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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Austria. — The ICRC has just sent to the Austrian Government 100,000 cigarettes intended for Australian nationals repatriated from the USSR or still remaining in that country. It will be recalled that a similar gift was made in October 1951.

France. — The Paris Delegation of the ICRC has handed over to the French Prisons Administration three dental surgeries, which it had previously installed in the prisons of Lyons, Bordeaux and Lille to facilitate dental treatment for Germans detained in those establishments.

These surgeries will henceforth be used by the French Prisons Administration on behalf of all persons under detention in these prisons.

Italy. — During June the ICRC sent to the Italian Red Cross in Rome some 500 kgs of special medicaments for tuberculosis. The value of this consignment was Sw. Fr. 15,500: it was given for tuberculous war victims, and will be distributed by the Italian Red Cross.

A small gift of medicaments and tonics to the value of Sw. Fr. 2,200 was also made to the Italian Red Cross Social Service in Rome, in favour of necessitous refugees in Italy.

India. — In view of the alarming reports on famine in Madras and other parts of South India, the ICRC sent a first consignment of medicaments by air to the Indian Red Cross, Madras. These relief supplies, originally intended for the wounded and sick of the armed forces, prisoners of war and civilians in North Korea, will be distributed to the famine victims. The value of the supplies is Sw. Fr. 10,000.

Further consignments will be sent by sea.

Indochina. — M. André Durand, ICRC Delegate, started on June 17 and 18 a series of enquiries by radio with a view to obtaining information from the Red Cross of Democratic Vietnam in regard to missing members of the French forces. By the same channel, on June 21 and 22, M. Durand launched a new appeal to the Red Cross of Democratic Vietnam in order to renew the contacts made last year in Tonking.

Korea. — The incidents which have taken place in recent weeks in various prisoner of war camps of the United Nations forces, and notably at Koje, have interrupted the daily work of the ICRC delegates. The authorities responsible for the treatment of the prisoners thought it preferable on grounds of their personal safety for the delegates no longer to visit these camps until order had once again been established, and withdrew the visiting permit accordingly. The public was informed of this restrictive measure by a communiqué of the Supreme Command of the United Nations forces.

This exceptional situation led the ICRC to send a special delegate from Geneva to Tokyo last month, to draw the attention of the authorities in charge of the prisoners of war to the ICRC's wish for facilities for continued regular visits. The ICRC was told that its delegates could resume their activities as soon as order was restored in the camps. During this period visits were paid to other camps where order had not been disturbed.

Disabled. — During the month of June the Section for the Disabled continued its activities for individual and collective relief. In particular it sent a parcel of Braille watches to the Polish Red Cross for blind Poles. It further placed at the disposal of the ICRC Delegation in Paris a sum of 2,500 Swiss Francs to enable medical assistance to certain necessitous Polish war disabled to be continued. As part of the programme of providing artificial limbs for Greek amputees, 8 new prostheses were supplied to Greek exiles. Furthermore it sent through the British Red Cross in London remedial apparatus for the re-training of Yugoslav war disabled.

HOSPITAL LOCALITIES AND SAFETY ZONES¹

IV.

ARTICLES OF THE 1949 CONVENTIONS AND ANNEXED DRAFT AGREEMENTS

During the Second World War, there were only two Conventions which were realistically adapted to the conditions of modern war: those of July 27, 1929, for the wounded and sick, and for prisoners of war. The Xth Hague Convention of 1907, which adapted the Geneva Convention to maritime warfare, and some of the sketchy provisions of the IVth and Vth Hague Conventions, referred to civilians and to persons interned in neutral territories. Neither the 1938 Draft Convention on Hospital Zones and Localities or the 1934 "Tokyo Draft" for the protection of civilians, had been adopted by international agreements.

On February 15, 1945, even before hostilities had ended, the ICRC informed Governments and National Societies of its intention to prepare revised drafts of the Geneva Conventions, and new humanitarian agreements. Relevant documents were collected with a view to establishing the drafts in co-operation with the National Societies and Governments for submission

¹ See *Supplement*, May, 1952, p. 109.

to the XVIIth International Red Cross Conference and, later, to the Diplomatic Conference.

Preliminary Conference of National Societies (1946).

The Preliminary Conference called by the ICRC in Geneva from July 27 to August 3, 1946, did not go into detail on the 1938 Draft. It asked the ICRC, with the help of experts, to consider the question of introducing suitable provisions concerning the protection of Hospital Zones. It emphasized the necessity of excluding all military units and all establishments directly connected with war operations from neighbouring territory and within a given radius.

Government Experts Conference (1947).

In its documentation for the Government Experts Conference, which was attended at Geneva from April 14 to 26, 1947, by seventy representatives of fifteen Governments with special experience in the matter under discussion, the ICRC introduced the entire 1938 Draft on Hospital Zones and Localities. After reference to the efforts it made during the War to have Safety Zones set up, it proposed that regulations should be added to the Draft Civilian Convention ; the proposal ended as follows :

The ICRC believes it essential to undertake fuller study of the question of Safety Zones. Their wider scope should be proportionate to present conditions, and possibly include complete territories or perhaps neutral countries.

The protection of civilians is best ensured by absolutely prohibiting certain methods of warfare—as was shown when the use of poison gas and bacteriological warfare were effectively ruled out—but this must be supplemented in practice by creating Zones to shelter certain categories which have special need of protection. These Localities or Zones could be established in the same areas as the Hospital Zones proposed in the present documents for the protection of the military and civilian wounded and sick. The ICRC ventures to submit certain principles which should be followed in drafting treaty stipulations on Safety Zones and Localities.

1. Safety Zones and Localities should be open to
 - (a) children up to the age of sixteen,
 - (b) expectant mothers and mothers with children under four,
 - (c) persons over sixty,
 - (d) staff specially employed for the transport and care of the persons designated under (a), (b) and (c).
2. Safety Zones and Localities should be situated in areas which can have no interest for the conduct of the war ; from them must be excluded all military services, central civilian administrative offices, and industrial installations liable to be considered by the enemy as military objectives.
3. In peacetime, each of the High Contracting Parties may submit for the approval of the other Parties a list of localities, or parts of its territory as areas which, in time of war, would be used exclusively as Safety Zones for the categories set out under Paragraph 1.

At the beginning or in the course of hostilities, each of the High Contracting Parties would notify the adverse Party of Safety Zones it proposed to institute.

Procedure in case of opposition to be also prescribed.

