



SUPPLEMENT

VOL. III

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

Vol. III, 1950

GENÈVE

1950

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

January 1950

Vol. III, No. 1

CONTENTS

	Page
Jean S. Pictet, <i>Director-Delegate of the International Committee of the Red Cross. The New Geneva Conventions: Retention of members of the Army Medical Services who have fallen into the hands of the Enemy (Continued)</i>	2
The International Committee of the Red Cross and Aid to Palestine Refugees	18

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

Jean S. PICTET

Director-Delegate of the International Committee of the Red Cross

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' representative¹.

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 Beyrout for " milk action "	£ Leb.	14,865.50
April 14, 1949	American Red Cross Beyrout 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.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE

ET

BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

February 1950

Vol. III, No. 2

CONTENTS

	Page
Jean S. Pictet, <i>Director-Delegate of the International Committee of the Red Cross</i> . The New Geneva Conventions: Retention of members of the Army Medical Services who have fallen into the hands of the Enemy (<i>Continued</i>)	30
The ICRC in India and Pakistan: The Kashmiri Refugees	38
Displaced Greek children.	43
Reunion of Displaced Families.	43
Signature of the four Geneva Conventions of August 12, 1949.	44

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

JEAN S. PICTET

Director-Delegate of the International Committee of the Red Cross

THE NEW GENEVA CONVENTIONS

RETENTION OF MEMBERS OF THE ARMY MEDICAL SERVICES WHO HAVE FALLEN INTO THE HANDS OF THE ENEMY

(Continued)¹

D. — Provisions of the Prisoners of War Convention which are applicable to Retained Personnel.

This seems a suitable place to collate the provisions of the 1949 Prisoners of War Convention which are applicable to retained personnel—a course that is essential if we are to know what conditions are prescribed for them. As this somewhat complex problem has not been studied hitherto the reader should consider the following remarks as being no more than a provisional summary. We must hope that the Powers will, by means of agreements, themselves clarify the points which are still obscure.

We have seen above that retained personnel “shall at least benefit by all the provisions of the Geneva Convention of 1949 relative to the Treatment of the Prisoners of War”, which means, as stated specifically in the Convention, that they shall “receive as a minimum the benefits and protection of the present Convention”.

The idea of “benefits” must be considered here as affecting not prisoners of war, but medical and religious personnel who are not prisoners. In other words, we must try to determine now what “benefits” accrue from the application of prisoner of war status to the said category, namely, medical and religious personnel who are not prisoners of war.

¹ See *Revue internationale de la Croix-Rouge*, English Supplement, Vol. II, No. 12, Dec. 1949, pp. 487-501; Vol. III, No. 1, Jan. 1950, pp. 2-17.

The idea of "benefits" is not the only point to be considered. The special status of retained medical personnel has other aspects which must be examined and can be summarized as follows :

(1) — In matters to which special provisions relating to retained personnel and similar provisions relating to prisoners of war both apply, the first-named always take precedence.

(2) — In matters regulated only by provisions designed for prisoners of war, it is necessary to take into consideration certain consequences of the special position and duties of retained personnel. They may be stated as follows :

(a) — The effective carrying out of the medical and spiritual duties for the benefit of prisoners should be the determining factor. In case of doubt, the solution chosen should be the one which will most favour it.

(b) — The retained personnel is in fact, within inevitable limits, at liberty ;¹

(c) — The retained personnel is subject to military discipline in camp.

This much being said, the fact that the provisions of the Prisoners of War Convention are in their great majority immediately applicable to retained medical and religious personnel makes it necessary to study only such clauses as are not entirely applicable, or whose application needs particular study. Articles not included below may be deemed to apply automatically to retained personnel.

Article 12, Paragraphs 2 and 3. — These lay down the safeguards required, when prisoners of war are transferred by the Detaining Power to another Power which is party to the Convention and in a position to observe its requirements. The problem does not arise directly out of this provision, because it is clear that in the event of transfer, the retained personnel should have the same safeguards.

¹ See *Revue*, English Supplement, Vol. III, No. 1, Jan. 1950, pp. 9-10.

But can transfer, recognised implicitly as being possible in the case of prisoners of war, be taken to include retained personnel also? As the advantages and disadvantages of transfer are a matter of appreciation, which will vary from one case to another, it is difficult to decide without taking a further element into consideration, namely, the prisoners' right to medical care. This would incline us to the opinion that transfer of medical personnel should be permissible, in so far as the needs of prisoners demand it in the country where they will be detained anew.

On the other hand, no Detaining Power is justified in transferring medical personnel to another Power where there is no accompanying transfer of prisoners of war. The retention of medical personnel is provided for in the First Convention only for the benefit of the Power into whose hands they have fallen, and for the purpose of assisting prisoners in the same hands.

Article 14, Paragraph 3. — The clause provides that the Detaining Power may not limit prisoners in the exercise of their civil rights, except in so far as captivity requires. As retained personnel are not, from a legal point of view, in captivity, the Detaining Power cannot limit the exercise of their civil rights. It is nevertheless clear that circumstances resulting from their retention on enemy territory may, on occasion, limit such exercise.

Article 18, Paragraphs 4 and 5; Articles 58 and 59. — These clauses state the safeguards that must attend the impounding of sums of money and articles of value from prisoners of war. Here again, as in Article 12, the difficulty does not arise from the enumeration of these safeguards, which could only be of benefit to the medical personnel. But can impounding, recognised implicitly in the case of prisoners, be applied also to retained personnel? In principle, the answer is: No. Nevertheless, adequate security reasons may, exceptionally, justify the Detaining Power in taking certain measures of this sort in specific cases.

Article 21, Paragraph 1. — The essential provision here is that prisoners of war may be interned. Even if this Article does not legally apply to medical and religious personnel (who are not prisoners of war), it is none the less true that, as a result, their liberty will be restricted. This has already been referred to above ¹.

Paragraph 2 provides that “prisoners of war may be partially or wholly released on parole or promise”. It seems that, by analogy, this could apply also to medical personnel; in return for their promise not to attempt escape they would be authorised to move about freely without escort. It is a measure which appears wholly desirable.

Article 26, Paragraph 4. — Prisoners of war shall be associated with the preparation of their meals and may be employed for that purpose in the kitchens. As retained personnel can be obliged to do only work directly connected with their specific duties, they can not be compelled to work in the kitchens; should they do so, it would be in a voluntary capacity only.

Article 46. — This deals with transfers of prisoners inside the territory of the Detaining Power, and could apply to retained personnel, who would naturally follow the prisoners to whom they are attached, if medical needs in the new place of detention so require.

Articles 49 to 57. — These refer to the labour of prisoners of war. As a general rule, the procedure laid down in the Articles referring to the work to which prisoners may be assigned (Articles 49, 50, 52, 56 and 57), does not apply to retained personnel.

Other provisions dealing with working conditions, rest, exemptions and accidents should be considered as applying, in so far as they are compatible with the carrying out of medical or spiritual duties and the exigencies these normally imply ².

¹ See *Revue*, English Supplement, Vol. III, No. 1, p. 9.

² Thus, for example, medical orderlies will not cease work if there are patients in urgent need of attention.

Article 62 provides that prisoners of war who work shall receive "working pay" (formerly referred to as "wages"), which shall not be less than one-fourth of one Swiss franc a day.

This pay has a direct connection with the fact that prisoners are obliged to do work which is not of their choice; it may therefore be asked if retained personnel, whose work for prisoners of war is that which they do normally in their own forces, should be entitled to pay.

We are inclined to think so, because it is obviously to their advantage; they also are compelled to work—even if it is to do the work which is normally theirs—and further, *Article 62*, paragraph 2 grants working pay to prisoners of war¹ who are required to lend medical or spiritual assistance to their comrades. A difference of treatment would therefore appear to be inequitable. It is, however, desirable that belligerents should define exactly, by agreement, what is meant at this point.

Article 76 refers to censorship by the Detaining Power of prisoners' mail. If *Article 35* lays it down that the correspondence of chaplains shall be subject to censorship, there is no such special provision for medical personnel, any more than there is for the prisoners' representative. As the Detaining Power has an obvious right to ensure its own security, it seems reasonable that the correspondence of the medical personnel may also be subject to censorship, but censorship should not be allowed to hinder them in the performance of their duties.

Article 79 deals with the election of the prisoners' representative. It does not apply—see what has been said above, under (C).

Articles 82 to 108 deal with safeguards for prisoners prosecuted for offences with which they are charged. As these safeguards could only be to the advantage of retained personnel, they may be considered as being applicable.

¹ The persons referred to are those who in civil life have a medical profession or religious vocation, but have served in a combat unit and not in the medical service or as chaplains; therefore, on capture they become prisoners of war. The mention could also include auxiliary medical personnel, whom we shall speak of later.

Article 92 provides that unsuccessful attempts to escape shall render prisoners liable only to disciplinary punishment. As medical personnel are not prisoners, one could not properly speak of escape in their case, but rather of abandoning their posts. It has sometimes been held that such acts should be regarded with more severity than the escape of a prisoner of war, as they involve to a certain extent a breach of professional duty. This is a matter which can best be left to the judgment of the country of origin, which, if it so wishes, can give suitable instructions to its medical personnel and itself provide for penalties in cases of flight. Even when in enemy hands, the medical personnel remains, as do also the prisoners of war, in the service of their home country. It is easy to visualise therefore, the conclusion of an agreement between the interested Powers, to prevent abandon of duty.

The Convention alone does not entitle the Detaining Power to consider abandon of duty by prisoners of war as more than a breach of camp discipline, and under the Convention it is an offence punishable by disciplinary measures only.

Articles 109 to 117, dealing with the repatriation of seriously ill and wounded prisoners, should be made to apply to retained personnel. As the International Committee constantly demanded during the recent War, retained personnel should have every opportunity for presenting themselves before the Mixed Medical Commissions.

It is not easy to see how, except in special circumstances, the provisions for the accommodation in neutral countries of sick and wounded prisoners of war (to allow them to regain their health without being returned to their home country) could refer to medical and religious personnel; both categories have a right to be returned to their home country as soon as their presence in the camps is no longer indispensable, and they remain, so to speak, perpetual candidates for repatriation. Therefore, illness which would entitle a prisoner to accommodation in a neutral country should automatically lead to repatriation in the case of retained personnel. Indeed, from the moment their state of health prevents them from performing medical

duties, there is no longer any justification for retaining them in the camps and they should be allowed to return home.

E. — *Conclusions.*

It may be useful at the end of this study of Art. 28, paragraph 2, to summarise the various elements which to go to make up the special status of medical and religious personnel fallen into enemy hands and retained to care for their countrymen who are prisoners :

(1) — They are not prisoners of war, but enjoy an immunity which attaches to their status ;

(2) — Because of their position as “ retained persons ”, their enemy nationality and the necessity for the Detaining Power to ensure its security, their liberty is, in fact, restricted ;

(3) — In the performance of their duties they are subject to the laws and regulations of the Detaining Power, and to its responsible services ;

(4) — Even apart from the question of their duties, they are subject to camp discipline ;

(5) — Their work is done in harmony with their professional ethics ;

(6) — They may not be compelled to do any work foreign to their proper sphere of duty ;

(7) — They may visit labour detachments and hospitals ;

(8) — The “ responsible medical officer ” and the chaplains have direct access to the authorities and have special facilities for correspondence ;

(9) — They shall have *as a minimum* the benefit of the protection and advantages of the Prisoners of War Convention, in so far as that Convention concerns matters not already dealt with in a special manner for them (see Nos. 3 to 8 above).

Paragraph 3. — Relieving of medical personnel.

During the recent war, certain belligerents contemplated the relief of doctors held by the enemy, by personnel from the

home country, the former being then repatriated. A beginning was made in the case of some Yugoslav doctors and of a larger number of French medical officers held in Germany.

The Diplomatic Conference (1949) did not consider it possible to introduce a binding arrangement on these lines, but confined itself to leaving belligerents free to conclude an agreement. Security considerations would of course create difficulties, and it is worth pointing out that when relief on a partial scale was found possible during the recent War, it was when the home country of the medical officers concerned was itself occupied by the Detaining Power.

The Conference, nevertheless, in its Third Resolution invited the International Committee to draw up a model agreement for use in such cases.

Paragraph 4. — General obligations of the Detaining Power.

The Article ends by stating that none of its provisions shall relieve the Detaining Power of the obligations imposed on it with regard to the medical and spiritual welfare of prisoners of war.

Under the Prisoners of War Convention, the Detaining Power is bound to provide, free of charge, whatever medical attention the prisoners' state of health may require, to take any necessary public health measures, to set up and operate suitable hospitals, and so forth. It is also bound to allow prisoners to practise their religion, and to provide suitable premises for that purpose.

A Detaining Power may not avail itself of the fact that medical and religious personnel are retained, as an excuse to avoid obligations or as justification for a dereliction on its part; it may not, for example, find in the retention of medical personnel a reason for not making available, from amongst its own men, the additional numbers which may be necessary.

Retention, as the new Convention regards it, should remain a supplementary measure taken for the good of the prisoners themselves and to assist the Detaining Power, which, however, will continue to be fully responsible for prisoners of war in its hands.

(To be concluded.)

THE ICRC IN INDIA AND PAKISTAN

THE KASHMIRI REFUGEES¹

In 1947, British India was partitioned and became the two independent States of India and Pakistan. There followed what was probably the greatest movement of population in history. Over ten million persons, sometimes with, sometimes without their belongings, crossed from one to the other of the new States. This mass migration involved the new Governments of India and Pakistan in problems which—it is easy to understand why—are still far from settled.

Moreover, while most of the Indian States attached themselves pacifically to India or Pakistan, an armed conflict broke out in Kashmir and became more and more bloody during 1948. Bands from the North East Frontier province, later followed by units of the Pakistan Army, rapidly joined the armed forces from Western Kashmir. These troops advanced to the limits of Srinagar and then fell back before the army of Maharajah Abdullah and the Indian troops he had called to his assistance.

