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ET

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DE LA CROIX-ROUGE

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INTERNATIONAL COMMITTEE OF THE RED CROSS

PRINCIPAL ITEMS OF INTEREST

Great Britain. — The Committee will in future be represented in London by the honorary Delegate, M. Henry Wasmer.

“Volksdeutsche”. — Under the scheme for regrouping families which the Committee is continuing in co-operation with the Yugoslav Red Cross and the National Societies of other interested countries, 207 Volksdeutsche children arrived in Austria from Yugoslavia on November 24. Of these children, 199 were awaited by relatives in Germany, 5 in France, 2 in England, and 1 in Switzerland.

A further group of about the same size is being got ready. Two doctors nominated by the Committee will medically examine the children at Bled, where the Committee's Delegate at Vienna and representatives of the Austrian, German, and Yugoslav Red Cross Societies will be present.

Relief for the War Blind. — The War Invalid Section has received from Australia a legacy for equal division between victims of war in Finland and Poland. After discussion with the National Societies of these two countries, the Committee forwarded a first consignment of articles requested, namely Braille watches for the war blind—20 to Finland and 186 to Poland.

The Section had also sent the Delegate in Korea 14 Braille watches for blind prisoners.

Korea. — Several reports have been received from the Delegation in Korea on prisoner of war camps visited in September, namely :

- U.N.POW Camp No. 1 (Koje-Do and Pusan) ;
- Transit Camp No. 2 (Wonju) ;
- Transit Camp No. 1 (Yondungpo) ;

1st Marine Division POW Collecting Centre ;
1st Marine Regiment POW Collecting Centre ;
8th Republic of Korea Division POW Collecting Centre ;
1st Army Corps POW Collecting Centre.

Following routine procedure, these reports were sent to the North Korean Embassy at Moscow for transmission to its Government. The Committee also regularly informs the Foreign Affairs Ministry at Pyongyang by cable of visits of its Delegates to camps and of the despatch to Moscow of reports on them.

During November, the Central Prisoners of War Agency, Geneva, communicated to the Moscow Embassy the names of 4,942 prisoners of war, and of 913 North Koreans and Chinese who have died ; it also forwarded a quantity of requests for news. As is periodically done, the Committee cabled to the Foreign Affairs Ministry at Pyongyang on November 30, a summary showing what documents, lists of names and inquiries were transmitted via Moscow during the previous months.

The Agency has also sent the President of the Korean Red Cross at Pyongyang a fresh supply of forms in Korean for the despatch and receipt of news about civilian and military persons in Korea. At the request of the New Zealand Red Cross, the Committee also communicated news of the death of a Korean sailor in New Zealand.

By letter of November 28, the Committee asked the Red Cross of the People's Democratic Republic of Roumania, which has a medical team in Korea, if it would agree to forward to the Korean Red Cross at Pyongyang gifts which various groups, associations and individuals wished to give the International Committee for victims of the war in North Korea.

MEMORANDUM

THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND ALLEGED VIOLATIONS OF INTERNATIONAL LAW

Geneva, November 23, 1951.

I

Since the beginning of the Korean conflict, the International Committee of the Red Cross has received nineteen communications relating to alleged violations of international law, in particular, the Geneva Conventions of 1929 and 1949. Eleven of them are from National Red Cross Societies not belonging to belligerent States.

The latest communication received is the "Rapport de la Commission de la Fédération démocratique internationale des Femmes en Corée" ("Report of the Commission of the Women's International Democratic Federation in Korea").

II

As a general rule—and particularly during the second World War—communications relating to violations of the humanitarian rules of international law fall into two distinct categories:

(a) Complaints that a Power detaining persons protected by the Geneva Conventions has failed to apply specific provisions of the Conventions. Such complaints generally relate to a continuing state of affairs, and result in a further intensification of the unremitting efforts of the International Committee. By appropriate intervention, visits to camps for prisoners of war or civilian internees, etc, the Committee can as a rule remedy the unsatisfactory conditions brought

to its notice, though only, of course, to the extent to which it is allowed operate in the country concerned.

(b) Those relating to the alleged violations of the tenets of international law or accepted humane principles, which result from the methods of warfare employed ; they nearly always refer to past events, regarding which the International Committee is not in a position to undertake the enquiries which would be necessary.

The present Memorandum deals with the second category only.

If received from *National Red Cross Societies*—particularly those of belligerents, as was generally the case during the World War—it is customary for the International Committee to transmit such complaints or protests to the Red Cross of the State against which the allegation is made, offering to act as intermediary in transmitting any reply it may receive. This procedure, which is in accordance with a long-standing tradition, was expressly approved and confirmed by Resolution XXII of the International Red Cross Conference (Stockholm, 1948). The Resolution also emphasises the obligation of the National Societies to forward these protests to their Governments, and recommends that they “do all in their power” to ensure that their Government “make a thorough investigation”.

When received from *Governments*, it is customary for the International Committee to transmit such complaints or protests to the authorities of the State implicated. In such cases, also, it offers to act as intermediary for the transmission of any reply.

III

There is frequent misconception as to the precise role played by the International Committee in this connection, and a tendency to think that, in addition to transmitting protests, it is itself competent to inquire into the allegations.¹ The

¹ The First Geneva Convention of 1929, and the four Geneva Conventions of 1949, make no mention of the International Committee in the clauses which provide that the interested parties may demand an enquiry which shall be conducted in a manner to be decided between themselves.

Committee therefore considers it necessary to recall once more the limits within which, should the occasion arise, it might undertake to make an enquiry.

