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THE NEW GENEVA CONVENTIONS

RETENTION OF MEMBERS OF THE ARMY MEDICAL SERVICES WHO HAVE FALLEN INTO THE HANDS OF THE ENEMY (Continued)¹

II. REMARKS ON THE PROVISIONS OF THE FIRST GENEVA CONVENTION OF AUGUST 12, 1949

Article 28. — Retained personnel

Personnel designated in Articles 24 and 26 who fall into the hands of the adverse Party, shall be retained only in so far as the state of health, the spiritual needs and the number of prisoners of war require.

Personnel thus retained shall not be deemed prisoners of war. Nevertheless they shall at least benefit by all the provisions of the Geneva Convention of August 12, 1949, relative to the Treatment of Prisoners of War. Within the framework of the military laws and regulations of the Detaining Power, and under the authority of its competent service, they shall continue to carry out, in accordance with their professional ethics, their medical and spiritual duties on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong. They shall further enjoy the following facilities for carrying out their medical or spiritual duties:

¹ See English Supplement, *Revue internationale de la Croix-Rouge*, Vol. II, No 12, December 1949, pp. 487-501.

(a) *They shall be authorised to visit periodically the prisoners of war in labour units or hospitals outside the camp. The Detaining Power shall put at their disposal the means of transport required.*

(b) *In each camp the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel. For this purpose, from the outbreak of hostilities, the Parties to the conflict shall agree regarding the corresponding seniority of the ranks of their medical personnel, including those of the societies designated in Article 26. In all questions arising out of their duties, this medical officer, and the chaplains, shall have direct access to the military and medical authorities of the camp, who shall grant them the facilities they may require for correspondence relating to these questions.*

(c) *Although retained personnel in a camp shall be subject to its internal discipline, they shall not, however, be required to perform any work outside their medical or religious duties.*

During hostilities the Parties to the conflict shall make arrangements for relieving where possible retained personnel, and shall settle the procedure of such relief.

None of the preceding provisions shall relieve the Detaining Power of the obligations imposed upon it with regard to the medical and spiritual welfare of the prisoners of war.

This long Article deals with permanent medical and religious personnel of the armed forces, as defined in Art. 24 and 26 of the Convention, who, while preserving the immunity which attaches to their status, are permanently retained for the care of prisoners of war, by the belligerent in whose hands they have fallen. Three categories of personnel are provided for :

(a) *Army medical personnel, including the administrative staff of medical units and establishments ;*

(b) *Army chaplains ;*

(c) *Personnel of National Red Cross Societies and other recognised relief societies engaged in similar activities.*

Paragraph 1. — The Principle of Retention.

The paragraph states the limits within which retention of medical personnel is permitted. It will be noted that the formula is given in a negative form, namely " Personnel shall be retained *only* in so far as the state of health, the spiritual needs and the number of prisoners of war require ". The choice of language is deliberate : it helps to emphasise the fact that, even if the principle of retention precedes that of repatriation in the order in which the Articles are placed, retention remains subordinate to repatriation. The latter is the rule, as the *rapporteur* of the First Commission took pains to underline at the Diplomatic Conference. If Art. 28 is read in conjunction with Art. 30, which states the principle of repatriation (" Personnel whose retention is not *indispensable*... "), it will be seen that retention is intended to be, as a practice, exceptional.

Under the 1929 Convention, retention of medical personnel was possible only in the case of express agreement between the belligerents ; under the 1949 text, it is legally provided for.

That a belligerent shall have the right to retain some of the medical and religious personnel fallen into his power, one essential condition must, however, be present : the belligerent must have in his charge prisoners of war whose state of health and spiritual needs " demand " or " render indispensable " the retention of such personnel. The words used well show that it is not enough that the Detaining Power should consider retention useful or desirable ; detention must be justified by real and imperative necessity.

It is not possible to read into the text of the Convention that retention is permissible only when the Detaining Power holds prisoners of the same nationality. The text with which we are dealing speaks of " prisoners of war " in general. Furthermore, Paragraph 2 of Art. 28 lays down that retained medical personnel shall carry out their duties " on behalf of prisoners of war, preferably those of the armed forces to which they themselves belong ". The implication clearly is that when a belligerent holds prisoners who are nationals of different

countries, he shall as far as possible allocate their duties on the grounds of their nationality. But a belligerent having in his power a surplus of personnel who are nationals of any one country could justify, should circumstances so demand, their retention to care for prisoners of a different nationality. Such an eventuality, however, must obviously be abnormal, and should remain exceptional and temporary; we should not forget that if provision is made for the retention of medical personnel, it is largely because it was thought desirable that prisoners should be cared for by their own countrymen, speaking the same language and using methods of treatment to which the prisoners themselves are accustomed. It seems in any event that the example taken could rarely occur in practice — medical personnel are nearly always captured at the same time as combatants.

Besides the condition we have mentioned as being essential to justify retention of medical personnel in the camps, the question of the number of prisoners is also raised. It serves only to fix the proportion of personnel who may be retained. We shall see, in connection with Paragraph 2 of Art. 31, that belligerent Powers may fix, by special agreement, the number of personnel to be retained in proportion to the number of prisoners. Such agreements are optional and not obligatory; in particular, they may specify that medical personnel shall be retained in the camps only up to a certain proportion, calculated on the number of prisoners of their own nationality.