At the cease-fire on December 31, 1948, over two million people—half the population of Kashmir—had fled into the mountains, where paths are few and dangerous and where many died of hunger and exhaustion while trying to cross the snow-bound passes.

Since January 1, 1949, the antagonists stand face to face, dividing Kashmir in two parts: "Azad Kashmir" to the West and North, protected by Pakistan, and the "Jammu and Kashmir State" in the centre and East, defended by the Indian Union.

Several hundred thousand refugees now returned home and resumed their former occupations, but nearly one million are still homeless and live in camps, with friends, or in small groups which the Government finds great difficulty in feeding.

¹ Extract from a report submitted to the I.C.R.C. by its delegates to India and Pakistan. See *Revue*, May 1949, p. 332.

It is scarcely possible in their case to draw any distinction between "refugees" and "displaced persons", since the latter, on their return home, found only ruins and devastation.

Kashmir has no railroad; civil and military aircraft can land only in two airfields to the extreme North of Azad, or on two others in Jammu and Kashmir State. Even the typical winding roads, many of them blasted in the sides of precipices, serve only the principal valleys, and transport is by mule-pack or more often by portage. Much of the land is no longer cultivated; the rice fields lie waste, and to cap all, were flooded in 1948. Distress is so general that its multiple problems cannot be solved without outside help. Azad and Jammu-Kashmir appealed respectively to Pakistan and the Indian Union. Both countries were already burdened with the responsibility for the millions of people who had taken shelter with them during the 1947 partition, and were thus unable to give more than palliative relief.

Conditions for refugees, either in Azad Kashmir (Pakistan) or Jammu-Kashmir (India), vary greatly according as they live in camps, or outside.

AZAD KASHMIR

About five thousand refugees are lodged either in transit camps, or in so-called "summer" camps, situated near destroyed and depopulated villages, the reconstruction of which is now being attempted. These people live under canvas and receive practically the same food and medical attention as the refugees in the West Punjab camps.

About 150,000 refugees are to be found outside the camps, including some 50,000 children under 12 years of age. The adults are agricultural workers, who live from hand to mouth. The Government found itself obliged to issue rations free to the wholly destitute, and to sell food at reduced rates to the other inhabitants, who have been impoverished through the failure of the crops in 1948 and the very poor first harvest of 1949. Rations cannot be further reduced; the daily figures are 340 grams wheat flour, mixed with maize, for adults, and

170 grams for children. This starvation diet is slightly increased in the case of the poorest.

The refugees' clothing is wretched. Health services are practically non-existent. The authorities are, it is true, endeavouring to provide better hospital accommodation, but have not the money to do so. Malnutrition has seriously reduced the physical stamina of the refugees, who are a much readier prey to disease, so that slight infections often become serious. Diseases most commonly occurring are: pellagra, hunger oedema, recurrent fever, smallpox, exanthematic typhus, typhoid fever, bacillary dysentery, tuberculosis, venereal, skin and eye diseases, and hookworm. The insufficient number of medical officers and staff, and the shortage of medicaments make the treatment and care of patients a matter of great difficulty.

In short, although the general situation of the refugees in this area is better since the beginning of 1949, no marked improvement is likely until food production goes up.

WEST PUNJAB (PAKISTAN)

Here also, we must distinguish between refugees living in camps and those outside, where conditions are very dissimilar.

About 100,000 refugees are accommodated in five large camps stretching along the Lahore and Peshawar road, near the border of Afghanistan. These great crowds, whose state of destitution at first beggared description, were not easy to govern, and the Pakistan authorities had to call upon the Army, which was quickly able to redress the situation.

The Army Medical Service did admirable work; local epidemics of exanthematic typhus were promptly stamped out; sanitary regulations were strictly enforced and an incredible chaos of men, women, children, animals and household goods was reduced to order. Camps became clean and the inmates disciplined. In spite of these changes, however, health conditions are still far from satisfactory. The harm done by past hardships of every sort cannot be repaired in a few months. In addition, an aimless existence, relieved of all personal

responsibility, can only end by sapping the morale and the energy of the refugees.

As they cannot settle in Azad Kashmir, the refugees will remain in the camps for many months, maybe for years. The Pakistan Government is apparently disinclined to make any decision about their case before its differences with the Indian Union are settled.

The actual number of refugees living outside camp is not known; the figure has been put at some 280,000, but the Government, which is now taking a census, believes that there are some 450,000 dispersed in villages and small towns throughout the country. Most of them come from the Western area of Jammu Province; they are small farmers and artisans who sought refuge in Pakistan when fighting began in the Autumn of 1947. Their living conditions, at first of the meanest, have much improved as the result of strict supervision imposed by the responsible department of the Ministry for Kashmiri Affairs. Rations are now regularly and equitably issued. The official rations are, it is true, no greater than in Azad Province, but these refugees can do paid work as agricultural labourers, and thus buy extra food. This is an incentive to their seeking employment. As a rule, however, they are worse off than the inhabitants; their clothing is as miserable as that of the other refugees, and their health is no better than that of the population, amongst whom sanitation and hygiene are practically unknown.

JAMMU AND KASHMIR STATE

With the exception of the refugees in camps, those who sought safety in Jammu-Kashmir are the most unfortunate, since they are widely dispersed in a mountainous country, where communications are extraordinarily difficult. In Azad and Western Punjab, the refugees are really "refugees", but in Jammu-Kashmir they are rather "displaced persons", whose holdings were ravaged; they include few refugees in the strict sense of the term.

There are five camps, all situated in the town of Jammu or its immediate neighbourhood. The camps are managed

and supplied by the Indian Government and contain nearly 30,000 people. Food, hygiene and medical care are fully up to requirements. As a result, the general death-rate, and infantile mortality in particular, are lower than amongst the population—a fact partly due to the excellent refugee hospital in Jammu.

As the numbers in camp are relatively small, the Government is arranging for the removal and settlement of the inmates in groups of a few hundred each, in the most productive districts, thus leading, it is hoped, to the final closing down of the camps. This, however, is still a distant prospect. The many destitute who cluster round the camps fill the gaps as soon as they occur.

The people living outside the camps are the worst off ; they include displaced persons as well as refugees. Their number cannot be accurately gauged, but the writer himself ascertained that at least 150,000 persons are in an unbelievable state of poverty. Some are gathered in groups of varying sizes, whilst others are dispersed all over the territory. The Government is unable to provide for their needs, but issues relief in the shape of meagre food rations to the poorest, the widows and orphans, and the disabled.

These people are in direst need of clothing, food and medical attention. In these scarcely accessible valleys we discovered what must be one of the most pitiful sights on earth : emaciated human beings, crouching in the shadow of ruined buildings which serve them for shelter ; the adults worn to a shadow, whilst their children, with bodies incredibly swollen through malaria, are covered with vermin and sores, their eyes closed with the exudations of conjunctivitis and hidden by swarming flies.

What must be done ?

Relief, adequate and comprehensive, is required *at once* : food ; clothing ; preventive sanitation ; medical officers and staff ; disinfection squads ; vaccination ; skin and eye specialists ; restoration of district hospitals ; medical stores and mobile dispensaries ; and transport facilities.

That, in broad outline, is a minimum programme, which should be followed by large-scale relief measures.

D^r R. Marti.

DISPLACED GREEK CHILDREN

The International Committee of the Red Cross and the League of Red Cross Societies have issued invitations to the National Red Cross Societies of the States directly interested in the return home of Greek children from countries in Central and South-West Europe, to meet in Geneva, on March 9 and 10.

The purpose of this meeting is to find a practical solution of the problem. Both International Red Cross organisations, acting at the request of the Secretary-General to the United Nations, have made several attempts to discover such a solution. It is hoped that this meeting may find means of giving effect to the two resolutions unanimously adopted by the United Nations General Assembly on November 27, 1948, and November 18, 1949.

REUNION OF DISPERSED FAMILIES

Following prolonged negotiations by the International Committee of the Red Cross, an agreement has been concluded between the American Occupation Authorities in Germany and the Czechoslovak Ministry of the Interior, for the transfer from Czechoslovakia to Germany during the next few months of 20,000 persons of German stock who wish to join near relatives already living in Germany.

The agreement states as its object the reunion of families broken up by the war and during the post-war years. Transfer to Germany is not under compulsion, but on the free choice of persons who fulfil the required conditions, i.e. who have relatives in Germany. About 400 persons are expected to travel weekly, and the first party is due to leave in mid-February.

The Prague Delegation of the International Committee of the Red Cross has been requested to help, in particular, by aiding emigrants to get the personal documents they may require and which are stipulated in the agreement. Delegates of the International Committee of the Red Cross will also escort the emigrant trains.

*SIGNATURE
OF THE FOUR GENEVA CONVENTIONS
OF AUGUST 12, 1949*

The six months period, beginning August 12, 1949, allowed for the signature of the four Geneva Conventions expired on February 12, 1950. On that date, 61 States had signed the Conventions. They are :

Afghanistan — Albania — Argentina — Australia — Austria — Belgium — Bielorussia — Bolivia — Brazil — Bulgaria — Canada — Ceylon ¹ — Chili — China — Colombia — Cuba — Czechoslovakia — Denmark — Ecuador — Egypt — Ethiopia — Finland — France — Greece — Guatemala — Holy See — Hungary — India — Iran — Ireland (Republic of) — Israel — Italy — Jugoslavia — Lebanon — Liechtenstein — Luxemburg — Mexico — Monaco — Netherlands — New Zealand — Nicaragua — Norway — Pakistan — Paraguay — Peru — Philippines — Poland — Portugal — Rumania — Salvador — Spain — Sweden — Switzerland — Syria — Turkey — Ukraine — United Kingdom — United States of America — Uruguay — U.S.S.R. — Venezuela.

Analysis of the above list shows that of 59 nations with plenipotentiary representations at the Conference, all have signed except Burma, Costa Rica and Siam.

Of four States which had observers, two, Poland and Jugoslavia, have signed, while the Dominican Republic and the Republic of San Marino have not.

Finally, three States not represented at the Diplomatic Conference have signed : the Philippines, Paraguay and Ceylon.

The results are very encouraging ; they make it reasonable to hope that ratification of the Conventions will take place in the near future, and that their entry into force will therefore not long be delayed.

¹ Except the Fourth Convention.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE

ET

BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

March 1950

Vol. III, No. 3

CONTENTS

	Page
Jean S. Pictet, <i>Director-Delegate of the International Committee of the Red Cross</i> . The New Geneva Conventions : Retention of members of the Army Medical Services who have fallen into the hands of the Enemy. (<i>Concluded</i>) .	46
Foundation for the Organisation of Red Cross Transport	61
The International Committee of the Red Cross and Aid to Palestine Refugees	63
Repatriation of Greek Children	68

Published by
Comité international de la Croix-Rouge, Genève
Editor : Louis Demolis

JEAN S. PICTET

Director-Delegate of the International Committee of the Red Cross

THE NEW GENEVA CONVENTIONS

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

Article 29. — Status of Auxiliary Personnel.

Members of the personnel designated in Article 25, who have fallen into the hands of the enemy, shall be prisoners of war, but shall be employed on their medical duties, in so far as the need arises.

This Article deals with “auxiliary personnel”, as they are usually called, who fall into enemy hands.

According to the First Convention (Art. 25), they are “members of the armed forces specially trained for employment, should the need arise, as hospital orderlies, nurses or auxiliary stretcher-bearers, in the search for or the collection, transport or treatment of the wounded and sick”.

As we are not called upon here to study Art. 25, we shall limit ourselves to a few remarks concerning the persons it refers to.

Whereas the characteristic of medical personnel, properly so called, is to be permanently and exclusively affected to medical work, persons mentioned here form a class that is devoted only partly to such duties. They should have received sufficient instruction to qualify them as auxiliary orderlies

¹ See *Revue internationale de la Croix-Rouge*, English Supplement, Vol. II, No. 12, Dec. 1949, pp. 487-501; Vol. III, No. 1, Jan. 1950, pp. 2-17; Febr. 1950, pp. 30-44.

or stretcher-bearers, so that they will be available, on occasion and in case of need, to take part in the search for, and treatment of the wounded. Otherwise, the commanding officer will attach them to any other branch of Army service.

This particular class, which until now has generally been small, includes in certain armies bandsmen who are also trained in first-aid. There is nothing, however, to prevent the category from including members of forces who are combatants pure and simple.

Such personnel, however, can belong only to armed forces, and not to a Red Cross or other relief society. Further, it includes only stretcher-bearers or orderlies, and not chaplains, doctors or administrative staff.

It was the 1929 Diplomatic Conference which introduced the innovation—by a majority of one vote—of putting auxiliary personnel, if captured while on medical duty, on the same footing as the permanent medical personnel. It followed from this that they would as a rule enjoy similar rights of repatriation. The 1929 Conference gave up the idea of according them special protection on the field of battle before capture, not believing it feasible to authorise them to wear the armlet¹.

The revised Draft Conventions, which preceded the text elaborated by the 1949 Diplomatic Conference, made no special provision for auxiliary personnel. The experts considered that protection would be more effective if it covered only the permanent medical staff. It was also pointed out that in the conditions of modern war, military personnel are captured in very large numbers, so that it is not possible to decide if certain of them were engaged in medical duties at the moment they fell into enemy hands.

The 1949 Convention has retained the category of auxiliary personnel, but has completely changed the manner of protection afforded to them. Auxiliary personnel shall now be protected on the field of battle even before their capture, but of course

¹ This does not mean that the enemy has the right deliberately to fire on them when they are engaged in collecting the wounded. If the enemy happens to recognise that they are auxiliary personnel, he is bound to respect them as such.

only during the time in which they are detailed for medical work ; during such periods, they are allowed to wear a white armband bearing a red cross of reduced size. On the other hand, once they fall into enemy hands, they become simply prisoners of war, and have no further right to repatriation. This is the subject matter of Art. 29.