In its Memorandum of September 12, 1939, to the belligerent States at the beginning of the World War, the International Committee set out the principles which must necessarily govern its intervention should it be requested to institute an enquiry. It continues to be guided by those principles. They are briefly as follows :

- (1) The International Committee can undertake no enquiry except in virtue (a) of powers conferred on it in advance by a Convention or (b) of an ad hoc agreement by all the interested parties.

It does not constitute itself into an Enquiry Commission : it limits itself to choosing, from outside its own members, one or more persons who are qualified to carry out the enquiry.

- (2) The enquiry procedure must guarantee complete impartiality, and enable the parties to state their case.

No communication relating to a request for an enquiry or to the enquiry itself shall be made to the public without the prior consent of the International Committee.

- (3) The Committee's primary mission in time of conflict, taking precedence over all others, is to watch over the interests protected by the Geneva Conventions. Therefore, if it should agree to conduct an enquiry in the conditions indicated above, such enquiry should bear primarily upon infringements of the said Conventions ; only exceptionally could an enquiry into alleged violations of the rules of war in general come within its scope.

- (4) The International Committee could not undertake an enquiry if there were a risk of thereby rendering more difficult or even impossible its normal practical work for war victims, or compromise its indispensable impartiality and neutrality.

A Delegate of the Committee who has personal evidence of facts which may constitute violations of Conventions or of principles of law, reports to the Committee, which decides on what communication is to be made to the party implicated.

Since the beginning of the Korean conflict, the Committee has not been asked—nor was it asked during the World War—to inquire, under the conditions mentioned above, into alleged violations of international law.

IV

It is a fundamental task of the International Committee to work for the development of humanitarian legislation—in particular the Geneva Conventions—for the protection of war victims.

Under the terms of the Geneva Conventions of 1949, the actual supervision of their application is entrusted to the Protecting Powers.

In watching over their application, the International Committee, through its Delegates, does in fact exercise a certain degree of supervision. But its essential task, in time of conflict, is to carry on the humanitarian work entrusted to it by the Conventions and devolving on it under its own Statutes and those of the International Red Cross. Instead of passing judgment, the Red Cross must bring help. Before theorizing about principles, it must translate them into action.

The work of helping must always come first.

FOR THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Léopold Boissier
Vice-President

Jacques Chenevière
Vice-President

JEAN S. PICTET,
Director for General Affairs of the ICRC

THE SIGN OF THE RED CROSS

Commentary on Chapter VII — The Distinctive Emblem —
of the Geneva Convention
for the Amelioration of the Condition of the Wounded and Sick
in Armed Forces in the Field
of August 12, 1949.¹

ARTICLE 38. — EMBLEM OF THE CONVENTION

As a compliment to Switzerland, the heraldic emblem of the red cross on a white ground, formed by reversing the Federal colours, is retained as the emblem and distinctive sign of the Medical Service of armed forces.

Nevertheless, in the case of countries which already use as emblem, in place of the red cross, the red crescent or the red lion and sun on a white ground, those emblems are also recognized by the terms of the present Convention.

I. *Origin of the red cross emblem*²

Long before the Red Cross was founded, hospitals and ambulances were sometimes marked on the battlefield by a flag of a single colour, which varied according to the occasion

¹ The International Committee has frequent queries about the provisions of the First Geneva Convention (1949) dealing with the red cross emblem, and consequently believes the following paper may be useful. It will probably be included later in the "Commentary" which the Committee is preparing on the Conventions as a whole.

² In the following pages, "red cross" is printed in lower case when it refers to the heraldic emblem, capitals being used for the "Red Cross" as an institution. If generally adopted, this system might avoid confusion.

or the country. From the beginning, those responsible for the Red Cross and the Geneva Convention recognized the need for a uniform international emblem to signify the immunity to which the wounded and the medical personnel should be entitled.

The sign of the red cross on a white ground originated in the historic International Conference which sat in Geneva from October 26 to 29, 1863, and laid the foundations of the Red Cross organization. The emblem was then discussed only in its relation to voluntary orderlies. Dr. Appia proposed a white armlet; the Conference—probably on the suggestion of General Dufour—decided to add a red cross.

The Diplomatic Conference which, in 1864, drew up the first Geneva Convention, officially adopted the red cross on a white ground, this time as a single distinctive emblem for all Army medical personnel, and for military hospitals and ambulances.

Neither in 1863, nor in 1864, does there appear to have been any conscious intention of reversing the colours of the Swiss flag. No contemporary evidence supports this idea, and it may be that the analogy was not remarked until later. The first written mention is by Gustave Moynier in 1870.

The 1906 Conference, which revised the Convention, added a clause stating that the emblem was adopted as a tribute to Switzerland, and was formed by reversing the Swiss Federal colours.

The term "Red Cross", to cover the work of voluntary relief to the military wounded, was first used by the Netherlands Society in 1867, and had some difficulty in finding general acceptance. By 1885, however, it was in wide use.

The red cross emblem is sometimes called the "Geneva Cross", not because it forms part of the Genevese armorial bearings—which are entirely different—but because it was first used in Geneva.¹

¹ For further comment on the origin of the red cross, see the paper by the present writer in the *Revue internationale*, English Supplement, March 1949, p. 127.

2. *Authorized Exceptions*

The necessity for having a single emblem only was obvious, but although universally established—at least legally—by the 1864 Convention, this unity did not long survive.

