a logical conclusion that the victims of wars ought to be granted rights as well. But it was not until Henry Dunant had witnessed the carnage of Solferino in 1859 that his cry of alarm alerted the world.

As chance would have it, all these three men had links with Geneva. Voltaire had to leave his estate "*Délices*" to live in Ferney (France) because the Geneva government banned his plays. Rousseau would frequently recall that he was a citizen of Geneva,³ though the government had his works publicly burnt and he had to renounce his ungrateful fatherland.⁴ Similarly Dunant, becoming bankrupt, spent the last days of his life in abject poverty in an almshouse in Heiden, far from his native city which had disowned him. Today we find such events surprising, for the legacy of these three men has been restored to its true value by the passage of time and by the greater open-mindedness that prevails today. Of course, both in Geneva and elsewhere the works of Voltaire and Rousseau have long been admired and all due tribute is paid to Henry Dunant. In his book *A Memory of Solferino* Dunant explicitly asks governments two questions:

- Why could not an agreement be reached whereby the armed forces' medical services are recognized as neutral?
- Why not set up a voluntary civilian society in each country to bring relief to the wounded?⁵

The 1864 Geneva Convention solved the first question. It was signed by the representatives of 12 States, including France, and opened the way to a new branch of international public law. The National Red Cross or Red Crescent Societies which exist today are the tangible response to the second question. Moreover, one of the underlying principles of their work is to ensure respect for the human being without discrimination as to nationality, race, religious beliefs, class or political opinions.

² Voltaire, Arouet, Jean-Marie, *Candide*, chap. 2 et 3.

³ Rousseau, Jean-Jacques, *Confessions*, Le Club Français du Livre, Paris, 1964, Livre I, pp. 15-60.

⁴ *Ibid.*, pp. 446, 652, 661, 682, 707.

⁵ Dunant, Henry, *A Memory of Solferino*, Henry Dunant Institute, ICRC reprinted edition, 1986, pp. 116 et seq.

2. Defending the same rights in different situations

A direct connection cannot be established between the Declaration of the Rights of Man and of the Citizen and international humanitarian law. Nevertheless, many of their respective rules are intended to safeguard the selfsame rights, although in different situations. The purpose of both sets of laws is to defend the dignity of man.

It would be wrong to claim that the 1789 Declaration was merely a stratagem to combat the *Ancien Régime*. Nor is it solely of philosophical significance, since it forms part of French positive law and is the source of current legislation in most States. The search for elements that this law and the Geneva Conventions have in common goes beyond merely comparing a French legal text with international treaties, for it involves analysing the rules of law agreed upon by the collective conscience of mankind.

As Jacques Godechot points out, "There will henceforth be no outlaw in the remoteness of his exile, no persecuted person in the remoteness of his prison cell or concentration camp, who will not resist arbitrary treatment and tyranny by invoking the rights of man, mindful of the 1789 French Declaration".⁶

This Declaration and subsequent ones were designed to protect the individual against the power of the State in non-conflict situations. Conversely, the purpose of international humanitarian law is to protect the lives and dignity of victims during armed conflicts. In both cases, therefore, the intent is to ensure respect for certain rules which underlie human rights in the widest sense. There are consequently grounds for claiming that the 1789 Declaration and international humanitarian law both stem from the same ideal.

Human rights originated from tensions within States, between government and subjects. Later on, human rights principles were extended to international or internal armed conflicts, as well as to other situations in which violence is used. Initially rules of internal law, human rights were substantially developed in public law. The convergence with international humanitarian law has progressively become more and more marked. However, the institutions responsible for safeguarding the respective rights of those in need are not the same:

— for human rights, the United Nations and various specialized organizations;

⁶ Godechot, Jacques, *Les Institutions de la France sous la Révolution et l'Empire*, Presse Universitaire de France, 3^e édition, 1985, p. 40.

— for international humanitarian law, the International Committee of the Red Cross.⁷

3. Correlation between the rights safeguarded by the Declaration of the Rights of Man and of the Citizen, and international humanitarian law

Without studying the matter in too much depth, we shall show that there is a genuine correlation in thought between the two legal instruments. We shall take as a basis certain articles from the 1789 Declaration. Since Articles 2, 3, 4, 6, 12, 13, 14, 15 and 16 are not related to humanitarian law, they will not be discussed.

3.1. Article 1: “All men are born and remain free, and have equal rights. Social distinctions are unjustifiable except in so far as they may serve the common good.”

Non-discrimination is a fundamental principle of humanitarian law. The 1864 Geneva Convention stipulated—and this is remarkable given the era—that wounded or sick combatants, to whatever nation they may belong, shall be collected and cared for (Article 6). Of the four 1949 Geneva Conventions, *the first* one deals with the protection of the wounded and sick in armed forces in the field and the *second* one extends protection to the shipwrecked members of armed forces at sea. Hence both simply enlarge upon this principle of non-discrimination.

The 1929 Convention relative to the Treatment of Prisoners of War had already explicitly stipulated that they must be treated with impartiality, stating that difference in treatment is lawful only when it is based on the military rank, state of physical or mental health, professional qualifications or sex of those who benefit thereby (Article 4). This provision made it possible to save the lives of countless Jewish prisoners of war during World War II.⁸

⁷ Meron, Theodor, *Human Rights in International Strife: Their International Protection*, pp. 26-27, Hersch Lauterpacht Memorial Lectures, Cambridge, Grotius Publications 1987.

⁸ Meron, Theodor, *op. cit.*, p. 19.

The *Third Convention* (currently in force) which protects prisoners of war specifies that they are entitled to equality of treatment on the part of the Detaining Power “without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria” (Article 16).

The *Fourth Convention* (Article 27, para. 3) for the protection of civilians similarly states that all protected persons shall be treated with the same consideration.

Protocol I of 1977, which deals with the protection of victims of international armed conflicts, establishes a very full list of fundamental guarantees. Article 75, para 1, states that persons who are in the power of a Party to the conflict shall be treated humanely in all circumstances without any adverse distinction based upon race, colour, sex, language, religion or belief, political opinions or upon any other similar criteria.

As regards *conflicts of a non-international character*, Article 3 common to the Four Conventions grants similar safeguards to persons taking no active part in the hostilities (Article 3, para 1).

3.2. Article 5: “The law can proscribe only those actions which harm society. Any action not forbidden by law cannot be disallowed, nor can anyone be forced to do what the law does not specifically command.”

This means that a person may be prosecuted only on the basis of impartial law and according to proper procedure. Hence humanitarian law makes the provision that prisoners of war may be punished only for committing any offence recognized as such under the laws, regulations and orders in force in the armed forces of the Detaining Power (III/82). Such protection against arbitrary treatment is particularly important whenever they are accused of penal offences.

Furthermore, a prisoner of war may be tried only by a court which offers the essential guarantees of independence and impartiality. The procedure must afford the accused the rights and means of defence (III/84). He may not be punished more than once on the same charge (III/86).

Protected persons in an occupied territory are entitled to special protection. No sentence may be pronounced except after a regular trial (IV/71). Accused persons are entitled to present evidence and call witnesses (IV/72). Provision must be made for rights of appeal (IV/73). Persons condemned to death must not be deprived of the right of petition for pardon (IV/75).

Protocol I specifies what is meant by a proper trial: conducted in a language which the accused understands, conviction for the alleged offence only on the basis of individual penal responsibility, the right of the accused to be tried in his presence and not to be compelled to testify against himself, etc. (Article 75, paras. 3 and 4).

In internal conflicts, no sentence may be passed and no penalty may be executed except pursuant to a conviction pronounced by a regularly constituted court (Article 3 common to the Geneva Conventions). *Protocol II* relating to the protection of victims of non-international conflicts supplements these provisions and reiterates the principles contained in Protocol I and referred to above (Article 6, paras. 2 (b) and (c)).

3.3. Article 7: “No man can be indicted, arrested or held in custody except for offences legally defined, and according to specified procedures. Those who solicit, transmit, execute or cause to be executed arbitrary commands must be punished; but if a citizen is summoned or arrested in due legal form it is his duty to obey instantly”.

Under humanitarian law this means that the taking of hostages is prohibited in international conflicts (IV/34) and in internal conflicts (IV/3 and Article 4, para. 2 (c), Protocol II).

As a corollary to this, no protected person may be punished for an offence he or she has not personally committed and collective penalties are prohibited (IV/33). Civilians may not be interned unless the security of the Detaining Power makes it absolutely necessary (IV/42).

Judicial investigations relating to a prisoner of war must be conducted rapidly. A prisoner of war must not be confined while awaiting trial unless a similar measure would be applicable to a member of the armed forces of the Detaining Power, or for security reasons. Under no circumstances may preventive detention exceed three months (III/103).

We have previously referred to other regulations banning any kind of arbitrary detention. To that may be added the provision in *Protocol I* whereby any person arrested or detained must be released with the minimum delay possible except in cases of detention for penal offences (Article 75, para. 3). According to *Protocol II*, during internal conflicts, in penal prosecutions related to the armed conflict, no sentence may be passed without prior conviction by a court, pronounced solely on

the basis of individual penal responsibility, and no one may be compelled to testify against himself, etc. (Article 6).

3.4. Article 8: “*The law must impose only penalties that are obviously necessary. No one can be punished except under the correct application of an established law which must, moreover, have existed before he committed the offence*”.

The principle that a law may not be applied retroactively either to prisoners of war or to civilians has been clearly set out in *Protocol I* (Article 75, para. 4 (c)). This principle also applies during internal conflicts (Article 6, para. 2 (c), *Protocol II*).

The penal laws in force for the civilian population in occupied territories must remain unchanged unless they constitute a threat to the security of the occupying power. The occupying power may, however, subject the population to exceptional provisions essential to ensuring the said Power's own security (IV/64); these shall not come into force before they have been brought to the knowledge of the inhabitants (IV/65). Only those provisions which were in force prior to the offence are applicable. They must take into consideration the principle that the penalty must be proportionate to the offence (IV/67). No sentence may be pronounced except after a regular trial. (IV/71).

3.5. Article 9: “*Everyone must be presumed innocent until he is pronounced guilty. If his arrest and detention are thought necessary, then no more force may be used than is necessary to secure his person*”.

The presumption of innocence is one of the basic rules of a fair trial as laid down in international humanitarian law. Indeed both *Additional Protocols* take almost word for word this article from the 1789 Declaration when they stipulate that “anyone charged with an offence is presumed innocent until proved guilty according to law” (Article 75, para. 4 (d), *Protocol I* and Article 6, para. 2 (d), *Protocol II*).

3.6. Article 10: “*No one must suffer for his opinions, even for religious opinions, provided that his advocacy of them does not endanger public order*”.

Respect for religious convictions and practice already appears in the regulations of the Hague Convention of 1907 (Convention No. IV of

1907, Reg. Art. 46). This provision has been considerably developed in current law.

Prisoners of war must enjoy complete latitude in the exercise of their religious duties (III/34). Chaplains who fall into the hands of the enemy Power must be allowed to exercise freely their ministry and assist prisoners of war (III/35). These provisions also apply to ministers of religion who have not officiated as chaplains to their own forces (III/36).

Civilians in occupied territories are entitled to respect for their religious convictions and practices (IV/27). Internees must enjoy complete latitude in the exercise of their religion on condition that they comply with disciplinary routine (IV/93). Among the fundamental guarantees to be found in *Protocol I* is the one which specifies that each of the Parties to the conflict shall respect the person, honour, convictions and religious practices of all those in its power (Article 75, end of para. 1).

In *non-international conflicts*, persons who do not take part or who have ceased to take part in hostilities are likewise entitled to respect for their religious convictions (Article 4, para. 1, Protocol II).

The four Geneva Conventions stipulate that religious personnel, like medical personnel, must be respected in all circumstances, and must be enabled to carry out their duties; this is expressly specified once again in both Protocols (Protocol I, Article 15, para. 5, Protocol II, Article 9, para. 1).

3.7. Article 11: “Free communication of thought and opinion is one of the most valuable rights of man; thus, every citizen may speak, write and print his views freely, provided only that he accepts the bounds of this freedom established by law”.

Although there is no direct relationship with this article, it should be noted that prisoners of war are allowed to send and receive letters (III/71). However, such correspondence is confined to exchanging family messages and may be censored. All civilians in the territory of a Party to the conflict or in a territory occupied by it must be enabled to give news of a personal nature to members of their families, wherever they may be, and to receive news from them (IV/25).

3.8. Article 17: *“Since the right to private property is sacred and inviolable, no one can be deprived of it except in certain cases legally determined to be essential for public security; in such cases a fair indemnity must first of all be granted”.*

The 1907 Hague Regulations stipulate that it is forbidden to destroy or seize the enemy’s property unless it be imperatively demanded by the necessities of war (Article 23 (g)) and that private property cannot be confiscated (Articles 46). As a corollary to this in cases of international conflict, pillage is prohibited (IV/33). The personal belongings of prisoners of war must remain in their possession (III/18).

A similar provision applies to civilian internees (IV/97). In occupied territories, any destruction by the Occupying Power of real or personal property is prohibited, unless rendered absolutely necessary on military grounds (IV/53).

Protocol I makes provision for the general protection of all civilian objects. As such, they may not be the object of attacks or of reprisals (Article 52 et seq.).

Lastly, it should be noted that the ICRC, under the mandate conferred upon it by the international community, has the mission to protect the victims of armed conflicts from arbitrary executions and inhumane treatment.

3.9. The 1789 code of principles, a source of inspiration for the Additional Protocols

Although the aims are different, it is evident that the Declaration of the Rights of Man and of the Citizen and the Geneva Conventions have the same objective, namely to defend the dignity of the individual; for this reason we have been able to trace the main elements they have in common.

Since the purpose of the Additional Protocols, as stressed in both their preambles, is to develop the provisions protecting the victims of conflicts, these legal instruments, too, had to be cited. This reference to them is all the more important in that the Protocols set down in writing the rules admitted by customary law. Obviously, the 1789 Declaration had an influence on the development of this law. Consequently, the representatives of the States taking part in the Diplomatic Conference who signed the 1977 Protocols were, perhaps unwittingly, inspired by the Declaration of the Rights of Man and of the Citizen.

4. What lessons can be drawn from the 1789 Declaration as regards the obligations entered into by States under international humanitarian law?