The solution adopted by the Conference is justified on several grounds. First of all, the affinity of status between auxiliary personnel and permanent medical and religious personnel is superficial. For one thing, it is as much " combatant " as medical, and therefore repatriation would help to increase military strength in the home country ; in addition, since its medical functions are subsidiary only, the necessary instruction can quickly be given to other troops, who can be detailed to replace those captured.

Secondly, if the somewhat daring innovation of the 1929 Convention did not, fortunately, give rise to abuse, it was nevertheless open to it. It is not difficult to imagine a belligerent giving the elementary training of stretcher-bearers to large numbers of combat troops, in order to furnish them with a claim to repatriation, should they be captured.

Finally, as we have said above, troops are most often captured nowadays in large numbers, following encircling operations. When a body of troops is surrounded and disarmed, it is sent behind the lines, where sorting out begins. In most such cases, it will be impossible for the commanding officer to establish with any degree of certainty, whether or not certain prisoners were engaged on medical work at the time of capture—the more so as he himself would find difficulty in saying when precisely that moment was. It seems to have been this last argument especially which led the delegates in 1949 to reverse the former system.

Does it follow that the special training of these men will become useless from the moment they are taken prisoner ? Apparently not. The Conference was careful to provide that auxiliary personnel who become prisoners of war " shall be employed on their medical duties, in so far as the need arises ". The Detaining Power would therefore call upon them as far

as it may be necessary, and may occasionally, or even permanently, assign them the duty of caring for their own comrades.

Shall the proportion of medical personnel retained under the terms of Article 28 be decreased as a result of the presence of auxiliary personnel in the camps ?

The Convention here makes no specific provision, and does not link up the employment of auxiliary personnel with the retention of the permanent. The matter is left to private agreements which belligerents are invited to conclude, or in default, to the judgment of the Detaining Power which, under the terms of Article 45, is bound always to interpret in the most generous sense cases not provided for expressly in the Convention.

It may be remarked that auxiliary personnel receive training only as stretcher-bearers or auxiliary orderlies, so that their presence in camps would justify the repatriation only of corresponding permanent personnel, but not of the fully qualified. In addition, it is unlikely that there would be a constant need for stretcher-bearers in the camps, so that the problem is in fact limited to the orderlies.

If a number of them can satisfactorily and regularly carry out the work, the Detaining Power may justifiably consider the repatriation of a corresponding number of the permanent medical personnel provided for in Article 28, and would thereby act in accordance with the spirit and the general principles of the Convention.

What is then the status of auxiliary personnel in captivity ? If they are not doing medical work, their treatment is the same as for ordinary prisoners of war. If they are called upon to act professionally, it seems reasonable that they should have the benefit of the provisions of Article 32 of the Prisoners of War Convention, which applies to prisoners who, without having been attached to the Army Medical Service, are doctors, nurses, and so forth, and who have been called upon by the Detaining Power to act professionally. According to the text of Article 32 " they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power ".

Article 30. — Return of Medical and Religious Personnel.

Personnel whose retention is not indispensable by virtue of the provisions of Article 28 shall be returned to the Party to the conflict to whom they belong, as soon as a road is open for their return and military requirements permit.

Pending their return, they 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. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of the Party to the conflict to which they themselves belong.

On their departure, they shall take with them the effects, personal belongings, valuables and instruments belonging to them.

Paragraph 1. — Repatriation of medical personnel.

This repatriation, which is a fundamental principle of the Geneva Convention remains, as we have shown above¹, the essential rule ; retention is secondary only, a possibility. Consequently, all permanent medical and religious personnel² whose retention is not indispensable under the provisions of Article 28, which we have examined, should be sent back to the Power on which they depend. All medical personnel and chaplains beyond the number fixed by agreement and proportional to the number of prisoners, or, in default of such agreement, all who are not indispensable in view of the medical condition or spiritual needs of the prisoners, shall be repatriated. This is, for the Detaining Power, an absolute obligation. It springs not only from the letter of the Convention, but from its inmost spirit, which the latest revision has not altered : the medical personnel, by reason of its mission, must always be in a position to carry on their particular work. To hinder them by, for example, holding doctors idle while they might be saving

¹ See above *Supplement*, III, I. p. 4.

² The Diplomatic Conference rejected a proposal that only doctors, dentists and orderlies should be repatriated.

patients in their own country, would be gravely at variance with the Geneva Convention and the very idea of the Red Cross.

As the retention of indispensable personnel is now explicitly recognised by the new Convention and governed by carefully drafted rules satisfying the legitimate needs of States which consider it necessary to avail themselves of the services of medical personnel of the adverse Party, it is essential that the Powers should take to heart, all the more strictly, the obligation of respecting the basic principle of repatriation, now that its application is the more limited. The provisions of the new Geneva Convention flow from the underlying idea that sick and wounded soldiers form a group which must be cared for as well as possible, whether they are with their own forces or in internment camps. All the preliminary discussions were dominated by the desire to maintain an equitable balance between the needs of the wounded on the field of battle and those of prisoners of war.

The return of surplus medical personnel should take place, in the terms of this paragraph "as soon as a road is open for their return and military requirements permit".

Therefore, only physical impossibility or military necessity can be invoked as a reason for delaying their return. Passage across a fighting front is not always possible; similarly, transport overseas or across a neutral country cannot be organised from one moment to the next. Further, repatriation may be delayed, if there are good grounds for believing that medical personnel, at the time of capture, have been able to collect information of value on tactical or strategic questions which they could communicate on their return to their own Army Command.

The two conditions stated in Paragraph 1 are the only admissible ones; they should really be reasons, not pretexts¹. These conditions apart, repatriation should be immediate. It is important that measures should be taken to prevent repetition of the unjustifiable delay which occurred in the repatriation of medical personnel in two World Wars. If one really wishes, it is not physically impossible to hold fire just

¹ See Paul DES GOUTTES, *Commentaire*, p. 81.

long enough to allow the passage of a few hundred men ; neither is it impossible to ensure the security of a ship over a route agreed upon beforehand. Similarly, any information of military value which medical personnel might have been able to collect will very soon be out of date.

If belligerents allow themselves to yield to the temptation to delay the repatriation of surplus medical personnel on the off-chance that prisoners may later fall into their hands, it could well be said that the introduction of the system of retention had marked the end of one of the first victories gained by the Geneva Convention. We may repeat that the system of retention will not have the good results expected of it, unless the principle of repatriation is also scrupulously observed. It is at this price that the new provisions will take on their full value and that the Convention as a whole will retain its high moral significance.

The Convention stipulates that the medical personnel shall be returned "to the Party to the conflict to whom they belong". These are also the words of the 1929 Convention, and were preferred to the 1906 text which spoke of the return of medical personnel "to their own army or country". It was necessary to ensure that the belligerent could not meet his obligation by transferring medical personnel to a part of their country which he himself had occupied. Further, medical personnel might have served in forces other than those of their home country, and it is to these forces that they should be returned. The whole object of the restitution is to reinstate medical personnel in the position they occupied when they fell into enemy hands or, if that is not possible, in conditions resembling it as nearly as possible.

Paragraph 2. — Medical Personnel awaiting Repatriation.

We have seen above that a certain interval—which should be as short as possible—will elapse between the capture of medical personnel and their return. It was necessary to decide their status and living conditions during this period, and this is done in the paragraph under review.

The essential provisions laid down for the benefit of medical personnel retained permanently shall also be valid for those awaiting repatriation : they shall not be considered as prisoners of war, but shall at least benefit by all the provisions of the Prisoners of War Convention. They shall continue to fulfil their duties under the orders of the adverse Party and shall preferably be engaged in the care of the wounded and sick of their own nationality. We refer the reader back to what is said above in this connection on Article 28.

If the Diplomatic Conference reproduced here only the more striking provisions established for the benefit of retained personnel, this does not mean that personnel awaiting repatriation cannot claim also the benefit of the latter provisions and of the general spirit of Article 28, as, for example, the right to have their professional scruples in the exercise of their duties respected.

The real reason for so simplifying the Article is that such personnel should normally have to remain only a short period with the enemy, and therefore would in most cases have no need of more detailed provisions.

But if repatriation is delayed and their actual work justifies it, the personnel certainly have every right to demand fuller application of the provisions. Indeed, they should be considered in such cases as having passed by force of circumstances into the category of retained personnel, at least in so far as their prerogatives are concerned.

Paragraph 3. — Personal Belongings.

Provision is here made for the principle of respect for private property, already recognised as being equally valid in the case of prisoners of war (Prisoner of War Convention, Art. 18), as in the case of civilians.

Amongst the objects to which medical personnel shall retain their rights and which they may take with them on repatriation, the Convention mentions "instruments", i.e. articles proper to the medical profession, especially to surgeons. All articles, including instruments, taken by them must be

their personal belongings. If only entrusted to them by their home country, such articles cannot be taken away, but come under the provisions dealing with Army medical equipment.

Amongst the personal belongings which medical personnel were authorised under the 1929 Convention to take with them on departure, were their arms and means of transport. The 1949 Conference dropped this provision, as its application seemed difficult in practice. It is obvious also that such material could be used for combat purposes.

Therefore, even if the arms and means of transport are the private property of the medical personnel, they shall for the future be subject to capture.

Let us finally note that medical personnel designated from the beginning for return to their own fighting forces, shall not be alone empowered to invoke Article 30. Retained medical personnel shall obviously be entitled to the benefit of this Article, as soon as they also are nominated for repatriation; this shall be the case when their help is no longer necessary, when they are replaced by colleagues more recently captured, and when their state of health so requires.

Article 31. — Selection of Personnel for Return.

The selection of personnel for return under Article 30 shall be made irrespective of any consideration of race, religion or political opinion, but preferably according to the chronological order of their capture and their state of health.

As from the outbreak of hostilities, Parties to the conflict may determine by special agreement the percentage of personnel to be retained, in proportion to the number of prisoners and the distribution of the said personnel in the camps.

Paragraph 1. — Priorities.

As the Convention provides for the retention of certain medical personnel whose presence is necessary to the prisoners of war, and repatriation of the rest, it was necessary to decide

the rules according to which the Detaining Power would make this choice. But if the Convention fixes certain standards, the main question is who shall remain, this selection logically preceding the other. It is clear that it is only after choosing those who must be retained that the Detaining Power can determine who actually can be returned.

The first element to be taken into account is not contained in this Article, but arises from Article 28, and is self-evident: the priority of needs.

The agreements which belligerents are invited to conclude, or in their absence, a reasonable estimation of the needs of prisoners, will make it possible to decide how many doctors, chaplains, dentists, orderlies, administrative staff, etc., it will be necessary to retain.

The Detaining Power should therefore always classify medical and religious personnel according to the duties they are called upon to fulfil—it could hardly hold back a doctor, for example, to act as stretcher-bearer or a hospital cook¹.

After this question of appreciation between needs and special qualifications, we must consider the two distinct provisions in the paragraph under review which, as we have seen, should apply to the personnel after they have been classified according to their functions.

The first prohibits any discrimination founded on race, religion or political opinion. Born out of the painful experiences of the second World War it uses a formula repeatedly found

¹ At the 1949 Diplomatic Conference certain Delegations (especially the French Delegation) asked that the Convention should take into account the particular cases of specialists. They advocated that express provision be made for a selection which would take into account the need for specialists at the front. It would in their view be contrary to common-sense and to the interests of the sick and wounded, to retain a specialist, as for example a neurological surgeon, in the camps to do work which an ordinary general practitioner could do equally well, while his particular abilities were imperatively required in his own army. If the Convention could not exclude anomalies of this sort, one might arrive at the position where an Army Commander would refuse to allow specialists to go to front line positions, for fear they might be captured, and it would be the wounded who would suffer.

These are not imaginary difficulties. The amendment suggested was not, however, accepted, because it had been put forward too late. The question could be provided for, with others, in the special agreements which belligerents are invited to conclude. (See Paragraph 2).

in the new Conventions to stress the equal rights of the human beings protected. It is in the form of a categorical prohibition.

The second provision is different in character. Its effect is that, in the absence of detail which might be expected in an *ad hoc* agreement, the medical personnel shall be repatriated preferably according to date of capture and state of health: those who have been held a long time and those whose health has worsened shall have priority. Equity demands that the Detaining Power should, so far as possible, base itself on these two considerations.

Thus, if successive additions to captured medical personnel occur and their number is too great, a rotation shall be introduced, to allow the last arrivals to replace their comrades, who would then go home.

Paragraph 2. — Special agreements.

Under this provision belligerents can determine by special agreement, as from the outbreak of hostilities, the percentage of personnel to be retained in proportion to the number of prisoners, and the distribution of the said personnel in the camps.

Reference has been repeatedly made to these agreements and the desirability has been shown that the Powers should accept the invitation made to them. The retention of medical personnel is so complicated a matter that it calls for more detailed provision, apart from what is actually in the Convention, if the new system is to work satisfactorily and without giving rise to disputes. Such agreements should not be limited to settling the percentage of personnel to be retained and their distribution in the camps, but should decide also, as already mentioned, if medical personnel can be retained only in proportion to the number of prisoners of their own nationality; the extent to which certain Articles of the Prisoners of War Convention shall be applicable to retained personnel; if the presence in the camps of auxiliary personnel should lead to a reduction of the number of permanent personnel who may

be retained ; and to what extent the need for specialists in the home forces may be taken into account.

Fully conscious of the importance of concluding a special agreement of this nature, the 1949 Diplomatic Conference, in its Third Resolution, requested the International Committee to draft a model agreement for submission to the Powers for their approval.

Article 32. — Return of Personnel belonging to Neutral Countries.

Persons designated in Article 27 who have fallen into the hands of the adverse Party may not be detained.

Unless otherwise agreed, they shall have permission to return to their country, or if this is not possible, to the territory of the Party to the conflict in whose service they were, as soon as a route for their return is open and military considerations permit.