In default of any special agreement, the Detaining Power shall determine the percentage in the light of common sense, equity and experience. The maximum allowed, but which in no circumstances may be exceeded, is the staff necessary to meet the real needs of a camp without calling upon personnel of the detaining forces¹. Should the home Government of the personnel consider the proportion fixed excessive, it may open negotiations with the Detaining Power and call upon the

¹ Art. 30, Paragraph 3, of the Prisoners of War Convention reads: "Prisoners of war shall have the attention preferably of medical personnel of the Power on which they depend and, if possible, of their nationality".

cooperation of the Protecting Power or the International Committee of the Red Cross.

We may further recall, in connection with this Paragraph, that the Convention, when speaking of the passage of medical and religious personnel into enemy hands, uses the words "who fall into the hands of the adverse Party". The wording implies that the capture of medical personnel must be a matter of chance and depend upon fluctuations at the battle front; thus, it is hardly conceivable that a belligerent should deliberately try to capture such personnel. An organised "medical hunt" would certainly be a sorry sight and hardly in accord with the spirit of the Geneva Conventions. It is easy, on the other hand, to imagine a combat unit coming upon a group of medical personnel and leaving them to carry on their duties, and the medical staff for their part not taking to flight at the approach of enemy forces.

Paragraph 2. — Status and Treatment of Retained Medical Personnel.

A. First and second sentences

We recalled in Part I of this paper ¹ the long and difficult controversy during the preparatory work, and even in the Conference itself, between advocates and opponents of the proposal that retained medical personnel should be given the same status as prisoners of war. We shall not revert to it here.

The text adopted by the Conference states that "Personnel thus retained shall not be deemed prisoners of war", and adds: "Nevertheless, they shall at least benefit by all the provisions of the Geneva Convention of August 12, 1949, relative to the Treatment of Prisoners of War".

Although this formula was the outcome of mature consideration and constituted a compromise that found almost unanimous support, it must be admitted that it lacks clarity.

¹ See *Revue internationale*, English Supplement, Vol. II, Dec. 1949, pp. 495 et seq.

There is, however, no possible doubt that the words "shall at least benefit" are intended to underline the fact that not all the provisions of the Prisoners of War Convention are applicable to retained medical personnel, but those only that constitute an advantage for them. We need only, to be convinced of this, compare the corresponding Article in the Prisoners of War Convention.

As a matter of fact, the Conference thought it advisable to introduce the substance of Art. 28 of the First Convention into the Third Convention, so that camp commandants could not fail to know of it. It was made in identical terms, except for the words we are examining. The proposers had the happy inspiration of giving a clearer wording to this very important sentence. Art. 33 of the 1949 Prisoners of War Convention reads: "They shall, however, receive as a minimum the *benefits and protection* of the present Convention". It should be noted that this Article has the same legal force as Art. 28 of the First Convention.

Moreover, study of the preparatory documents ¹ and especially of the Conference records furnishes clear proof that the authors of the Conventions wished to lay down, with the help of the somewhat cryptic formula quoted above, that the Detaining Power could apply to retained medical personnel only those provisions of the Prisoners of War Convention that are manifestly to their advantage.

In his Report to the Plenary Assembly, the *rapporteur* of the First Commission said that, for all these reasons, Committee I decided that retained medical personnel should not be treated as prisoners of war, but that they should be granted special status, including, on the one hand, all the provisions *in favour of* prisoners of war ² and, on the other, various special facilities essential for the proper performance of their duties.

¹ The text approved by the XVIIth International Red Cross Conference read: "They shall not be considered as prisoners of war but shall enjoy all the *rights* of the latter".

² We do not think that the writer meant provisions in favour of prisoners of war, but more exactly the provisions, the application of which carries an advantage for retained medical personnel who are not prisoners of war. The importance of this distinction is slight.

Moreover, those who advocated giving prisoner of war status to retained medical personnel opposed the present wording of the Convention precisely on the grounds that it would render certain provisions of the Prisoner of War Convention inapplicable to the said personnel; in granting them a special status, the Convention would operate actually to their disadvantage. The speakers advised that the medical personnel, without being considered as prisoners of war, should be treated "in accordance with all the provisions" of the Third Convention. The latter course was opposed by those who considered that it would put medical personnel on the same footing as prisoners of war — precisely what they wished to avoid; they drew the conclusion that the two parts of the provision would thus be contradictory. The proposed amendment was rejected by 42 votes to six, two delegations abstaining.

The Conference finally decided to specify that the medical personnel should "as a minimum" have the benefit of the provisions of the Prisoners of War Convention. The expression used makes it evident that treatment as for prisoners of war should be considered as a minimum, and that medical personnel should be privileged. This view is in harmony with practice and with the policy of the International Committee during the recent War. The Convention thus invites belligerents to give medical personnel they retain, whenever it may be possible, privileges additional to those expressly provided for in the Conventions.