Since the Geneva Conventions have been ratified by almost all States, efforts must now be centred on their dissemination and application, for unfortunately certain governments give their own political interests pride of place over humanitarian law. The opposite ought to be the case.

Protocol I, ratified by 87 States, has the merit of giving extensive protection in international conflict to medical staff and the civilian population, who unfortunately are increasingly bearing the brunt in present-day conflicts.

Moreover, it regulates the methods and means of warfare. It is indeed the only treaty which expressly prohibits the bombardment of civilians and indiscriminate attacks. It also makes it obligatory, before launching an attack, to give due consideration to the proportionality between the injury that will be caused to the civilian population and the anticipated military advantage. Given the awesome power of modern weapons of mass destruction, these provisions are of paramount importance. However, among the Powers that possess such weapons, both China and, more recently, the USSR have ratified Protocol I. Several NATO members (Belgium, Denmark, Greece, Iceland, Italy, the Netherlands, Norway and Spain) have also ratified the Protocol. As for members of the Warsaw Pact States, first Hungary and then Bulgaria took this step.

Protocol II, ratified by 77 States, has the great merit, vis-à-vis Article 3 of the Conventions, of introducing fundamental basic guarantees for people who are not taking a direct part in hostilities and requires that people deprived of their freedom because of the conflict be shown a minimum of respect.

As we have noted, the two Protocols take up and develop several principles which are to be found in the 1789 Declaration. By supplementing the Geneva Conventions, they further advance the protection of life and dignity, those two basic rights which are the essential foundation for all other rights of victims of armed conflicts. Is there not a lesson to be drawn here? For ratifying the Protocols, States demonstrate their willingness to promote respect for human rights, not only in times of peace but also during armed conflicts.

To complete our analysis, mention must also be made of internal disturbances or tensions, i.e. situations in which the ICRC, by virtue

of its right of initiative, but subject to government consent, visits security detainees to ensure that they are treated with the respect which each individual might rightfully expect.

Legally speaking, such situations characterized by major acts of violence over a longer period are classified somewhere in between international law and human rights. Apart from a few non-derogable norms, the guarantees for protection are somewhat vague. But whatever the justification for taking exceptional measures may be, the right to respect for human dignity remains. Precise rules should therefore be established, at international level, entitling all human beings to a minimum of protection in times of internal disturbances and tensions.⁹

In conclusion, this bicentenary of the Declaration of the Rights of Man and of the Citizen should serve to remind us that even though considerable progress has been achieved, we are still living in a violent world. There is still some way to go to ensure the protection and respect to which each and every person is entitled, not only in peacetime but also in armed conflict and situations of internal disturbances and tensions.

Maurice Aubert
Vice-President
International Committee
of the Red Cross

Mr Maurice Aubert has a doctorate in law from Geneva University. He held a legal position in a Geneva bank before embarking on a political career at the cantonal level, and was at one stage Chairman of the City Council of Geneva. He was elected member of the cantonal parliament of the Republic and Canton of Geneva, and presided over this institution from 1978 to 1979. Mr Aubert has been a member of the ICRC since 1979 and of the Executive Board since 1983 and was appointed Vice-President of the institution on 1 January 1984. He has published a number of books and articles on business law, Swiss law and international legal co-operation and international humanitarian law (See "The question of superior orders and the responsibility of Commanding Officers in the Protocol additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international armed conflicts (Protocol I) of 8 June 1977", *International Review of the Red Cross.*, No. 263, March-April 1988).

⁹ Gasser, Hans-Peter, "A measure of humanity in internal disturbances and tensions: proposal for a Code of Conduct", *International Review of the Red Cross (IRRC)*, No. 262, January-February 1988, p. 38 et seq.

Meron, Theodor, "Draft Model Declaration on International Strife", *IRRC*, No. 262, January-February 1988, p. 59.

Missions by the President

● To Colombia and Peru

The President of the ICRC, Mr. Cornelio Sommaruga, visited Colombia and Peru from 30 May to 7 June 1989. A number of humanitarian issues were discussed with the Heads of State and the principal Ministers of both countries.

In **Colombia**, Mr. Sommaruga, accompanied by the President of the Colombian Red Cross, was received by the President of the Republic and by the Minister for Foreign Affairs; he also met the Commander-in-Chief of the Colombian armed forces. During the meetings, Mr. Sommaruga thanked the Colombian Government for having authorized the ICRC to visit security detainees for the past 20 years in prisons under the jurisdiction of the Ministry of Justice. He also encouraged the Colombian authorities to ratify the Additional Protocols and stated that the ICRC and the Colombian Red Cross stood ready to expand programmes to improve knowledge of the basic rules of international humanitarian law, in particular among members of the armed forces and the police.

Mr. Sommaruga also informed the President of the Republic about ongoing preparations for the Twenty-sixth International Conference of the Red Cross and Red Crescent, to be held in 1991 in Cartagena.

While in Bogota, Mr. Sommaruga met with the Human Rights Commission of the Andean Parliament. The members of the Commission reaffirmed their support for the ICRC's humanitarian work and for the dissemination of knowledge of humanitarian law among parliamentarians and in political circles in Andean Pact countries.

Mr. Sommaruga's visit to Colombia provided an opportunity to strengthen the longstanding ties between the National Society and the ICRC: Mr. Sommaruga received from Dr. Rueda Montana, President of the National Society, the *Orden del Mérito*, the Society's highest

award. The Colombian Red Cross is well known for its commitment to the dissemination and application of the Fundamental Principles.

The President of the ICRC was in **Peru** from 1 to 7 June. His visit was enhanced by Peru's announcement of its ratification of the Protocols additional to the Geneva Conventions.

In the course of the talks which took place with the President of the Republic, the President of the Council of Ministers and several Ministers, the Peruvian Government decided to authorize ICRC delegates to resume their visits in prisons under the jurisdiction of the Ministry of Justice, in all regions in which a state of emergency had been proclaimed. These visits had been suspended at the end of 1988. Mr. Sommaruga was therefore able to visit the ICRC's sub-delegation in Ayacucho, one of the regions affected by the decision.

Mr. Sommaruga also negotiated an agreement giving full legal recognition, with privileges and immunities, to the ICRC delegation, which began working in Peru in 1984. The agreement was signed by the President of the ICRC and the Peruvian Minister of Justice acting as Minister for Foreign Affairs.

As was the case in Colombia, the President of the ICRC met with representatives of the Peruvian Red Cross to discuss their activities and a number of humanitarian issues, especially co-operation within the International Red Cross and Red Crescent Movement.

● **To the Federal Republic of Germany**

The President of the ICRC visited **Schleswig-Holstein**, in northern Germany, from 10 to 12 June. He did so at the invitation of the German Red Cross in the Federal Republic of Germany, the Schleswig-Holstein section of which this year organized the *Schleswig-Holstein Tag*.

Mr. Sommaruga gave the keynote speech of the *Tag*, an event organized each year in Neumunster by one of the *Land's* social welfare institutions, to an audience of about 700 people, including civilian and military authorities. He spoke in particular of the 125th anniversary of the Schleswig-Holstein War and the first field mission of two delegates from the ICRC and the Geneva Red Cross, Dr. Louis Appia and Captain van de Velde. During that mission, the armband with a red cross on a white ground was used for the first time in the history of armed conflicts. A ceremony organized by the Danish Red Cross and the local Red Cross in Kiel will be held on 22 August in Duppeler-Schanzen, in Jutland, to commemorate this event.

Besides participating in the *Schleswig-Holstein Tag* on 11 June, Mr. Sommaruga gave a speech on 12 June in Kiel at the invitation of the local Red Cross. He spoke to about one hundred people about the mandate and the activities of the ICRC.

● To Israel

The President of the ICRC made an official three-day visit to **Israel** from 22 to 24 June. He had meetings with the State President, the Prime Minister, the Deputy Prime Minister, the Ministers of Defence and of Justice, with several senior government officials and with officers of the Israeli Defence Forces.

The mission—which took place at the invitation of the Israeli Government—had many purposes, one of them being to examine humanitarian issues as concerned the territories occupied by Israel on the West Bank and in the Gaza Strip.

The President spoke of the ICRC view of the situation as concerned the rules of international law, in particular the Fourth Geneva Convention relative to the protection of civilian persons in time of war. In this respect, Mr. Sommaruga regretted the refusal of Israel to accept the principle of the formal applicability of the Fourth Convention in the territories. He nevertheless took note of the repeated intention of the members of the Government to implement and respect *de facto* all the provisions of the Fourth Convention.

In the same context, he expressed firm disagreement with the destruction of houses and the expulsion of residents from the territories, used as means of repression. He also mentioned the serious consequences of an intensive use of firearms.

The President took note of the undertaking of army officers to protect the wounded, ambulances and medical services. He also offered to step up the ICRC's direct contribution to the functioning of medical services and hospitals in the territories, an offer which was accepted by the Israeli Ministers concerned.

The President was also given confirmation that Israeli civilians should not interfere in the maintenance of law and order.

The problems of security detainees who are residents of the occupied territories were also mentioned, especially the treatment of detainees under interrogation, ICRC access to certain new places of detention and the application of basic rights such as family visits for prisoners. Encouraging replies were received on all these fundamental matters.

Another topic of discussion were the problems faced by the local population in the zone controlled by the Israeli Defence Forces in southern Lebanon. Mr. Sommaruga also met the families of Israeli soldiers missing in action. He confirmed that the ICRC would continue its efforts to discover what had happened to the soldiers.

Mr. Sommaruga also met and spoke in person with several people in the occupied territories who are active in Red Crescent sections, in the medical and legal fields, in education and social work.

At the invitation of the Magen David Adom, Mr. Sommaruga visited the National Society and had an in-depth exchange of views with its President and some of its leaders.

The President started his mission with a visit to the Yad Vashem Memorial, where he lay a wreath on behalf of the International Committee of the Red Cross in memory of the victims of the Holocaust.

● To Italy (Castiglione)

The exhibition entitled "The ICRC 125 years later", held at the International Museum of the Red Cross in **Castiglione Delle Stiviere** to mark the 125th anniversary of the Movement, was opened by the ICRC President on 25 June 1989 in the presence of the *Commissario Straordinario* of the Italian Red Cross, Mr. Giannico, the Museum's President, Mrs. Fanfani, the regional authorities and the general public.

All the speakers praised the exhibition, which was conceived by the Audiovisual Communication Division and coordinated by the Public Relations Service of the ICRC. In addition, a ceremony to commemorate the 130th anniversary of the battle of Solferino was held on 24 June in Solferino.

*EXTERNAL ACTIVITIES**(May-June 1989)***Africa****Senegal/Mauritania**

Following ethnic clashes in Mauritania and Senegal in April, the ICRC sent delegates to both countries.

Initially, with the situation still unclear, the delegates carried out complete surveys on both sides of the border to ascertain medical needs and endeavoured to repatriate the injured and sick from Senegal to Mauritania and vice versa. At the same time they worked together with the two National Societies to set up a tracing network to meet the needs of tens of thousands of people who had crossed from one country to the other, often at night and in great haste. In addition, delegates visited Mauritanian and Senegalese prisons to provide protection for foreigners detained there.

When the emergency was over, the ICRC launched programmes to provide material, medical and food assistance to the many refugees living in camps in both countries. In Senegal the ICRC gave first-aid courses to some 100 people.

Southern Sudan

During the period under review, the ICRC continued its race to keep one step ahead of the rain by distributing food relief in the conflict areas in southern Sudan, both those under government control and those controlled by the Sudan Peoples' Liberation Army (SPLA). By the end of June, 13,000 tonnes of foodstuffs had been delivered; of this, 7,000 tonnes were distributed and the rest kept in reserve for the difficult period of the rainy season. In the areas controlled by the SPLA,

the food supplies were dispersed among many different field warehouses in order to prevent large concentrations of people and the resulting difficulties (poor hygiene, risk of epidemics, etc.). In addition, 400 tonnes of grain and 350,000 packets of other seed and 30,000 hoes were distributed. People living near the Nile received fishing tackle. Finally, the large-scale vaccination programme continued with 450,000 animals having been treated so far.

In the area of detention, on 21 June the ICRC visited an initial group of Sudanese prisoners in rebel hands. The visit took place in full accordance with ICRC customary procedure, and Red Cross messages were collected. The ICRC is continuing its efforts to gain access to people held by the Khartoum government, whether members of the SPLA or any other persons detained in connection with the conflict in southern Sudan.

Mozambique

In the period under review, the ICRC stepped up its assistance programme, extending it to the provinces of Nampula and Zambezia. On 26 May, an ICRC road convoy reached Nahamacaca, near Memba (Nampula province), where the delegates had identified major needs. Ten tonnes of maize, beans, cooking oil, blankets, tents and medicines were distributed at once while a nurse worked to set up a feeding programme. By the end of June, a total of 151 tonnes of relief supplies had been distributed to some 14,000 people. On 22 May, an ICRC team was able to return to Ile (Zambezia province) for the first time in two years. Those living in the centres for displaced persons were found to be in an alarming nutritional state, and food distributions were immediately organized for some 3,500 people. In addition, a therapeutic feeding centre was opened and in early July took in about 100 severely undernourished children, preparing some 1,000 meals a day for them.

The ICRC also continued bringing food and non-food assistance to some 44,000 people in the provinces of Manica and Sofala.

As part of its protection mandate, in early May the ICRC began a second series of complete visits to the places of detention administered by the Ministry of Security. At the same time, partial visits were made to the prisons in Machava, Nampula, Quelimane and Tete to distribute aid to the detainees and complete work on hygiene projects. In addition, the ICRC continued its efforts to gain access to people detained by RENAMO.

Uganda

Under a bilateral agreement between Uganda and Sudan, about 5,000 civilians and military personnel who had taken refuge in Uganda returned to Sudan. Their repatriation brought to an end the temporary and limited assistance operation which the ICRC had undertaken in their behalf. In all, the ICRC provided almost 35 tonnes of food as well as blankets and medicines.

In addition to the food and medical assistance which began in mid-April in Gulu and in mid-March in Soroti, delegates visited several detention centres in Kampala and Jinja. There they saw several thousand prisoners whom the ICRC had already visited previously; some of these prisoners received ICRC aid.