Pending their release, they shall continue their work under the direction of the adverse Party ; they shall preferably be engaged in the care of the wounded and sick of the Party to the conflict in whose service they were.

On their departure, they shall take with them their effects, personal articles and valuables, and the instruments, arms and, if possible, the means of transport belonging to them.

The Parties to the conflict shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces. The food shall in any case be sufficient as regards quantity, quality and variety to keep the said personnel in a normal state of health.

Article 27 of the First Geneva Convention provides, as was previously the case also, that a relief society of a neutral country may, after due authorisation, assist the Army Medical Service of a belligerent. Article 32 is designed to cover cases in which the personnel concerned fall into the hands of a Power at war with the belligerent whom they are assisting.

The Diplomatic Conference profoundly modified the position of medical personnel of belligerent countries by instituting a

legalised power of retention. It is clear, however, that the general rules of International Law concerning neutrals preclude any similar change in the status of the medical personnel of neutral countries. The latter may in no circumstances be retained against their will ; they remain neutral as much in the new country, as they were in that to which they went of their own accord. In offering medical help to a belligerent, neutral volunteers who by definition are not members of forces in their own country, but of a private relief society, are not incorporated into the belligerent forces, as would be men who enlisted in them as combatants ¹.

The Article dealing with these persons has therefore remained almost identical with the corresponding Article of the 1929 Convention. Nevertheless, while it applied then to the whole of the medical personnel belonging to belligerent forces, as well as those from a neutral country, it now covers only neutral volunteers.

According to *Paragraph 1*, neutral medical personnel may not be retained.

Paragraph 2 provides that they shall have permission to return to their country as soon as a route for their return is open and military considerations permit. We refer in this connection to what has been said concerning Article 30, Paragraph 1. It is provided that they shall return to their country or, if this is not possible, to the country in whose service they were.

The paragraph begins, however, as did the 1929 text, with the words "unless otherwise agreed", by which it is to be understood that the rule of immediate repatriation shall not necessarily be followed. In fact, it is possible that the personnel may wish to continue its relief work, and in such case it is not desirable that the Convention should appear to discourage them.

With whom should the Detaining Power come to an understanding? In the first place with the personnel themselves, who

¹ Article 27 provides expressly that in no circumstances shall the medical assistance of neutrals be considered as interference in a conflict.

shall continue their voluntary work as before, and possibly also with the Relief Society to which they belong. It may be imagined also that the neutral Power, which has given its consent to their passage to the first belligerent country, should also be consulted. In any case, the terms of an agreement would not have power to alter the rights which every citizen of a neutral country possesses on the territory of any foreign State in which he may happen to be.

What we have said shows that there is no question of neutral volunteers being retained, as may be the medical personnel of a belligerent. Neutrals enjoy a special status, and no compulsion may be exercised on them.

Paragraph 3. — This provides that “ pending their release, they shall continue their work under the direction of the adverse Party ; they shall preferably be engaged in the care of the wounded and sick of the belligerent in whose service they were ”.

This does not call for commentary, except to point out that “ under the direction of ”, as used here, has not the same significance as when used in connection with the medical personnel of belligerents, but that it means, so to speak, authority freely consented to.

Paragraph 4. — This is similar to Article 30, paragraph 3, examined above¹. Its scope is somewhat wider, however, since it mentions arms and means of transport as amongst the articles of personal property which neutral volunteers may take with them on leaving. The return of means of transport is, however, conditioned by the words “ if possible ”, since it is evident that the question of physical impossibility may arise.

Paragraph 5. — This provides certain advantages for neutral volunteers, which the 1929 Convention gave also to the medical personnel of belligerents, but which the 1949 Conference did not find possible to retain in the case of the latter.

¹ See p. 53.

Thus the " food, lodging, allowances and pay " of neutral volunteers awaiting repatriation shall not be decided by the Prisoners of War Convention, as will be the case in future for the medical personnel of belligerents, but by the provisions for the corresponding medical personnel of the forces in whose power the neutrals have fallen. This solution is logical, and in conformity with the special status of neutral volunteers.

The Conference took care to add that their food shall be sufficient as regards quantity, quality and variety to keep the personnel in a normal state of health. This formula is derived from the one used in the Third Geneva Convention, dealing with the food of prisoners of war.

*FOUNDATION FOR THE ORGANISATION
OF RED CROSS TRANSPORT*¹

Nearly five years have elapsed since at the close of hostilities, the Foundation began its work of liquidation. The time has therefore come when all its war-accounts can be definitely closed.

No further claim having been received for some years, the Foundation can be considered as relieved from obligation, the more so as in most countries negative prescription can be invoked.

Liquid assets of the Foundation, representing the balance of its financial administration, amount to 114,427.44 Swiss francs. This amount is, under the terms of an agreement, due for reimbursement to the American Red Cross. The work of the Foundation was carried on almost exclusively in cooperation with the American Red Cross, acting as mandatory of several National Societies. The Foundation's efforts met with unhoped-for success; despite extremely difficult circumstances, not a single life or vessel was lost. The Foundation's ships successfully carried over 200,000 tons of relief supplies.

The Foundation operated on a non-profit making basis, and the services of the administration were in most cases voluntary; as a result, the freight charged to consignors amounted to 52 centimes only per cubic foot, inclusive of refunds of excess charges. This figure works out at about one-third of the commercial rate demanded during the war by neutral owners, and about 40% less than post-war freight charges. Shipping freights refunded since 1945 reach a total of 8,189,104.45 Swiss francs; to which should be added the final balance of 114,427.44 francs, the reimbursement of which has been requested by the

¹ The Foundation was constituted in 1942 on the suggestion of the ICRC, but is juridically independent of it. Dr. Ernst Froelich, of Zurich, has, since the outset, acted as its Chairman.

American Red Cross and agreed to by a recent meeting of the Foundation Board.

After repayment of the balance to the American Red Cross, the Foundation will have in hand only the original capital of 10,000 Swiss francs, and interest accruing from 1942 to December 31, 1949, namely 1,281.50 francs. The Foundation will thus be brought back to its initial starting-point.

In view of the decision to repay sums advanced by National Societies, which might have offered a firmer basis for a possible resumption of work by the Foundation, the ICRC felt itself called upon to increase the amount of this capital, and to give the Foundation a financial guarantee sufficient, should circumstances so require, to allow resumption of work under the Foundation's by-laws.

THE INTERNATIONAL COMMITTEE OF THE RED CROSS AND AID TO PALESTINE REFUGEES¹

The report of the ICR Commissariat for Relief to Palestine refugees on its work from June 1 to September 30, 1949, has been published.

The period under review was marked by discussions and arrangements between former opponents, who had cautiously to adapt their policy to new conditions. The comparative calm which reigned during this time enabled the Commissariat to pursue its relief activities in Palestine without any serious incidents.

From the general summary given by the ICRC Commissioner, M. Alfred Escher, we may conclude that the state of armed peace has continued in Palestine, with, on the Arab side, increasing predominance of the civilian elements; the former military governors have been replaced by civilian district commissioners, acting under the orders of a General Governor with headquarters at Jerusalem. The Hashemite Government of Jordan has extended its administrative network to all the territories under its control, whilst regulations and rules of procedure have been generally unified. Despite economic difficulties, there have been no serious disturbances in Israel, but many Arab residents still cross the boundary line in the direction of Arab Palestine.

The Israeli authorities continue to give the ICRC Commissariat the same support and facilities as they granted at the outset.

The reinforced position of the central authority in Arab Palestine has reacted favourably on the work of the ICRC, and has greatly helped in settling local difficulties.

During the four months under review, running costs amounted to 1,399,126 dollars, leaving a credit balance of 550,717 dollars, as compared with budget estimates.

¹ See *Revue*, English Supplement, Jan. 1949, pp. 53-60; May, 1949, pp. 178-183; June, 1949, pp. 200-202; Oct. 1949, pp. 449-451; Jan. 1950, pp. 18-38.

The numbers of refugees on the ration lists were as follows :

Districts	June	July	August	Sept.
Jericho	48,062	48,721	48,432	47,978
Ramallah.....	81,000	81,000	70,000	70,000
Samaria	124,355	128,000	127,489	126,300
Jerusalem	33,000	35,152	36,484	35,440
Bethlehem	53,770	55,518	56,400	55,050
Hebron	88,000	88,768	89,000	89,980
Total.....	<u>428,187</u>	<u>437,159</u>	<u>427,805</u>	<u>424,748</u>
Israel	<u>45,906</u>	<u>47,521</u>	<u>49,338</u>	<u>48,513</u>
Grand Total...	<u>474,093</u>	<u>484,680</u>	<u>477,143</u>	<u>473,261</u>

Speaking of relief supplies, the report says that issues are now more regular and have improved in quantity and quality. Great efforts have been made to establish new camps, in so far as the supply of tents permits. Life in the camps is reviving, as refugees gradually manage to shake off their apathy. Clothing has improved, thanks to issues of garments and material, but substantial help is still required.

Essential commodities allocated to the ICRC by the United Nations Relief to Palestine Refugees (UNRPR) are shown (in tons) in the following table :

Class	June	July	August	Sept.
Flour	4,398	4,200	3,779	4,200
Pulses.....	210	210	210	210
Oil	54.5	54.5	54.5	54.5
Sugar	84	84	84	84
Potatoes	—	—	—	142
Onions	—	—	170	—
Total.....	<u>4,746.5</u>	<u>4,548.5</u>	<u>3,297.5</u>	<u>4,690.5</u>

Additional issues were made as follows (in tons) :

Class	June	July	August	Sept.
Oat flakes	114	—	—	—
Tinned fish and meat ...	—	152	4.6	50
Soap	—	10	—	—
Paraffin for cooking	—	—	—	97
Cotton fabric	—	—	7.3	—
Tents (items).....	587	850	392	2,565

For supplies issued by the United Nations International Children's Emergency Fund (UNICEF) were as follows (in tons) :

Class	June	July	August	Sept.	Total
Full cream powdered milk (net)	47.7	—	—	—	47.7
Unsweetened condensed milk	—	—	—	96.9	96.9
Powdered skimmed milk (net)	154	90	360.8	62	667
Sugar	—	116	—	25	141
Margarine	—	28	103.4	55.4	186.8
Rice	235	—	632	—	867
Dried fruit	38.6	—	—	29.9	68.5

Good progress has been made with education. Schools have been opened in camps, combining physical exercise with class-work. The Commissariat is increasingly providing school-meals. Workshops are being opened ; the number of artisans is growing and gardens will be laid out wherever possible.

With the help of the United Nations (through the agency of UNESCO), the movement for the organisation of schools, initiated by the Arab Development Society, particularly in Jericho, and by the American Y.M.C.A., has been greatly encouraged.

At Jericho, the syllabus includes reading, writing, arithmetic, geography and religious instruction. Gymnastics and leisure time have also been organised, more particularly in the Y.M.C.A. schools.

The report goes on to state : " What we have done up to the end of September only represents a slight proportion of what remains to be done, since we have to reckon with 25,000 children from one to five years, and 100,000 children from five to fifteen ".

The ICRC programme has been particularly successful in the medical field ; the results achieved are already sure of being considered as a lasting benefit to the population.

The survey made during a study trip to Palestine last December, by Dr. A. Vannotti, member of the ICRC and Pro-

fessor of Medicine in the University of Lausanne, fully confirms the report on this point, besides giving supplementary details.

Information received at Geneva shows that the general level of nutrition is satisfactory. The standard diet of Arab refugees engaged on light work which does not require high calorific values, may be put at 1,300 to 1,400 calories daily, with an extremely low protein rate.

The policlinics managed by Arab doctors, under the control of a Swiss medical officer, are working regularly. Although local conditions are not always favourable, these clinics are valuable as centres for the detection of serious and, in particular, contagious diseases, for sending patients to hospital and, by making contact with the camp population, for ascertaining the refugees' real needs.

The spread of infectious disease has been stopped. The medical service has protected refugees against serious epidemics which might have caused extensive loss of life. Vaccination, disinfection with DDT, sterilisation of water supplies, introduction of an elementary health service, have all helped to combat the infectious and parasitical diseases which seriously threatened the refugees, namely smallpox, typhoid, malaria, dysentery, diphtheria, tuberculosis and exanthematic typhus.

The reopening of the Augusta-Victoria, Bethany and Hebron Hospitals in Jerusalem are amongst the most important of the Committee's achievements.

The Augusta-Victoria Hospital has 350 beds, two operating theatres, electrical and radiological apparatus, laboratories, surgical and medical departments, and isolation wards for tuberculous and infectious cases; it can meet all the urgent hospital needs of the Jerusalem district.

A bacteriological and serological laboratory now allows all main analyses which are essential for the proper working of a medical mission to be made.

These two institutions will form a valuable and lasting contribution by the ICRC to the health and welfare of the country.

Prolonged supervision of the camp population has led to better discipline and has taught the inmates habits which will be beneficial to their future health.

After summarising the results of its work in Palestine, the Commissariat expresses its gratitude to all who have cooperated, especially the medical teams of the Danish Red Cross, the American Friends Service Committee at Acre, and the Y.M.C.A. team from Jericho, which is rendering excellent service in working for the physical and moral welfare of younger refugees in Akaba Camp.

The report finally states that the American Red Cross and the Junior Red Cross Fund are still giving invaluable help. Much is also due to the following donor Societies and Organisations : the Swedish Red Cross, Danish Red Cross, South African Red Cross, Liechtenstein Red Cross, Church World Service, Council of British Societies for Relief Abroad, and the Jewish Society for Human Service, in London.

REPATRIATION OF GREEK CHILDREN

With the object of hastening the repatriation of Greek children, whose return was called for by their parents, and continuing the negotiations they had already undertaken, the International Committee of the Red Cross and the League of Red Cross Societies invited the National Red Cross Societies of the countries interested to Geneva, on March 9 and 10, for an exchange of views which, it was hoped, might lead to a solution of this important problem.