4. Safety Zones and Localities shall be designated by an emblem to be agreed upon. This emblem shall also appear on all means of transport, whatever they may be, which are exclusively employed for taking protected persons to the Zones and Localities, and for the transport of provisions.
5. All care shall be taken to ensure that lines of demarcation are shown unequivocally both on the actual ground and on maps.
6. Recognized Relief Societies shall have all facilities for bringing help, in case of need, to those in the Zones and Localities.
7. In case of enemy occupation, the Safety Zones and Localities shall continue to serve their original purpose.

The belligerent may not alter the use to which they are put unless suitable provisions have first been made for the persons protected.
8. Safety Zones and Localities shall be supervised by a Commission whose members shall be citizens of neutral countries.

These proposals, it will be seen, are based on the 1938 Draft on Hospital Zones and Localities. The adaptation to include civilians gave effect to the General Saint-Paul's original idea, namely, that special protection should be given only to persons whose physical condition was such that they could be considered on the same terms as the wounded and sick ; in other words, they would be totally incapable of defending themselves or those in their charge.

The Government Experts Conference in April 1947 was faced with two vital questions :

- (1) Was it still worth while considering the creation of Hospital Zones and Localities ?
- (2) If so, should the provisions of the 1938 Draft, or certain of their essentials, be introduced into the Geneva Convention ?

The ICRC representative pointed out that even under the 1929 Convention it was possible to set up Hospital Zones in open country. Since every medical unit was protected as such by the Convention, it followed that several adjacent units would also be protected. On the other hand, the protection of the Convention could not be claimed for a Locality which contained members of the civilian population in addition to military personnel.

The Commission confined itself to the study of Hospital Localities, to the exclusion of Zones, which it took as implying very large areas. One Delegation pointed out in this connection that the difficulties would be almost insurmountable—in preventing the entry of people not entitled to come in, in eliminating military objectives, in locating the Zones at a distance from lines of communication, and in preventing aircraft from flying over them.

The Conference considered, in relation to Hospital Localities, that it should merely suggest, in the Convention, that belligerents might create such Localities by special agreement.

It accordingly suggested the introduction of a new Article (Article 9) which included a summary definition :

Belligerents may conclude special agreements for the creation of Hospital Zones for the better protection of the military wounded and sick who will find shelter there ; all military use will be excluded.

The Experts carefully examined the Committee's proposals on Safety Zones and Localities. Here again they ruled out the idea of *Zones*, but admitted the possibility of setting up Safety *Localities*, in the same conditions as for Hospital Localities, and made the following recommendation :

Commission III places on record the conclusions of Commission I with regard to Hospital Localities and recommends that the ICRC be invited to study the conditions under which similar protection could be afforded to civilians, and to submit proposals to this effect to Governments.

The Committee's Drafts.

In view of the dangers which developments in the methods of warfare implied for civilians, the ICRC continued its studies. Bearing in mind the conclusions of the 1947 Experts Conference, it tried to secure for non-combatants the maximum safeguards compatible with military requirements. With the support of the National Societies, it decided on the following proposals which were not afterwards changed :

- (a) Introduction into the Geneva Conventions of an Article recommending that States should arrange for the creation of places of refuge for certain categories expressly named ;
- (b) Adjunction to the Conventions of a Model Agreement which would define conditions on which Zones and Localities would be set up and operated.

In spite of the negative conclusions of the Experts Commission, the ICRC again took up the idea of *Zones*. To meet objections often raised, it was made clear that the *Zones* would cover a very minor part of the national territory.

Articles included in the Draft Conventions (Art. 18 in Convention I, Art. 12 in Convention IV), having defined the object of Zones and Localities, described the categories of persons who would be authorized to reside in them, namely :

- (1) in Hospital Zones and Localities : the wounded and sick and administrative and nursing staff ;
- (2) in Safety Zones : the infirm, old people, children under fifteen, expectant mothers, and mothers of children under seven.

As will be seen, these are the categories proposed by the Committee to the Experts Conference.

The draft agreements on Hospital and Safety Zones and Localities were substantially those adopted by the Diplomatic Conference. There were considerable innovations on previous drafts : military transit through the zones, which had previously been allowed, was now expressly forbidden. A new marking—oblique red stripes on a white ground—was proposed. The supervision attributed in the 1938 Draft to the Committee was given over to the Protecting Powers ; a Party refusing to obey the instructions the Control Commission might give thereby released the opposite side from its obligations. Enemy troops, while obliged to respect the Zone, could cross it without stopping if they had reached the outskirts.

The Palestine experience led the ICRC to propose an Article which offered the Powers the possibility of setting up Safety Zones and Localities of a new type. As shown above, the Zones in Jerusalem—like those in Madrid and Shanghai—did not conform to the previous legal conception. The theory had been to establish permanent Zones behind the front to shelter certain elements of the population from artillery and aerial bombardment. What actually happened was that places of refuge were set up provisionally in the actual fighting area and shelter given to all of the local population.

The Committee accordingly drafted an Article for insertion in the Fourth Convention, providing for “ Neutralized Zones ”,

open without distinction to the wounded and sick and to all non-combatants.

The 1948 and 1949 Conferences.

The XVIIth International Red Cross Conference in Stockholm, attended by delegates from the Committee and the League, National Societies, and Governments Parties to the Conventions, adopted with only minor changes the three new Articles proposed by the Committee.

The draft agreement on Hospital and Safety Zones and Localities, common to the First and Fourth Conventions, was adopted as it stood.

The texts adopted at Stockholm were submitted to the Diplomatic Conference which opened in Geneva on April 21, 1949. The Committee sent its "Remarks and Proposals" beforehand to the Governments invited.

The Diplomatic Conference split the draft agreement in two, the draft agreement on Hospital Zones and Localities becoming an Annex of the First Convention (Wounded and Sick), and the draft agreement on Hospital and Safety Zones and Localities becoming Annex I of the Fourth (Civilian) Convention.

V.

THE GENEVA CONVENTIONS OF AUGUST 12, 1949

The Diplomatic Conference provided for (a) Hospital and Safety Zones and (b) Neutralized Zones; we shall examine them separately.

It must, however, be remembered that the clauses in the Conventions concerning places of refuge are not binding. Urgent recommendations are made, but no formal obligation is imposed.

NEUTRALIZED ZONES

Article 15 of the Civilians Convention reads :

Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction :

- (a) wounded and sick combatants or non-combatants ;
- (b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Neutralized Zones are situated close to the actual front, their purpose being to provide shelter for anyone who is taking no part in the fighting or who is put out of action. Persons sheltered must take no part in any type of military work while in the Zone.