We need not recall here the various reasons why the Conference decided not to place retained medical and religious personnel on the same footing as prisoners of war, but, on the other hand, to ensure to them the advantages and protection of the Prisoner of War Convention¹. We shall only underline the intention of the Conference that captured personnel should be able to carry out their medical and spiritual work for prisoners in the best possible conditions. On the one hand, the Conference thought it necessary to affirm the supra-national and to some extent "neutral" character of the personnel

¹ See *Revue internationale*, English Supplement, Vol. II, No 12, Dec. 1949, p. 496.

whom its functions place above the conflict ; it should similarly always be borne in mind that this personnel should normally be repatriated, and that if it is retained, the retention is exceptional and has only one purpose—relief work carried out with the consent of, and to some extent on behalf of, the Power on which the retained personnel depend. Furthermore, the Conference recognised the fact that the safeguards afforded by international law to prisoners of war were efficacious, that they had been already well tested, and, in a general way, constituted the best guarantees that could be offered to persons in enemy hands. No less important is the practical advantage of recourse to an existing Convention, without the obligation of establishing an entirely separate code.

Whereas the Convention lays down that medical personnel shall not be regarded as prisoners of war—a privilege that the wounded themselves do not enjoy—there is no mention of exemption from capture. This expression had been rejected in 1929, because such capture exists *de facto*, if not *de jure* ¹.

Similarly, while they remain with the enemy, medical personnel, who from a strictly legal point of view are not in captivity insofar as they are not prisoners of war, find in fact that their liberty is to a certain extent restricted. This is inherent in their status of “retained personnel”, their enemy nationality, and the necessity for the Detaining Power of ensuring its own military and political security. It is besides stated in Art. 28 that they shall be subject to camp discipline. Their liberty will be more or less restricted according to circumstances, and it may be hoped that here belligerents will be especially lenient, in having recourse, whenever possible, to supervision and assigned residence rather than actual internment. We can scarcely imagine any Power granting full liberty to retained medical personnel, allowing them to move about freely in a country at war, and remaining blind to the consequent risk of espionage.

In order to determine the treatment applicable to retained medical personnel, we should examine the provisions of the

¹ See P. DES GOUTTES, *Commentaire de la Convention de Genève*, Geneva, 1930, p. 77.

1949 Prisoners of War Convention which are applicable to them. The solution adopted by the Conference, however satisfactory it may be in many respects, is very far from simple and inevitably entails comparison of this kind. However, before embarking on this study, let us consider the other provisions of Art. 28, on which to a certain extent the sense of the Article depends.

B. *Third sentence*

This sentence contains several elements.

It lays down, firstly, that retained medical personnel and chaplains *shall continue* to carry out their medical and spiritual duties in behalf of prisoners. The words "shall continue", which are found also in the Conventions of 1864, 1906 and 1929, have been kept, and with good reason. They show that if capture and retention of medical personnel places them in different conditions and under different control, the duty of caring for sick and wounded combatants—which justifies their special status—suffers no change, and the work should continue without hindrance, and practically without a break.

From now on, these duties will be carried out under the laws and military regulations of the Detaining Power, and the control of its competent services. This provision is dictated both by common sense and the demands of efficient administration. The Detaining Power, being responsible for the health of all prisoners in its hands, and indeed of the entire population, is entitled to retain all necessary powers of control. Retained personnel supply their share; they are therefore absorbed into the larger organization of the Detaining Power, and are subject in their work to the same conditions as the national staff. It is difficult to see how, in practice, it could be otherwise. The medical personnel come naturally under the authority of the Army Medical Service of the Detaining Power, while chaplains will come under the appropriate service—doubtless the same as that to which the chaplains of the national forces are attached.

The Convention nevertheless tempers the force of this rule by stipulating that medical and religious personnel shall carry out their duties "in accordance with their professional ethics". Even if they are subject, administratively speaking, to their captors, their subordination has definite limits. The powers of the detaining authority must end at the point where, for the priest as for the doctor, the conduct proper to his vocation and the dictates of his own conscience are imperative. Thus, there is no authority given, for example, which could prevent a doctor nursing the sick, or oblige him to apply treatment detrimental to a patient's health.

The text provides furthermore that retained personnel shall care for prisoners of war, "preferably those of the armed forces to which they themselves belong".

This provision was introduced into the Geneva Convention under revision in 1929, and referred to medical personnel awaiting repatriation. It was adopted by only a slender majority; some delegates considered it was contrary to the fundamental principle of the Convention which provides that the wounded shall be cared for without thought of nationality.

We believe that the fears expressed in 1929 by people having the best of intentions, were quite unfounded, and resulted from a confusion of thought. The obligation laid down in the Geneva Convention is that the captor shall treat and care for the enemy wounded in the same way as his own. Similarly, a Power fighting against several countries must give equal care to the wounded of each; but there is no restriction as to the methods chosen to ensure such equality of treatment; in taking steps to discharge its general obligation, a Power is entirely justified in having prisoners of a certain nationality cared for by doctors, orderlies or chaplains who are their own countrymen. Such a course is even desirable; one of the most important reasons which led to the decision to sanction the retention of medical personnel was that prisoners prefer doctors of their own nationality, who speak the same language, and that medical treatment given under these conditions yields in general the best results.

In any case, only a preference is expressed. The Detaining

Power is recommended to take nationality into account in dispersing medical personnel, but circumstances could easily arise to justify exceptions ; in such cases, the ruling consideration must be the needs of the prisoners as a whole. Thus, the fundamental principle of the Geneva Convention is respected, whichever solution is adopted.

C. Fourth sentence and sub-paragraphs (a), (b) and (c)

The preceding clauses confer the advantages and the protection of the Prisoners of War Convention on retained medical and religious personnel, and give them the right to continue their proper work.