Angola

The ICRC launched a large-scale seed distribution programme on the Planalto to enable residents once again to produce enough food for themselves. When it ended in late June, some 54,000 families had received 120 tonnes of seed (maize, beans, etc.) thanks to which fields near rivers had once again been cultivated. In addition, 30,000 blankets and 79 tonnes of clothing were distributed to almost 59,000 families. *Ad hoc* distributions of non-food relief are conducted whenever particular needs are observed by the delegates, such as in Cuemba (Bié province), where the ICRC was able to return after six months of absence.

In the medical sphere, since mid-June an ICRC team has been running a dispensary twice a week in N'Giva (Cunene province). On the other days, the team travels to nearby villages for consultations.

Benin

In April and May, two delegates and a doctor accompanied the regional delegate based in Togo on a series of visits to 16 detention centres in different areas of Benin. Some of the centres had not been visited by the ICRC on its previous series of visits in April 1988.

Burundi

A second series of visits to security detainees ended in early May. The visits were carried out by delegates, including a doctor, from the ICRC delegation in Zaire. The first series of visits was made in December 1988 and January 1989.

Latin America

Cuba

For the second consecutive year, from 12 to 29 May the ICRC conducted a second series of visits to security detainees. A team led by the ICRC regional delegate based in Costa Rica visited more than 250 people in about ten detention centres in various parts of the country and in a hospital in Havana. These visits took place in accordance with customary ICRC procedure.

Ecuador

At the invitation of the government, the ICRC visited security detainees in Ecuador between 6 and 20 June 1989. A delegate and a doctor saw 30 prisoners in two places of detention in Quito, the capital, and in two prisons in the city of Guayaquil, in the south of the country. This was the first time in 15 years that the ICRC could visit detainees in Ecuador.

Asia

Afghan conflict

In the period under review, the ICRC surgical hospitals in Pakistan and in Kabul continued to deal with large numbers of casualties. In Kabul itself, the ICRC surgical hospital for war wounded admitted a record number of patients in May, the victims of sporadic gunfire in the capital or of fighting in the neighbouring provinces. As post-operative cases began to be transferred to the hospital of the Afghan Red Crescent, admission to the ICRC hospital gradually rose to an average of 90 patients a day.

The continued fighting, especially around the cities of Jalalabad, Khost and Kandahar, meant a constant influx of war wounded to the Peshawar and Quetta surgical hospitals across the border in Pakistan. The Peshawar hospital even exceeded the record figure for April when, in May, it admitted 500 Afghan casualties. A fourth surgical team was sent to help out, and more than 1,100 operations were performed during the month. June also saw a similar number of operations.

Field missions were carried out from Peshawar and Kabul. A team of delegates from Pakistan visited Paktika and then went to Wardak where it met up with another team from Kabul at the end of May.

The delegates based in Afghanistan were actively involved in detention matters: after a second complete visit to the Dar-ul-Tadib centre for minors in Kabul at the beginning of May, a team of delegates visited the prisons in Herat (for the second time) and Farah (for the first time) in June. During the mission to Herat the ICRC medical coordinator also checked on the standard of care provided for the wounded with a view to the ICRC opening a sub-delegation in that city.

In addition to its regular activities, in May the ICRC delegation in Kabul began a series of lectures for the armed forces on international humanitarian law and the work of the ICRC. The first lecture on 13 May was attended by some 300 soldiers, at the military academy in Kabul.

Philippines

Following renewed hostilities between the Philippine army and the New People's Army (NPA), some 30,000 people were displaced to the west of the island of Negros. After jointly assessing the situation with the National Society, the delegation set up a sanitation programme to improve poor hygiene conditions and lessen the risk of epidemics in the various resettlement sites. The civilian authorities undertook to provide assistance to the displaced people. To cope with the most urgent requirements, on 20 May the ICRC, working in conjunction with the Philippine National Red Cross, nevertheless distributed half-rations of food to some 2,000 displaced families, i.e., more than 10,000 people. This was the largest aid programme ever carried out by the ICRC in the Philippines.

Conflict in Cambodia

The ICRC continued to remind the various parties that the civilian status of the camps along the border must be respected and that safer areas must be found for the displaced people. It again expressed concern about the plight of the civilian population under the control of Democratic Kampuchea; representations also continued to have these people transferred to sights accessible to international organizations. In May and June, 800 people fleeing the Khmer Rouge camps arrived at the Sok Sann camp along the southern border. ICRC delegates registered the new arrivals and interviewed them without witnesses; in co-operation with United Nations representatives, they succeeded in convincing the Thai authorities not to send them back.

Middle East

Israel and the occupied territories

As tension continued unabated in the territories occupied by Israel, the ICRC stepped up its activities, especially in the medical sphere (for example, ambulances were escorted by delegates), and continued its representations to the Israeli authorities, urging them to put a stop to practices which contravene the provisions of the Geneva Conventions. To that end, the President of the ICRC was in Israel from 21 to 23 June; the discussions he had with the government authorities centred mainly on humanitarian issues in the West Bank and Gaza Strip (see "Missions by the President", p. 360).

On 30 June, the ICRC issued a press release protesting against the expulsion to Lebanon of eight residents of the West Bank and the Gaza Strip. These new expulsions bring to 56 the number of persons expelled from the occupied territories since the beginning of the *intifada*.

This measure is in breach of Article 49 of the Fourth Geneva Convention, which stipulates that individual or mass forcible transfers from occupied territories are prohibited, regardless of their motives. Again recently, during the President's mission, the ICRC told the Israeli government that it disapproved of such measures.

Lebanon

At the beginning of May the ICRC launched an emergency aid programme for approximately 100,000 displaced families in southern Lebanon: having fled the capital leaving everything behind, these people soon found themselves in serious difficulties. At the end of May, a ship carrying food reached Sidon. Family parcels were made up on the spot for distribution to families in need. By the end of June some 85,000 families had benefited from this programme.

In response to a request from the French authorities, the ICRC repatriated wounded or sick Lebanese civilians who had been taken to France for treatment. Before arranging for their return to Lebanon via Damascus, with the co-operation of the Syrian Red Crescent and the Lebanese Red Cross, ICRC delegates, including a doctor and an interpreter, went to France to ensure that the patients were in a fit condition to travel and that they really wanted to return home.

Iran/Iraq

Almost one year after the cease-fire between Iran and Iraq came into force on 20 August 1988, the ICRC deplors the fact that, despite all the representations made to both parties, there has been no progress in resolving the issue of repatriating all Iranian and Iraqi prisoners of war.

On 23 May 49 wounded or sick prisoners of war were repatriated from Tehran to Baghdad under the auspices of the ICRC.

The Baghdad delegation continued to make regular visits to Iranian prisoners of war and civilian internees to whom its delegates had access.

Death of Colonel G.I.A.D. Draper, O.B.E.

It was with great sorrow that the ICRC learned of the death of Colonel G.I.A.D. Draper, O.B.E., on 3 July last at the age of 75.

The members of the International Committee and many of its staff who knew him well are saddened by the loss of this great humanist who dedicated his life to the defence and promotion of the law.

Colonel Draper studied at the University of London where he was awarded the degrees of LL.B. in 1936 and LL.M. in 1938. He also qualified as a solicitor in 1936 and had a private law practice from 1936 to 1940. In 1941 he joined the Irish Guards and served in North Africa and Europe. Immediately after the war he became a military prosecutor at the war-crimes tribunals in Germany, a task which he performed until 1949. He was called to the Bar in 1946 and practised as a barrister from 1956. He was also Lecturer and Reader in Law at the University of London from 1956 to 1967, when he was appointed Professor of Law Studies at the University of Sussex. He held this post until he was made Professor Emeritus in 1979. He served as a delegate for the United Kingdom at various international law conferences, at conferences of government experts on the development of humanitarian law and at the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law (1974-1977).

Colonel Draper was without question one of the leading pioneers in the development of humanitarian law. Drawing on his military experience and work as a military prosecutor, he had very lucid views on important issues such as the relationship between military and State imperatives and respect for humanitarian principles and between human rights and the law of armed conflict.

The fruit of his reflexion was his many publications in areas as varied as history, the philosophy of law and diverse aspects of international humanitarian law. His writings carry great weight in academic, government and military circles.

He also had remarkable skills in disseminating knowledge of humanitarian law. The many legal advisers, military personnel of all ranks, teachers and students whom he taught in over two decades at the Universities of London and Sussex and at military academies in various countries can attest to his talent for teaching, which was backed up by his great erudition and sense of humour.

Beginning in 1956, he served as a consultant to the ICRC and all those who had the privilege of working with him appreciated his advice, suggestions and initiatives in the major effort mounted by the ICRC in the 50s to develop humanitarian law.

Colonel Draper's eminent career was that of a man close to the Red Cross and imbued with the spirit of service. Cruelly afflicted by physical disability while still a young man, his tenacity and courage were exemplary. The ICRC will remember with gratitude this outstanding champion of the humanitarian cause.

Spain ratifies the Protocols

On 21 April 1989 Spain ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, adopted in Geneva on 8 June 1977.

The instrument of ratification for Additional Protocol I contained the following declaration concerning the International Fact-Finding Commission:

"The Government of the Kingdom of Spain declares that it recognizes ipso facto and without special agreement, in relation to any other High Contracting Party accepting the same obligation, the competence of the Commission to enquire into allegations by such other Party" (Original Spanish, ICRC translation).

Spain is the **thirteenth State** to make the declaration regarding the Commission, which will be set up once 20 States have made such declarations.

The instrument of ratification also contained the following interpretative statement concerning Protocol I:

- **“With reference to Protocol I in its entirety:** *It is the understanding [of the Government of Spain] that this Protocol, within its specific scope, applies exclusively to conventional weapons, and without prejudice to the rules of International Law governing other types of weapons.*

- **Article 1, paragraph 4 and Article 96, paragraph 3:** *These articles shall be interpreted in accordance with the Principle contained in Article 2, paragraph 4 of the United Nations Charter, as developed and reaffirmed in the following texts:*
 1. *Operative paragraph 6 of Resolution 1514 (XV) of the United Nations General Assembly, 14 December 1960.*
 2. *The final paragraph, relative to the principle of equal rights and self-determination of peoples, of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, approved in Resolution 2625 (XXV) of the United Nations General Assembly on 24 October 1970.*

- **Articles 41, 56, 57, 58, 78 and 86:** *It is the understanding [of the Government of Spain] that in Articles 41, 56, 57, 58, 78 and 86 the word “feasible” means that the matter to which reference is made is practicable or practically possible taking into account all circumstances at the time when the situation arises, including humanitarian and military considerations.*

- **Article 44, paragraph 3:** *It is understood that the criteria mentioned in sub-paragraph (b) of Article 44 (3) on the distinction between combatants and civilians can be applied only in occupied territories. The Spanish Government also interprets the expression “military deployment” to mean any movement towards a place from which or against which an attack is going to be launched.*

- **Articles 51-58:** *It is the understanding [of the Spanish Government] that the decision made by military commanders, or others with the legal capacity to plan or execute attacks which may have repercussions on civilians or civilian objects or similar objects, shall not necessarily be based on anything more than relevant information available at the time and which it has been possible to obtain to that effect.*

- **Articles 51, 52 and 57:** *It is the understanding [of the Spanish Government] that the “military advantage” which these articles mention refers to the advantage expected from the attack as a whole and not from isolated parts of it.*
- **Article 52, paragraph 2:** *It is the understanding [of the Spanish Government] that the capture or holding of a specific area of territory constitutes a military objective when all the conditions set out in this paragraph together offer a concrete military advantage taking into account the circumstances at the relevant time” (Original Spanish, ICRC translation).*

In accordance with their provisions, the Protocols will come into force for Spain on 21 October 1989.

This ratification brings to **84** the number of States party to Protocol I and to **74** those party to Protocol II.

The Republic of Peru ratifies the Protocols

On 14 July 1989, the Republic of Peru ratified the Protocols additional to the Geneva Conventions of 12 August 1949 and relating to the protection of victims of international (Protocol I) and non-international (Protocol II) armed conflicts, adopted in Geneva on 8 June 1977.

In accordance with their provisions, the Protocols will come into force for the Republic of Peru on 14 January 1990.

This ratification brings to **85** the number of States party to Protocol I and to **75** those party to Protocol II.

Review and analysis of two recent works

THE INTERNATIONAL COMMITTEE OF THE RED CROSS: NAZI PERSECUTIONS AND THE CONCENTRATION CAMPS

History and memory

The horror of the Nazi plan to annihilate all the Jews of Europe, and the extermination of millions of them, raises fundamental questions for the conscience of humanity. For over 40 years, historians, philosophers and theologians have endeavoured to pinpoint the causes and analyse the underlying facets of this phenomenon, which without doubt remains the greatest setback our civilization and mankind have ever known.

For, whether we like it or not, the genocide of the Jews is a fact of history; and history therefore requires us to explain the inconceivable, to make the unspeakable intelligible, to find a meaning to the irrational.

“Explaining evil serves to dispel scandal” wrote Karl Barth in 1939. The eminent theologian from Basel could hardly have imagined at the time the proportions which the genocide against the Jews was to assume. It is doubtful that in this particular case historical explanation will suffice to “dispel the scandal”; however, it must help us never to forget. For it is true that in time and in form memory and history are complementary. In the words of Alain Finkielkraut “Retracing an event entails a combination of two requirements: memory and knowledge. If these two approaches are separated, there is a danger that the mind will not be alert enough to comprehend”.¹

A few years ago, the ICRC realized the need to adopt this dual approach and decided to open up its archives to independent historians in order to *enable others to evaluate*—and also to *evaluate for itself*—its attitude to and action in favour of the victims of Nazi persecutions during the Second World War.

More precisely, it was the ICRC Assembly which decided at its meeting on 3 and 4 July 1979 that a work should be prepared and published on the ICRC’s

¹ Quoted in a remarkable study by Yves Ternon “L’unicité du génocide juif”, *Etudes*, No. 369/4, October 1988, page 360.

action in favour of the victims of persecutions perpetrated under the Third Reich. This decision was taken for three basic reasons:

1. It was imperative that a study of this nature be undertaken, since the ICRC had been the subject of constant criticism in this connection for over 40 years and some people suspected that the ICRC had something to conceal.
2. The ICRC considered that it was its duty to gain a more precise knowledge and understanding than hitherto of its attitude and role vis-à-vis the civilian victims of Nazi persecutions and to endeavour to discover, through the eyes of others, not only what it had succeeded in doing, or at least had tried to do, but also what it had not managed or attempted to do when confronted with the failure of a civilization. The study, to be as exhaustive as possible, with an undeniable scientific foundation, was intended to constitute a comprehensive reference document compiling and analysing all available data on the subject,² in order to provide answers to all sorts of challenges and questions.
3. Finally, the purpose was to complete the ICRC's memory, learn the lessons of the past and prompt in-depth reflection within the Committee in the interests of the victims of future conflicts, even if this meant facing a "moment of truth", and in fact positively wishing to have things out.