Turkey which, in 1865, had adhered without reservations to the Geneva Convention, notified the Swiss Federal Council in 1876, during the war first with Serbia and later with Russia, that its Medical Services were flying a red crescent, and not the red cross, because this sign was offensive to Moslem soldiers. They had apparently not forgotten the Crusaders. Russia, which entered the war in 1877, at first contested Turkey's right to modify unilaterally the clause of a treaty, but later agreed to the red crescent being used, against the promise that the Turks would continue to respect the red cross of their opponents.

At the Hague Peace Conference in 1899, which drew up the Xth Convention adapting to maritime warfare the principles of the Geneva Convention, the Turkish Delegate declared that the red cross would be replaced by the red crescent on the flags of Turkish hospital ships. The Siamese Delegate asked recognition for the right to use the red flame, the Persian Delegate the red sun. The United States Delegate then proposed that the red cross should be replaced by an emblem acceptable to all. As the Hague Conference was not competent to revise the Geneva Convention, it took note only of the reservations and recommendations made. The International Committee has never ceased to regret that the former unity had been broken.

The 1906 Conference, which revised the Geneva Convention, confirmed the adoption of the red cross sign, without any exception, and emphasized by its unanimous vote—as we shall see later—that the emblem had no religious significance. Turkey, not represented in 1906, adhered to the Convention in the following year only under reservation of the red crescent being recognized. During the revision of the Tenth Hague Convention in 1907, the Conference, as in 1899, merely noted the reservations made by Turkey and Persia.

On the proposal of Turkey, Persia, and Egypt, the 1929 Conference, for the second recast of the Geneva Convention,

unanimously recognized the red crescent, and the red lion and sun for the three countries which already used these emblems. It was thus intended to forestall any further exceptions. Several Moslem States, however, adopted the red crescent after 1929, and the Committee did not feel this was sufficient grounds for refusing recognition to their Societies.¹ It had even, in 1924, recognized the Persian Red Lion and Sun Society—a decision that was apparently premature.²

The Committee has at least been successful in its formal opposition to the introduction of several other emblems suggested.

3. *Return to a Single Emblem*

A very strong movement to return to a single emblem was apparent during the meetings for the revision of the 1929 Convention. The Commission which drew up the first draft in 1937 was unanimous on this point. It stressed that the red cross is an international sign, devoid of any religious significance, and that attempts to substitute national or religious emblems were illogical; there would be a consequent risk of confusion with national flags which, in time of war, represent belligerents. The Preliminary Red Cross Conference in 1946 was of the same opinion. Some Delegations recommended that steps should be taken in Near East countries³ to explain the real significance of the red cross emblem. One Delegate remarked that the arithmetical *plus* sign—which is a cross—was not objected to anywhere on these grounds. The representative of one of the countries using the red crescent, however, maintained that it was still impossible to introduce the red cross sign in Moslem countries, but did not deny that it might one day be possible

¹ It may be noted that Lebanon and Pakistan have adopted the red cross emblem. The Lebanese Red Cross was recognized by the Committee in 1947, and the Pakistan Red Cross in 1948.

² It was not until 1929 that the Geneva Convention recognized this emblem. Moreover, as Persia is not party to the 1929 Convention, the stipulation covering this emblem has not formally taken effect.

³ None of the Eastern and Far Eastern countries hesitated at first to adopt the red cross.

to do so. The Conference did not suggest that the text of the Convention be amended.

Similar discussions arose at the Experts Conference (1947), and the following year at the Stockholm International Red Cross Conference. This latter, without recommending a change in the Convention, expressed the hope that the interested Governments and National Societies would endeavour to revert as soon as possible to a single red cross sign.

This was the situation on the eve of the 1949 Diplomatic Conference. The Society of the Red Shield of David, operating as a relief society in Israel, meanwhile asked to be recognised as a member of the International Red Cross, whilst retaining the right to use as emblem the Shield of David, in red on a white ground.¹

In its "Remarks and Proposals" to Governments participating in the Geneva Conference, the Committee suggested ways of solving this difficult question.² One was that exceptions should be tolerated only for a limited period, to allow the countries concerned to instruct their peoples; the red cross sign would be progressively substituted for the exceptions. Another suggestion was that the red cross sign should be generally used, but that certain countries be authorized to add their own symbol (in small dimensions) in the corner of the flag. A third course was to design a wholly new, neutral emblem for those countries only which found it absolutely impossible to accept the red cross. Finally, it was observed that Iran, the only country to employ the red lion and sun, might agree to give it up, thus leaving only a single exception: the red crescent.

4. *Discussions at the 1949 Conference*

Apart from a very slight change in wording, Art. 38 follows the corresponding 1929 text. There were nevertheless impor-

¹ The Shield of David is the Jewish, six-pointed star, formed by two intersecting triangles.

² See "Remarks and Proposals" I.C.R.C. Geneva, 1949, pp. 15-17.

tant and protracted debates in the Conference, showing three main tendencies :

- (a) To return to the single red cross emblem. The Conference, while desiring to see all countries one day adopt the red cross on a white ground as the single distinctive emblem, has nevertheless recognized that it is not possible for the moment to revert to this unity.¹
- (b) To increase the number of exceptions. The Conference first considered the proposal of the Israeli Delegation to recognize the Red Shield of David. The suggestion was later made that each country be itself allowed to choose any red symbol on a white ground. These suggestions were rejected by the Conference, which was fully aware of the danger they represented—substitution of national religious symbols for a charitable, and necessarily neutral, sign, thus opening the way to a multiplicity of emblems which would undermine the universality of the red cross and diminish its protective value.²

It should be remembered that the Committee had already been asked to admit several new emblems, such as the flame, shrine, bow, palm, wheel, trident, or cedar. The amendment proposed by the Israeli Delegation was rejected in the final vote in plenary session by a majority of only one (21 for, 22 against, 7 abstentions).³
- (c) To abolish not only the exceptions, but the red cross itself and replace all existing emblems by a geometrical sign to be decided upon.