The fourth sentence of Paragraph 2 sets out the additional facilities to which they are entitled. It is stated quite clearly—and is repeated in the clauses which deal with details—that the facilities accorded are “ for carrying out their medical or spiritual duties ”. The authors of the 1949 Conventions wished to emphasise here that if medical and religious personnel were to have a particular status, it was to enable them to do their special work under the best conditions, and not in order to give them privileges as individuals. The real explanation of their exceptional status is the good of the combatants for whose benefit they work.

It should be noticed that these facilities, expressly specified by the Convention, are consequently imperative, and should always take precedence over similar provisions of the Prisoners of War Convention, whenever the latter might also be invoked.

The first facility accorded, under sub-paragraph (a), to the personnel is the right to make periodic visits to prisoners of war in labour detachments or hospitals outside the camp itself, and to have the necessary transport for this purpose.

This clause does not call for long explanation. Prisoners need medical and spiritual aid, wherever they may be, and those whose duty it is to bring them such aid should be able to leave camp and make whatever journeys may be required. The specific mention of hospitals and labour units should not

be considered as limiting the scope of the provision, because prisoners in penitentiaries or living with private families also need medical or spiritual aid. The Detaining Power is free to impose suitable supervision, if it so wishes, on such journeys, and will decide if the circumstances call for an escort or not. An obvious occasion for dispensing with such escort is the case of medical personnel on parole or under promise not to abandon their posts. It should also be noted that detained personnel cannot misuse the right so conferred on them: they can only leave the camp and travel in order to visit prisoners confided to their care, or having need of their attendance.

The Convention next provides, under sub-paragraph (b), that "the senior medical officer of the highest rank shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel". The duty so imposed has a striking analogy with that of the "prisoners' representative" in prisoner of war camps. In fact, the said medical officer will fulfil all the representative's duties for the retained medical personnel, so that the presence amongst the medical personnel of a representative, side by side with the responsible medical officer, is hardly conceivable. In other words, the medical officer is the personnel's representative.

His sphere of competence is, however, greater. While the prisoners' representative "represents" the prisoners with the military authorities¹, the senior medical officer "shall be responsible to the military authorities of the camp for the professional activity of the retained medical personnel". The responsible officer will therefore be really the professional head of the retained medical personnel in the camp, insofar as this is compatible with the fact that the personnel is, in principle, under the authority of the competent services of the Detaining Power.

The necessity of providing a responsible chief for the medical personnel is a logical consequence of their peculiar duties, which set them apart from prisoners of war. Their work is

¹ Cf. 1949 Prisoner of War Convention, Art. 79.

important and demands their whole time and attention : it is to care for the health of prisoners. A disciplined and graded staff, such as there is in a hospital, is necessary for the satisfactory performance of their duties, and it is for this reason that the Conference rightly amended at this point the draft submitted, which provided that medical personnel could elect their own "representative" from amongst their number.

On the other hand, the Conference adopted the same procedure for the appointment of the responsible medical officer as for the appointment of the prisoners' representative in officers' camps : the senior medical officer of the highest rank shall, by virtue of his rank, occupy the position.

It was in order to make it possible to decide upon the rightful nominee that the mention was retained of an agreement to be concluded between the parties to the conflict, to determine the precedence of rank of their personnel, including the members of Red Cross and other Societies authorised to collaborate with the Army Medical Services. Under the 1929 Convention, this agreement also decided their conditions of pay and maintenance ; this is no longer necessary under the new text.

The Article under review gives the responsible medical officer two prerogatives : he shall have direct access to the camp authorities in all matters affecting his office, and he shall be allowed such facilities for correspondence as are necessary for its satisfactory discharge. Thus, the number of letters and cards which it may be necessary for him, as responsible medical officer, to write and receive shall never be limited, as it may be in certain circumstances in the case of prisoners of war. It is indeed desirable that the responsible medical officer should remain in close touch with medical practitioners in his own country, with the Protecting Power, the International Committee of the Red Cross, relief organizations, captured personnel's families, and so forth. In general, the facilities for correspondence accorded to the responsible doctors should clearly be as generous as those given to the prisoners' representative ¹.

¹ Cf. 1949 Prisoner of War Convention, Art. 81, par. 4.

We should add that the appointment of a "responsible" officer affects the medical personnel only, and not the chaplains. It is already provided that chaplains shall, in the same way as the responsible medical officer himself, have direct access to the camp authorities and the same facilities for correspondence.

The provisions we have quoted help to show that the privileges accorded to retained medical personnel, far from being for their personal advantage, in reality benefit the sick and wounded whom they are called upon to serve.

As retained personnel enjoy, in principle, the protection and all the advantages of the Prisoners of War Convention, it follows that chaplains can, if they so wish, avail themselves of the services of the camp representative and take part in his election. That is, however, a matter of slight importance; the Convention to some extent places each chaplain on the same level as the prisoners representative and the responsible medical officer, following in this way the general practice during the recent War.

It is, furthermore, most unlikely that chaplains in a camp should have one of their number recognised as their representative, responsible for them. The Convention does not provide for any such representation, whereas it does so expressly in the case of medical personnel. The situation is wholly different for chaplains, who do not form a separate corps, are few in number, and often of different religions.

The 1929 Convention accorded to medical personnel in enemy hands the same conditions of maintenance, housing, allowances and pay as to corresponding members of the captor forces. The 1949 Conference did not consider it possible to continue this system. The retained personnel are now to have the same maintenance, housing and pay as prisoners of war, with the proviso that these conditions should be considered as a minimum, which the Detaining Power is invited to exceed.