To this end, in October 1980, the ICRC entrusted the study to a Swiss historian, *Jean-Claude Favez*, former Dean of the Faculty of Arts and Rector of the University of Geneva. Favez was given unlimited access to all the relevant ICRC archives, and it was also agreed that in his research the author would have recourse to any other available archives on the problem.

Similarly, the ICRC also authorized *Arieh Ben-Tov*, an Israeli lawyer, himself a survivor of Auschwitz, to consult its archives in order to write a book

² Among the various sources, we might mention: ICRC: *Report of the ICRC on its activities during the Second World War (1 September 1939 — 30 June 1947)*, ICRC, Geneva, 1948, 3 vols.; *The work of the ICRC for civilian detainees in German concentration camps (1939-1945)*, ICRC, Geneva, 1947. Testimonies and studies include: Carl J. Burckhardt: *Meine Danziger Mission, 1937-1939*, Fretz & Wasmuth Verlag, Zürich, 1960, 366 pages; Georges Dunand: *Ne perdez pas leur trace*, La Baconnière, Neuchâtel, 1950, 244 pages; André Durand: *History of the ICRC, Vol. II, From Sarajevo to Hiroshima*, Henry Dunant Institute, Geneva, 1978, 590 pages; Marcel Junod: *Le Troisième combattant*, 2nd edition, Payot, Paris, 1968; Jacques Moreillon: *Le CICR et la protection des détenus politiques*, Henry Dunant Institute, Geneva, L'Age d'homme, Lausanne, 1973, 303 pages; Frédéric Siordet: *Inter arma caritas. The Work of the ICRC during the Second World War*, ICRC, Geneva, 1947. Other works deal partially or indirectly with the subject at issue, including the following: Drago Arsenijevic: *Otages volontaires des SS*, 2nd edition, France-Empire, Paris, 1984, 365 pages; Gerald Fleming: *Hitler et la solution finale*, Julliard, Paris, 1988, 284 pages; Walter Laqueur: *Le terrifiant secret. La «solution finale» et l'information étouffée*, Gallimard, Paris, 1981, 287 pages; Walter Laqueur and Richard Breitman: *Breaking the silence*, Simon and Schuster, New York, 1986, 320 pages; Werner Rings: *Advokaten des Feindes: das Abenteuer der politischen Neutralität*, Econ-Verlag, Vienna, 1966, 207 pages.

on the ICRC and the Jews in Hungary. The two works have recently been published.³

Our objective here is to analyse the two works in order to give non-expert readers, those who, for language reasons, have not been able to read the two books⁴ and all those whose only contact with the subject is through partial, sometimes erroneous and truncated comments, as objective an insight as possible into the history of this tragedy which affected the ICRC and mankind as a whole. This is all the more important since as soon as these works were published, and even before, the questions they dealt with were given extensive coverage in the written press and other media of a large number of countries. Editorials and television programmes focusing primarily on the ICRC's apparent failure to speak out or act against Nazi persecutions and concentration camps have shown how difficult it is to avoid over-simplifying the facts and hence making simplistic judgements, not to mention the dangers of exaggeration or distortion.

Legal, political and institutional context

At the beginning of their books, the two authors specify and analyse the legal provisions serving as a basis for the ICRC's work before and during the World War. J. C. Favez also examines the political environment in which the Geneva institution operates. Of course, these features are not very spectacular and are frequently ignored in press commentaries, yet they are essential for a proper understanding of the ICRC's position.

From the legal standpoint, the situation was extremely complex, one might even say confused. At the beginning of the hostilities in September 1939, the Geneva Conventions in force protected only wounded, sick and shipwrecked members of the armed forces, as well as prisoners of war. The treatment of prisoners of war was governed by the *Convention on prisoners of war* which had been drawn up on the basis of proposals prepared by the ICRC in the light of experience in the First World War and had been adopted by governments in 1929. Virtually all the States involved in the Second World War were party to the 1929 Convention, with the exception of the USSR.

On the other hand, civilians in enemy hands were not protected by any international treaty. The ICRC had become convinced, however, that this category also required protection under a convention, since during the First World War the majority of States had closed their frontiers, prevented all

³ Jean-Claude Favez, *Mission impossible? Le CICR et les camps de concentration nazis*, Payot, Lausanne, 1988, 430 pages; Arieh Ben-Tov, *Facing the Holocaust in Budapest, The International Committee of the Red Cross and the Jews in Hungary, 1943-1945*, Henry Dunant Institute — Martinus Nijhoff Publishers, Geneva, Dordrecht, 1988, 492 pages.

⁴ For the moment, Mr. Favez' book is only available in French and Mr. Ben-Tov's in English.

foreigners from leaving their territories and interned civilians who were nationals of enemy countries.

The efforts deployed by the ICRC to protect civilians of enemy nationality are described by Favez (pages 25-29) and Ben-Tov (pages 36-38), right through from the Tenth International Conference of the Red Cross (Geneva, 1921) to the Fifteenth International Conference (Tokyo, 1934). The latter Conference finally adopted an ICRC draft conferring the status of “enemy civilian” on persons of enemy nationality not enlisted in the regular armed forces who found themselves on a belligerent’s territory or in a territory occupied by a belligerent. In the case of enemy civilians on a belligerent’s territory, the ICRC proposed that reprisals and the taking of hostages should be prohibited and that internment conditions should comply with the spirit of the 1929 Convention relative to the treatment of prisoners of war; in the case of enemy civilians in an occupied territory, the only provisions were for humane treatment of hostages, the prohibition of evacuation and deportation, except for military reasons, and the entitlement to receive relief under certain conditions.

Conversely, nationals in their own country and stateless persons did not have any protection and their fate depended exclusively on the goodwill and arbitrary decisions of their governments.

Unfortunately, the outbreak of war prevented this so-called “Tokyo draft”, which was intended to become a convention on the protection of civilians of enemy nationality, from being ratified by a diplomatic Conference. Thus, the ICRC was singularly devoid of means with which to ensure the protection of civilians.

Nevertheless, by promoting *ad hoc* agreements between the belligerents, the ICRC obtained undertakings in 1939 to the effect that, subject to reciprocity, nationals of a party to the conflict who were on the territory of the opponent party when the hostilities broke out and were interned by a belligerent solely on account of their enemy nationality should be treated, by analogy, in accordance with the spirit of the Convention on prisoners of war of 1929. The persons benefiting from this agreement were termed “**civilian internees**”. However, this type of agreement which was finally accepted, *inter alia*, by the Germans, French and British, did not cover civilians in occupied or annexed territories and still less nationals or stateless persons.

The two authors also consider the ICRC’s action in the event of internal disturbances and tension and the question of political prisoners. They underline the importance of the establishment in March 1935 of a commission specially responsible for monitoring the problem of political detainees. A working document drawn up by Edmond Boissier defines the ICRC’s competences, based essentially on its right to take humanitarian initiatives, and the procedures governing its interventions in the event of civil war and internal disturbances. He considers, *inter alia*, that the ICRC may intervene directly to obtain information about political detainees and that, should it come up against a refusal on the part of the authorities of the country concerned, it must not hesitate to threaten to make public the reasons for its request to intervene and the refusal with which it was met: “The ICRC’s prestige is not harmed if, having

done all it can to defend a humanitarian cause, it suffers a defeat; on the contrary, its authority is damaged by inaction and excessive caution”.⁵

Ben-Tov concludes from this that the ICRC should have asserted its right of humanitarian initiative and invoked the Boissier report to intervene in favour of civilians, including interned and persecuted Jews (page 38).

The case of the Jews is especially complex from the legal point of view. It warrants particularly detailed attention, insofar as the status of Jews in the various national legislations and the consequences thereof for the provisions of international humanitarian law are not always clearly explained in the two works.

Since 1933, as Saul Friedländer writes, “The obsessive image of the Jew as a dangerous germ or carrier of infectious diseases comes back time and again as a *leitmotiv*” in Hitler’s Germany.⁶ The need for purification became imperious and in 1935, after promulgation of the Nuremberg laws and the “legal” definition of the Jew, German citizenship was purified: “The Jew cannot be a citizen of the Reich”.⁷ This measure applied not only to Jews of German nationality, but also to the Jews in satellite territories or on the territories of Germany’s allies, with respect to whom the governments concerned adopted laws as from the beginning of the war similar to those of the Third Reich. Accordingly, the Germans considered the treatment of national Jews as an internal matter, ruling out the possibility of any ICRC intervention. Jews in occupied and annexed territories fell outside the scope of the special agreements of 1939. They were not civilian internees, but “detained civilians”.

This legal question is fundamental, as it was the cause of serious differences of interpretation which arose during the conflict.

For instance, in 1942, the World Jewish Congress (WJC), considering that the Jews were the category of civilians receiving the worst treatment during the conflict, called upon the ICRC on several occasions to request the German authorities that the Jews deported to the East or confined in ghettos be assimilated to civilian internees. Taking this line of reasoning even further, the WJC contended that, since the Third Reich was at war with the Jews,⁸ the status of civilians of enemy nationality should be conferred on Jews of all nationalities who, when interned, should thus be granted by analogy the status of civilian internee. In fact, the WJC was attempting to use the Germans’ own argument so that they should be hoist by their own petard!

Both Favez and Ben-Tov describe the position which the ICRC adopted at the time (the former explaining it, the latter criticizing it), namely that with

⁵ ICRC archives, CR 110/I-II, quoted by Favez, *op. cit.*, page 32 and by Ben-Tov, *op. cit.*, page 38.

⁶ Saul Friedländer, *L’Antisémitisme nazi — Histoire d’une psychose collective*, Le Seuil, Paris, 1971, page 181.

⁷ *Ibid.*, page 191.

⁸ For those then in power in Germany, the “Jew remains the Enemy who wishes to dominate and destroy Germany and the whole of the non-Jewish world; Jews remain above all the infectious germ which must at all costs be identified and eliminated in order to survive”, S. Friedländer, *op. cit.*, page 181.

recognized law as it was and faced with Germany's categorical refusal, it could not undertake any formal and open action in this regard.

The few protective moves which the ICRC succeeded in making related to Jews of American or British nationality, in other words not from countries with anti-Semitic legislation.

This makes it easier to understand how heavily "the refusal which the ICRC came up against, when suggesting to the belligerents that the Tokyo draft be applied *de facto*, was to weigh throughout the war on the Committee's attitude to the problem of persons deported for political and racial reasons" (Favez, page 29). In fact, to act on behalf of these categories of persons, and of political prisoners and hostages, the Geneva institution could claim no basis other than its right of humanitarian initiative. As we have seen, this was a fragile privilege which only dated back to 1929 and in any event was subject to the belligerents' agreement.

The difficulties of a legal nature restricting the ICRC's action were compounded by **circumstantial and institutional obstacles** within the International Red Cross. Although less obvious to the public at large, these obstacles nonetheless constituted decisive factors.

It must not be forgotten that in September 1939 the ICRC was a relatively small institution with a very limited budget, grappling with structural and operational problems. Difficulties were arising among the decision-makers, the members of the Committee, and the permanent Secretariat comprising about a dozen persons responsible for managing activities and keeping them going. Max Huber, the President, was already conscious of this in 1938, when he wrote: "As rational and efficient an organization as possible is therefore required. We do not yet appear to have developed a system of collective and individual work guaranteeing maximum efficiency and above all coordination and unity of action on the part of the members of the Committee and the Secretariat" (Favez, page 25).

Visibly, the ICRC was not sufficiently well equipped to tackle the vast humanitarian problems which were about to emerge in the course of the war. Furthermore, while rightly considering itself as the centre of the International Red Cross by virtue of its origin, its international mandate and its neutrality, it also had to rely heavily on the other members of the Movement, the National Societies which accounted for virtually all the moral support, personnel and material resources available to the institution. But the National Societies, as auxiliaries to the armed forces' medical health services, were also affected by the serious political and social upheavals of the 1930s and in particular by the advent of the totalitarian regimes. As Favez points out, "The Red Cross Movement was subjected to contradictory forces as the cultural unity which characterized the civilized nations in the nineteenth century disintegrated" (page 39).

For its part, the ICRC, under the influence of its mentor and President, Max Huber, was intent on adhering scrupulously to its policy of strict neutrality, which it saw as its most promising card. Yet how could the principles of neutrality and impartiality be reconciled with the ideological and philosophical

heterogeneity of the National Red Cross Societies, especially in view of the course taken by those whose countries had broken with liberal values, human rights or even the fundamental principle of humanity? Could one so much as contemplate dealing with the German Red Cross, rapidly called to heel and an active component of the National Socialist State? How could the credibility of the Red Cross be safeguarded when several National Societies were seriously violating its fundamental principles? Yet how could they be condemned for this without undermining both the universal nature of the Movement and the mission of its members?

Humanitarian law and humanitarian policy

In the light of all the above obstacles—legal, political and institutional—a question arose as early as 1933 which was to remain the crux of the debate throughout the war: Was the ICRC going to confine itself strictly to applying the law, despite all its shortcomings, or was it going to modify and open up its humanitarian policy under the pressure of circumstances? J. C. Favez endeavours to reply to this question as a scrupulously precise and logical historian. His method is based on analysis of documents. Some 350,000 official texts, reports, notes and letters were meticulously inventoried and subjected to the closest possible scrutiny, and the author makes no statement which has not been carefully verified.

As from 1933, the ICRC turned its attention to the plight of political detainees in Germany and concluded that the problem of concentration camps came within its competence. However, opinions were divided as to whether or not it should act on its own initiative in response to the numerous complaints being received. There were to be two conflicting schools of thought within the Committee until 1938. Max Huber, first of all, believed that it was up to the German Red Cross to take action in this field, on the understanding that the ICRC would forward to it the tracing requests it received. This approach was moreover in line with the principles proclaimed by the Tenth International Conference of the Red Cross (Geneva, 1921), which had stipulated that in the event of civil war or other unrest, it was the duty of the National Societies to take care of the victims of exceptional events, including therefore political detainees.⁹ The German Red Cross was in fact subsequently authorized by the authorities to visit the camps ... only to observe that detention conditions were satisfactory!