¹ See Report of the First Commission on Art. 31 of the Draft.

² See the statement by M. Paul Ruegger, President of the ICRC, to the Plenary Assembly of the Conference, July 21, 1949, *Revue internationale de la Croix-Rouge*, English Supplement, October 1949, pp. 352-355.

³ When signing the Convention, the Israeli Delegation made a reservation about the use of the red shield in Israel. Certain Delegations pointed out that this reservation was invalid. We do not wish to raise here the difficult problem of the value of reservations, which is now being studied internationally. According to several writers, whose opinion we share, the only effect of reservations is to limit the obligations accepted under a Convention; they cannot create, for the other contracting parties, obligations which exceed the stipulations of the said Convention.

One Delegate suggested a red heart as the symbol of charity ; it would be conventionalized in the form of an isosceles triangle with the apex pointing downwards. This revolutionary proposal did not stand examination. It was at once felt that to abandon a long and universally known and respected emblem, of such high moral significance as the red cross, would be a most dangerous innovation.

Present arrangements were therefore maintained : the red cross remains, as well as the two exceptions—the red crescent and the red lion and sun. These two signs may be used not only by the countries that adopted them in 1929, but also by those which used them between 1929 and 1949. From 1949, the Convention is opposed to their adoption by further countries.¹

5 *Nature of the Sign*

A. Neutrality

The sign of the red cross on a white ground, accepted by the Geneva Convention from 1864 down to our times, is above all, as Art. 38 says, " the emblem and distinctive sign of the Medical Service of armed forces ". It is also, as we shall see in connection with Art. 44, the emblem of the Red Cross.

The sign was intended to be international and neutral, as the symbol of disinterested aid to the wounded, friend or foe. It is not the Swiss armorial bearings which were adopted, even though the choice formed a tribute to the country where the Red Cross came into existence. The reversal of the Swiss colours created a new emblem, bereft of any national association.

Similarly, the emblem was to be without religious significance, because it had to be employed by persons of all beliefs. This was always considered self-evident in official circles, and it

¹ The following five States, party to the Geneva Convention, had recognized Red Crescent Societies, and had adopted the red crescent before 1949 : Egypt, Iraq, Jordan, Syria, and Turkey. Four Soviet Republics have also adopted the red crescent : Azerbeidjan, Tadjikistan, Turkmenistan and Uzbekistan. In Afghanistan, a red Crescent Society has, for several years, been in process of formation.

The red lion and sun is used only in Iran.

may be superfluous to enlarge on the subject. Nevertheless, certain Delegations at the 1949 Conference thought they could cast a doubt on the matter and thus justify rejection of the red cross and its replacement by symbols which in fact have a religious or national connotation. It is therefore better to dispel any uncertainty on this point.

The Conferences of 1863 and 1864 which adopted the red cross sign, stressed the universal and neutral character of the emblem. M. Max Huber, President of the ICRC for close on twenty years, wrote :

“It was the intention neither of Dunant and his collaborators, nor of the States party to the Geneva Convention, that the work and emblem of the Red Cross should have any specific religious or philosophical significance. On the contrary, the movement was not only to be at the service of all, but should be capable of attracting everyone to it.”¹

The 1906 Diplomatic Conference introduced into the Geneva Convention the phrase stating that the red cross emblem was formed, as a tribute to Switzerland, by reversing the Federal colours. “This tribute in 1906”, wrote Paul Des Gouttes, “had also another object: to state officially and explicitly the absence of any religious significance in the emblem.”²

Louis Renault, a leading figure at the Geneva and Hague Conferences, wrote in his General Report to the 1906 Conference :

“As we know, it was in no sense as a religious symbol that the cross was adopted by our predecessors; they thought of Switzerland, which had given them hospitality and which had taken the initiative in their meeting... The foregoing explanation should satisfy all requirements, proving as it does that the emblem adopted cannot offend any religious convictions. The Conference has explicitly admitted that the emblem carries no religious significance, and the formula proposed has for object to underline the purely historical origin of the red cross

¹ Max Huber. *The Red Cross: Principles and Problems*. Geneva 1946. See also *The Good Samaritan*, London, Gollancz, 1945.

² Paul Des Gouttes. *Commentaire de la Convention de Genève du 27 juillet 1929*, Geneva, 1930, p. 143.

and the character of the emblem... The absence of religious significance is shown clearly enough, even if implicitly, by the expressions used.”¹

We emphasize again that the 1906 Conference—as Louis Renault noted—unanimously agreed that the red cross sign had no religious significance. The following is quoted from the Proceedings :

Sir Ardagh proposed that the Meeting should decide categorically whether or not the present system had a religious character. The President called upon the Meeting ; as no Delegate spoke, the President took it that no one attached religious significance to this sign.²

At the 1929 Conference, the Plenipotentiaries spoke in the same sense ; the Egyptian Delegate stated :

It is not for religious reasons that we have the red crescent or the red lion and sun.³

At the 1949 Conference the principal Delegate of the Holy See recalled that “ the red cross had been chosen in tribute to Switzerland and it has always been emphasized—in 1906 especially—that this emblem is void of all religious significance ”.⁴

In the face of such testimony, need we insist further ?