The precedents of Madrid, Shanghai, and Jerusalem—the only three examples of Zones which really worked, and lasted a reasonable time—thus become recognized practice.

Because of their location, Neutralized Zones are essentially provisional. The agreement under which they are set up will accordingly decide when and for how long they will come into being. They will no doubt often be established by the local military commanders, without recourse to diplomatic channels.

The Article is wide and general in scope ; it does not go into detail—which must depend on the military operations and the nature of the ground. Sometimes the solution will probably be more or less that of an open town, with the difference that there will be legal safeguards where the declaration of an open town has hitherto always been unilateral.

The first object is protection against fighting in the neighbourhood, although the Zones will naturally serve also against bombardment from the air, or by long-range artillery.

The provision is flexible and realistic ; it should prove effective.

HOSPITAL AND SAFETY ZONES

First Convention (*Wounded and Sick*)

Art. 23. — In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties to the conflict, may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend good offices in order to facilitate the institution and recognition of these hospital zones and localities.

Fourth Convention (*Civilian*)

Art. 14. — In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effect of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Both Conventions have Annexes—almost identical—which refer to the two above Articles. We shall deal with them later.

The Articles make an important distinction between *establishing* Zones and *recognizing* them.

The establishing of Zones can be planned in peacetime and take place equally well before or after hostilities begin. This idea was already contained in the Monaco Draft and has been retained since. Objections, however, have not been wanting.

A commentator on the 1936 Draft wrote: "It would not be possible in my country to designate Hospital Zones in peacetime. It is essential that Hospital Towns be situated away from military operations; in a small country they will be situated differently according to the way in which the war develops."

M. Gorgé, Switzerland, spoke at the 1938 Expert Commission of the "grave difficulty, not to say impossibility, of setting up Hospital Localities in peacetime".¹

The 1938 Draft took this difficulty into account by providing that each Contracting Party could communicate to the ICRC a list of Zones or Localities it proposed to set up in time of war; the list would at all times be at the disposal of the Contracting Parties. The 1949 Conventions went further by making it possible to set up the Zones in peacetime; the terms of Art. 4 of the 1938 Draft were in part reproduced in Art. 7 of the Draft Agreement.

The difficulties are real but not unsurmountable. The physical creation of refuge Zones is clearly possible in peacetime. If the strategic situation changes after war has broken out, alternative Zones could be put into operation as circumstances dictate. The only difference is that in peacetime organization is a material question; after war breaks out, legal sanction is necessary through the Agreements provided for in Paragraph 2.

The explicit reference shows the importance the Convention rightly attaches to making the preparations in peacetime. It is not during the confusion of the first days of a war that the difficulties in organizing, governing, feeding and checking the right of admission to a Zone can be dealt with. If detailed

¹ See *Revue internationale*, March 1939, p. 180.

arrangements are made beforehand, notification—so far as it corresponds to the conditions laid down in the Agreements—can be made during the first days of hostilities.

Draft agreements should obviously follow the general lines of those annexed to the Conventions which, although not binding, were drawn up and adopted as models by the experts of States Parties to the Conventions. The agreements would in such case be most likely to be accepted by the adverse Party—having already been accepted in principle by it as a signatory of the Conventions.

If it becomes necessary to apply the agreements on Zones, the drafts will probably need completing on several points not dealt with. But, particularly in relation to the obligations of contracting States, the annexes give very precise indications and are an essential auxiliary to the Convention.

Certain points may be noticed before we deal with the actual Agreements. Firstly, an Occupying Power may also set up Hospital and Safety Zones. It is clear from what took place during the War that it is precisely in occupied territory that Safety Zones would have been of the greatest benefit and have been most easily recognized by the adverse Party.

The Convention does not expressly mention the dangers against which the Zones will give protection, simply stating that they will be “so organized as to protect from the effect of war...”.

This is very general and needs some explanation. As the Zones are established well behind the lines, the reference is to the dangers of bombing from the air and by long-range artillery (including guided weapons such as flying bombs, and so on).

Naturally, provision is also made against the dangers resulting to protected persons from close-range fighting but the relevant Articles will probably be invoked only rarely, because the Zones are in principle distant from the fighting area.

* * *

We have seen above that the conditions stated in the Articles are not rigid. Neither is the classification of persons who may

be given shelter. The Zones actually referred to are reserved for certain categories, but others are not ruled out. The Articles provide for the following :

- (1) Hospital Zones for the military wounded and sick.
- (2) Hospital Zones for the civilian wounded and sick.
- (3) Hospital Zones open to both.
- (4) Safety Zones reserved for certain civilian categories.
- (5) Hospital and Safety Zones which, in addition to certain categories of civilians, also shelter (a) the military wounded and sick, or (b) the civilian wounded and sick, or (c) both military and civilian wounded and sick.

The freedom of action left to belligerents is thus wide. Article 14 of the Civilian Convention seems to have particularly in mind the formula "civil and military wounded and sick and certain civilian categories" but does not exclude others. There is in fact no reason why those setting up a Zone should not take their legal justification from the relevant Article in each of the Conventions.

According to the Draft Agreement annexed to the two Conventions, protection may also extend to Localities having the same purpose as the Zones. There is no real reason for making a formal distinction between Zones and Localities: Zones often include Localities and, geographically at least, several Localities taken together could form a Zone.

* * *

The establishment of Hospital and Safety Zones raises an important general problem. All the categories whom the Zones are there to shelter are already protected under one heading or another by international law, conventional or customary: the military wounded and sick by detailed provisions of the First Convention; civilians, traditionally entitled to immunity from the dangers of war as being in no sense "military objectives". It might therefore be claimed that Hospital or Safety Zones would help to diminish the general protection.

This argument does not hold water. A principal object of the Zones is to draw the enemy's attention to the presence in a given area of persons he is obliged to respect, and there is no justification for concluding that the same categories, outside the Zones, are any the less entitled to the protection accorded them.

The two Articles refer the actual establishment of Zones to the good offices of the Protecting Powers and the ICRC, and this is in conformity with the general spirit of the Conventions. Both are invited to lend their good offices because they can act spontaneously when they consider it necessary, and put forward practical proposals to the interested Governments.

DRAFT AGREEMENTS ANNEXED TO CONVENTIONS I AND IV

The Draft Agreements are almost identical and can be studied together.

Convention No. I.

Art. 1. — Hospital zones shall be strictly reserved for the persons named in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, and for the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Convention No. IV.