⁹ "Basing ourselves on the principles adopted by the 1921 Conference for a civil war, which are thus also valid for other situations, we have concluded that it is first and foremost the task of the National Society to take care of victims of exceptional political events, including therefore political detainees. Unless national authorities request or suggest that they do so, sister Societies or an international body could intervene only if the National Society is not taking action." *Letter from Max Huber to Prince Charles of Sweden*, President of the Swedish Red Cross, dated 26 September 1933, quoted by Favez, pages 52-53. See also J. Moreillon, *op. cit.*, page 62.

In 1934, however, the increasing unrest in several countries of Europe and the deficiencies of certain National Societies prompted several members of the ICRC to recommend that delegates be despatched to political detainee camps, particularly in Germany. This view eventually carried the day and, through the German Red Cross, the ICRC was authorized to carry out a number of missions enabling Carl Burckhardt, its Vice-President, to visit four concentration camps in 1935 and, *inter alia*, to protest to the authorities against the Nazis' practice of keeping political detainees and common law prisoners in the same place. Carl Burckhardt in 1936 and Colonel Favre in 1938 were to carry out further missions, observing that detention conditions had improved. However, the visits then stopped, and there were no more until 1945.

Naturally, the ICRC continued to receive requests, particularly from the European National Societies, urging it to assist the victims of persecutions and the thousands of Jewish refugees deported from Germany, to send them relief or even to visit the refugee camps. However, the ICRC adopted a cautious wait-and-see attitude in this regard, emphasizing that it was the National Societies' responsibility to provide the necessary assistance to victims of persecution.

Study of this period is particularly interesting in that various tendencies made themselves felt within the ICRC, whose homogeneity is nevertheless stressed by Favez on the basis of a detailed typological analysis; these tendencies were reflected in the pendulum policy observed between 1933 and 1938. In actual fact, the ICRC had extremely little room to manoeuvre between a humanitarian policy obliging it to seek some form of working arrangement with the German Red Cross Society in the name of humanitarian principles and the desire not to interfere in internal German affairs so as not to exacerbate still further the totalitarian threat hanging over the Red Cross.

After these few initiatives which, according to Favez, were prompted mainly by requests and suggestions from the National Societies, on the eve of the world conflict the ICRC reverted to its primary concerns: ensuring special treatment for the victims of armed conflict, the wounded, sick and prisoners of war.

Knowledge and understanding

In a chapter entitled "Secrecy, rumours and information", Favez attempts to establish what the ICRC knew about the concentration camp environment and the extermination of the Jews and how it obtained its information.

At that time, Geneva was already a crossroads of international life, the seat of numerous international, governmental and non-governmental organizations. The ICRC had forged close contacts with the representatives of those organizations, including Jewish organizations such as the World Jewish Congress. News was rife in the town—but so were rumours. Whom should one believe? Was the ICRC being kept informed by Swiss diplomatic sources? Reference was made to the plight of the Jews from time to time from 1942 onwards in contacts between Berne and the ICRC, "but it is impossible to conclude what the various parties knew or surmised about the persecution" (Favez, page 81).

The author endeavours above all to demonstrate that the ICRC was gradually informed of the situation of Jews in Germany and in the occupied territories, chiefly by its delegates, by the National Societies and by Jewish and charitable organizations. On the basis of significant texts from delegates and representatives, Favez shows that the ICRC was aware at the end of 1939 of the plan to evacuate Jews outside the Greater Reich and knew in October 1939 about the deportations of Jews to Poland. The National Societies of the Allied or neutral countries were also conveying information to Geneva about the Warsaw ghetto. According to Favez, the ICRC had enough data by the spring of 1942 to deduce the existence of a comprehensive deportation plan.

On the other hand, it is difficult to ascertain whether and, if so, when the ICRC was informed of the “final solution” project.¹⁰ According to Favez (page 96) and Ben-Tov (page 76), the World Jewish Congress informed Burckhardt and other members of the ICRC, and Burckhardt himself said that he had learned from reliable German sources that Hitler had indeed issued the order in 1941 that Germany should be made “judenfrei” (free of Jews). Can it be concluded from this that he knew about the “final solution”? It has not proved possible to elucidate this point.

In any event, the ICRC does not wish to take the matter up, considering that the information available to it is too fragmentary and inaccurate, and hence hardly reliable.

As the weeks and months passed, right up to 1944, the ICRC received countless reports from its delegates, National Societies and Jewish organizations.

Referring to written documents, letters, reports and records of discussions, J. C. Favez shows that the ICRC was indeed aware of the persecutions and deportations, but lacked the appropriate organization to manage the incoming information and piece it all together. Furthermore, a collection of varied information from diverse sources did not necessarily form a coherent whole sufficiently decisive to convince the ICRC to change its priorities.

The general attitude at that time virtually precluded a rational assessment of events. For the ICRC, as for the Allied governments and even the Jewish organizations, knowing was not the same as understanding, actually realizing, especially when it was a question of “understanding the incomprehensible”.

From protection to assistance

The main part of Favez’ work focuses on the ICRC’s interventions on behalf of political prisoners and people subjected to racial persecution in Germany, in the annexed and occupied territories, the Axis countries and the satellite

¹⁰ The “final solution” (Endlösung) was the large-scale mass extermination of European Jews by confinement in ghettos, individual brutality, mass shootings and drownings, deportation to camps and suffocation in gas chambers. It would appear that the comprehensive extermination order was issued verbally by Hitler in the spring of 1941 and the practical arrangements set at the Wannsee Conference in January 1942.

States. Between 1939 and 1941, in humanitarian matters as in all other areas, the Third Reich made its overbearing presence painfully felt.

The ICRC confined itself to transmitting enquiries about missing persons to the German Red Cross, until the latter informed it in August 1941 that it was no longer in a position to forward such messages. The door closed and it was no longer possible to obtain information on “non-Aryans” in the territories occupied by the Wehrmacht.

Faced with this situation, the ICRC began to consider specifically what it could do to help the victims of persecution in particular the Jews. Invoking its fundamental principle according to which it makes no distinction as to religious beliefs, political opinions or race, it declared itself competent to act in favour of Jews belonging to a nation adverse to the detaining power. To this end, it despatched a note to the German authorities on 24 September 1942, through its delegation in Berlin, requesting details concerning persons arrested, imprisoned or deported abroad to enable it to keep their families informed. It also suggested that such persons be allowed to send news to their families, and requested that ICRC delegates be authorized to visit them. Finally, an allusion is made to the argument of reciprocity of treatment with German civilian internees imprisoned in Brazil, the United Kingdom (including Palestine) and the United States.

Favez makes a critical study of this important note (pages 131-138), minimizing its effective scope. It is true that the request could in any event only relate to the Jews of Western Europe, “since Polish, Czech, etc., Jews whose States no longer existed in the eyes of the Nazis could not be considered as enemy citizens any more than Germans or stateless persons” (page 138). And, as the ICRC delegate in Berlin, Roland Marti, had suggested, would it not have been preferable, rather than the Ministry of Foreign Affairs, to approach the justice or police authorities who were directly responsible for the concentration camps?

In any case, the note was to elicit no reply whatsoever. The door was indeed well and truly closed at the end of 1942.

These were the darkest days of the war for the ICRC, which saw itself obliged to decide not to raise officially the problem of deportees, hostages and other civilian victims of inhuman treatment.

In reply to the reproaches levelled at it by the World Jewish Congress, the ICRC declared that it was confining its action to strict respect of the 1929 Conventions and the concessions obtained in 1939 for “civilian internees”, first of all for legal reasons—it was not the ICRC’s prerogative to decide who constituted a civilian internee and who did not—and secondly for strategic reasons—it feared that its activity under the Conventions might be contested if it deviated from them itself or gave the signatories a pretext by itself taking certain liberties with respect to the commitments in force (Favez, pages 210-211).

The ICRC did not give up, however, and at the end of 1942 decided to shift the emphasis from protection to **assistance**, and to give priority to sending relief supplies to deportees; these activities would also help the Jews. Although this change of approach was not unanimously approved within the ICRC, in 1942

the institution requested authorization from the German authorities to send relief to “civilians arrested and detained for various reasons in the occupied territories, and sometimes transported to prisons or concentration camps in Germany”, whom the ICRC referred to as “administrative prisoners” as distinct from civilian internees.

The reply from the Ministry of Foreign Affairs included an ostensible concession. While the Reich refused any relief for NN deportees,¹¹ it agreed to allow the ICRC to send parcels to prisoners not subject to the regime of absolute secrecy provided that the contents came from relatives and that no messages were included. Foreign detainees in “protective” custody (*Schutz-häftlinge*) would also be able to receive relief.

The success of the parcel operation for concentration camps was to exceed all expectations. On the basis of the very little information in its possession, and fully aware that it would have no real means of checking that its consignments were duly distributed, the ICRC despatched personal parcels to internees whose names and addresses were known to it. To each parcel was attached an acknowledgement of receipt to be returned by the addressee. A first trial run involving around 50 parcels was carried out in July 1943. Thirty receipts came back, signed not only by the addressee, but also by those with whom he had been able to share the contents, so that each acknowledgement of receipt bore about ten names on average. Thereafter, every relief consignment provided the ICRC with new names of internees, enabling it to extend its relief activities to other recipients. Ultimately, the ICRC was able to locate and register tens of thousands of deportees.

Admittedly, as Favez stresses, this assistance was not very extensive, reaching too few beneficiaries. Nevertheless it should not be minimized. By 1 March 1945, the ICRC had sent parcels to 56,000 deportees; by the end of the hostilities the figure had risen to 105,300. During the war, the ICRC sent a total of 1,631,000 parcels to concentration camps, representing 6,836 tonnes of supplies. Having said that, it is not known which internees received them and, in particular, how many Jews benefited.

The ICRC and persecutions in Hitler's Europe

Generally speaking, few people are aware of the work accomplished by the ICRC in the territories occupied by Nazi Germany, in its satellite States and in the countries of Germany's allies, and there is an unfortunate tendency to confuse this work with the problem of the ICRC's relations with Germany itself. Many commentators have simply chosen to ignore this aspect, and issue a verdict of total failure!

¹¹ This refers to the decree of 7 December 1941 known under the name *Nacht und Nebel*, laying down most severe penalties for anyone committing offences against the Reich and prohibiting the provision of any information on the fate of arrested prisoners.

The real situation was much more complex, because it was fluid. The ICRC's action depended on several factors which could vary from one country to another according to how firm a hold the Third Reich had there, the size of the material obstacles and the type of mentality.

In his book, Favez describes the efforts deployed by ICRC delegates to cope with the desperate situation of the interned Jews, bearing in mind in particular that they had no mandate to protect such persons. The most painful case was probably *Poland*. The country was no longer a state, and as from 1939 Germans and Russians were able to deal with prisoners of war as they wished. The occupying authorities had selected Poland as the main location for the extermination of Jews by means of gas. The ICRC very soon became aware of the prevailing large-scale persecutions, but its efforts to obtain authorization to visit camps in Poland met with the German authorities' categorical refusal. All it could do was send a few relief consignments, and even then it was impossible to verify that the relief was actually distributed.

The Committee came up against the same veto on the part of the occupying authorities as soon as it raised the question of the deportation of Jews in *France, Belgium, Holland, Greece* and *Norway*. The only remaining avenue was to mount *ad hoc* relief operations together with the National Red Cross Societies, for instance in the satellite States of *Croatia* and *Slovakia*.

In response to the deteriorating situation of internees in these countries and the pressures exerted by many organizations, the ICRC delegates showed a wealth of ingenuity in coming to their rescue, for example by devising a special status enabling detainees to be extricated from their sad plight, hiding Jews to save them from certain death or issuing "certificates" so that they could emigrate to Palestine—so many instances of extremely hazardous personal initiative to which due credit has perhaps not been given.

In several instances, delegates did not confine themselves to providing information and relief supplies, but went so far as to protest to the German authorities, as did Dr. René Burckhardt, Assistant Delegate in *Salonica*, on witnessing the deportation of 45,000 Jews to Germany. However, more often than not, as Favez writes, "the verdict of powerlessness falls from Geneva like a guillotine" (page 255) and the delegate was quite likely to be requested to return to Switzerland!

The case of Hungary

Hungary was a special case. First of all because Hungarian Jews did not appear to be under as serious a threat as Jews in the other countries, at least until the arrival of the Germans in March 1944, and secondly because thanks to first-rate delegates the ICRC scored spectacular successes in its protection and assistance work. J. C. Favez devotes a whole chapter of his book to this topic, and the ICRC's role in Hungary is the central theme of Arieh Ben-Tov's book.

After reviewing developments in Hungary since 1918 and the rise of anti-Semitism in the country, Ben-Tov analyses the ICRC's work in Hungary since 1919. He describes in detail (as does Favez) the daily struggle undertaken by the ICRC delegates, first Jean de Bavier who was appointed in October 1943 and then Friedrich Born who succeeded him in May 1944, in the face of the tragic plight of the Jews. Already critical in 1943, the situation worsened when German troops occupied the territory in March 1944. Within the space of a few weeks, 400,000 Hungarian Jews were deported to Auschwitz.

The instructions issued to the first delegate, de Bavier, were to perform the tasks normally entrusted to the ICRC under the Conventions and the arrangements concluded in favour of civilian internees. "However, on the Jewish issue, verbal instructions referred above all to maintaining observation, which nevertheless did not rule out contact or vigilance" (Favez, page 316). According to Ben-Tov, the ICRC delegate was even able to act as messenger with the Jewish assistance organizations, without actually participating in the operations themselves. In fact "there was nothing to prevent de Bavier from voicing the ICRC's interest in operations to aid the Jews in Hungary" (Ben-Tov, page 94).