The emblem of the Geneva Convention is also that of the Red Cross. What is true for one is true for the other. Neutrality in religious matters is a fundamental, statutory principle of the organization. It is difficult to see how its flag could have any other meaning.

The red cross emblem is intended to signify one thing only—but that is far-reaching : respect for the individual who suffers and is defenceless, who must be aided, whether friend or enemy, without distinction of nationality, race, religion, condition or opinion.

¹ See *Actes de la Conférence de Genève de 1906*, p. 260.

² *Actes de la Conférence de 1906*, p. 162 et seq.

³ *Actes de la Conférence de 1929*, p. 248 et seq.

⁴ Summary Report of the 32nd meeting of the First Commission (June 23, 1949).

People may associate this cross with the Christian cross in their own minds, but such interpretation cannot have any official or international standing. "The Red Cross" wrote M. Max Huber, "is and must continue neutral. Consequently, it is for each of its members to decide on what religious or philosophical beliefs he bases his own work; this is a purely personal question to be decided in the quiet of one's own conscience and, in the very interests of the organization, is not a matter for public discussion".¹

B. Form of the Cross

As the Geneva Convention states that the red cross on a white ground is "formed by reversing the Federal colours", it has been asked if it should not therefore have the same form as the Swiss cross—which has been fixed.² This is an obvious mistake. The word "colours" should be taken in its proper sense—in reference to the red and white of the flag. If it had been intended to speak of the arms, the word "reversing" would not have been used. The Proceedings of the 1906 Conference are explicit: the meeting deliberately refrained from giving fixed dimensions to the cross, since this might have opened the way to dangerous misuse. The reasons are evident. If the form of the cross had been explicitly defined, attacks on installations protected by the Convention might have sought justification in the fact that the emblem had not the prescribed dimensions. Similarly, unscrupulous persons could have taken advantage of the rigid definition to use a slightly larger or smaller red cross for commercial purposes.

For the same reasons, the Convention did not lay down conditions about the shape of the white ground, nor—as Switzerland has done for its flag—about the exact shade of red in the cross. Some National Societies—as they are perfectly entitled

¹ See *The Good Samaritan*, p. 29.

² In 1889, the Swiss Federal Assembly declared that the "arms of the Confederation consist of a white cross, upright and humetty, placed on a red ground, having arms equal to each other and a length exceeding their thickness by one-sixth". In heraldic parlance, "humetty" is used of a cross whose arms do not extend to the edges of the shield.

to do—have defined the form of cross to be used.¹ Most of them seem to have chosen a cross made up of five equal squares—the shape which can be most easily mass-produced.

C. Official Standing

Article 38 speaks of “the heraldic emblem of the red cross on a white ground”. The word “heraldic” was not used by chance in 1906, but chosen, after due consideration, in preference to any other.² The word was intended to give the red cross emblem the same standing as official arms.

Apart from stipulations of the Geneva Convention (in Art. 53), it may be noted that the Paris Convention of March 20, 1883, for the protection of industrial property (revised in 1925 and again under revision at present), forbids misuse of official arms.

ARTICLE 39. — USE OF THE EMBLEM

Under the direction of the competent military authority, the emblem shall be displayed on the flags, armlets and on all equipment employed in the Medical Service.

This Article reproduces Art. 20 of 1929, with slight changes of wording.

I. *The Protective Sign*

A fundamental distinction must now be made, to which we shall return at greater length in dealing with Art. 44. It concerns the two distinctive uses of the red cross on a white ground.³ The first use—to which the precise reference of

¹ The Turkish Red Crescent has fixed its emblem by Statute: a red crescent on a white ground, the points turned towards the left. On the flag, however, the points of the crescent are turned in the direction opposite to the flag pole. The flag and crescent have the same dimensions and proportions as the Turkish national flag, as fixed by law.

² Proceedings of the 1906 Conference, IVth Commission, 5th Meeting.

³ This expression will henceforth be understood to cover also the red crescent and the red lion and sun, in respect of the countries which use these emblems.

Art. 39 is limited—is as a *virtually constitutive element of protection*. We shall refer to it briefly as *the protective sign*. It has this connotation when displayed on installations, persons and objects entitled to respect under the Convention.

The second use—which follows from Art. 44, Par. 2—is *purely indicatory*, to designate persons or objects connected with the Red Cross; this does not, and is not intended to, imply the protection of the Convention.

The emblem has its essential significance when used as a protective sign, and is then known as the “emblem of the Convention”. Its use takes on a very practical importance in time of war, particularly in a zone of military operations.

In principle, the emblem should be displayed on installations, persons¹ and objects protected by the Convention. If the enemy is really to be able to accord persons or objects—and especially installations—the respect required by the Convention, he must obviously be given a reliable means of recognizing them as such.

We use the qualification “in principle” for two reasons.

(1) — There is no obligation on the belligerent to mark his units with the emblem. Sometimes, in front-line positions, a commander will camouflage his medical units in order to conceal the presence or real strength of his forces. But as the enemy can respect a medical unit only if he knows of its presence, respect for the camouflaged unit will be theoretical only; it will be exposed to long-range enemy fire. In case of occupation, for instance, when the enemy has recognized the medical unit, he must evidently respect it. It is for this reason that we stated above that the emblem was a “virtually constitutive” element of protection under Convention rules.

(2) — It will not always be possible to place the emblem on every object—on small surgical instruments for example. Smaller parts, however, are included in the larger unit, which will be marked.

¹ “Persons” clearly means medical and religious personnel, and not the wounded and sick themselves.