In sub-paragraph (c) we find two elements, grouped together, it would seem, for convenience rather than for any necessary connection between them.

(1) Retained personnel shall not be required to perform any work outside their medical or religious duties. This was

implied in the 1929 text, but regrettable experiences in the recent War proved the need for putting it down in black and white.

The rule is now absolute, so much so that the retained personnel can not be obliged even to do work connected with the administration and upkeep of the camp, even if they happen to be for the time being without work. Nevertheless, the expression " medical duties " must be understood in the widest sense. It must be remembered that the " medical " personnel includes men who are engaged in the administration of units and hospitals. Although such work is not, strictly speaking, medical, these men will continue to carry out the duties assigned to them in their own forces.

(2) The same sentence also provides that retained personnel shall be subject to the internal discipline of their camp. Common sense demands this important provision, and it should be taken in conjunction with the clause examined above, which states that the personnel, in the exercise of their duties, shall be subject to the competent services of the Detaining Power. Therefore, except in the actual exercise of their duties, the personnel shall be placed under the authority of the camp commandant. Every military unit is subject to military discipline, and this rule applies with still greater force to prisoner of war camps. Enemy medical personnel will often be detained in prisoner camps and share in their daily life, and cannot conceivably escape the discipline common to all: nothing but disorder could ensue.

We may note that Art. 35 of the Prisoners of War Convention is devoted entirely to chaplains who are retained. This Article to a large extent duplicates Art. 28 under review, which in turn is reproduced as Art. 33 in the Prisoners of War Convention. Some of its provisions are, however, more detailed and it may be best to quote the actual text of Art. 35 :

Chaplains who fall into the hands of the enemy Power and who remain or are retained with a view to assisting prisoners of war, shall be allowed to minister to them and to exercise freely their ministry amongst prisoners of war of the same religion, in accordance with their religious conscience. They shall be allocated among the various

camps and labour detachments containing prisoners of war belonging to the same forces, speaking the same language or practising the same religion. They shall enjoy the necessary facilities, including the means of transport provided for in Article 33, for visiting the prisoners of war outside their camp. They shall be free to correspond, subject to censorship, on matters concerning their religious duties with the ecclesiastical authorities in the country of detention and with the international religious organizations. Letters and cards which they may send for this purpose shall be in addition to the quota provided for in Article 71.

(To be concluded.)

*THE INTERNATIONAL COMMITTEE OF
THE RED CROSS AND AID TO PALESTINE
REFUGEES*

All the information which has reached Geneva on aid to the Palestine refugees in the area where the International Committee of the Red Cross (ICRC) is working ¹, tends to show how difficult are the problems raised by the conflict in the Near East.

When in the Autumn of 1948, the United Nations voted 29,500,000 dollars to assist the refugees until August 31, 1949, and requested the help of welfare organisations in the distribution of relief, the number of refugees was put at some 500,000. This was the figure given by the Mediator in August 1948, but the number was considerably increased, after October, by the war in the Negev and the conquest of Northern Galilee by the Jewish forces. On December 7, 1948, Sir Ralph Cilento, who until then had been in charge of the United Nations relief, put forward the figure of 760,000 refugees at the first joint meeting at Beyrout of the welfare organisations to whom distribution of relief was to be entrusted ². He estimated that 40% of the total, or roughly 300,000 refugees, were in the area for which the ICRC would be responsible.

The number of refugees in this sector, however, proved far in excess of this figure. It had reached 476,850 at the end of May 1949, as shown in the following table which is taken from the Report for the period January 1 to May 31, 1949, of the ICRC Commissioner for Aid to Palestine Refugees :

<i>Month</i>	<i>Jericho</i>	<i>Ramallah</i>	<i>Nablus</i>	<i>Jerusalem</i>	<i>Bethlehem</i>	<i>Hebron</i>	<i>Israel</i>	<i>Total</i>
<i>Jan. . .</i>	30,000	57,000	120,000	30,000	15,000	40,000	47,000	<i>339,000</i>
<i>Feb. . .</i>	65,500	72,000	128,500	26,000	28,000	52,000	47,000	<i>419,000</i>
<i>March .</i>	65,500	72,000	125,700	26,000	32,000	52,000	47,000	<i>422,200</i>
<i>April .</i>	72,800	72,000	127,700	26,000	32,000	77,500	47,000	<i>455,000</i>
<i>May... .</i>	72,400	72,000	127,700	28,400	38,000	91,350	47,000	<i>476,850</i>

¹ See *Revue internationale*, English Supplement, Vol. II, Jan. 1949, p. 58.

² The ICRC for Northern and Central Palestine; the League of Red Cross Societies for countries bordering Palestine; and the American Friends Service Committee for Southern Palestine.

In spite of successive adjustments, relief continued to be allocated by UNO in terms of figures lower than those shown above. In April 1949, for example, it was short by 113,000 rations, or almost 25%, and the effect was to reduce by the same proportion the size of individual rations.

Meanwhile, the Director of the United Nations Relief to Palestine Refugees (UNRPR) had, in February 1949, warned the three distributing organisations against allowing the lists of beneficiaries to be abusively swollen. If, he said, a refugee could be defined loosely as a person who had left his home because of the happenings and the consequences of the war, it was necessary to stipulate still further that he should actually be indigent and have lost his means of subsistence.