These negotiations followed two resolutions of the General Assembly of the United Nations which were first addressed to the Governments with whom the Red Cross Societies remain in contact.

The Bulgarian, Rumanian and Czechoslovak Red Cross Societies refused the invitation. The Jugoslav Red Cross accepted in principle, but was not represented at the meeting. The Hungarian and the Polish Red Cross Societies did not make their decision known. The Greek Red Cross alone sent delegates from Athens to the meeting.

The International Committee of the Red Cross and the League of Red Cross Societies are determined to continue their efforts to have the Greek children repatriated. They will thus pursue their attempts to accomplish the mandate entrusted to them by the Secretary-General of the United Nations, in virtue of the two Resolutions unanimously adopted by the General Assembly, and will welcome every effort likely to hasten the solution of a problem considered of vital importance by both the International Red Cross and the United Nations Organization.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

April, 1950

Vol. III, No. 4

CONTENTS

	Page
International Committee of the Red Cross. — To the High Contracting Parties signatory to the Geneva Conventions for the Pro- tection of the Victims of War : Atomic Weapons and Non-Directed Missiles. . . .	70
The Geneva Conventions of August 12, 1949 (Signatures, Ratifications and Adhesions)	74
The Central Prisoners of War Agency. . . .	78
Reunion of Dispersed Families.	80

Published by
Comité international de la Croix-Rouge, Genève
Editor : Louis Demolis

(Translation)

INTERNATIONAL COMMITTEE OF THE RED CROSS

TO THE HIGH CONTRACTING PARTIES
SIGNATORY TO THE GENEVA CONVENTIONS
FOR THE PROTECTION OF THE VICTIMS
OF WAR

ATOMIC WEAPONS AND NON-DIRECTED MISSILES ,

Geneva, April 5, 1950.

On August 6, 1945, when the first atomic bomb exploded, the world saw in it at first only a means of ending the War. Soon the destructive capacity of this arm became known, and increasing alarm came with the realisation. Since then, the civilised world has been hoping to see a reaffirmation of the rules of law and their extension to ensure protection against such means of destruction. Not only has this hope been belied, but there is already talk of arms still more destructive. Scientists have it that entire cities can be instantly wiped out and all life annihilated for years over wide areas. Mankind lives in constant fear.

It is the province of Governments to draw up the laws of war. The International Committee of the Red Cross is well aware of this fact, and it realises that the establishment of such laws involves political and military problems which are by their very nature outside its scope. Nevertheless, on the morrow of the formal signature of the four Geneva Conventions for the protection of the victims of war, the Committee feels that its duty is to let Governments know of its anxiety.

The protection of the human person against mass destruction is intimately bound up with the principle which gave rise to the Red Cross: the individual who takes no part in the fighting, or who is put *hors de combat* must be respected and protected.

The International Committee has not waited until now to take up the question. On September 5, 1945, scarcely a month after the release of the first bomb, it drew the attention of National Red Cross Societies to the grave problem posed by the atomic arm. This step was in itself a logical sequence in the attitude the Committee had taken to the development of modern warfare. From 1918 onwards, it had begun to collect documentation on the protection of civilians against aerial warfare and might be considered in this respect as a pioneer of civilian air-raided precautions. The Committee at the same time endeavoured to secure from the Powers an undertaking to refrain from the bombardment of non-military objectives. A series of proposals was laid before one of the first Assemblies of the League of Nations, with the object of eliminating certain methods of warfare introduced during the first World War. Supported by the conclusions reached by experts and backed by the documentation it had brought together, the Committee later addressed to the Disarmament Conference an appeal for the absolute prohibition of aerial bombardment.

During the second World War, the Committee repeatedly called upon belligerents to restrict bombardment to military objectives only, and to spare the civil population. The most important of these appeals, dated March 12, 1940, recommended that Governments should conclude agreements which would confirm the immunity generally accorded to civilians and prohibit all attacks against them. Similarly, the International Committee on several occasions advocated the creation of safety zones and localities. All these efforts proved fruitless.

The War once over, the International Committee did not relax its efforts. The Preliminary Conference of National Red Cross Societies, which met at Geneva in 1946, adopted a Resolution recommending, *inter alia*, the prohibition of the use of atomic energy for war purposes. Armed with this text, the International Committee presented a report to the XVIIth International Red Cross Conference (Stockholm, 1948) recalling the above facts, and proposed the confirmation of the 1946 Resolution, after extending it to cover all non-directed weapons. The Conference voted the following Resolution :

The XVIIth International Red Cross Conference,

considering that, during the Second World War, the belligerents respected the prohibition of recourse to asphyxiating, poison and similar gases and to bacteriological warfare, as laid down in the Geneva Protocol of June 17, 1925,

noting that the use of non-directed weapons which cannot be aimed with precision or which devastate large areas indiscriminately, would involve the destruction of persons and the annihilation of the human values which it is the mission of the Red Cross to defend, and that use of these methods would imperil the very future of civilisation.

earnestly requests the Powers solemnly to undertake to prohibit absolutely all recourse to such weapons and to the use of atomic energy or any similar force for purposes of warfare.

Almost at the same moment, the International Congress of Military Medicine and Pharmacy, also meeting at Stockholm, adopted a similar Resolution.

Today, in recalling to Governments the Resolution of the XVIIth Red Cross Conference, the International Committee feels obliged to underline the extreme gravity of the situation. Up to the Second World War it was still to some extent possible to keep pace with the destructive power of armaments. The civilian population, nominally sheltered by International Law against attack during war, still enjoyed a certain degree of protection, but because of the power of the arms used, were increasingly struck down side by side with combatants. Within the radius affected by the atomic bomb, protection is no longer feasible. The use of this arm is less a development of the methods of warfare than the institution of an entirely new conception of war, first exemplified by mass bombardments and later by the employment of rocket bombs. However condemned—and rightly so—by successive treaties, war still presupposed certain restrictive rules; above all did it presuppose discrimination between combatants and non-combatants. With atomic bombs and non-directed missiles, discrimination become impossible. Such arms will not spare hospitals, prisoner of war camps and civilians. Their inevitable consequence is extermination, pure and simple. Furthermore, the suffering caused by the atomic bomb is out of proportion to strategic necessity; many

of its victims die as a result of burns after weeks of agony, or are stricken for life with painful infirmities. Finally, its effects, immediate and lasting, prevent access to the wounded and their treatment.

In these conditions, the mere assumption that atomic weapons may be used, for whatever reason, is enough to make illusory any attempt to protect non-combatants by legal texts. Law, written or unwritten, is powerless when confronted with the total destruction the use of this arm implies. The International Committee of the Red Cross, which watches particularly over the Conventions that protect the victims of war, must declare that the foundations on which its mission is based will disappear, if deliberate attack on persons whose right to protection is unchallenged is once countenanced.

The International Committee of the Red Cross hereby requests the Governments signatory to the 1949 Geneva Conventions, to take, as a logical complement to the said Conventions—and to the Geneva Protocol of 1925—all steps to reach an agreement on the prohibition of atomic weapons, and in a general way, of all non-directed missiles. The International Committee, once again, must keep itself apart from all political and military considerations. But if, in a strictly humanitarian capacity, it can aid in solving the problem, it is prepared, in accordance with the principles of the Red Cross, to devote itself to this task.

For the International Committee of the Red Cross :

Leopold BOISSIER

Paul RUEGGER

Vice-President,

President

Chairman of the Legal Commission

(Translation)

*THE GENEVA CONVENTIONS OF AUGUST 12, 1949
(SIGNATURES, RATIFICATIONS
AND ADHESIONS)*

Geneva, March 16, 1950.

*TO THE CENTRAL COMMITTEES OF NATIONAL
SOCIETIES OF THE RED CROSS (RED CRESCENT,
RED LION AND SUN)*

The National Red Cross Societies have a constant interest in the Geneva Conventions. They have taken an active part in their elaboration. The International Committee of the Red Cross is therefore glad to be now able to give them certain information about the Conventions.

The Geneva Conventions of August 12, 1949, as drawn up by the Diplomatic Conference, provided that they should be open for signature until February 12, 1950, to Governments which took part in the Conference and to States party to the Geneva Conventions (1864, 1906 and 1929) and the Xth Convention of the Hague (1907). A certain number of States signed immediately on August 12, 1949, while others signed at a ceremony which took place in Geneva on December 8, 1949. Still others signed individually since.

The final list of States which have signed the four Conventions is as follows :

Afghanistan	Bulgaria
Albania	Canada
Argentina	Ceylon (Conventions 1, 2, 3)
Australia	Chili
Austria	China
Belgium	Colombia
Bielorussia	Cuba
Bolivia	Czechoslovakia
Brazil	Denmark

Ecuador	Nicaragua
Egypt	Norway
Ethiopia	Pakistan
Finland	Paraguay
France	Peru
Greece	Philippines
Guatemala	Poland
Holy See	Portugal
Hungary	Rumania
India	Salvador
Iran	Spain
Ireland (Republic of)	Sweden
Israel	Switzerland
Italy	Syria
Jugoslavia	Turkey
Lebanon	Ukraine
Liechtenstein	United Kingdom
Luxemburg	United States of America
Mexico	Uruguay
Monaco	U.S.S.R.
Netherlands	Venezuela
New Zealand	

The first result is particularly encouraging to those connected with the Red Cross and to all who seek to safeguard the essential rights of the human person and recognise the capital importance of these texts for civilisation and humanity. There can be no doubt that the new Geneva Conventions mark a decisive step in the evolution of International Law for the protection of the victims of war.

The readiness of Governments to sign the Conventions makes it reasonable to hope that they will be ratified in the near future. They do not become effective for a country until ratified by its Government, and this generally depends on approval by Parliament. This approval is fundamental, because only by it does a State definitely bind itself.

In all countries nowadays, parliamentary programmes are heavy. It is therefore easy to understand why the legislative act authorising the Government to ratify the International Conventions should take some time. The International Committee of the Red Cross feels confident that in each country

everything possible will be done to achieve this result without delay.

Although the actual procedure of ratification is the province of Government agencies, there is good reason why National Red Cross Societies should not remain indifferent, but on the contrary, take an active and sustained interest. Their reputation with Government and public may undoubtedly influence decisions which have to be made.

By making the Conventions widely known and emphasising their profound significance, National Societies can also create a favourable public opinion and thus eliminate obstacles, due to an insufficient knowledge of the texts, which might hold up ratification.

Moreover, a certain number of States have not signed the new Geneva Conventions. It is therefore by adhesion that these countries can take part in them. Adhesion is open as soon as the Conventions have entered into force, that is, six months after two States shall have ratified. Adhesions must be notified in writing to the Swiss Federal Council and shall take effect six months after the date on which it receives them.

The International Committee ventures to recommend to the National Red Cross Societies of countries which have not signed the Geneva Conventions to do everything to encourage the adhesion of their Governments, so that this step may be prepared for and may take place as soon as it becomes possible. In such countries it seems especially important to make the Conventions widely known, in order that the new Conventions may retain that universality which has always been their characteristic and the best guarantee of their efficacy.

The International Committee of the Red Cross is naturally at the disposal of National Societies for any information or documentation they may wish to receive about the new Conventions. With this end in view, the Committee has already published the four Conventions in English and French, with marginal headings, explanatory introduction, and a detailed table of contents. A Spanish edition will appear shortly. Similarly, the Committee will in the near future publish an analysis of those clauses of the Conventions which particularly interest the Red Cross.

The Committee hopes that the Conventions will become familiar to all responsible officials and that the general public in all countries will be acquainted with the purport of these new agreements. This useful and urgent work the Committee recommends to the good offices of the National Societies, counting upon the active and sustained help it has always received from them.

For the International Committee of the Red Cross:

Leopold BOISSIER

Vice-President

Paul RUEGGER

President

THE CENTRAL PRISONERS OF WAR AGENCY

Five years after the Armistice, it seems reasonable to ask if there can be still work for the Central Prisoners of War Agency in Geneva, now situated at the headquarters of the International Committee of the Red Cross.

A few statistics will reply. In 1949, the Agency received more than 120,000 letters, sent out 134,000 and made 15,000 individual inquiries.

German Section: Of the 120,000 letters received, two-thirds were for the German Section. Many German citizens disappeared during the war, especially on the Eastern front. Their relatives turn to the Agency in the hope that the International Committee will be able to trace the whereabouts of next of kin.

The German Section also institutes search for Displaced Persons (*Volksdeutsche*) from Czechoslovakia, Jugoslavia and Poland, transmits family correspondence and official documents, and gives official notice of the deaths, due to the war, of military personnel and civilians.

Italian Section: In practice, its work is confined to the identification of deceased members of forces. The documentation available only in the Agency files makes it possible to carry through complicated and detailed inquiries undertaken on the request of the Italian authorities.

Polish Section: In 1949, 12,000 communications were received, 15,000 sent out, mainly in an effort to trace civilians and military personnel dispersed throughout the world.

Greece: Events in Greece in the past year gave rise to much work. Lists had to be drawn up of children transferred to other countries, search made for soldiers declared missing after the fighting in Epirus and Macedonia, and messages forwarded. About 2,500 individual inquiries were made in 1949.

Netherlands: Thousands of searches were made in the files at the request of the Netherlands Red Cross, in connection with Dutch subjects, either labour conscripts or deported Jews, who had not returned home at the end of 1949.

The Agency is often called upon for "Capture Certificates"; as a rule, it alone has the necessary information to provide them. The certificate serves the bearer as a proof that he has been a prisoner of war, and is most often used by him in returning to civilian life; it is also useful in establishing claims for a pension or indemnity.

During the last two years, 17,000 such certificates were issued.

To repeat: 120,000 incoming letters and 134,000 outgoing; 15,000 individual inquiries—these three totals give some idea of the services that the Agency still renders today.

REUNION OF DISPERSED FAMILIES ¹

Geneva, March 17, 1950.