The distinctive sign under the Geneva Convention is not the red cross alone : it is the red cross on a white ground. The red cross must therefore be displayed on a white ground ; this will not only obviate disputes but, by the contrasting colours, give better visibility. Should there be good reasons, however, why an object protected by the Convention can be marked only by the red cross without the white ground, belligerents may not plead the fact as a pretext for refusing respect.

2. *Control by Military Authority*

The initial phrase of Art. 39 is most important : use of the emblem is " Under the direction of the competent military authority." This replaces the 1929 wording : " With the permission of the competent military authority."

The new wording is preferable ; it shows, quite as well as the old, that it is for the military commander to give or withhold permission ; moreover, he alone, as we shall see, can order that a medical unit be camouflaged.

In addition, the new text states that the military authority is at all times responsible for the use made of the emblem, must keep a constant check on it, and see that it is not wrongfully used by the troops or by individuals. Again, the earlier expression could give rise to the false idea that permission is necessary for each new use of the sign while, in practice, a general permission is given once for all. In so far as the Medical Services are concerned, the authorization must be largely presumed.

Who is the " competent military authority " ? In 1929, a definition was deliberately avoided, so as to allow flexibility. The question is a domestic one for the armed forces of each country. If an officer exceeds his competence, he is responsible to his superiors alone. The wounded can not be allowed to suffer thereby ; the enemy could scarcely plead lack of competence, to justify his denying protection to a medical unit obeying the requirements of the Convention.

What is important is that all armed forces should have official control over every use of the emblem.

ARTICLE 40. — IDENTIFICATION OF MEDICAL
AND RELIGIOUS PERSONNEL

The personnel designated in Article 24 and in Articles 26 and 27 shall wear, affixed to the left arm, a water-resistant armband bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel, in addition to the identity disc mentioned in Article 16, shall also carry a special identity card bearing the distinctive emblem. This card shall be water-resistant and of such size that it can be carried in the pocket. It shall be worded in the national language, shall mention at least the surname and first names, the date of birth, the rank and the service number of the bearer, and shall state in what capacity he is entitled to the protection of the present Convention. The card shall bear the photograph of the owner and also either his signature or his fingerprints or both. It shall be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of a similar type in the armed forces of the High Contracting Parties. The Parties to the conflict may be guided by the model which is annexed, by way of example, to the present Convention. They shall inform each other, at the outbreak of hostilities, of the model they are using. Identity cards should be made out, if possible, at least in duplicate, one copy being kept by the home country.

In no circumstances may the said personnel be deprived of their insignia or identity cards nor of the right to wear the armband. In case of loss, they shall be entitled to receive duplicates of the cards and to have the insignia replaced.

PARAGRAPH I. — THE ARMBAND OR BRASSARD

I. *Bearer*s

The only change on the 1929 text, as far as the armband or brassard is concerned—the distinctive sign, visible at a

distance, for medical personnel—is that it shall be water-resistant.

As before, all permanent medical and religious personnel belonging to the Medical Services, the Red Cross, or any other recognized relief society of a belligerent or a neutral, are entitled to wear the armband. These persons are governed by Articles 24, 26, and 27. We shall see in connection with Art. 41 the arrangements for temporary medical personnel, who may now wear a distinct armband.

Under Art. 44, Par. 2, National Red Cross Societies may not employ the armband in wartime for activities not protected by the Convention—that is, other than their work with the Medical Services. The armband, consequently, is always a protective sign.

2. *Description*

As in 1929, the brassard shall “bear the distinctive emblem”; this being a red cross on a white ground, the armband, theoretically, need not necessarily be itself white. But there it is distinctly stated in Art. 41 that the armband for the temporary medical personnel shall be white.

It is, however, now the custom everywhere for all medical personnel to wear the white armband with a red cross, and it is to be hoped that this practice will remain. In addition to the advantages in manufacture, the contrast of colours makes for better visibility.

The armband is to be “water-resistant”. This provision, which aims at keeping it in good condition, should be considered as a recommendation. Obviously, the fact that an armband is not waterproof could hardly be held to deprive it of its protective value.

As in the case of the red cross generally, the form and dimensions of the brassard are not stated—for the same good reasons. It is again provided, however, that it shall be affixed to the left arm: “affixed”, because it should not be taken off and put on at will, and the risk of loss must be avoided; “on the left arm”, because it should be in a stated place, where the eye will naturally look for it. Here again, a belligerent

could not claim the right to deny protection to a medical orderly who for some plausible reason wore the brassard on his right arm.

3. *Stamp of the Military Authority*

The *bona fides* of the bearer must above all be ensured ; the armlet may be worn only by those so entitled under the Convention.

The brassard is not in itself sufficient evidence ; as has been remarked, it is a simple matter to make an armlet and to slip it on—in which case, even if worn for its legitimate purpose, the bearer is still liable to a penalty. The belligerents must have sufficient guarantees.

What gives value to the armlet and justifies its use, is the fact of its being stamped and issued by the military authority. This time, the condition is essential and absolute. Issue alone no longer suffices, as it did in 1864 ; the official military stamp must be there to show that the armlet has been issued under authority. The enemy can, of course, satisfy himself on this point in case of capture ; but a possible check of this sort is most valuable since it can prevent abuses.

What “military authority” is competent to stamp and issue the armlet ? As we have already said in reference to Art. 39, where the expression “competent military authority” is also used, precision on this point was deliberately and properly avoided in 1929.