Art. 1. — Hospital and safety zones shall be strictly reserved for the persons mentioned in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, and in Article 14 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of August 12, 1949 and for the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

These two Articles are important as they define the categories, differing according to the nature of the Zones, who may be given shelter, namely :

- (a) The military wounded and sick,
- (b) The civilian wounded and sick,
- (c) Certain elements of the civilian population.

Article 14 provides that the Zones may shelter the wounded and sick, aged persons, children under fifteen, expectant mothers, and mothers of children under seven.

Whatever the nature of the Zone, the organizing, administration and nursing personnel attached to it are also sheltered, as well as persons originally domiciled in the area. All persons admitted, provisionally or permanently, are in a condition of lowered physical or mental resistance, and it was for this reason that special protection was given them by the 1949 Conventions.

The text is not very precise about certain categories. It is not clear whether or not "aged persons" means persons over sixty years of age—the definition suggested by the 1949 Experts Conference; the figure is at least a useful indication.

What proportion of the total population is entitled to take shelter in a Zone? In default of a systematic study, we may take some Swiss figures as an example. The categories covered by Article 14 of the Civilian Convention represent the following percentages :

Children under fifteen	20.7%
Mothers of children under seven	6 %
Expectant mothers	0.3%
Aged persons (over 65)	10 %
	<hr/>
	37 %

Including the infirm, the wounded and sick, the total will certainly exceed 40% of the population. It would be impossible to include so large a proportion on "only a small part of the territory". This, however, is no necessary cause for alarm: people living in the country or far from the fighting area would not wish to leave their homes. It is nevertheless useful to keep these figures in mind, if only as an indication, should it become

necessary to arrange for the evacuation of a town and the feeding of the evacuees and the administrative staff.

The " personnel entrusted with the organization and administration " of the Zones should, we believe, be taken rather widely to include the police, services responsible for preventing the entry of unauthorized persons, fire brigades, and ARP staff.

The resident population has the same obligations as the others. The preliminary Monaco Draft authorized the return on leave to a Hospital Zone of military who had originally come from there. This permission does not seem excluded by the present texts, and might extend also to workers on leave from war industries.

Art. 2. — No persons residing, in whatever capacity, in a hospital zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Art. 2. — No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

This Article is clear and requires little commentary. It applies naturally to all persons in the Zone, including permanent residents. Accordingly, a man ordinarily resident in a Safety Zone who takes up work in a war industry, must leave the Zone and live outside it.

All military personnel are naturally excluded, even if their work is in the neighbourhood—staff or administration officers for example.

The unfortunately vague expression " work... directly connected with military operations..." already had a counterpart in Article 31 of the 1929 Prisoners of War Convention and gave rise to many interpretations. There was the greatest difficulty in revising it in 1949. A slightly different formula was adopted in Article 50 of the Prisoners of War Convention, corresponding to Art. 31 in 1929. The new Article is to some extent an interpretation of the former, and authorizes the employment of prisoners of war in the following types of work :

- (a) agriculture ;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries ; public works and building operations which have no military character or purpose ;
- (c) transport and handling of stores which are not military in character or purpose ;
- (d) commercial business, and arts and crafts ;
- (e) domestic service ;
- (f) public utility services having no military character or purpose.

There is less difficulty about the expression " the production of war material ". The manufacture of arms is naturally excluded and of every object, product, utensil or apparatus which is intended uniquely for military use. But the division is not always possible : a truck, for example, could be applied equally well for civilian or military purposes.

Art. 2 is therefore not as comprehensive as might be desired, but points in doubt can be clarified by the States which put the Agreements into operation. The difficulties particularly concern the resident population, as most of the refugees in the Zone will probably not be in a condition to do manual work. It is therefore preferable that the resident population should be as sparse as possible ; we shall revert to this.

Art. 3. — The Power establishing a hospital zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Art. 3. — The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

The obligation set out here follows naturally from Art. 1 ; a fairly large police force is required because, in certain circumstances, many unauthorized persons are likely to try to enter the Zones.

Art. 4. — Hospital zones shall fulfil the following conditions :

Art. 4. — Hospital and safety zones shall fulfil the following conditions :

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| <p>(a) They shall comprise only a small part of the territory governed by the Power which has established them.</p> <p>(b) They shall be thinly populated in relation to the possibilities of accommodation.</p> <p>(c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.</p> <p>(d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.</p> | <p>(a) They shall comprise only a small part of the territory governed by the Power which has established them.</p> <p>(b) They shall be thinly populated in relation to the possibilities of accommodation.</p> <p>(c) They shall be far removed and free from all military objectives, or large industrial or administrative establishments.</p> <p>(d) They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.</p> |
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(a) This is self-evident. The very word Zones implies a restricted area and in any case it is unlikely that the adverse party would recognize excessively large Zones which could seriously hinder military operations.

(b) The object of Safety Zones is not to withdraw densely populated towns from danger; this can be better done by creating a Neutralized Zone if fighting approaches.

It would certainly appear difficult to find an area fulfilling the above conditions unless arrangements have been made at the proper time; a hydro with hotels and clinics might do. A sparse permanent population would avoid the need for transfers and expulsions—always a matter of difficulty.

(c) On the absence of military objectives depends the whole system of Zones. It cannot be over-emphasized that the Zones are not intended to give a new protection to categories already protected in international law: the wounded and sick, old persons, the infirm, women and children; as they do not take part in the war, they should not suffer its direct effects. The Zones are a means of underlining the fact that certain particularly vulnerable categories do not take part in hostilities, and of making their protection more effective. There is no intention

of in any way diminishing the effect of the Geneva and Hague Conventions, nor of the security of the same categories of persons outside recognized Zones. The principles governing their establishment are quite separate from those which assure protection to non-combatants and are not designed either to increase or weaken it. Countries which have made attacks on towns have never said that the civilian population was the objective but pretended that such action was forced on them against their will by the necessities of war. To protect civilians it is thus, as necessary to point to the absence of military objectives as to the presence of persons entitled to protection. The constitution of Zones does not in any way mean that the principle of the general immunity of non-combatants is abandoned; it, on the contrary, underlines the principle in particularly striking circumstances.

The Draft Agreement does not define a military objective as it might have done if there were objectives which it was legitimate to attack. The important point is that everything which, in the widest sense, could be taken as a military objective, should be excluded from the Zone and its neighbourhood, so that no obstacle could be raised on this ground to recognition of the Zones.

It is for this reason that Art. 4 also excludes "large industrial or administrative establishments"—which does not mean that these are to be taken as military objectives. Neither can communication routes serving the Zones be attacked when the Agreement provides that they shall not be used for military purposes.