On March 10 a first convoy of four hundred persons arrived at Furth-im-Walde (Bavaria) ; they were being repatriated from Czechoslovakia under an agreement concluded, in December 1949, between the Czechoslovak Minister for Internal Affairs and the Allied Occupation Authorities in Germany. During the next few weeks, about twenty thousand persons of German stock (*Volksdeutsche*)* will thus join relatives already established in Germany.

The International Committee undertook to bring together the members of several thousand families who had been separated. Two of its Delegates escorted the first repatriation convoy to the frontier, and a third Delegate was present at the actual arrival in Germany.

It may be mentioned that in every case, the transfer of these *Volksdeutsche* is being made at their own request.

¹See *Revue*, English Supplement, Vol. III, No. 2, p. 43.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE

ET

BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

May, 1950

Vol. III, No. 5

CONTENTS

	Page
International Committee of the Red Cross Refugees and Stateless Persons	82
Relief to Palestine Refugees	86
Relief from abroad for Berlin and Eastern Germany	88
Notes and Documents. A Page of History: The ICRC and Political Prisoners in Germany	88
Standing Commission of the International Red Cross	94

Published by

Comité international de la Croix-Rouge, Genève

Editor: Louis Demolis

INTERNATIONAL COMMITTEE OF THE RED CROSS

REFUGEES AND STATELESS PERSONS

The ICRC has drawn the attention of Governments to the position of refugees and stateless persons, in the following message, dated May 1, 1950.

I. Before touching on the actual problem of Refugees and Stateless Persons which is the subject of this communication, the International Committee of the Red Cross feels that a reference is necessary to the fundamental and universal principles of human fellowship which are those of the Red Cross and on which the considerations that follow are based.

The Red Cross itself arose out of the idea that all human beings who suffer and need protection—the wounded on the field of battle are a case in point—deserve our attention. It inevitably follows that no consideration of who or what a person is, shall be allowed to discriminate to his prejudice, or hinder charitable effort.

The International Committee considers itself obliged by its special position to devote particular attention to those cases of distress which, because of exceptional circumstances, are outside the scope of any other authority or organisation.

II. The problem of refugees and stateless persons is complex and many-sided. We cannot, in this communication, enlarge upon its changing aspects. Its extent is, tragically, world-wide, and Asia knows equally with Europe what suffering it has caused.

Today, a man may have to fly even inside his own country as well as beyond its frontiers; he may use his freedom to refuse allegiance to his authorities, and they may withdraw

their protection ; he may finally find himself without any nationality.

Whatever complications there may be in individual cases, one thing stands out and it is revolting to the sense of humanity : there are men who find themselves legally and materially barred from ordinary life. For them, the most elementary human rights might as well not exist, for they cannot found a family, recognise a child or, in spite of their longing for normal existence, move to some other place.

For a very large number of them, there is no authority to whom they might address themselves in full confidence and which would have, in regard to them, a competence recognised between nations.

It is the duty of the Red Cross to take up the cause of those who have none to aid them. Where there is a hiatus of such tragic implication, it must speak out, appealing for goodwill to find some solution. And solution can only come from a common effort.

III. The International Committee has had this problem before it since the end of the War, and sought, within the limits, regrettably too restrictive, of the opportunities available to it, to take positive action. It thus approached Governments with a view to reuniting dispersed families, in despite of frontiers that were for all practical purposes closed. Similarly, it lent its good offices in the distribution, especially in Europe and the Near East, of relief to refugees, acting on specific mandates and with means placed at its disposal. Again, with the full agreement of the interested Governments, it provided refugees and stateless persons with Travel Documents which allow them, as they choose, to return to their countries, to emigrate, or to justify their presence in the place where they happen to be.

In this, the International Committee was acting on the obligation imposed by the principles it professes, and it so acted when no other authority was competent or prepared to do so. In the face of individual hardship, the Red Cross must endeavour to make up for deficiencies when other human institutions fail.

IV. The consequence of what has been said is obvious : the fundamental principles of the Red Cross—which are reaffirmed moreover in the Declaration of Human Rights—impose the obligation of finding for the problem of the refugees and the stateless, a general and comprehensive solution not limited as has hitherto been the case, by standards other than the purely humanitarian.

V. The International Committee is aware of the fact that the question of an international status for refugees is being studied. It draws the attention of Governments and the responsible institutions to the vital importance of not limiting, by a too strict definition, the categories of persons who may be entitled to that status, but of leaving the scope wide and comprehensive, taking into account only the unfortunate position of those who, today as in the future, may have to avail of it. The International Committee reserves the right of making, at the proper time, all suggestions on the subject which experience of the facts may dictate.

Moreover, as rules are valuable only insofar as they allow of supervision and appeal, the International Committee wishes to emphasise how important it is that there should be a permanent international organisation, impartial and independent, to ensure the protection of refugees—but on the condition that it will, without discrimination, embrace all refugees and stateless persons.

The International Committee, in the spirit of the 1929 Conventions, assisted prisoners of war and civilian internees during the recent past. Every time the situation demanded, the Committee felt it must attempt, so far as it was able, to substitute for the Protecting Power, taking over obligations which went far outside mere humanitarian relief.

The position in regard to refugees and stateless is today somewhat similar. The International Committee again feels that, in the spirit of the new Geneva Civilian Convention established in 1949, and because of its role as neutral intermediary, it must endeavour to make good the absence of a protecting authority.

To achieve practical effect, however, this willingness of the International Committee must find its counterpart amongst Governments which, like it, consider that the whole civilised world has a responsibility for a situation which is a contradiction of the elementary principles of law, admitted as valid by every State for its own citizens.

Accordingly, the International Committee, most anxious that the closest attention be given to the present communication, is confident that Governments will be good enough to state :

- (a) if they are in agreement with the views expressed above, and, if so,
- (b) if they are prepared to grant all facilities to the International Committee, to enable it to ensure general assistance and protection to refugees and the stateless, when there is no authority recognised as competent to do so ;
- (c) if they are prepared, with a view to constructive action, to examine with the International Committee, the probable financial demands of such a scheme.

The Committee is convinced that Governments will accord their sympathetic consideration to what has been said above, and thus show their generosity in regard to a problem which is amongst the most serious and harassing of our times.

Paul RUEGGER
President

Max HUBER
Honorary President

RELIEF TO PALESTINE REFUGEES

On April 30, 1950, the Commissariat of the ICRC for Relief to Palestine Refugees handed over to the United Nations Organisation. On the occasion of the transfer, the President of the ICRC, M. Paul Ruegger, addressed the following message to the staff of the ICRC in Palestine :

“ In the evening of April 30, on instructions which you will receive in my name from M. Alfred Escher, Commissioner of the International Committee, the flags of the Red Cross and of the International Committee, in refugee camps, hospitals, centres, clinics, administrative headquarters and installations of all descriptions, will be everywhere hauled down, right to the ports of Beirut and Haifa. The Red Cross flag, which was first flown in Geneva in 1864, will be lowered even in Jerusalem, the Holy City, which saw, in the beginning of 1948 and during hostilities in the months which followed, the self-denial, sacrifice and hardships of many of our best delegates, doctors and nurses ; when a handful of young men and women under the leadership of M. Jacques de Reynier laid the foundations of the action—a notable page in Red Cross history—which was instrumental in saving many thousands in Palestine.

“ I have waited until your mission and ours in the Holy Land was ended to convey the thanks of the International Committee in Geneva, and my deep personal gratitude. It is fitting that I should first thank M. Alfred Escher, Head of the Commissariat, who brought to his task so much concentration and tenacity. His whole team has well earned our gratitude. I thank the regional heads and their assistants, who displayed a spirit of initiative which I am happy to acknowledge. I thank our doctors, who did wonders with the limited means placed at our disposal and to obtain which we had to fight so hard ; their recompense is in the knowledge that despite the migrations, the unpropitious weather, the very real danger of sweeping epidemics which our teams were able to avert, public health is today satisfactory, and infantile mortality has been reduced to

an unhoped-for extent. I thank, above all, those amongst our collaborators who have never forgotten that to serve the Red Cross not only implies courage, self-sacrifice and a willingness to work on unassumingly, but also a becoming humility in the face of a task far outstripping the capacity of ordinary human resources. I thank also those who had the deeper appreciation of the ulterior object of their work : sympathetic understanding of the different groups they were called upon to aid—those, in short, who knew, as was their duty as servants of the Red Cross, how to forget themselves in their devotion to a task of exceptional magnitude.

“ In the name of the International Committee at Geneva I thank our dauntless nurses. Three times, since May 1948, I have seen them at work and watched them taking over different duties. My particular gratitude goes to those who, at the beginning of 1948, kept to their posts during the fighting in Jerusalem, face to face with difficulties always changing and always harassing. They have deserved well of the International Committee and the Red Cross.

“ I thank, finally, those in charge of relief in Jerusalem to the necessitous who are not refugees—relief undertaken by the ICRC itself—and who have not spared themselves in the work.

“ Many of you will remain on to serve, with the same constant loyalty, under another flag. Others, not less meritorious, will return home or prepare to serve the International Committee in the fight against suffering. All those who have that inner conviction of having given of their best in the Holy Land will continue to be part of the reserves on whom the International Red Cross must always rely. We know that in the future also, whatever the circumstances, they will not be found wanting.”

Geneva, May 1, 1950.

RELIEF FROM ABROAD FOR BERLIN AND EASTERN GERMANY

The International Committee of the Red Cross states that one of its members, M. Rodolfo Olgiati, has returned from a journey to Berlin and Eastern Germany. M. Olgiati visited the principal distribution centres for supplies donated to the International Committee by various welfare organisations, including the Swiss Relief to Europe, the Quakers, the Mormons, and the Danish, Norwegian and South African Red Cross Societies. Children and tuberculous patients recommended by local doctors are, with aged persons, the principal beneficiaries.

From 1945 to date, the Berlin Delegation has received 9,000 tons of goods, worth 17 million Swiss francs, for distribution. Seventy-five sealed trains were used to transport part of them from Switzerland.

NOTES AND DOCUMENTS

A PAGE OF HISTORY: THE ICRC AND POLITICAL PRISONERS IN GERMANY

Both in its wider implications and in its details, the work of the International Committee during the last War is still little known. The two principal reasons for this probably are ignorance of the extent to which the Conventions allot particular fields to the Committee, and secondly, the caution with which the ICRC often had to work.

In reality, the letter of the Conventions offered very limited scope. Even the few clauses which gave the ICRC a specific right to intervene were made conditional on the prior approval

of the belligerents. Despite this slender legal justification, the ICRC managed to do much. A fairly complete picture can be gained from numerous articles published in the *Revue internationale* on the ICRC's war activities.

Many people were led to wonder, therefore, if the ICRC, which was able to do so much for prisoners of war by virtue of the Conventions, had not lacked concern for detainees in the concentration camps. It was often thought that the ICRC had similar powers in respect of the concentration camps, as they had under the Conventions in regard to prisoner of war camps. In reality, the Committee's representatives were *at no time* allowed to enter these camps, with the single exception of Theresienstadt, which the Germans intended to be a model ghetto, and which was entered only after a year of negotiating. At Auschwitz and Ravensbrück, the Delegates were not allowed past the administrative buildings; access to huts and direct contact with the detainees were everywhere strictly denied to them.

The ICRC has published an account of its efforts to help prisoners in concentration camps¹; but it may be useful to recall the position and the difficulties encountered at the outbreak of hostilities.

There was never much hope of effectively aiding the political detainees. As no Convention could be invoked in their favour, action had to be unofficial. In 1939, no positive result had yet been obtained from the long years of efforts to give civilians a status in International Law. The Tokyo Draft Convention was ready for consideration by the Diplomatic Conference arranged for 1940. The ICRC pressed belligerents to adopt the Draft; it could have served as a basis to protect civilians in occupied areas. With the unexpected exception of Germany, the proposal was rejected by all the Governments approached. An arrangement between the parties, concluded soon afterwards on the initiative of the ICRC, did, it is true, allow the Committee to

¹ *Documents sur l'activité du Comité international de la Croix-Rouge en faveur des civils détenus dans les camps de concentration en Allemagne (1939-1945)*, Geneva, 1947. (In French only) See also *Revue internationale*, August 1945, pp. 601-612, and December 1945, pp. 949-950.

assist enemy civilians who had been interned in belligerent countries on the outbreak of war. The German authorities, however, persistently refused to allow similar protection to hostages, deportees and other persons arrested "for security reasons".

In the Summer of 1943, after prolonged negotiating, the ICRC obtained permission to send individual food parcels to deportees whose addresses were known. At the time, however, the Committee had, from private sources, the names of only a few score deportees. Attempts were made to procure fuller information. The detainees themselves then took a hand; the receipt vouchers sent back to Geneva bore, in addition to the receiver's own name, the signatures of several other detainees. Secret lists also were received in Geneva. Gradually, through these unofficial channels, thousands of names were gathered, and to all of them, the ICRC dispatched food parcels and medicine.

From November 12, 1943, to May 8, 1945, 1,112,000 parcels were sent to the camps. The figure may appear infinitesimal in proportion to the number of deportees; seen in the light of the obstacles that were overcome, it is indeed remarkable.

The Allied blockade, amongst other political obstacles, prevented relief supplies from entering Europe, unless *bona fide* distributions could be guaranteed, and thus constituted a major hindrance to the development of this relief scheme.

During the last months of the War, impending defeat finally induced the Germans to make far-reaching concessions. In March, 1945, they gave permission to send food to all deportees, to have an ICRC Delegate in each camp, and to repatriate certain prisoners. The rapidity of the Allied advance, coupled with the breakdown of rail communications and widespread chaos in Germany, hindered the application of the agreement. Despite wholly inadequate means, the ICRC sent out emergency fleets of trucks, often through the fighting zones. Distributing supplies on the way to the streams of prisoners and deportees on the roads, thirty-seven convoys remained in constant service between the food depots and the multitude of the distressed. Eight concentration camps were contacted, including Ravens-

brück, Dachau, Theresienstadt, Mauthausen and Bergen-Belsen. Delegates remained in the camps and succeeded, during the last few weeks of the War, in preventing the execution of orders for mass destructions.