In 1929, even the word “competent”, which had formerly appeared in the provision that now corresponds to Art. 40, had been intentionally dropped. It was then said that the issue of armlets might be particularly urgent in certain circumstances, and should therefore be facilitated. We feel that subtlety of interpretation is not justified. Art. 39 has a general sense, and applies also to the brassard ; the need for displaying the emblem on buildings or vehicles could easily be as urgent as the issue of armlets. Most important of all, the question of competence, as we said in reference to Art. 39, is a domestic one for the armed forces.

Whether or not the word "competent" is kept, the use of the emblem must clearly be regulated by an official military authority fully aware of its responsibility; the issue can not be left to the initiative of the first comer. Similarly, in the present Article, what is necessary is that the official military authority, whose name appears on the stamp, shall be responsible for the issue.

We turn now to the issue of the armlet to persons who, in the sense of Art. 18, are called upon by the military command to help care for the wounded. In view of the restrictive character of the relevant Articles (Art. 40, Par. 1, and 44, Par. 1) we believe that in general the answer is "No", but circumstances may justify exceptions.

4. *Use of the Flag by Medical Personnel*

However useful the brassard, it is in no way a sufficient means of identification. Being so small, it will not be sufficiently visible to ensure security. A frequent practice for medical orderlies or stretcher-bearers who are detailed to collect the wounded between the lines, is to carry and wave a white flag with the red cross.

There is nothing to prevent this custom in the Convention. A group of orderlies, however small—one, even—has to be considered as a medical unit. Use of the flag in such circumstances must naturally be *bona fide*, and could obviously not, for example, be used to cover fighting troops.

The best way to ensure the security of medical personnel would of course be for them to wear a distinct uniform, the same in all countries, which its colour would distinguish from those of the troops. This was already suggested when the Red Cross was founded; up to now the idea has not been entertained, but might one day be seriously taken up.

PARAGRAPHS 2 AND 3. — THE IDENTITY CARD

The armlet will not suffice to confirm status; the bearer, if he falls into enemy hands, must be able to show that he is

entitled. He must also be able to prove membership of the medical or religious personnel, if he is to secure the status to which he has a right under the Convention, and be eligible for repatriation. A particular identity card is therefore necessary.

1. *Standardization*

As compared to 1929, a thoroughgoing change has been introduced in the system of identity documents. This system lacked simplicity and uniformity. Identification was by an entry in the pay-book, or by a special document ; only personnel of National Red Cross and other relief societies assisting the official Medical Services were required to carry a certificate with photograph. During the second World War, as during the first, the regulations were observed very perfunctorily. Medical personnel taken prisoner were often unable to have their status and their right to repatriation recognized, and the International Committee had endless trouble in helping them establish their identity.

To avoid these serious difficulties in future, the 1949 Conference adopted a proposal in the draft revision, to have a standard identity card in each country. Permanent staff, both personnel and chaplains, belonging to the forces or to Red Cross Societies, will now have the same type of identity card.

It is also recommended that the card should be of the same type in all countries. A specimen is annexed to the Convention as a model and this, it is to be hoped, will be followed. On the outbreak of hostilities, the parties must at least communicate to each other a specimen of the card they have in use.

Identity cards must be made out, if possible, in duplicate, one for the bearer, the other to be kept by his home country. If he is taken prisoner and has lost his card, proof of his status is obtainable from the duplicate. This precaution was recommended by the ICRC, and will avoid dispute. During the preparatory revision work, some experts had proposed that duplicates of all identity cards issued should be sent to Geneva. This course did not appear feasible, as Governments sometimes wish to conceal the exact numbers of their medical personnel.

2. *Description*

The characteristics of the card and the information it contains make it a particularly valuable document.

First of all, it must bear the red cross emblem.

To make it more durable it is, like the armband, waterproofed. In some countries the card is now entirely covered by a transparent, non-inflammable plastic, which cannot be removed from it.

The card is pocket-size. This is of set purpose; it was found that when the card was too big, it was usually left in the pack—usually not carried into battle—or left in the barracks or base camp.

The card must be worded in the national language. For practical reasons, the Conference rejected an earlier proposal that the items should be given in several languages; this is evidently optional, and countries with little-known languages will doubtless prefer to use also a second and more generally known one. The same will apply to countries with more than one national language.

The card must give at least the surname and first names of the bearer, his date of birth, rank, and service number. Other details may be added, if thought fit.

The card must also indicate in what capacity the bearer is entitled to the protection of the Convention. In this connection, it would appear necessary to state whether he belongs to the medical or religious personnel, the medical staff proper or the administration, the official Medical Services or a recognized relief society (belligerent or neutral).

Further details seem highly desirable in the interest of the wounded and sick. Captured medical staff should be detailed at once and employed according to their particular qualifications. At the Conference, the Delegation which suggested this course specified "professional qualifications". This expression does not appear in the final text, but we feel the idea should be kept in mind. Not alone would it be useful to distinguish between physicians, surgeons, dentists, orderlies, stretcher-

bearers, etc., but still further to subdivide physicians into eye-specialists, neurologists, and so on.

The card must bear the photograph of the owner—an essential element for identification. Considered too elaborate in 1929, the photograph has since become so commonplace as to have been accepted without discussion.

This does not apply in the case of finger-prints. The proposal to make them obligatory was rejected, even though they offer a more certain means of identification than photographs, and are more easily obtained. The difficulties were sentimental: in some countries only convicts or alleged offenders have their finger-prints taken, and the public has this association in mind. With time, this prejudice will probably disappear.