No distance is laid down as constituting adequate separation of the Zone from such objectives and installations, the sole criterion being the practical security of the Zone. Much the same problem arises in peacetime when boundaries are fixed during artillery exercises.

(d) This fourth condition gives the Army Command an almost impossible task. In general, the enemy will keep his secrets as long as he can, so that only the probable movements of the home Army are known.

Nevertheless, there are in most countries areas which their configuration and history show to be potentially suitable as Zones. It will be noted that the words "according to every probability" are included. If, contrary to expectation, a designated Zone acquires military importance, it is reasonable that the enemy should be entitled to withdraw his recognition after giving due notice.

Art. 5. — Hospital zones shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

Art. 5. — Hospital and safety zones shall be subject to the following obligations:

- (a) The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- (b) They shall in no case be defended by military means.

(a) Following the Monaco Draft, the 1938 Draft expressly allowed military convoys to pass in transit through the Zones. At the 1938 Expert Commission, the French, German and Italian Delegations proposed the deletion of this clause, arguing that a convoy could be blocked by military operations, with all the consequent accusations of abuse and even hindrance to the proper working of the Zone. The French Delegation also pointed out that transit presupposed the possibility of a stop in the area, and that such delay could give rise to questions as to its length or strategic utility. The Committee's draft accordingly excluded such possibility entirely.

The same Delegations put forward objections to the transit—in case of evacuation for example—of civilian convoys. Later Conferences did not feel it necessary to take up this point, which does not appear to need special examination.

The 1949 Diplomatic Conference replaced the expression "lines of communication and transport" by the wider "lines of communication and means of transport".

The existence and utilization of an aerodrome are not forbidden, provided it is reserved exclusively for the needs of the Zone.

The conditions stated must inevitably influence the choice of location. Zones will be set up in areas not served by main highways, either rail or road; otherwise the State will risk compromising its whole communication system and the very life of the country.

(b) If Art. 11 of the Draft Agreement provides that "In no circumstances may hospital and safety zones be the object of attack", it may be asked if it was necessary to state that "they shall in no case be defended by military means". The operative word is "military". The Zones may be defended against certain dangers, and may, for example, have sufficient police to ensure order and to prevent the entry of irresponsible groups, whether or not they belong to the enemy. The police could arrest enemy parachutists who land by error in the Zone. The prohibition of military defence thus excludes only a systematic military defence, or network of fortifications. Anti-aircraft artillery is excluded, but not the employment of ARP personnel. There could be air raid shelters and a system of alerts.

Neither the Conventions nor the Agreements mention flying over the Zones, and in the absence of special clauses, it is to be presumed that such flight either by home or enemy aircraft is lawful.

A more important point is that no resistance may be opposed to enemy troops who penetrate to the limits of the Zone; they would be entitled to assume at least the control of the Zone, but not to modify its organization.

Art. 6. — Hospital zones shall be marked by means of red crosses (red crescents, red lions and suns) on a white background placed on the outer precincts and on the buildings.

Art. 6. — Hospital and safety zones shall be marked by means of oblique red bands on a white ground placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red

Cross (Red Crescent, Red Lion and Sun) emblem on a white ground.

They may be similarly marked at night by means of appropriate illumination.

They may be similarly marked at night by means of appropriate illumination.

The Monaco Draft provided that the Red Cross emblem shall mark the exits of the locality.

The 1938 Draft intended that the limits of Hospital Zones and Localities should be visibly designated in daylight by the emblem of the Convention. In the documentation it prepared for the Government Experts Conference in 1947, the Committee asked that Safety Zones and Localities should be designated by an emblem to be agreed upon.

In the draft agreements it submitted to the Stockholm Conference, the Committee dropped the idea of using the Convention emblem so that it should not be used in relation to ordinary civilians, and recommended a new sign—oblique red bands on a white ground; Zones reserved for the wounded and sick would continue to use the Red Cross sign. These suggestions were adopted in 1949.

Thus no new sign was adopted for what are called Hospital Zones, sheltering only the wounded and sick. We have seen that all the elements which make up a Hospital Zone are entitled, subject to Government authorization, to use the sign of the Convention. Use of the emblem therefore continues to be expressly regulated by the Convention, and the use can not be modified by special agreement. The fact that there is a resident population called for the formal agreement of the interested parties.

Safety Zones and Localities, on the other hand, have their own particular sign: oblique red bands on a white ground. The number of bands is not laid down. It might be useful, in practice, to decide what exactly the design should be and how it should be used, although protection is assured not by the sign alone but by notification. The same emblem has, incidentally, been adopted also by the *Association internationale des Lieux de Genève*.

The first paragraph of Art. 6 makes the marking of Zones obligatory, but night lighting is optional. There are obvious dangers in the absence or insufficiency of night lighting. But at the same time, it is almost impossible for a country at war to permit illumination of this sort without providing enemy aircraft with landmarks.

Art. 7. — The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly constituted.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

This Article seems out of place because its first Paragraph refers to the situation which precedes the actual Agreement and the Article should thus be in the Conventions themselves. In any case, the contents are most important and give useful indications to States wishing to establish Zones. There is no reason why States should not put the Agreements into effect even before constituting Zones.

Art. 8. — Any Power having recognized one or several hospital zones instituted by the adverse

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Art. 8. — Any Power having recognized one or several hospital and safety zones instituted by

Party shall be entitled to demand control by one or more Special Commissions, for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, the members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

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It is natural that a belligerent who recognizes Zones established by the enemy should be entitled to assure himself that the obligations, especially those resulting from Arts. 4 and 5, have been fulfilled.

The drafts submitted to the Diplomatic Conference provided for supervision by the Protecting Power representing the State which had recognized the Zone. This had the advantage of using an agency already operating in the territory. The proposal was not accepted by the Conference, which considered that Protecting Powers already had too much to do. Special Commissions are accordingly designated.

The composition of these Commissions is not indicated, nor is it said by whom the members are nominated. These are further details to be agreed upon. Most likely the members would be neutrals acceptable to both sides. There may be difficulties, but it seems most likely that persons from the Protecting Powers or other neutral States would in general be selected.

Members of Special Commissions have free access at all times to the Zones and may even reside there permanently.

No mention is made of the qualities or qualifications the members must have. As the primary object is to supervise military obligations, it seems likely that officers, such as the military attachés of the Protecting Powers or neutrals, will be called upon. In the case of Hospital Zones, there would be an obvious advantage in nominating doctors.