The ICRC made constant endeavours to trace deportees and obtain information for their relatives. A most interesting document, written in 1943 and recently discovered in the secret archives of the *Wehrmacht*, pays an involuntary tribute and at the same time gives official recognition to the Committee's efforts. This document is the order for the application of the notorious *Nacht und Nebel*¹ Decree, addressed by "Command Secret Affairs" on June 25, 1943, to the German Armistice Commission, Wiesbaden, in reply to French representations concerning the deportation of civilians to Germany under the said Decree².

"The repeated protests of the French Delegation and the constant efforts of the International Committee of the Red Cross prove that the fate of persons arrested and sent to Germany is causing concern to extensive classes of the population in occupied territories.

"This is what the Führer had foreseen and intended. It is his opinion that the only effective and durable way of discouraging the inhabitants from attempting criminal attacks against the Occupying Power is to condemn those responsible to death, or to take such measures as leave their families and the general population completely in the dark as to what has happened to them.

"The Führer's instructions, based on the idea of intimidation, have been the object of mature consideration; they are not an obstacle to the High Command's giving information, after sentence has been executed, regarding any one of the condemned persons, when this course, for instance, might induce changes in internal policy in France. This procedure will apply only in isolated instances, however; if the French were informed of all executions, they would rightly conclude that the other offenders have been sentenced to terms of imprisonment only.

¹ These words form part of the spell which ensures the disappearance of Alberich, lord of the Nibelungs (See Richard Wagner's *Rheingold*, Act I.).

² References, signatures, etc. authenticating the texts quoted, but omitted here, will be found in the *Revue internationale*, April 1950, pp. 284-287.

“ On principle, therefore, replies to requests from the French Delegations should be in the negative unless, for reasons of external policy, it may be thought fit to transmit them to High Command (WR). Paragraph IX of Executive Regulation No. 2 of March 16, 1942 (Draft) prescribes the following reply : “ The guilty person has been arrested. No other information can be given ”.

The above text undoubtedly disposes of the charges laid, during and after the war, against the International Committee, of alleged inaction where political prisoners were concerned. We have shown what the material assistance of the ICRC represented. The text now quoted makes it evident that silence was not indifference. Discretion was essential for the success of an undertaking which, at first sight, seemed hopeless enough, but which was none the less pursued doggedly right through the War. The signature by sixty-eight Governments on August 12, 1949, of the Geneva Civilian Convention marked, from one point of view, the culmination of a long effort steadily pursued, despite all vicissitudes.

In annex to the above, we may quote the following two extracts.

(1) — *Extract from the “ Nacht und Nebel ” Decree*
“ For information of Concentration Camps ”
(August 4, 1942) ¹

“ By order of the Führer, the Decree of the Chief of High Command, dated December 12, 1941, for the suppression of offences committed against the Reich, or against the occupying forces in occupied territories (*Nacht und Nebel-Erlass*) provides that persons guilty of such offences shall be transferred to Reich territory as a measure of intimidation. They shall be sent before a special tribunal ; if, for whatever reason, such trial is not feasible, they shall be put in security detention in a concentration camp. Detention will, in principle, continue to the end of the War.

¹ Quoted by the Office of Chief Counsel for War Crimes.

" The object of this Decree being to leave the family, friends and acquaintances of detainees without information as to their fate, no contact with the outside world will be tolerated. These internees may not write, receive letters or parcels, or be visited. The External Services will release no information about them.

" In case of death, the family will, for the time being, not be informed. Definite regulations in this matter will be made at a later date.

" These provisions apply to all detainees named in RSHA (Security Detention) records as coming under the *Nacht und Nebel* Decree; they also concern all detainees designated as belonging to the " Porto " and " Continent " categories.

" Detainees who succeed in communicating with their families shall, for tactical reasons, be allowed to keep up their correspondence, subject to the general regulations for the correspondence of internees in security detention ".

(2) — *From SS Administrative and Economic Services,
Oranienburg
August 18, 1942*

Subject : Detainees under Keitel Decree

" To Commandants of the following concentration camps :
Dachau - Saarbrücken - Buchenwald - Mauthausen - Flossen-
burg - Neuengamme - Auschwitz - Gross-Rossen - Natzweiler -
Ravensbrück... and the Lublin Prisoners of War Camp.

" Enclosed for information and action, an extract, for concentration camps, of the *Nacht und Nebel* Decree, and concerning detainees under the Keitel Decree.

" When handing over such detainees, care should be taken to specify that they come under the Keitel or the *Nacht und Nebel* Decrees."

R. B.

*STANDING COMMISSION
OF THE INTERNATIONAL RED CROSS*

The Standing Commission of the International Red Cross met at Geneva on May 11, 1950, in plenary session, with H.E. Ali Rana Tarhan in the Chair.

In accordance with agreements between the United Nations and the International Red Cross, relief to Palestine Refugees came to an end on April 30, 1950. Duly noting the positive results achieved in the work carried out, the Commission reiterated the hope that the refugees would soon be given permanent homes.

The Commission also noted the questions which had been discussed in the regular meetings between the Presidents of the International Red Cross bodies, as also between their Secretariats.

The Commission took note of arrangements already made by the American Red Cross for the next International Red Cross Conference, to take place in Washington in October 1952.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

June, 1950

Vol. III, No. 6

CONTENTS

	Page
Regrouping of Families	96
International Committee of the Red Cross : Report on the annual Audit of Accounts for the year ended December 31, 1949	97
The International Committee in India (<i>Bengal, Assam, and the State of Tripura</i>) and Pakistan. Aid to Moslem and Hindu Refugees. Annex : Agreement between India and Pakistan	102
Echoes of Events in the Near East	112

Published by
Comité international de la Croix-Rouge, Genève
Editor : Louis Demolis

REGROUPING OF FAMILIES

The International Committee of the Red Cross has repeatedly referred to its unrelenting efforts to help in reuniting the members of families dispersed by the War, and during the post-war period.

An Agreement was signed on December 14, 1949, under which 45,000 persons of German stock in Poland and Czechoslovakia are given the right of entry into the British Zone. This arrangement has allowed some 11,000 people to rejoin relatives in Germany, from whom they had been separated for many years.

Of the above number, seven thousand came from Poland. They were given all the necessary facilities to complete their journey by the authorities in Eastern Germany during their passage in transit ; at the Friedland Camp, their destination in the British Zone, measures had been taken to speed up reunion with their relatives.

The other four thousand, from Czechoslovakia, were directed to Furth im Walde, in the American Zone, and from there, sent on later to their final destinations.

There is reason to hope that, in spite of the many material and technical obstacles to transfer on this scale, it will be possible to complete it within a short period, and that, thanks to the comprehension of the Czech and Polish Governments, and the Allied Authorities in Western Germany, all the persons in the groups referred to will, if it is their desire, be authorised to go to Germany.

Geneva, June 14, 1950

INTERNATIONAL COMMITTEE OF THE RED CROSS

*REPORT ON THE ANNUAL AUDIT
OF ACCOUNTS FOR THE YEAR
ENDED DECEMBER 31, 1949*

The International Committee has decided henceforth to issue Annual Reports. The first of these will be published shortly and will supply detailed information on the Committee's financial situation as at December 31, 1949.

The Auditor's statement for 1949 is as follows :

On your Committee's instructions, the undersigned firm—an auditor approved by the Swiss Federal Council and the Federal Banking Commission—has audited the annual accounts of the International Committee of the Red Cross and of its relief actions during the financial year 1949.

The audit has been carried out in accordance with established rules and principles. By numerous spot checks and examinations, we have verified the accuracy of the accounts entered during the year 1949, and on the basis of the vouchers, books and supporting documents placed at our disposal, have verified the Balance Sheet and the Statement of Income and Expenditure, as on December 31, 1949.

These two documents are shown in annex. They are in entire conformity with the Committee's books and are an accurate record of its financial situation at the end of 1949.

Evidence of the assets shown on the Balance Sheet has been supplied by the relevant documents, and all information we asked for has been readily furnished.

We recall that we have already verified the individual accounts for 1949 of the various Special Funds entrusted to the International Committee, namely :

- The ICRC Foundation
- The Augusta Fund ;
- The Empress Shōken Fund ;
- The Florence Nightingale Medal Fund.

The auditing of these accounts, which were found to be accurate, was the object of our Special Report of February 28, 1950.

Geneva, April 21, 1950.

SOCIÉTÉ FIDUCIAIRE ROMANDE OFOR S. A.

INTERNATIONAL COMMITTEE

DEBIT

GENERAL INCOME AND EXPENDITURE

	Total	Allocation	
		to Financial Year 1949	to Previous Years
	Sw. Fr.	Sw. Fr.	Sw. Fr.
GENERAL OVERHEAD EXPENSES			
Staff remuneration, Geneva personnel	2,300,120.60	2,300,120.60	—
Social charges (Old Age Insurance and Family Allowances)	98,289.03	98,289.03	—
Share in staff transport expenses (Geneva-Pregny)	62,177.60	62,177.60	—
	<u>2,460,587.23</u>	<u>2,460,587.23</u>	<u>—</u>
Allowance for, and costs of President's Office	57,020.00	57,020.00	—
Travelling and entertainment expenses in Switzerland	27,424.99	27,424.99	—
Red Cross Conferences and Meetings (of which Fr. 25,000 allotted to the Reserve Fund for the XVIIIth International Red Cross Conference)	27,749.10	27,749.10	—
Upkeep of automobiles and lorries in Switzerland and abroad	171,311.49	171,311.49	—
Postage, telegrams, telephone	75,138.66	75,138.66	—
Sundry printing costs, ICRC Revue, publications	94,657.77	94,657.77	—
Information, press, radio, films, etc.	29,084.10	29,084.10	—
Office supplies and furniture	45,312.24	45,312.24	—
Lighting, heating, rent, upkeep and equipment of premises	94,229.37	94,229.37	—
Other expenses	56,764.88	56,764.88	—
Total	3,139,279.83	3,139,279.83	—
DELEGATIONS AND MISSIONS			
Staff remuneration for Delegates and personnel abroad	335,408.95	335,408.95	—
Travelling expenses, insurance, maintenance for Delegates, and overhead expenses of Delegations abroad	1,152,624.19	985,738.49	166,885.70
Total	1,488,033.14	1,321,147.44	166,885.70
ALLOCATIONS			
Allocations by the ICRC from incoming receipts in 1949, relative to previous years—			
— to Emergency action in case of a general conflict	5,000,000.00	—	5,000,000.00
— to Relief actions	3,500,000.00	—	3,500,000.00
— to General risks	1,458,683.00	—	1,458,683.00
— to writing off Deficit as on December 31, 1948	1,928,989.67	—	1,928,989.67
— to ICRC Reserve Fund	1,679,069.32	—	1,679,069.32
Total	13,566,741.99	—	13,566,741.99
Total	18,194,054.96	4,460,427.27	13,733,627.69

OF THE RED CROSS

ACCOUNT AS ON DECEMBER 31, 1949

CREDIT

	Total	Allocation	
		to Financial Year 1949	to Previous Years
	Sw. Fr.	Sw. Fr.	Sw. Fr.
CONTRIBUTIONS AND DONATIONS RECEIVED FOR GENERAL PURPOSES			
Proceeds of the 1949 Appeal in Switzerland (collection) . . .	935,347.53	935,347.53	—
Contributions by National Red Cross Societies	611,920.04	524,653.19	87,266.85
Contributions by Governments abroad	13,886,300.74	19,638.65	13,866,662.09
Donations from organisations, commercial firms and private individuals	200,155.41	159,160.81	40,994.60
Total	15,633,723.72	1,633,800.18	13,994,923.54
INCOME FROM CAPITAL INVESTMENTS			
Bank interest	74,225.95	60,470.85	13,755.10
Income from Public Stocks	66,612.65	50,809.60	15,803.05
Income from ICRC Foundation	27,645.60	27,645.60	—
Total	168,484.20	138,926.05	29,558.15
SUMS RECOVERED AND SUNDRY RECEIPTS			
Sale of furniture and equipment, rebates, etc.	58,300.47	56,431.07	1,869.40
Reimbursement of expenses incurred on behalf of third parties	615,963.14	520,055.44	95,907.70
Over-estimation of Delegation costs to the end of 1948	44,842.94	—	44,842.94
Total	719,106.55	576,486.51	142,620.04
<i>Total Receipts</i>	<u>16,521,314.47</u>	<u>2,354,212.74</u>	<u>14,167,101.73</u>
Transfer to the 1949 Budget of the unexpended balance from previous years	—	+ 433,474.04	— 433,474.04
	<u>16,521,314.47</u>	<u>2,787,686.78</u>	<u>13,733,627.69</u>
DEBIT BALANCE AS TO DECEMBER 31, 1949	1,672,740.49	1,672,740.49	—
Total	<u>18,194,054.96</u>	<u>4,460,427.27</u>	<u>13,733,627.69</u>

N.B. — The relevant receipts and expenditure figures for the Committee's own work in Palestine and that of the ICRC Commissariat in Palestine are not included in the above General Account.