It was extremely difficult in practice, however, to establish a rigorous control and the Report referred to above explains why :

“ On our arrival, we had to work on the only available documents, namely, lists drawn up by the local authorities or district Committees in places where attempts had been made to assist the refugees. In the early days, and while it was a question of relief from local sources, there is no doubt that these bodies were guided only by the desire or necessity of aiding, and that the lists were then comparatively trustworthy. It was at that moment that both census work and the distribution machinery should have been taken over and built up with new and powerful resources. Self-interest and greed followed the appearance of foreign relief, and the way was open to falsification of the lists : the number of refugees increased as if by magic. The arrival of large-scale supplies did not help to diminish the interest of profiteers, parasites and middlemen. If we had had an effective census machinery from the beginning we could have quickly discovered and eliminated these undesirables.

“ We should certainly have had the utmost difficulty with the interests which now swallow up a good part of the relief, to the detriment of *bona fide* refugees ; if this struggle had been started right from the beginning, however, it would have been less difficult than today, when the evil has taken root. Weeding-out meets stubborn resistance, both passive and active ; lies, cheating, personal attack—anything is good enough for our investigators and delegates. And this is not to mention cases of physical assault.

“ Only an official census under strict military control would have any chance of success, but no census of this nature has been taken.

Funds were lacking to secure effective civil control. The Occupying Government wanted a census, but was put off by the expense, and we have not been able to act as substitute, because the money was not available. That, also, would have met with serious difficulties; little support could have been expected from authorities whose direct interest it is to have all their poor fed at the expense of an international organisation."

It would be logical to withhold assistance from nomads and poor inhabitants who are the responsibility of the village councils. It is hard to get away from the fact, however, that, from a humanitarian point of view, it is practically impossible to draw a dividing line between refugees and the resident population whom the war has deprived of its normal means of subsistence. The ICRC delegates were frequently asked to extend relief to villages near the battle front, but had to refuse, except in one case where the military commander threatened to evacuate the population and thus transform it into "refugees" qualified to receive relief.

Many nomads did really lose flocks and pasture. Others did not suffer the same loss, but it is difficult to prevent either class from being swallowed into the crowds of refugees eligible for assistance.

The ICRC Commissioner further points out that some of those who fled in the beginning had resources and did not have themselves registered as refugees; when these resources diminished, they were forced to turn to the Commissariat for help. In brief, the number of indigents multiplied in the whole country because its economic life was dead ¹.

In an effort to make figures as realistic as possible and to eliminate those not entitled, the ICRC succeeded, with the cooperation of UNO, in reducing figures by 25,000-30,000; it was, however, necessary to include almost 60,000 new refugees, mostly recent arrivals from Israeli territory.

Of the 476,000 persons assisted in the ICRC zone in Palestine, about 40% are children. The proportion tends to increase,

¹ It was for this reason that the ICRC had to undertake relief to the poor of Jerusalem, independently of UNO. See *Revue internationale*, May 1949, pp. 228 and ff.

as there is a high birth-rate. Expectant and nursing mothers represent 10% of all refugees.

These figures emphasise the importance of relief given at the expense of UNO by the United Nations International Children's Emergency Fund (UNICEF), which, with UNRPR, has provided nearly all the foodstuffs distributed. Several Red Cross Societies, specialised agencies, private donors and the ICRC itself have also contributed relief.

For the period January 1-May 31, 1949, the Report summarises the basic allocations of UNRPR to the ICRC Commissariat as follows :

<i>Principal foodstuffs</i>	<i>Jan.</i>	<i>Feb.</i>	<i>March</i> (in tons)	<i>April</i>	<i>May</i>
Flour	2,165	2,255	2,900	3,684	3,669
Dried vegetables.	240	250	249	332	332
Oils	140	150	58.5	79	75.5
Sugar	—	100	64.5	87	87
Dates	425	200	205	267	213 (sugar)
Canned Fish . .	—	—	112	146	173 (rice)
Totals	2,970	2,955	3,589	4,595	4,549.5

Certain additional commodities were also supplied by UNRPR, namely :

<i>Articles</i>	<i>Jan.</i>	<i>Feb.</i>	<i>March</i>	<i>April</i>	<i>May</i>
Blankets	48,500	29,600	—	—	—
Tents	150	500	—	250	—
Tinned beans . .	—	15 t.	—	—	—
Dried figs.	—	—	20	—	—
Dates	—	—	118 t.	—	—
Beans	—	—	5.5 t.	—	—
Cod liver oil. . .	—	—	—	13 t.	—
Soap	—	—	—	13 t.	—

UNICEF allocations were as follows :

<i>Goods</i>	<i>Feb.</i>	<i>March</i> (in tons)	<i>April</i>	<i>May</i>
Whole milk powder . .	22.5	22.5	24.75	24.75
Powdered skim milk . .	192	192	211.2	211.2
Sugar	48	48	—	48
Margarine	50	50	52.8	52.8
Tinned meat	50	50	—	—

The ICRC Commissioner also received funds and goods, as summarised in the two tables which follow :

FUNDS

March 8, 1949	UNICEF Beyrouth for " milk action "	£ Leb.	14,865.50
April 14, 1949	American Red Cross Beyrouth Junior Red Cross Fund for children	£ Leb.	17,150.—
May 19, 1949	UNESCO Paris for schools at Jericho	£ Leb.	6,000.—
May 1949	Jewish Society for Human Service, London, per the British Red Cross For camps in Jericho	£ Pal.	2,522.—