From the time of his arrival, de Bavier concerned himself with the plight of *all* Jews in Hungary, irrespective of their origin, and expressed fears about what would happen to 800,000 Hungarian Jews if the country were occupied. But the ICRC did not budge from its position: "...it is necessary to make certain distinctions: The Jews of Hungarian nationality are, by that fact, placed under the protection of their government. Jews of other nationalities and other foreign nationals come into another category. In the case of Jews of other nationalities, race is subordinate to nationality, and they must be considered as civilian internees" (Favez, page 318; Ben-Tov, page 106). When the Germans entered Hungary, a drastically anti-Semitic legislation was imposed. De Bavier's successor Friedrich Born quickly realized the magnitude of the Hungarian drama, and emphasized how inadequate the instructions received were in the light of the new situation: "The idea of looking on powerless and disarmed at these grievous events is almost unbearable" (Favez, page 320). By force of events and above all under the pressure of protests from many governments, churches and Jewish organizations, according to Ben-Tov the ICRC altered its stance and requested authorization from the Hungarian Government to send relief to the Jewish, foreign and Hungarian camps and to visit premises where Jews were grouped together. From the summer of 1944 onwards, it also began supporting projects for the emigration of Jews to Palestine, associating itself with the work of the Swiss and Swedish missions in the distribution of immigration certificates, and above all accepted the idea of placing Jews in Hungary under its protection.

Favez and particularly Ben-Tov bring to life Friedrich Born's representations to the various Hungarian ministries and German authorities, his protests and above all his numerous initiatives which enabled him against all odds to launch an assistance operation for the sick, the needy and children. Born set up a committee of doctors which took charge of hospitals and clinics; he ran thirty "homes" accommodating 2,000 children and erected plaques bearing the Red

Cross emblem at the entrances to camps and houses where Jews were interned, thereby conferring on them ICRC protection.

Summit meeting?

As from August 1944, the successive defeats of the Wehrmacht, the intensification of aerial bombings, in short the threat of all-out war were a source of keen concern for the ICRC, which feared that the Nazis, in desperate straits, might no longer respect the Geneva Conventions. The danger was particularly acute for internees in camps under the authority of the SS.

On 2 October 1944, President Huber again approached von Ribbentrop, in particular with regard to Belgian and French deportees, including Jews. The response was inadequate—whereas the sending of relief supplies was authorized, the ban on visits to camps and labour squads remained in force.

Voices then began to make themselves heard within the ICRC urging that an attempt be made to organize a summit meeting between ICRC officials and those responsible in the Third Reich. The ICRC delegate in Berlin, Roland Marti, had already been thinking along those lines since 1942, and had gathered the impression that the only feasible solution led to the Gestapo and its supreme chief Himmler. The delegate in Hungary, Jean de Bavier, had vainly called for talks between Max Huber and Hitler; Ben-Tov qualifies this as one of the ICRC's greatest failures!¹² In 1944, Mrs Frick-Cramer, member of the ICRC, again took up the idea of a summit meeting.

The meeting was held on 12 March 1945 at Feldkirch in Austria, between Carl Burckhardt who had succeeded Max Huber as President of the ICRC and SS General Kaltenbrunner who had been designated by Himmler. Favez points out that the only real achievement obtained at the meeting related to exchanges of Belgian and French prisoners of war, with Jews being transferred to Switzerland. The principle of visits to camps by ICRC delegates was agreed upon, on the condition that once there the delegates should remain in the camps until the end of the war.

The delegates' mission was considerably hampered by confusion as regards responsibilities and the disastrous state of communications. Delegates knocked on the doors of the camps at Oranienburg, Dachau, Ravensbrück, Mauthausen and Turckheim, but were only allowed to deposit parcels. It was not until 5 April 1945 that the delegate Meyer was able to enter Ravensbrück and attend to 299 French women, or until 6 May that Paul Dunand finally gained access to Theresienstadt and subsequently handed over 5,000 survivors to the new Czech authorities. From then on, the ICRC delegates were able to work overtly, freeing detainees, supplying food relief on the spot or to columns of deportees as they moved along, preventing the SS from executing orders to destroy installations and halting simultaneous massacres of groups of detainees, making arrangements for certain camps to be surrendered. Thus, 10,750 detainees were to be repatriated by ICRC delegates by the end of the war.

¹² "One of its greatest failures in the whole story", Ben-Tov, *op. cit.*, page 387.

An appeal to universal conscience?

Aware of the crimes committed by the Third Reich, and prevented from undertaking any protection activities for the categories of persons persecuted and deported, could the ICRC not have broken the vicious circle by appealing to universal conscience and denouncing the serious violations of the law of nations? The risks were considerable—as a reprisal the Reich might denounce the Convention on prisoners of war. The “handcuffs crisis” provides a striking example of what might have happened.¹³

More generally, ICRC officials began to come under criticism from the United States and Sweden on account of the increasingly reprehensible methods of warfare being used. According to Favez, “a more significant feature was the doubt which their silence was creating in Switzerland and which was noted by the army authorities” (page 158). The time thus seemed to have come to speak out against the deterioration of warfare methods.

The question of the appeal—or rather the decision not to appeal—in October 1942 is explained in detail in J. C. Favez’ book. Recalling that at the time the ICRC was traditionally extremely circumspect when it came to appealing to public opinion, the author describes the laborious process—punctuated by various displays of reluctance and hesitancy—which culminated in the summer of 1942 in a written consultation of the members of the Committee on the advisability of preparing a draft circular on the fundamental principles of international law. The author takes the reader through the plenary meeting of 14 October 1942 in which the members of the Committee were required to take a decision on a draft text which, contrary to what is all too frequently stated, chiefly concerned the conduct of hostilities and was intended to secure the protection of civilian populations against the practices of all-out-war. The text was not a direct appeal to save the Jews, but requested the belligerent powers, *inter alia*, to grant “certain categories of civilians of various nationalities, ... deprived of their liberty, deported or taken as hostages ... conditions at least as liberal as those accorded to prisoners of war and civilian internees...” (page 160).

The draft, which appeared to have the support of the majority of members of the Assembly, was finally abandoned because the leading ICRC officials, in particular Carl Burckhardt, as well as the Federal Councillor Philippe Etter, were opposed to it on the grounds that such an appeal was too likely to have an adverse effect on the ICRC’s work already under way.

In the end, the ICRC decided to pursue its interventions in specific individual cases with the powers directly concerned.

¹³ During their unsuccessful landing at Dieppe in August 1942, Canadian commandos handcuffed German soldiers on the beach. The Reich, apparently at the highest level, ordered that over 4,000 British prisoners of war should receive the same treatment every day for 12 hours. The British retaliated by doing the same with German and Italian prisoners of war. The Reich then threatened all the prisoners it was holding. These reprisals, which prompted one of the war’s most serious crises as regards application of the Geneva Conventions, carried on until November 1943 (Favez, *ibid.*, page 139).

To serve history

Should the ICRC have spoken out? Both Favez and Ben-Tov believe that the ICRC should have launched the appeal, on the grounds that as soon as the ICRC considered that detainees in concentration camps, deportees and victims of racial persecution needed attention, it was duty-bound to exert its full moral authority on their behalf.

Although the ICRC cannot be blamed for having been unable to imagine the unimaginable, Favez contends that it did not adequately explore all the new forms which its humanitarian policy could have taken; in the case of concentration camps in particular, it remained to some extent a prisoner of the only weapon available to it, namely its own credibility, which was itself based on neutrality and discretion, and failed to grasp the nature of the upheavals brought about by the Third Reich in international relations and the humanitarian situation.

According to Favez, it is clear that the ICRC could not do much against Nazi fanaticism in the Reich and the occupied territories, but it could have relied more on local factors in Hitler's satellites and the Axis countries in order to act earlier and more widely, as indeed it did in Hungary. Nevertheless, Favez stresses how isolated the institution was throughout the conflict. The pusillanimous attitude of the Allies on the Jewish question did not facilitate its task. And many "grey areas" remain as regards the actual influence on the ICRC's action of the Swiss Confederation's policy of neutrality.¹⁴

Within his less extensive account, Arieh Ben-Tov reaches the same conclusions, although he tends to be more incisive. He regrets the ICRC's excessively legalistic approach¹⁵ and its lack of decisiveness and action at crucial moments, which he contrasts with the pragmatism and enterprising spirit of delegates such as de Bavier and Born; it is such individuals who succeeded in "saving its conscience", although very late in the day!

On the whole, J. C. Favez' and A. Ben-Tov's judgements, although with nuances, are generally severe. The ICRC has reacted to these judgements, and our study of this question would not be complete without quoting President Sommaruga's letter to J. C. Favez, dated 19 March 1988, which is published as a postscript to his book.¹⁶

In concluding this review, we come back to the problem of memory referred to in the introduction, and the problem of time, a stumbling block for many a historian. How can one detach oneself from the present in order to reconstitute

¹⁴ Indeed, Favez recognizes that the history of relations between Switzerland and the ICRC is still to be written.

¹⁵ "I think that this resulted in the dominance of the political stance adopted by headquarters, with the principle of neutrality in first place and the human being, no matter how great his suffering, in second place", Ben-Tov, *op. cit.*, page 135.

¹⁶ "The ICRC's point of view", in Favez, *op. cit.*, pages 376-379 (see below, page 394).

a past period, atmosphere or attitude? Is it sufficient merely to investigate plain facts and available documents? Can history be written by stringing together a series of items of evidence, reports and analyses? J. C. Favez' monumental work is a model of intellectual rigour and honesty, and on that score is irrefutable. However, what it perhaps lacks is living memory and the zest of subjectivity so necessary for research in social sciences, which requires the historian "to find psychological affinities in his own culture and in the very structure of his own mind which will enable him to imagine and understand the feelings, ideas and behaviour of the men of the past he reads about in documents".¹⁷ Favez was aware of this aspect, but elected "to avoid any emotional effect in order to remain faithful to our effort to understand" (page 14). Nevertheless, it would have been good to hear the ICRC's heartbeat in its daily life, with its disappointments, its anxieties and its rumours, but also the certitudes and doubts of its members and workers, which are ultimately highly revealing.

Ben-Tov's approach is completely different. Adopting for his book a structure akin to a cinematographic scenario, the author has frequent recourse to flashbacks and there are discontinuities in the thread of the story, which can sometimes be confusing to the reader. However, one ends up being captivated by this expansive book swarming with thousands of striking details and written in vibrant and passionate style. And although the author is sometimes oversubjective, who could blame him, for this is the book of a victim, seen through the eyes of a survivor whose personal perception is among the most precious for memory.

In deciding to open up its archives and in its desire to experience and enable others to experience the "moment of truth", the ICRC knew the risks it was taking. Yet it decided to run these risks. It has expressed its opinion on J. C. Favez' book and, more generally, has drafted a note on its position with regard to the problem of the victims of Nazi persecution.

This note, prepared in August 1988, endeavours to provide answers to the main questions which remain in the public's mind with regard to this period of history. It has been widely distributed,¹⁸ but it is worth quoting the most significant passages here:

"Faced with a tragedy the horror of which is beyond imagination, and despite its situation in Switzerland, a country encircled by the Axis forces, the ICRC made a great many efforts to reach victims who, being civilians, were devoid of any protection under international law. It came up against the systematic refusal by Hitler's regime to allow any action whatever to help Jewish people, whom the

¹⁷ Henri-Irénée Marrou, *De la connaissance historique*, Le Seuil, Paris, 1958, page 102, quoted in Alfred Grosser, *L'explication historique*, Armand Colin, Paris, 1972, page 23.

¹⁸ *The ICRC and Nazi concentration camps — The ICRC and the victims of Nazi persecutions*, ICRC, Geneva, August 1988. The note was sent on 15 September 1988 to the Secretaries-General and Heads of Information Departments of National Red Cross and Red Crescent Societies.

Nazis qualified as “non-Aryans” even in their answers to the ICRC. Thus, in spite of these attempts, the ICRC was unable to accomplish more than a small part of the humanitarian mission that would have been justified by what the Nazis called “the final solution”. It was able to save only a few tens of thousands of lives, while millions perished. Was this failure inevitable? One can say, with hindsight, that in some countries where the domination of the Third Reich was not total, the ICRC could probably have saved more Jewish people than it did: in those countries, the ICRC today feels that it did not seek out, at that time, all the possible ways and means of protecting more of the victims. (Obviously, it is difficult, without having experienced it, to judge the actions of men and women working at the heart of a gigantic problem, of which they had no overall view, in extremely difficult circumstances and with limited resources)...

On the Eastern Front and in Germany: In view of the determination—as is known today—with which the Nazis pursued their policy of systematic annihilation of the Jews and considering the constant rejection by the Nazis of any gesture in favour of Jewish individuals, the ICRC, even now, doubts that it would have been able to exert any decisive influence on the fate of these people in Poland, in the occupied territories of the USSR or in the territory of the Third Reich.

In other countries: However, if the ICRC had carried out a more rapid and efficient assessment of its activities in the other territories under Axis influence (occupied, satellite and allied), and if it had given greater encouragement to its delegates in this field, it might well have been more effective. This is true in particular for Romania and Hungary, where its delegates still managed to save more Jews than elsewhere during the war.

The ICRC, the Allies and the neutral powers: The question of the ICRC's relations with the Allies on one hand, and with the neutral nations on the other, is often raised. The ICRC could no doubt have shown more imagination and greater firmness in order to persuade the Allies (especially the United States and Great Britain) and the neutral countries to combat the policy of genocide and—with regard to Switzerland—to relax their policies towards refugees, the Jews in particular, for whom admittance by neutral countries and the Allies represented the only chance of survival.

It should also be recalled that the ICRC encountered the greatest difficulties with the Allied Powers, first of all, when they refused, in 1939, to agree to the ICRC's proposal to include civilians under the protection of the draft Tokyo Convention (1934), and later when they made difficulties about lifting their blockade and allowing the passage of relief supplies for civilian victims.

A public appeal? — The question of the appeal which was not launched in October 1942 is not new: it has already been studied since the '70s, on the basis of the relevant ICRC documents, by several authors such as Walter Laqueur, Gerald Fleming and Drago Arsenijevic. What Professor Favez does is to set it in a broader context, especially the Swiss one.

The draft appeal focused on “the conduct of hostilities” and was designed to protect civilian victims of total warfare, such as aerial bombing. One of its paragraphs did mention “deportees” and “hostages”. As to the fate of the Jews, at that date the ICRC had only indirect and incomplete information; it was not

aware of Hitler's systematic plan to kill all the Jews. Contrary to what is sometimes believed, the appeal was not a call for saving Jewish people and its draft did not mention them expressly.

This appeal was not launched—among other reasons—because of a dilemma: the ICRC felt that it might jeopardize its ability to assist the prisoners of war in the hands of the Reich, POWs, whom it was authorized to help and whom in fact it was helping.