At present, finger-prints are optional; so are signatures, because illiteracy is still more wide-spread than is generally supposed. Consequently, either finger-prints, or the signature, or both, may be required by the State; but one or other must appear. It can not be too highly recommended to have both.

The final condition is the most important: "It shall be embossed with the stamp of the military authority." It is this stamp which makes the card, as the armlet, authentic. It will be noted that the word "embossed"—i.e. stamped by pressure—is used; experience has shown that the usual ink stamps can rub off and be imitated with comparative ease.¹

3. *The Identity Disc*

Paragraph 2, dealing with the identity card, begins with the words "In addition to the special identity disc mentioned in Art. 16". This refers to the disc—preferably double—which all military personnel must wear, so that bodies can be identified.

¹ In a final Resolution, the Conference recommended that States and National Societies take all necessary steps, in time of peace, to provide medical personnel with their identity cards and armlets.

PARAGRAPH 4. — CONFISCATION PROHIBITED. — REPLACEMENT

The Geneva Conference retained and made more precise the 1929 provisions under which medical personnel may keep their identity papers and wear the armlet in all circumstances, even when retained by the enemy to assist their countrymen who are prisoners.

The provision is necessary. In both World Wars medical personnel were sometimes deprived of armlet and card—a convenient way for the captors to shirk their obligations. Such practice must be strictly forbidden; national authorities only should be entitled to withdraw them. Should the brassard or identity card be lost or destroyed, the owner is entitled to new ones. This provision obliges not only the home Power, but also the capturing Power in respect of enemy personnel who have neither card nor armlet, and it must cooperate in supplying replacements. During the recent War, the ICRC assisted in transmitting a great number of identity cards to personnel in captivity.

ARTICLE 41. — IDENTIFICATION OF AUXILIARY PERSONNEL

The personnel designated in Article 25 shall wear, but only while carrying out medical duties, a white armlet bearing in its centre the distinctive sign in miniature; the armlet shall be issued and stamped by the military authority.

Military identity documents to be carried by this type of personnel shall specify what special training they have received, the temporary character of the duties they are engaged upon, and their authority for wearing the armlet.

Art. 40 refers to permanent personnel only; Art. 41 deals with the identification of temporary personnel—those covered by Art. 25—who are detailed only occasionally for medical duty. Trained to act as auxiliary orderlies or stretcher-bearers, they are detailed in case of need to search for and assist the

wounded. Otherwise, they do regular duty. Until recently, such troops were generally bandsmen.

Strictly speaking, auxiliary personnel were not protected on the battlefield under the 1929 Convention, but they were entitled to repatriation if taken prisoner. The position is now radically different: they are protected whilst on medical duty at the front but, once captured, are not entitled to repatriation. The regulations for their identification had therefore to be changed.

PARAGRAPH I. — SPECIAL ARMLET

The 1929 Conference thought better not to protect auxiliary personnel on the battlefield, because it was not considered possible, for fear of abuse, to allow them to wear the armlet, and permit them to remove and replace it at will, according as they were combatant or not. The emblem must not be "removable".

In 1949, it was thought that auxiliary personnel on medical duty may have protection on the battlefield; but the Conference still feared the risk of issuing the ordinary brassard of the permanent personnel to the temporary. It compromised by deciding on a separate armlet.

To avoid confusion, none of the suggestions for a distinct emblem was adopted—e.g. displaying the initials of the words "Auxiliary Personnel" (which would in any case have had to vary with the language used).

Recourse was therefore had to the red cross or the authorized exceptions. To distinguish the new brassard from the ordinary armlet, the dimensions of the emblem were to be smaller.

The Convention, it may be noted, specifies that the temporary armlet shall be white; this does not apply to the permanent. It also stipulates that the emblem of reduced size shall be placed in the centre of the armlet.

The brassard must be issued and stamped, as the other, by the military authority (see above under Art. 40).

Although ingenious, the solution adopted does not avoid the very real drawback of decreased visibility. The ordinary

armlet is already unsatisfactory on this point, the new all the more so; the object, which is to protect the temporary personnel, may thus be defeated. There is likewise the considerable risk of confusion between the two.

PARAGRAPH 2. — IDENTITY DOCUMENTS

Once in enemy hands, auxiliary personnel are prisoners of war, and not entitled to repatriation (See above under Art. 29). The experts therefore considered it unnecessary to provide them with a distinct identity card.

As the Detaining Power may employ auxiliary personnel on medical duty when necessary, their ordinary identity documents shall specify any special training they have received, the temporary character of their duties, and their right to a separate brassard. Reference should be made to Art. 17, par. 3, of the Third (Prisoner of War) Convention, 1949, which provides that every person liable to become a prisoner of war must have an identity card, the exact specifications for which are detailed.

(To be continued)

PRESS RELEASES

NEW MEMBERS OF THE ICRC

Geneva, November 28, 1951.

The International Committee of the Red Cross communicates :

During the year 1951, three Members of the Committee expressed the desire to be released from their obligations as active Members. They are Mlle Suzanne Ferrière, Colonel Georges Patry M.D., and Dr. Adolphe Vischer. In view of their outstanding services, the Committee has appointed them honorary Members.

The Committee has elected two new Members : Mademoiselle Marguerite van Berchem and Monsieur Frédéric Siordet.

Mlle van Berchem did very valuable work during the War, especially as head of the Colonial Service of the Central Prisoners of War Agency, and in organizing auxiliary sections of the Agency in different Swiss towns.

Monsieur Siordet has devoted himself to the Committee's work since 1943, and, as Counsellor, and on many missions abroad, has rendered eminent service.

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