Art. 9. — Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

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If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

The role of the Special Commissions is therefore to ensure that the Zones conform to the Conventions and to obligations resulting from the Agreements. Should they note any facts which they consider contrary to the stipulations, they must

- (a) immediately bring such facts to the attention of the Power responsible for the said Zone ;
- (b) notify the Power which has recognized the Zone.

Their responsibility thus consists in finding out if the conditions under which the Zone was set up have been observed, not to decide whether there has been breaches of the stipulation by the adverse party. It would appear that the non-utilization of the Zone or Locality for the objects contemplated in the Agreement would in itself justify the intervention of the Special Commission.¹

¹ " It is inadmissible that a more or less extensive tract of territory should be made immune for medical purposes when, although there is no breach of the stipulations excluding military usage, the Zone is not used for the purpose of treating the wounded and sick. There is no sufficient reason for the protection and restrictions which the medical designation opposes to military action, if the town is not, or is no longer actually used for medical purposes." R. Clemens, *The Monaco Draft*.

The Commissions are not concerned with violations of the neutrality of the Zone by the adverse party. The Draft Agreement might be completed at this point by reference to the Articles of the Conventions dealing with inquiry procedure in case of breaches (I, 52, and IV, 149). This was done in the 1938 Draft, where Art. 10 contained a reference to Art. 30 of the 1929 Convention.

* * *

If, when the time limit of five days has expired, the Power responsible for the Zone has not complied with the warning, the adverse party may declare that it is no longer bound by the agreement in regard to the Zone in question.

The 1938 Draft stipulated prior representation to the constituting State, and if this was not successful, the Commission could resign. The text presented at Stockholm was accepted by the Diplomatic Conference, except that the words "Special Commission" were substituted for "Protecting Powers".

Paragraph 2 implies that the Special Commission, once the five-day time limit has expired, shall inform the adverse party, which, only then, is entitled to declare itself no longer bound by the agreement in regard to the Zone in question.

Such declaration will end the privileged status of the Zone, but not deprive the persons and goods in it of protection. The wounded and sick, and medical units, establishments, staff and material remain under the safeguard of the Conventions; the civilian population is entitled to the general immunity given it by international law.

The Conventions expressly provide (I, 6; IV, 7) that no special Agreement may adversely affect the situation of protected persons or restrict the rights it confers upon them. Art. 9 of the Draft Agreement could therefore not be interpreted in a sense which would deprive persons and buildings in the Zone of the protection given them by the Conventions independently of the Agreement. The protection accorded hospitals, especially, is governed by Art. 21 of the First and Art. 19 of the Fourth Convention.

Art. 10. — Any Power setting up one or more hospital zones and localities, and the adverse parties to whom their existence has been notified, shall nominate or have nominated by neutral Powers, the persons who shall be members of the Special Commissions mentioned in Articles 8 and 9.¹

Art. 10. — Any Power setting up one or more hospital and safety zones, and the adverse parties to whom their existence has been notified, shall nominate or have nominated by the Protecting Powers or by other neutral Powers, persons eligible to be members of the Special Commissions mentioned in Articles 8 and 9.¹

We saw above that there is no provision for the designation of members of the Commissions either in the Conventions or the Draft Agreements. Art. 10 gives general indications which would have to be worked out in detail by the belligerents.

The Monaco Draft proposed that the members should be designated by an authority stipulated (The Permanent Court of International Justice or a specially constituted international agency), and be accepted by the interested Government. The draft presented to the XVIth International Red Cross Conference in London in 1938 distinguished two different Commissions :

- (a) a Commission of neutrals designated by the Protecting Powers and accepted by the belligerents, which had to be in operation as soon as the Hospital Zones were in actual use ;
- (b) an International Inquiry Commission, of neutral members, set up in peacetime and called upon to intervene at the request of a belligerent or a Special Commission.

The 1938 Draft did not accept this recommendation and proposed a single Control Commission per country of three neutral members designated by the ICRC and accepted by the interested State.

¹ The different wording in the drafts is probably due to an error of transcription. The wording in the second: "or have nominated by the Protecting Powers or by other neutral Powers" is preferable to the "have nominated by neutral Powers" of the first.

The Draft proposed at Stockholm in 1948 suggested supervision of the Zones by the Protecting Powers at the request of the adverse party.

Art. 11. — In no circumstances may hospital zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Art. 11. — In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

As a natural consequence of their being declared neutral, the Zones and Localities must not be attacked. There is also a positive obligation: "they shall be protected and respected at all times by the Parties to the conflict".

The terms *protected* and *respected* are used deliberately throughout the Conventions (I, 12, 19, 24, and 35 ; IV, 16, 17, 18, and 20). The 1938 Draft referred expressly to the Convention: "They shall be respected and protected, in conformity with Article 8 of the Geneva Convention of July 27, 1929." There is a traditional sense attached which creates positive obligations of wider implication than a mere prohibition of attack.¹ "Protection" covers the feeding of the Zones and might include the means of access to them. In case of occupation, the enemy State is responsible for persons residing in the Zone—a duty from which the constituting State is not exempted.

The corresponding Article of the Draft presented at Stockholm had a second paragraph providing that enemy troops who reached the outskirts of the Zone could cross it without stopping. This provision was dropped.

Art. 12. — In case of occupation of a territory, the hospital zones therein shall continue to be respected and utilized as such.

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¹ See *Analysis for the use of National Red Cross Societies*, ICRC, Geneva, 1950, Vol. I, p. 5.

Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

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The occupying State is obliged to respect the Zones and Localities and to use them as such. This obligation is new. Under the 1938 Draft the Zone continued unless the Occupying Power gave notice to the contrary, or the other Party objected. The first mention of an obligation was in the ICRC drafts to the 1947 Experts Conference and it remained, being adopted in 1949.

The Occupying Power may, however, modify the *purpose* of the Zones. In the sense of the Article, the reference is to persons admitted to live in the Zone. (In the Monaco Draft the French text used *affectation*—the word also used in the 1949 text—to cover the use to which the Hospital Town was put.) It would thus be possible to admit persons belonging to another category stated in the Agreement, suitable arrangements having been made for those already there. The resident population could not be removed. The Occupying Power would be free to place its own wounded in the Zone after making suitable arrangements for the wounded and sick already there.

The Draft does not say when the Zones and Localities are to end. The prevailing opinion seems to be that this is a question for the constituting State to decide. As the obligations on the constituting State are at the same time safeguards for the adversary, it would appear desirable that the conditions should be stated, or that a certain duration be specified which could, if necessary, be extended.

Art. 13. — The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital zones.