GOODS

	<i>Tons (approx.)</i>
American Red Cross	44
Danish Red Cross	30
Swedish Red Cross	30
Canadian Red Cross	159
Belgian Red Cross	0.5
Indian Red Cross	1.3
South African Red Cross	0.8
Liechtenstein Red Cross	0.5
Jewish Society for Human Service	0.3
Church World Service	15.4
Belgian Mission for Palestine	18.4
Council of British Societies for Relief Abroad	4.2

These figures are evidence of a considerable effort. Nevertheless, the ICRC Commissioner calculates that, in spite of the large amounts involved, persons assisted received no more than about 1,200 calories per day—a striking illustration of the sort of life these refugees will have to lead as long as their only means of subsistence are that furnished by international aid. The figure of 1,200 calories may be compared with the figures in the table of minimum requirements, drawn up by Professor Vannotti, of the University of Lausanne, a member of the

ICRC, who, when the Committee began its work in Palestine, was asked to investigate medical aspects of the situation :

2,500 calories (normal activity) ;
1,800-2,000 calories (less than normal activity) ;
1,500 calories, the minimum possible for short periods
(1-3 weeks) only, and excepting heavy
workers, pregnant women, and so on.

This low standard of feeding makes the question of medical care to refugees all the more important ; in this connection the following extracts from reports received by the ICRC may be of interest :

" ... Today, the ICRC Commissariat is certainly better prepared than was the ICRC Delegation last year when, with the aid of a few devoted nurses, it made ceaseless efforts to ward off the worst. For its medical work alone the Commissariat now has a staff of 394 (forty from Switzerland, two belonging to the Danish Red Cross and 352 taken on locally). This considerable force, directed by Dr. René Sansonnens, includes 30 doctors. Nevertheless, work was extremely difficult in the beginning. Everything had to be created, including a working plan—an essential preliminary to the granting of credits. Inevitable delays, primitive working conditions, and the general environment were a trial even to the most easy-going.

The action developed by stages in Arab Palestine ; it extended also to Israel, when under the terms of an agreement the medical service was allowed to assist Arab refugees in Northern Galilee.

The first job of the Medical Service was to complete the clinics already operating in certain camps, and above all, to create new ones. At present there are in Jericho, Bethlehem, Tulkarem, Djenin, Nablus, Ramallah, Hebron and Jalazone twelve clinics, installed either in the principal camps or in areas where the concentration of refugees is greatest. Mobile dispensaries operate from these centres and provide medical relief inside a given radius. From January to May 1949, the number of patients seen daily increased from 700 to 2,100. The Medical Service also took over several hospitals : one at Hebron (60 beds), two at Jerusalem, the Bethany (49 beds) and the Augusta-Victoria (280 beds). The Augusta-Victoria, completely reinstalled, includes a tuberculosis department and contains also a central stock of medicaments. Beds have also been reserved for refugees in private institutions, generally against supplies furnished by the Commissariat. Thus the Austrian Hospice at Jerusalem holds 93 beds for refugees. A Maternity Hospital and several Child Welfare Centres were also set up.

The absence of laboratories in Arab Palestine seriously hampered the work of the doctors for a long time. Routine analyses can now be done at Nablus, Bethlehem, Bethany and Hebron, while UNICEF has presented the Augusta-Victoria Hospital at Jerusalem with a laboratory fully equipped for serological and bacteriological examinations.

In addition to curative work, much was done to improve and protect public health. Centres for the issue of milk provided by UNICEF were opened throughout Palestine. Roughly half the population benefit from them and their value is particularly great in a country where children's diseases are so common and so deadly.

Most important, perhaps, were the measures taken to prevent epidemic outbreaks.

The cleaning-up of camps and certain localities, the disinfection of refugees and their instruction in elementary hygiene called for the creation of a special service, 117 strong and including inspectors and teams of workers. The provision of drinking water is everywhere a problem which can be solved only to a limited extent. Where water catchments are not possible, resort is had to chemical sterilisation. Piping, reservoirs and other important works were completed or are under way.

From April to August 1949, 96 members of another auxiliary group were engaged in a campaign against malaria. The destruction of mosquitoes by DDT, either in powdered or liquid form, was a basic protective measure. Fifteen mobile teams worked in the areas most notorious for epidemics. All the camps were treated, the caves and other places where refugees sheltered, as well as 188 localities and certain buildings in the large towns, amounting in all to more than 20,000 tents, 95,000 rooms and 7,000 hutments. Some nineteen tons of DDT in varying degrees of concentration, representing 8,275 kilos of pure DDT, were used. Where this system did not prove practicable, Malariol was employed. Recent statistics show how effective was the campaign, which extended protection to about 432,000 people.

DDT was used also for delousing, to diminish the risk of exanthematic typhus; about 143,000 people were twice treated with powder. Among the other public health measures applied on a large scale was the destruction of flies, successfully carried out by using a suitable product.

The Medical Service also instituted mass vaccination to prevent the development of certain infections. There were almost 200,000 immunisations against smallpox and a number only slightly less against typhoid.