Would the ICRC have kept silence if it had realized at the time the enormity of the genocide taking place? We trust that its attitude would have been different if it had been fully aware of the scale and of the systematic and specific nature of the Holocaust.

The ICRC delegates — While accepting criticism of the institution, due credit should be given for every attempt made, in conditions of the greatest difficulty, whether from Geneva or in the field, to aid the Jewish victims. In particular, the ICRC of today reiterates its gratitude to all those delegates who, under the banner of the Red Cross, found ways of taking effective action and saved tens of thousands of lives, often at the peril of their own, not only during the war but also when some of the concentration camps were liberated.

Lessons drawn from the past — The considerations presented above constitute only some of the preliminary conclusions which the ICRC has already drawn from reading Arieh Ben-Tov's book and the draft of Professor Jean-Claude Favez's work. When the latter has been published, the ICRC will pursue its study, for many lessons remain to be drawn from the ICRC's attitude in the face of the Holocaust."

It may therefore be said the Fourth Geneva Convention of 1949 relative to the protection of civilian persons was born of all that could not be done for them during the Second World War... even though, as from 1921, and then in 1934, the ICRC had already tried by means of the "Tokyo draft" to ensure such protection. Similarly, since the 1950s the ICRC has been offering its services and working on behalf of persons detained by the authorities of their own countries ("political detainees"), even though they are not protected under the Geneva Conventions. Furthermore, possibly obsessed by the global concept of "civilian", the ICRC failed to take due account of the plight of Jews as such. There is no doubt that it is aware of this today.

Other fundamental questions for the ICRC's future action arise in view of the experience gained during the period 1939-1945, such as the "faithful respect of neutrality" when the protagonist(s) perpetrate outrageous violations of the basic humanitarian principles.

It is to be hoped that the two works will soon be available in other languages in order to enrich and complete the debate and provide food for thought; it is essential that everyone, and not only the ICRC, should reflect on the lessons to be learned from the ICRC's confrontation with genocide. The subject is still open, since, in the words of Albert Schweitzer: "Truth is above time, it spans the ages".

Jacques Meurant

ANNEX

THE ICRC'S POINT OF VIEW

The following letter, in which the ICRC expresses its views, was published at Professor Favez' request and with the consent of the ICRC as a postscript to his book (*Mission impossible? Le CICR et les camps de concentration nazis*).

Geneva, 19 March 1988

Dear Professor Favez,

The International Committee of the Red Cross (ICRC) has studied your work Le CICR et les camps de concentration nazis with the greatest attention.

Before I go further, allow me to thank you and to congratulate you on all the research that went into the manuscript you have sent us and your skill in organizing the material collected.

As agreed, you were given unlimited access to all the relevant archives; you have been entirely responsible for your work and free to draw your own conclusions. We confine ourselves here to setting out the comments of the Committee. It is up to you to decide whether you take them into account in the final, published version of your book.

The ICRC's purpose in proposing the detailed study which you have undertaken was to throw light on a particularly painful chapter of history and of the Committee's past.

This purpose was twofold:

(a) to find out once and for all exactly what the ICRC knew about the "Final Solution", what it wanted to do and what it was able to do for the victims of Nazi persecution, and

(b) to have available a reference work on the subject.

Generally speaking, the ICRC feels that you have done a great deal of outstanding research and that you have striven conscientiously to be objective. Your study is as exhaustive as it could be, given that you wished to keep the book relatively short.

Nevertheless, your study has elicited the following remarks from the Committee:

1. With regard to the arrangement of your material, the ICRC finds that you have devoted too much space to the attitude of the Committee at headquarters in Geneva at the expense of initiatives taken by its delegates in the field. We should have preferred a more balanced approach, with greater attention paid to the work in the field.

Similarly, we feel that the sum total of the ICRC's efforts (which, in our view, came about through constant interaction between headquarters and the men in the field) to come to the aid of the civilian victims of Nazi persecution, and in particular the Jews, is not assessed in its proper perspective vis-à-vis all the other tasks that the ICRC was under an obligation to carry out, especially its work in behalf of prisoners of war and civilian internees.

2. With regard to the substance of your study, we should like to make the following comments.

(a) *It seems to us that you do not produce sufficient evidence for your conclusions about what the ICRC, at the decision-making level, knew or did not know about the "Final Solution" or at exactly what stage it learned various facts. Your reference in this regard to Walter Laqueur's book The Terrible Secret, the reliability of which you yourself call into question, seems to us inadequate, both from the purely academic point of view and in terms of the information the ICRC had hoped to find in your study.*

We therefore feel that it would have been preferable to make a systematic study of the internal circulation of the reports, eye-witness accounts and other information arriving at the ICRC at the time (we realize, however, that such a procedure would have required considerable extra research as the relevant documents are widely dispersed throughout the huge mass of files you had to consult). Likewise, it is regrettable that you did not indicate the dates on which the documents you quote actually arrived at the ICRC. This would have made it possible to compare the dates on which certain information became available with the dates on which discussions were held and decisions taken.

Equally regrettable for those concerned with establishing what the ICRC knew and attempted to do is the total absence of written and other accounts of conversations and informal contacts between the institution's leading officials, especially between Max Huber and Carl Burckhardt.

Basing your findings almost exclusively on written material has produced an image of the Committee which is all but unrecognizable to us. This image does not correspond to the way in which the members and staff of the ICRC who spent the Second World War in the institution's service perceived their experience and commitment during that period. The same can be said of the people whose portraits you draw, particularly Max Huber and Carl Burckhardt.

We find it unfortunate that you did not fill out the inevitably lifeless and fragmentary image which emerges from information based entirely on written material by affording greater importance to the personal accounts of contemporary staff members who are still alive.

Thus, the ICRC is unable to draw from your study any real conclusions about what the Committee knew. On the other hand, you have shown that the institution did not make a systematic effort at the time to collate all the information arriving about the persecution of civilians, in particular the Jews, a process that might have led to a reassessment of its objectives and priorities. Your work makes it clear that the ICRC did not sufficiently grasp the unprecedented nature of the tragedy taking place and thus failed to readjust its priorities accordingly. That

failure can doubtless be explained by the ICRC's overwhelming responsibilities towards other groups of victims, especially the prisoners of war, and by the prodigious number of tasks which are the daily lot of a humanitarian institution faced with the consequences of total war.

Indeed, bearing in mind those tasks and the context in which they had to be carried out, how could the members and staff of the ICRC have conceived of the real nature and magnitude of what the Nazis called the Endlösung—the Final Solution—when even now, over 40 years after the Allies entered the camps and despite the profusion of pictures, documents, eye-witness accounts and other evidence, it is still almost impossible to imagine what was without any doubt the greatest setback ever, not only for our “civilization” but for humanity itself?

(b) Turning to what the ICRC wanted to do, your study is very well documented and thorough, as regards both the ICRC's acts and its omissions. However, the explanation of the ICRC's motives is not always convincing to those who have first-hand experience of the way the Committee operated.

In particular, the draft appeal of October 1942, to which you have given a pivotal position in your study, raises a basic question: Did the ICRC have a duty to make its voice heard and, if so, how was this to be done? Do you think—in the light of what we know today, but also taking into account the ICRC's growing awareness of the Nazis' ultimate aim—that that appeal, in the wording envisaged, would have had any restraining effect whatsoever on the “Final Solution”? Did the declaration made by the United Nations¹ on 17 December 1942 in any way alter the victims' fate? We have doubts about the impact that such an appeal would have had, to say nothing of the risk—which the ICRC could not ignore—that such a move would have jeopardized the institution's work to bring relief to the millions of prisoners of war towards whom it bore a direct responsibility. Indeed, your book clearly shows that all the oral and written representations made specifically on behalf of the Jews were doomed to failure, as they were rejected out of hand by the Nazis. Only certain discreet approaches met with some success, although this was negligible as compared with the efforts initiated and the tragic dimensions of the extermination process.

Be that as it may, even without the appeal drafted by the ICRC, one must wonder, with all the caution befitting hindsight, whether the Committee should not have been more insistent in urging the Allied and neutral governments to grant higher priority among their concerns and objectives to saving the Jews.

(c) We now come to the question as to what the ICRC was and was not able to do and, in particular, whether it could have done more.

Your study leads us to think that where the satellite States of the Third Reich are concerned (Hungary, Romania, Croatia, Slovakia, Vichy France, Italy, etc.) the ICRC probably could and should have made a more systematic exploration of possible political openings permitting more rapid, pressing and resolute action.

¹ The group of countries either formally allied with Great Britain against the Axis Powers or officially neutral but lending the Allies moral support referred to themselves in official documents as the “United Nations”.

As regards the territory of occupied Poland and the Reich itself, however, the ICRC persists in its belief that the situation of the Jews was hopeless; in your book all the evidence points to this but you do not go far enough in actually saying so.

In this connection, we should like to stress that the lack of proportion between the steps taken by the ICRC, modest as they were, and the results achieved is not brought out sufficiently clearly, although a careful reading of your study reveals that many more initiatives were taken by the ICRC than successes scored. We feel that figures should have been given for the number of lives saved on a case-by-case basis where such an assessment was feasible. We believe, for example, that a systematic study of the reports drawn up after visits to camps for civilian internees would perhaps have made it possible to make a quantitative assessment of the effects of agreements concluded at the initiative of the ICRC with a view to protecting civilian internees, both Jewish and non-Jewish, who were citizens of States at war with Germany. That would have shown that in such cases some groups of Jews were able to survive because the criterion applied to them was that of nationality and not that of "race", the grounds on which the Nazis rejected all approaches.

In particular, we feel that more space should have been devoted to an account and analysis of the negotiations undertaken by the ICRC with the belligerents in 1939 and 1940 with a view to the provisional adoption of the Tokyo Draft. You mention this activity only in passing, yet the draft agreement was designed to protect not only civilian internees but all civilians of enemy nationality. You make too little of this attempt by the ICRC to bring about an agreement which, if it had succeeded, would have afforded a minimum degree of legal protection for all civilians, Jewish and non-Jewish, of enemy nationality and would have provided the ICRC with the legal basis for intervention that in the event it lacked throughout the war.

The above comments notwithstanding, the ICRC readily acknowledges that it is never possible to exhaust an historical subject of this magnitude and freely recognizes that your study constitutes the most complete reference work yet written on the ICRC and the Nazi concentration camps. As such, it not only makes a major and original contribution to the body of research that seeks to elucidate the history of that genocide but also opens up new avenues of reflection for our institution.

Please accept my heartfelt congratulations.

Yours sincerely,

Cornelio Sommaruga

ADDRESSES OF NATIONAL RED CROSS AND RED CRESCENT SOCIETIES

- AFGHANISTAN (Democratic Republic of) — Afghan Red Crescent Society, Puli Hartan, *Kabul*.
- ALBANIA (Socialist People's Republic of) — Albanian Red Cross, Boulevard Marsel Kashen, *Tirana*.
- ALGERIA (People's Democratic Republic of) — Algerian Red Crescent, 15 bis, boulevard Mohamed V, *Algiers*.
- ANGOLA — Cruz Vermelha de Angola, Av. Hoji Ya Henda 107, 2. andar, *Luanda*.
- ARGENTINA — The Argentine Red Cross, H. Yrigoyen 2068, 1089 *Buenos Aires*.
- AUSTRALIA — Australian Red Cross Society, 206, Clarendon Street, *East Melbourne 3002*.
- AUSTRIA — Austrian Red Cross, 3, Gusshausstrasse, Postfach 39, A-1041, *Vienne 4*.
- BAHAMAS — The Bahamas Red Cross Society, P.O. Box N-8331, *Nassau*.
- BAHRAIN — Bahrain Red Crescent Society, P.O. Box 882, *Manama*.
- BANGLADESH — Bangladesh Red Crescent Society, 684-686, Bara Magh Bazar, Dhaka-1217, G.P.O. Box No. 579, *Dhaka*.
- BARBADOS — The Barbados Red Cross Society, Red Cross House, Jemmotts Lane, *Bridgetown*.
- BELGIUM — Belgian Red Cross, 98, chaussée de Vleurgat, 1050 *Brussels*.
- BELIZE — Belize Red Cross Society, P.O. Box 413, *Belize City*.
- BENIN (People's Republic of) — Red Cross of Benin, B.P. No. 1, *Porto-Novo*.
- BOLIVIA — Bolivian Red Cross, Avenida Simón Bolívar, 1515, *La Paz*.
- BOTSWANA — Botswana Red Cross Society, 135 Independence Avenue, P.O. Box 485, *Gaborone*.
- BRASIL — Brazilian Red Cross, Praça Cruz Vermelha No. 10-12, *Rio de Janeiro*.
- BULGARIA — Bulgarian Red Cross, 1, Boul. Biruzov, 1527 *Sofia*.
- BURKINA FASO — Burkina Be Red Cross Society, B.P. 340, *Ouagadougou*.
- BURUNDI — Burundi Red Cross, rue du Marché 3, P.O. Box 324, *Bujumbura*.
- CAMEROON — Cameroon Red Cross Society, rue Henri-Dunant, P.O. B 631, *Yaoundé*.
- CANADA — The Canadian Red Cross Society, 1800 Alta Vista Drive, *Ottawa*, Ontario K1G 4J5.
- CAPE-VERDE (Republic of) — Cruz Vermelha de Cabo Verde, Rua Unidade-Guiné-Cabo Verde, P.O. Box 119, *Prata*.
- CENTRAL AFRICAN REPUBLIC — Central African Red Cross Society, B.P. 1428, *Bangui*.
- CHAD — Red Cross of Chad, B.P. 449, *N'Djamena*.
- CHILE — Chilean Red Cross, Avenida Santa María No. 0150, Correo 21, Casilla 246-V., *Santiago de Chile*.
- CHINA (People's Republic of) — Red Cross Society of China, 53, Gannien Hutong, *Beijing*.
- COLOMBIA — Colombian Red Cross Society, Avenida 68, N.º 66-31, Apartado Aéreo 11-10, *Bogotá D. E.*
- CONGO (People's Republic of the) — Croix-Rouge congolaise, place de la Paix, B.P. 4145, *Brazzaville*.
- COSTA RICA — Costa Rica Red Cross, Calle 14, Avenida 8, Apartado 1025, *San José*.
- CÔTE D'IVOIRE — Croix-Rouge de Côte d'Ivoire, B.P. 1244, *Abidjan*.
- CUBA — Cuban Red Cross, Calle Calzada 51 Vedado, Ciudad Habana, *Habana 4*.
- CZECHOSLOVAKIA — Czechoslovak Red Cross, Thunovská 18, 118 04 *Prague 1*.
- DENMARK — Danish Red Cross, Dag Hammarskjølds Allé 28, Postboks 2600, 2100 *København Ø*.
- DJIBOUTI — Société du Croissant-Rouge de Djibouti, B.P. 8, *Djibouti*.
- DOMINICA — Dominica Red Cross Society, P.O. Box 59, *Roseau*.
- DOMINICAN REPUBLIC — Dominican Red Cross, Apartado postal 1293, *Santo Domingo*.
- ECUADOR — Ecuadorean Red Cross, calle de la Cruz Roja y Avenida Colombia, *Quito*.
- EGYPT (Arab Republic of) — Egyptian Red Crescent Society, 29, El Galaa Street, *Cairo*.
- EL SALVADOR — Salvadorean Red Cross Society, 17C. Pte y Av. Henri Dunant, *San Salvador*, Apartado Postal 2672.
- ETHIOPIA — Ethiopian Red Cross Society, Ras Desta Damtew Avenue, *Addis-Ababa*.
- FIJI — Fiji Red Cross Society, 22 Gorrie Street, P.O. Box 569, *Suva*.
- FINLAND — Finnish Red Cross, Tehtaankatu, 1 A. Box 168, 00141 *Helsinki 14/15*.
- FRANCE — French Red Cross, 1, place Henry-Dunant, F-75384 *Paris*, CEDEX 08.
- GAMBIA — The Gambia Red Cross Society, P.O. Box 472, *Banjul*.
- GERMAN DEMOCRATIC REPUBLIC — German Red Cross of the German Democratic Republic, Kaitzer Strasse 2, DDR, 8010 *Dresden*.
- GERMANY, FEDERAL REPUBLIC OF — German Red Cross in the Federal Republic of Germany, Friedrich-Erbert-Allee 71, 5300, *Bonn 1*, Postfach 1460 (D.B.R.).
- GHANA — Ghana Red Cross Society, National Headquarters, Ministries Annex A3, P.O. Box 835, *Accra*.
- GREECE — Hellenic Red Cross, rue Lycavittou, 1, *Athens 10672*.
- GRENADA — Grenada Red Cross Society, P.O. Box 221, *St George's*.
- GUATEMALA — Guatemalan Red Cross, 3.ª Calle 8-40, Zona 1, *Ciudad de Guatemala*.
- GUINEA — The Guinean Red Cross Society, P.O. Box 376, *Conakry*.
- GUINEA-BISSAU — Sociedad Nacional da Cruz Vermelha de Guiné-Bissau, rua Justino Lopes N.º 22-B, *Bissau*.
- GUYANA — The Guyana Red Cross Society, P.O. Box 10524, Eve Leary, *Georgetown*.
- HAITI — Haitian National Red Cross Society, place des Nations Unies, (Bicentenaire), B.P. 1337, *Port-au-Prince*.