Art. 13. — The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

We have already seen that all provisions in the Agreement are equally valid for Localities and Zones, between which there is no essential difference; the remarks made above in respect to Zones apply equally to both.

CONCLUSIONS

Such are the regulations to govern Hospital and Safety Zones and Localities which were adopted in the 1949 Conventions and the annexed Draft Agreements. Expert Conferences drew up Articles and Drafts. Private agencies in various countries tried, on their side, to secure the creation of places of refuge for civilians which would be organized in time of peace.

Amongst these bodies may be mentioned the *Association internationale des Lieux de Genève* set up on the initiative of General Saint-Paul in 1929. It has since worked actively for the creation of Safety Zones; it is a private body, wholly independent of the ICRC, which, however, remains in close co-operation with it.

The Association has recently made further proposals of an entirely different type, recommending each country to take practical measures to evacuate and disperse the non-combatant population in wooded and mountainous areas where places of refuge would be organized beforehand.

Such measures have more in common with civil defence by the State than with the protection advocated by the ICRC in the Conventions.

* * *

It is now for the States party to the 1949 Conventions to consider how Zones and Localities, as defined, can be set up. The Committee is expressly invited, with the Protecting Powers, to lend its good offices to facilitate the establishment and recognition of such Zones. In practice, this is primarily a national question which depends on States; they can count on the help of private agencies, including that of the National Red Cross Societies.

The International Committee is willing to do all it can to help on this work, to provide States and Societies with documentation which could be of use to them, and to help in ensuring uniformity in the measures which will be necessary to set up Hospital and Safety Zones and Localities.

LUCIE ODIER

Member of the International Committee of the Red Cross.

*THE PROTECTION OF CIVILIAN HOSPITALS
AND THEIR STAFF IN TIME OF WAR*

I. INTRODUCTION

In time of war the Fourth Geneva Convention of 12 August 1949 relative to the Protection of Civilian Persons confers rights, and imposes duties, on the Managements of civilian hospitals and on all the members of their medical and administrative staff. An attempt is here made to define in very succinct and easily accessible form the essential elements of these rights and duties. For more complete information on the subject the Managements of civilian hospitals and all the members of their staff are urged to study the provisions of the Fourth Geneva Convention, and in particular Articles 13 to 26 of that instrument. Reference may also be made to the Analysis of the Geneva Conventions of 12 August 1949, compiled by the ICRC for the use of National Red Cross Societies, Geneva 1950, Vol. II, pages 89-96.

It is part of the duty of the Managements of civilian hospitals to see that all the members of their staff are acquainted with the provisions of the Fourth Geneva Convention which concern them. It is equally indispensable that the staff should be instructed in the law of their country on the subject. In time of war the State generally issues special regulations relating to the national defence, and these regulations define the attitude to be adopted by the inhabitants of the country in relation to the enemy. Breaches of this legislation may involve severe penalties. It is important therefore that there should be no ignorance on the subject.

In certain countries the authorities have made provision for the automatic requisition of civilian hospitals in time of war, and their transfer to military management under military responsibility. Where this is the case, the civilian hospitals are on the same footing as the establishments of the Army Medical Service, and all their staff are subject to military discipline. As a result these establishments no longer enjoy the protection of the Fourth Convention, but come under the provisions of the First Convention, provided always that they are actually used to receive military wounded as well as civilian sick persons. The rules to be observed by them are summarised in a booklet prepared for their use by the ICRC with the title "Some Advice to Nurses and other Members of the Medical Services of the Armed Forces".

II. GENERAL PROTECTION OF CIVILIAN HOSPITALS AND THEIR STAFF

Before proceeding to consider the provisions of the Fourth Convention on the subject of the protection of civilian hospitals, it is as well to point out that the duty of belligerents to respect civilian hospitals is based on a principle of international law, which is of long standing; and the provisions of the Fourth Convention on this point merely confirm earlier treaty obligations¹. Such further special provisions as the Fourth Convention contains in favour of civilian hospitals and of their staff, and of their sick and wounded patients, do no more than strengthen this principle of international law and render its application more easy.

Moreover hospital staff, like the patients, are civilians; and as such they are entitled to the general protection which the Fourth Geneva Convention confers on the civilian population, especially in occupied territory. It was thought necessary to give them additional protection in virtue of their functions or their state of health. But they have all the rights of civilians.

¹ See Annex to the Hague Convention of 18 October 1907, Sections II and III.

III. SPECIAL PROTECTION OF CIVILIAN HOSPITALS

The Convention begins by laying down a general rule that the wounded and sick as well as the infirm, and expectant mothers, are to be the object of particular protection and respect (Article 16, paragraph 1), and that in time of war civilian hospitals organised to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but are at all times to be respected and protected (Article 18, paragraph 1).

(a) *Recognition*

In order to benefit by the special protection which the Convention accords, a civilian hospital must have been recognised as such by the State. This recognition is to be certified by a document signed by the competent authority, showing that the establishment is in fact a civilian hospital, and has no purpose other than humanitarian (Article 18, paragraph 2).

In time of war the management of the hospital must always be in possession of this official document. It is indeed highly desirable that the hospital should receive the document in peace time, or should at least take the necessary preliminary steps to enable it to obtain the document without delay on the outbreak of hostilities.

(b) *Marking*

The Management of the hospital must ask the State to authorize the marking of the hospital buildings by means of the emblem of the red cross on a white field or red crescent or red lion and sun in certain countries (Article 18, paragraph 3).

The authorization to display the red cross emblem in time of war is not automatically given to all recognized civilian establishments. The competent Ministry of the State concerned is the sole judge in the matter; and it alone decides whether it is, or is not, desirable for the emblem to appear on a particular civilian hospital.

The emblems are to be of large size, and all necessary steps are to be taken to render them clearly visible to the land, air and naval forces. Their illumination at night time will depend on the general measures taken by the authorities. Further, in view of the dangers to which civilian hospitals may be exposed by being close to military objectives such as arms or munition depots, the managements of the hospitals are to see in agreement with the authorities that such military objectives are as far as possible at a distance from the hospitals (Article 18, paragraphs 4 and 5).

(c) *Cessation of Protection*

It is because of their purely humanitarian work of public utility that civilian hospitals have special protection in time of war. They may not in any circumstances serve military purposes, or act as cover for "acts harmful to the enemy". Espionage, for example, or observation of the movement of troops, aircraft or ships for the purpose of informing the armies of their country cannot possibly be tolerated. No able-bodied combatant may be sheltered or concealed in them, and any warehousing of arms or munitions is prohibited. If these rules are not strictly observed, the safety of the wounded and sick is liable to be compromised, for the enemy would in such case no longer be under obligation to respect the hospital. However the protection is not to cease until after due warning has been given, naming a reasonable time limit, and after such warning has remained unheeded (Article 19, paragraph 1).