It may be said, in conclusion, that on the whole, the measures taken have had satisfactory results. An epidemic of exanthematic typhus which had affected about 200 people was rapidly strangled. It

is true that there are still cases of smallpox, typhus and typhoid, and in much greater number, malaria, dysentery, acute conjunctivitis and trachoma, all of which are common in these areas. Tuberculosis continues to be one of the major worries of the Medical Service, not because it appears to be beyond what might reasonably be expected, but because the conditions necessary to arrest it—facilities for investigation and isolation, adequate food, etc.—are amongst the most difficult to provide. Plans for more hospital accommodation have been made, and it is hoped to open shortly a camp for the tuberculous. In addition, the Danish Red Cross, which has started an anti-tuberculosis campaign in co-operation with UNICEF in various countries, has sent several medical teams to the Near East. One of these teams is working in Arab Palestine and, since September 1948, has been testing and vaccinating with BCG. Data collected so far are too incomplete to make it possible to gauge the development of tuberculosis. Registered cases and clinical observations point to a form characterised by rapid decline and a high death-rate.

As a general rule it may be said that among adults, health is relatively satisfactory, but infants and young children continue to give cause for anxiety in spite of the remarkable results obtained by the Child Welfare Centres. It is remarkable that no contagious diseases have become epidemic during recent months. We need only think of the precarious living conditions of the refugee population and the great danger to which these give rise, to realise that this fact alone is evidence of real success."

Such are the results. In spite of many difficulties still to be overcome, they are not negligible.

Life for the Palestine refugees is, however, far from normal and they cannot live without the assistance which has now lasted for more than a year. But they are fatalistic as well as frugal in their way of life, and seem content to vegetate, their number increasing all the time. The last General Assembly of the United Nations found itself faced with a moral obligation to continue relief. But its decision, like all previous ones, is provisional only and will not of itself suffice to solve the problem of the Palestine refugees. Further, it is one aspect only of the immense general problem of refugees which is the responsibility of the United Nations.

The Universal Declaration of Human Rights proclaims "the right to life" (Article 3), "the right to freedom of movement and residence within the borders of each State", as well as

“ the right to leave any country, including one’s own, and to return to one’s country ” (Article 13), and “ the right to seek and to enjoy in other countries asylum from persecution ” (Article 14). But this solemn charter has not yet been embodied in the codified law of nations. One or more international conventions will be required to oblige States to make their legislation conform to it. Acting on a proposal of the ICRC, the Stockholm Conference approved an Article concerning refugees which was inserted in the Draft Convention for the protection of civilians in wartime. The Article ran as follows :

“ The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to facilitate the return to their domicile, or the settlement in a new residence of all persons who, as the result of war or occupation, are unable to live under normal conditions at the place where they may be.

The High Contracting Parties shall, in particular, ensure that these persons may be able to travel, if they so desire, to other countries and that they are provided for this purpose with passports or equivalent documents.”

Nevertheless, the Geneva Diplomatic Conference did not approve the insertion of this text in the Civilian Convention. The Conference considered that the question was too vast to be dealt with in this short Article, and that it should preferably be made the subject of special agreements.

During the recent session of the United Nations General Assembly, the Third Commission in turn examined the question of refugees, with a view to deciding what measures should be taken on the expiration of the mandate held by the International Refugee Organisation. A proposal of the Lebanon Delegation was adopted, to the effect that the international protection of refugees is the responsibility of the United Nations ; it was passed and ratified by 18 votes to 8, with 16 abstentions.

This vote, however, is no more than a “ declaration ”. Sooner or later, as the Delegate of Canada declared at Geneva, an international agreement will be required to deal with the protection of displaced persons, refugees and the stateless. All such persons are, in different ways, the victims of circumstances which involve, to some degree, the responsibility of all nations.

Is it possible, in the difficult question of refugee assistance, to find a reasonable compromise between the rights of the individual and the rights of the State ?

It follows from the right of asylum, practised and respected since the dawn of civilisation, that responsibility for the refugee falls in the first instance on the authorities of the country of refuge. But, if refugees need assistance, and if such assistance is more than the country of asylum can bear, a common international responsibility should be recognised. And, if the interest of individual refugees calls for an intermediary between them and the authorities in the new country, especially in questions of international assistance, recourse could be had to the offices of a humanitarian organisation such as the Red Cross, whose work for the wounded and sick, prisoners of war, and civilians in wartime is already provided for under the Geneva Conventions.

The experience of aiding the Palestine refugees has shown that, in the absence of responsible public authority, civil order is precarious, and that, in matters of relief, it is difficult to respect the intentions of donors. The same authority should also bear a reasonable share in assisting its own nationals, as it is bound to do with regards to every person depending on it, either *de jure* or *de facto*.

Common justice calls for generous international support in dealing with the consequences of international conflicts. It was thus that after the first World War, the interdependence of peoples led the League of Nations to take the protection of refugees in hand, and to appoint Fritjof Nansen as its High Commissioner for this purpose.

Assistance on a large scale demands the cooperation of experienced organisations imbued with the humanitarian spirit. Help will thus be given, free from any political considerations, by men whose only interest is to relieve suffering and who, remembering that they are first human beings dealing with other human beings, will attenuate the hardships almost inseparable from any purely routine administration.

In Palestine, this humane approach is a guiding principle for the International Committee, the League of Red Cross Societies and the American Friends Service Committee. It

remains, however, that the zeal and work of welfare organisations can be exploited to the full only if—in addition to their own resources—they have powerful financial backing and the support of an effective public authority.

H. C.