- HONDURAS — Honduran Red Cross, 7.^a Calle, 1.^a y 2.^a Avenidas, *Comayagüela D.M.*
- HUNGARY — Hungarian Red Cross, V. Arany János utca, 31, *Budapest 1367*. Mail Add.: *1367 Budapest 51. Pf. 121.*
- ICELAND — Icelandic Red Cross, Raudararstigur 18, 105 *Reykjavik*.
- INDIA — Indian Red Cross Society, 1, Red Cross Road, *New-Delhi 110001*.
- INDONESIA — Indonesian Red Cross Society, Il Jend Gatot subroto Kar. 96, Jakarta Selatan 12790, P.O. Box 2009, *Jakarta*.
- IRAN — The Red Crescent Society of the Islamic Republic of Iran, Avenue Ostad Nejatollahi, *Tehran*.
- IRAQ — Iraqi Red Crescent Society, Mu'ari Street, Mansour, *Bagdad*.
- IRELAND — Irish Red Cross Society, 16, Merrion Square, *Dublin 2*.
- ITALY — Italian Red Cross, 12, via Toscana, 00187 *Rome*.
- JAMAICA — The Jamaica Red Cross Society, 76, Arnold Road, *Kingston 5*.
- JAPAN — The Japanese Red Cross Society, 1-3, Shiba-Daimon, I-chome, Minato-Ku, *Tokyo 105*.
- JORDAN — Jordan National Red Crescent Society, P.O. Box 10001, *Amman*.
- KENYA — Kenya Red Cross Society, St. John's Gate, P.O. Box 40712, *Nairobi*.
- KOREA (Democratic People's Republic of) — Red Cross Society of the Democratic People's Republic of Korea, Ryonhwa 1, Central District, *Pyeongyang*.
- KOREA (Republic of) — The Republic of Korea National Red Cross, 32-3Ka, Nam San Dong, Choong-Ku, *Seoul 100-043*.
- KUWAIT — Kuwait Red Crescent Society, P.O. Box 1359 Safat, *Kuwait*.
- LAO PEOPLE'S DEMOCRATIC REPUBLIC — Lao Red Cross, B.P. 650, *Vientiane*.
- LEBANON — Lebanese Red Cross, rue Spears, *Beirut*.
- LESOTHO — Lesotho Red Cross Society, P.O. Box 366, *Maseru 100*.
- LIBERIA — Liberian Red Cross Society, National Headquarters, 107 Lynch Street, 1000 *Monrovia 20*, West Africa.
- LIBYAN ARAB JAMAHIRIYA — Libyan Red Crescent, P.O. Box 541, *Benghazi*.
- LIECHTENSTEIN — Liechtenstein Red Cross, Heiligkreuz, 9490 *Vaduz*.
- LUXEMBOURG — Luxembourg Red Cross, Parc de la Ville, B.P. 404, *Luxembourg 2*.
- MADAGASCAR — Malagasy Red Cross Society, 1, rue Patrice Lumumba, *Antananarivo*.
- MALAWI — Malawi Red Cross Society, Conforzi Road, P.O. Box 983, *Lilongwe*.
- MALAYSIA — Malaysian Red Crescent Society, JKR 32 Jalan Nipah, off Jalan Ampang, *Kuala Lumpur 55000*.
- MALI — Mali Red Cross, B.P. 280, *Bamako*.
- MAURITANIA — Mauritanian Red Crescent, B.P. 344, aneue Gamal Abdel Nasser, *Nouakchott*.
- MAURITIUS — Mauritius Red Cross Society, Ste Thérèse Street, *Curepipe*.
- MEXICO — Mexican Red Cross, Calle Luis Vives 200, Col. Polanco, *México 10, Z.P. 11510*.
- MONACO — Red Cross of Monaco, 27 boul. de Suisse, *Monte Carlo*.
- MONGOLIA — Red Cross Society of Mongolia, Central Post Office, Post Box 537, *Ulan Bator*.
- MOROCCO — Moroccan Red Crescent, B.P. 189, *Rabat*.
- MOZAMBIQUE — Cruz Vermehla de Moçambique, Caixa Postal 2986, *Maputo*.
- MYANMAR (The Union of) — Myanmar Red Cross Society, 42, Strand Road, *Yangon*.
- NEPAL — Nepal Red Cross Society, Tahachal Kalimati, P.B. 217 *Kathmandu*.
- NETHERLANDS — The Netherlands Red Cross, P.O.B. 28120, *2502 KC The Hague*.
- NEW ZEALAND — The New Zealand Red Cross Society, Red Cross House, 14 Hill Street, *Wellington 1*. (P.O. Box 12-140, *Wellington Thorndon*.)
- NICARAGUA — Nicarágua Red Cross, Apartado 3279, *Managua D.N.*
- NIGER — Red Cross Society of Niger, B.P. 11386, *Niamey*.
- NIGERIA — Nigerian Red Cross Society, 11 Eko Akete Close, off St. Gregory's Rd., P.O. Box 764, *Lagos*.
- NORWAY — Norwegian Red Cross, P.O. Box 6875, St. Olavspl. N-0130 *Oslo 1*.
- PAKISTAN — Pakistan Red Crescent Society, National Headquarters, Sector H-8, *Islamabad*.
- PANAMA — Red Cross Society of Panama, Apartado Postal 668, *Panamá 1*.
- PAPUA NEW GUINEA — Papua New Guinea Red Cross Society, P.O. Box 6545, *Boroko*.
- PARAGUAY — Paraguayan Red Cross, Brasil 216, esq. José Berges, *Asunción*.
- PERU — Peruvian Red Cross, Av. Camino del Inca y Nazarenas, Urb. Las Gardenias -- Surco — Apartado 1534, *Lima*.
- PHILIPPINES — The Philippine National Red Cross, Bonifacio Drive, Port Area, P.O. Box 280, *Manila 2803*.
- POLAND — Polish Red Cross, Mokotowska 14, 00-950 *Warsaw*.
- PORTUGAL — Portuguese Red Cross, Jardim 9 Abril, 1 a 5, 1293 *Lisbon*.
- QATAR — Qatar Red Crescent Society, P.O. Box 5449, *Doha*.
- ROMANIA — Red Cross of the Socialist Republic of Romania, Strada Biserica Amzei, 29, *Bucarest*.
- RWANDA — Rwandese Red Cross, B.P. 425, *Kigali*.
- SAINT LUCIA — Saint Lucia Red Cross, P.O. Box 271, *Castries St. Lucia, W. I.*
- SAN MARINO — Red Cross of San Marino, Comité central, *San Marino*.
- SÃO TOMÉ AND PRÍNCIPE — Sociedade Nacional da Cruz Vermelha de São Tomé e Príncipe, C.P. 96, *São Tomé*.
- SAUDI ARABIA — Saudi Arabian Red Crescent Society, *Riyadh 11129*.
- SENEGAL — Senegalese Red Cross Society, Bd Franklin-Roosevelt, P.O.B. 299, *Dakar*.
- SIERRA LEONE — Sierra Leone Red Cross Society, 6, Liverpool Street, P.O.B. 427, *Freetown*.
- SINGAPORE — Singapore Red Cross Society, Red Cross House 15, Penang Lane, *Singapore 0923*.
- SOMALIA (Democratic Republic) — Somali Red Crescent Society, P.O. Box 937, *Mogadishu*.

- SOUTH AFRICA** — The South African Red Cross Society, Essanby House 6th Floor, 175 Jeppe Street, P.O.B. 8726, *Johannesburg 2000*.
- SPAIN** — Spanish Red Cross, Eduardo Dato, 16, *Madrid 28010*.
- SRI LANKA** (Dem. Soc. Rep. of) — The Sri Lanka Red Cross Society, 106, Dharmapala Mawatha, *Colombo 7*.
- SUDAN** (The Republic of the) — The Sudanese Red Crescent, P.O. Box 235, *Khartoum*.
- SURINAME** — Suriname Red Cross, Gravenberchstraat 2, Postbus 2919, *Paramaribo*.
- SWAZILAND** — Baphalali Swaziland Red Cross Society, P.O. Box 377, *Mbabane*.
- SWEDEN** — Swedish Red Cross, Box 27 316, *102-54 Stockholm*.
- SWITZERLAND** — Swiss Red Cross, Rainmattstrasse 10, B.P. 2699, *3001 Berne*.
- SYRIAN ARAB REPUBLIC** — Syrian Arab Red Crescent, Bd Mahdi Ben Barake, *Damascus*.
- TANZANIA** — Tanzania Red Cross National Society, Upanga Road, P.O.B. 1133, *Dar es Salaam*.
- THAILAND** — The Thai Red Cross Society, Paribatra Building, Central Bureau, Rama IV Road, *Bangkok 10330*.
- TOGO** — Togolese Red Cross, 51, rue Boko Soga, P.O. Box 655, *Lomé*.
- TONGA** — Tonga Red Cross Society, P.O. Box 456, *Nuku'Alofa, South West Pacific*.
- TRINIDAD AND TOBAGO** — The Trinidad and Tobago Red Cross Society, P.O. Box 357, *Port of Spain, Trinidad, West Indies*.
- TUNISIA** — Tunisian Red Crescent, 19, rue d'Angleterte, *Tunis 1000*.
- TURKEY** — The Turkish Red Crescent Society, Genel Baskanligi, Karanfil Sokak No. 7, 06650 Kizilay-*Ankara*.
- UGANDA** — The Uganda Red Cross Society, Plot 97, Buganda Road, P.O. Box 494, *Kampala*.
- UNITED ARAB EMIRATES** — The Red Crescent Society of the United Arab Emirates, P.O. Box No. 3324, *Abu Dhabi*.
- UNITED KINGDOM** — The British Red Cross Society, 9, Grosvenor Crescent, *London, S.W.1X. 7EJ*.
- USA** — American Red Cross, 17th and D. Streets, N.W., *Washington, D.C. 20006*.
- URUGUAY** — Uruguayan Red Cross, Avenida 8 de Octubre 2990, *Montevideo*.
- U.R.S.S** — The Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., I, Tcheremushkinskii proezd 5, *Moscow, 117036*.
- VENEZUELA** — Venezuelan Red Cross, Avenida Andrés Bello, N.º 4, Apartado, 3185, *Caracas 1010*.
- VIET NAM** (Socialist Republic of) — Red Cross of Viet Nam, 68, rue Ba-Triêu, *Hanoi*.
- WESTERN SAMOA** — Western Samoa Red Cross Society, P.O. Box 1616, *Apia*.
- YEMEN ARAB REPUBLIC** — Red Crescent Society of the Yemen Arab Republic, P.O. Box 1257, *Sana'a*.
- YEMEN** (People's Democratic Republic of) — Red Crescent Society of the People's Democratic Republic of Yemen, P. O. Box 455, Crater, *Aden*.
- YUGOSLAVIA** — Red Cross of Yugoslavia, Simina ulica broj 19, *11000 Belgrade*.
- ZAIRE** — Red Cross Society of the Republic of Zaire, 41, av. de la Justice, Zone de la Gombe, B.P. 1712, *Kinshasa*.
- ZAMBIA** — Zambia Red Cross Society, P.O. Box 50 001, 2837 Brentwood Drive, Longacres, *Lusaka*.
- ZIMBABWE** — The Zimbabwe Red Cross Society, P.O. Box 1406, *Harare*.

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