The Convention provides however that civilian hospitals may receive and nurse military wounded or sick personnel, just as military establishments may extend their activities to civilians. When however a civilian hospital receives army wounded or sick, the management must see that the arms and munitions surrendered by such military personnel are forwarded without delay to the competent services of the army concerned. But the fact of such arms or munitions not having yet been handed to the competent services cannot be cited by the enemy as a pretext for ceasing to respect the civilian hospital (Article 19, paragraph 2).

(d) *Medical Transports and Use of the Emblem*

It has also to be noted that the transports of civilian wounded and sick, infirm persons and maternity cases, which take place on land by convoys of vehicles or hospital trains, or at sea by specially provided transport ships, are to be respected and protected in the same way as civilian hospitals. If authorized by the State, they may be marked and display the emblem of the red cross or red crescent or red lion and sun (Article 21). On the other hand, the Convention does not permit the emblem to be displayed in time of war on motor-ambulances or other vehicles proceeding singly to search for or return civilian wounded or sick. Similarly, civilian doctors or members of medical or administrative staff are not entitled in time of war to place the red cross sign on their personal cars or on the vehicles of which they make use in proceeding to their work.

IV. SPECIAL PROTECTION OF STAFF IN ZONES OF MILITARY OPERATIONS AND IN OCCUPIED TERRITORY

The protection, which the Fourth Convention confers on recognized civilian hospitals, is also accorded under certain conditions to the members of their staff, who in such case are respected and protected. The Convention distinguishes in this connection between permanent staff regularly engaged on the work of the hospital and purely temporary staff.

(a) *Permanent Staff*

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of wounded and sick, the infirm and maternity cases are to be respected and protected (Article 20, paragraph 1).

In zones of military operations and in occupied territory the permanent staff is to be recognisable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority.

They are also, while carrying out their duties, to wear an armlet on the left arm, stamped by the competent authority and water-resistant, with the emblem of the red cross, or red crescent, or red lion and sun on it (Article 20, paragraph 2).

(b) *Temporary Staff*

Persons not working permanently at a hospital, but employed there for temporary or occasional purposes, are also to be entitled to the special respect and protection of the Convention, while employed on their duties at the civilian hospital. The identity cards are to state, in addition to the civil status of the holder, the duties on which he is employed at the hospital. The armlet with the emblem, delivered and stamped by the State may not be worn by him except during his performance of his hospital duties (Article 20, paragraph 3).

The Geneva Conventions in their anxiety to preserve the full protective value of the red cross emblem, have limited its use very strictly. It is reserved more especially for the use of members of the medical personnel of the armed forces, who in virtue of their military character might be attacked, if they were not marked by the red cross emblem, whereas the members of the medical personnel of civilian hospitals, whether permanent or temporary, have to be protected and respected independently of the emblem for the mere reason that they are civilians. As any abuse of the emblem involves the risk of reducing its protective value to nothing, it is urgently necessary that the Managements of civilian hospitals should exercise strict and constant supervision to prevent the red cross being used for purposes not authorised by the Convention, or its use by persons not entitled to do so.

(c) *List of Medical Personnel*

The Management of each hospital is required regularly to keep an up-to-date list of all its staff, including temporary as well as permanent members, and specifying the duties of each. The list is to be put at the disposal of the competent national or occupying authorities on demand (Article 20, paragraph 3).

V. FUNCTIONS OF CIVILIAN HOSPITALS IN OCCUPIED TERRITORY

(a) *Duties of Medical Personnel*

If the territory, on which the civilian hospitals are situated, is occupied by the enemy, the Management and staff of the civilian hospital will in general remain on the spot and continue their work. The Fourth Convention lays down in this connection that the medical personnel of all categories is to be allowed by the Occupying Power to carry out their duties (Article 56, paragraph 1).

(b) *Obligation of the Occupying Power*

The Occupying Power is under obligation to the fullest extent of the means available to it to ensure, with the cooperation of national and local authorities, the efficient operation of the medical and hospital establishments and services intended for the civilian population. The Occupying Power has further to maintain the Public Health and Hygiene Services, and to take the necessary prophylactic and preventive measures to combat the spread of contagious diseases and epidemics (Article 56, paragraph 1).

In addition the Occupying Power has the duty of ensuring the food and medical supplies of the population, and is to import them, if the resources of the occupied country are inadequate (Article 55, paragraph 1). The Occupying Power is further bound to agree to relief schemes on behalf of the civilian population (Article 59, paragraph 1).

(c) *Establishment of new hospitals*

In the event of the establishment of new hospitals being necessary in occupied territory, the Convention provides that the official recognition of the new hospitals, their staff and transport vehicles may fall on the Occupying Authorities, if the competent organs of the Occupied State are no longer functioning (Article 56, paragraph 2).

(d) *Requisition*

In cases of urgent necessity, the Occupying Power may requisition civilian hospitals temporarily for the care of military

wounded and sick, but only after suitable arrangements have been made in due time for the care and treatment of the patients and the needs of the civilian population. Further, the material and stores of civilian hospitals may not be requisitioned so long as they are necessary for the needs of the population (Article 57, paragraph 2). Moreover, such requisitions may only take place for use by the Occupation Forces and administration personnel, and in such a case the Occupying Power is to take the necessary steps to ensure that fair value is paid for any requisitioned goods (Article 55, paragraph 2).

(e) *Recourse to the Protecting Power*

In conclusion it may be pointed out that the Convention specifically states that all the inhabitants of an occupied territory and *a fortiori* the Management and staff of civilian hospitals and all patients therein, are at all times to be treated with humanity by the Occupying Power and in particular protected against any acts of violence or intimidation. The Convention provides that protected persons are entitled in all circumstances to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs (Article 27). In occupied territory, the Managements of civilian hospitals have to see that the clauses of the Convention are strictly observed by all in their establishments. It may happen that a hospital is completely isolated and temporarily cut off from all relations with its national authorities. In such a case heavy responsibilities will devolve on the Management. If it is faced with difficulties which paralyse the operation of the hospital, or if a disagreement arises between it and the Occupying Power on the subject of the application or interpretation of the clauses of the Convention, it has the right to apply freely to the Protecting Power, whose duty it is to safeguard its interests (Article 9). In default of the Protecting Power, it may also apply for intervention to the International Committee of the Red Cross (Article 11, paragraph 3).