INTERNATIONAL COMMITTEE

CONSOLIDATED BALANCE

ASSETS

LIQUID AND NEGOTIABLE	Sw. Fr.
Cash in hand	41,407.71
Postal Cheque Account	108,475.63
Balance at Swiss Banks	6,628,329.23
Foreign currency holdings	82,968.13
Public Securities and other deposits at the Swiss National Bank	15,559,140.90
Sundry securities presented to the ICRC and without sale value (nominal)	1.00
Total	22,420,322.51
FUNDS IN USE	
Advances to Delegations and to ICRC Delegates abroad	1,490,968.48
Palestine Account (advances and repayable costs)	638,801.57
Governments, official organisations and National Red Cross Societies	221,927.55
Sundry Debtors	283,004.74
Stocks of pharmaceutical supplies for relief purposes	29,941.54
Furniture and office equipment (nominal)	1.00
Capital shares in " Foundation for the Organisation of Red Cross Transport " . (nominal)	1.00
Legacy, Mme. E. M. Domke (bare ownership) (nominal)	1.00
Total	2,664,646.11
<i>Gross Assets</i>	<u>25,084,969.48</u>
DEBIT BALANCE AS ON DECEMBER 31, 1949	
Debit Balance, Income and Expenditure Account as on Dec. 31, 1949	1,672,740.49
<i>Grand Total</i>	<u>26,757,709.97</u>
CONTROL ACCOUNT	
Delegation Relief Funds	<u>361,379.80</u>

OF THE RED CROSS

SHEET AS ON DECEMBER 31, 1949

LIABILITIES

COMMITMENTS	Sw. Fr.
Relief Action Account	5,115,095.27
Sundry Creditors	3,690,273.84
Swiss Confederation Loan	3,000,000.00
Suspense Account (estimated Delegation costs to be accounted for)	288,498.00
Total	12,093,867.11
SUNDRY	
Provision for emergency action in case of a general conflict	5,000,000.00
Provision for general risks	4,613,842.86
Reserve for XVIIIth International Red Cross Conference	50,000.00
Total	9,663,842.86
RESERVE FUND	
ICRC Security Fund as on December 31, 1949	5,000,000.00
Grand Total	26,757,709.97
CONTROL ACCOUNT	
Delegation Relief Funds	361,379.80

THE INTERNATIONAL COMMITTEE IN INDIA
(Bengal, Assam, and the State of Tripura)
AND PAKISTAN

AID TO MOSLEM AND HINDU REFUGEES

On several occasions¹, the present *Revue* has published articles and communiques on what the ICRC had been called upon to do for the victims of the disturbances which broke out in the Indian Peninsula after its partition, in 1947, into the two States of India and Pakistan. There were vast movements of population from the Indian Union to Pakistan, and *vice versa*, marked at certain places, in the Punjab particularly, by grave incidents. Moreover, it will be remembered that during 1948, there was bloodshed in the armed conflict which broke out in Kashmir, immediately North of the Punjab. On this occasion the intervention of a neutral intermediary was called for.

The relative quiet in Bengal, which had also been divided, was therefore somewhat surprising. Several hundred thousand people were affected by the partition, but their changes of residence were made peacefully.

Very difficult resettlement problems naturally arose for the Governments concerned. But it was only at the beginning of 1950 that the situation in Bengal and the neighbouring areas changed completely. Serious disturbances occurred, for reasons which are still only partly explained.

Charges were brought against the Hindu minorities in Eastern Pakistan, and against the Moslems in Western Bengal, Assam and the State of Tripura. Assassinations on both sides were followed by reprisals, and local incidents degenerated

¹ See *Revue internationale*, May 1949, pp. 332-335; January 1950, pp. 20-25; March 1950, p. 235; April 1950, p. 309.

rapidly into serious unrest. Police action was spoken of, and even the inevitability of war between India and Pakistan. It was at this moment that the Government of India, in agreement with that of Pakistan, appealed to the good offices of the ICRC. A mission was immediately sent to gather information, to act, if necessary, as intermediary between the parties, and to estimate what steps the ICRC should take.

Before going into details, some geographical data may be useful.

Bengal was divided in 1947 into Western (Indian) Bengal, and Eastern Bengal (Eastern Pakistan). To the North, the small Indian State of Cooch Bihar and the great Province of Assam were affected only slightly by the separation, while the State of Tripura, to the East, remained intact.

The population of Western Bengal is about 22 millions, with a Moslem minority of four millions. Assam Province has ten million inhabitants, including a million Moslems, and the 600,000 population of Tripura has likewise a Moslem minority of some 60,000.

But the trouble came to a head in Bengal, where the capital, Calcutta, a town of seven million inhabitants, has always been a centre of unrest, the Hindu rising against the Moslems, or the opposite. It was in this city that, as far as India was concerned, the disturbances were most serious.

Eastern Pakistan, with its capital of Dacca and the port of Chittagong in the South-East, has 45 million souls, or about half the entire population of Pakistan. The Hindu minority is 12 millions, representing, as in Western Bengal, approximately one-fourth of the population. Pakistan is almost entirely flat ; it produces jute and rice, and the vast majority of its population is, as are the people of these latitudes, agricultural.

It is impossible to say where exactly the troubles began. It is certain that murders and reprisals occurred on both sides, and that finally there was a state of panic in almost all the territory.

The Hindus living in Pakistan, believing themselves in danger, tried to get to India. Those in the South-East, around Chittagong, unable to leave for Calcutta by sea, were obliged to

use the trains, or the canal steamers in the centre of Pakistan. This route is, however, long and dangerous. These refugees reached the frontier at about 90 miles north-east of Calcutta, whilst Hindus, in South-Pakistan travelled to India by a road running some 60 miles north-east of Calcutta. These two points are almost the only passages between Pakistan and the South of Western Bengal. In the North and North-East, the Hindus went in the direction of Cooch Bihar and Assam; in the East, they took refuge in Tripura State. In this way, over a million Hindus have up to the present gone from Pakistan.

Moslems from around Calcutta reached Pakistan by the two routes just mentioned, or fled from Assam and Tripura State to Northern and Eastern Pakistan. Almost a million Moslem refugees sought asylum in Pakistan.

Thus, two opposite streams of refugees, Hindu and Moslem, crowded the frontier passages, both often having to put up with vexatious treatment of all sorts. The stories they told later helped to increase the tension, which continued to grow dangerously. Soon, ten thousand persons were crossing the frontiers daily.

The ICRC Delegates had an opportunity of seeing these refugees in Western Bengal, Assam, Tripura State and Pakistan. Once more they witnessed a pitiful exodus of homeless and starving men and women, weeping for the parents and lands which they had no hope to see again. At each frontier it was the same despairing spectacle: gaunt and weary refugees, dropping from exhaustion once across the frontier.

More than two million refugees had to be fed and assisted. The Governments took up the problem; so did the numerous Relief Societies, eager to help, though their organisation and resources were totally inadequate to meet the situation. Local Red Cross units took the care of children as their special field, but very soon milk supplies proved insufficient. Public health safeguards were practically non-existent. The authorities had sent doctors, but there were scarcely any nurses. There was no let up in the number of refugees arriving. The hastily improvised camps were quickly overcrowded; proper camps had to be organised, but were in turn filled in two or three days. Refugees

were accommodated in the former British barracks, and when every other possibility had been exhausted, the Bengal Government appealed to the neighbouring provinces of Orissa and Bihar ; these agreed to take refugees, while in Pakistan the newcomers were spread throughout the country.

The problems thus were immense. From the beginning, it was possible to give the refugees rice and, at present, each at least receives half the normal ration. But once again, it is the children who suffer, and the old people, the invalids, and the nursing mothers. As we have said, public health measures are rudimentary. Cholera and smallpox, the two greatest plagues of Bengal, appeared and rapidly assumed unusual proportions.

When the appeal was sent to the International Committee, the situation was consequently grave. Not only was there a refugee problem ; though extremely serious, it could have been dealt with in time. It was more urgent still to help in the protection of minorities, and to assist in restoring confidence through the knowledge that the Governments had agreed to the Committee's Delegates acting as intermediaries.

When the situation seemed to have reached a critical point, the two Governments, desirous of avoiding the worst, signed a Minority Agreement on April 8, 1950, undertaking by it to restore peaceful relations and to accord full protection to minorities. The text of this Agreement is annexed.

It will be one of the principal tasks of the Committee's Delegates to assist these peoples, not only by organising medical centres, but still more, by gaining and deserving their confidence.

Dr. R. Marti.

ANNEX

AGREEMENT BETWEEN INDIA AND PAKISTAN

(A). — The Governments of India and Pakistan solemnly agree that each shall ensure, to the minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality.

Members of the minorities shall have equal opportunity with members of the majority community to participate in the public life of their country, to hold political or other office, and to serve in their country's civil and armed forces.

Both Governments declare these rights to be fundamental and undertake to enforce them effectively.

The Prime Minister of India has drawn attention to the fact that these rights are guaranteed to all minorities in India by its Constitution. The Prime Minister of Pakistan has pointed out that similar provision exists in the Objectives Resolution adopted by the Constituent Assembly of Pakistan.

It is the policy of both Governments that the enjoyment of these democratic rights shall be assured to all their nationals without distinction.

Both Governments wish to emphasise that the allegiance and loyalty of the minorities is to the State of which they are citizens, and that it is to the Government of their own State that they should look for the redress of their grievances.

(B). — In respect of migrants from East Bengal, West Bengal, Assam and Tripura, where communal disturbances have recently occurred, it is agreed between the two Governments :

(1) That there shall be freedom of movement and protection in transit.

(2) That there shall be freedom to remove as much of his moveable personal effects and household goods as a migrant may wish to take with him. Moveable property shall include personal jewellery. The maximum cash allowed to each adult migrant will be Rs. 150/- and to each migrant child Rs. 75/-.

(3) That a migrant may deposit with a bank such of his personal jewellery or cash as he does not wish to take with him. A proper receipt shall be furnished to him by the bank for cash or jewellery thus deposited, and facilities shall be provided, as and when required, for their transfer to him, subject, as regards cash, to the exchange regulations of the Government concerned.

(4) That there shall be no harassment by the Customs authorities. At each Customs post agreed upon by the Governments concerned, liaison officers of the other Government shall be posted to ensure this in practice.

(5) Rights of ownership in or, occupancy of, the immoveable property of a migrant shall not be disturbed. If, during his absence, such property is occupied by another person, it shall be returned to him, provided that he comes back by the 31st December, 1950. Where the migrant was a cultivating owner or tenant, the land shall be restored to him, provided that he returns not later than the 31st December, 1950. In exceptional cases, if a Government considers that a migrant's immoveable property cannot be returned to him, the matter shall be referred to the appropriate Minority Commission for advice.

Where restoration of immoveable property to the migrant who returns within the specified period is found not possible, the Government concerned shall take steps to rehabilitate him,

(6) That in the case of a migrant who decides not to return, ownership of all his immoveable property shall continue to vest in him and he shall have unrestricted right to dispose of it by sale, by exchange with an evacuee in the other country, or otherwise. A Committee consisting of three representatives of

the minority and presided over by a representative of Government shall act as trustees of the owner. The Committee shall be empowered to recover rent for such immoveable property according to law.

The Governments of East Bengal, West Bengal, Assam and Tripura shall enact the necessary legislation to set up these Committees.

The Provincial or State Government, as the case may be, will instruct the District or other appropriate authority to give all possible assistance for the discharge of the Committee's functions.

The provisions of this sub-paragraph shall also apply to migrants who may have left East Bengal for any part of India, or West Bengal, Assam or Tripura for any part of Pakistan, prior to the recent disturbances but after the 15th August, 1947. The arrangement in this sub-paragraph will apply also to migrants who have left Bihar for East Bengal, owing to communal disturbances or fear thereof.

(C). — As regards the Province of East Bengal and each of the States of West Bengal, Assam and Tripura respectively, the two Governments further agree that they shall :

(1) Continue their efforts to restore normal conditions and suitable measures to prevent recurrence of disorder.

(2) Punish all those who are found guilty of offences against persons and property and of other criminals offences. In view of their deterrent effect, collective fines shall be imposed, where necessary. Special Courts will, where necessary, be appointed to ensure that wrong-doers are promptly punished.

(3) Make every possible effort to recover looted property.

(4) Set up immediately an agency, with which representatives of the minority shall be associated, to assist in the recovery of abducted women.

(5) NOT recognise forced conversions. Any conversion effected during a period of communal disturbance shall be

deemed to be a forced conversion. Those found guilty of converting people forcibly shall be punished.

(6) Set up a Commission of Enquiry at once to enquire into and report on the causes and extent of the recent disturbances, and to make recommendations with a view to preventing recrudescence of similar trouble in future. The personnel of the Commission, which shall be presided over by a Judge of the High Court, shall be such as to inspire confidence among the minority.

(7) Take prompt and effective steps to prevent the dissemination of news and mischievous opinion calculated to rouse communal passion by press or radio, or by any individual or organisation. Those guilty of such activity shall be rigorously dealt with.

(8) NOT permit propaganda in either country directed against the territorial integrity of the other or purporting to incite war between them, and shall take prompt and effective action against any individual or organisation guilty of such propaganda.

(D). — Sub-paragraphs 1, 2, 3, 4, 5, 7 and 8 of (C) of the Agreement are of general scope and applicable, according to exigency, to any part of India or Pakistan.

(E). — In order to help restore confidence, so that refugees may return to their homes, the two Governments have decided

(i) to depute two Ministers, one from each Government, to remain in the affected areas for such period as may be necessary;

(ii) to include in the Cabinets of East Bengal, West Bengal and Assam a representative of the minority community. In Assam the minority community is already represented in the Cabinet. Appointments to the Cabinets of East Bengal and West Bengal shall be made immediately.

(F). — In order to assist in the implementation of this Agreement, the two Governments have decided, apart from

the deputation of their Ministers referred to in (E), to set up Minority Commissions, one for East Bengal, one for West Bengal, and one for Assam. These Commissions will be constituted and will have the functions described below.

(1) Each Commission will consist of one Minister of the Provincial or State Governments concerned, who will be the Chairman, and one representative each of the majority and minority communities from East Bengal, West Bengal and Assam, chosen by and from among their respective representatives in the Provincial or State Legislatures, as the case may be.

(2) The two Ministers of the Governments of India and Pakistan may attend and participate in any meeting of any Commission. A Minority Commission, or any two Minority Commissions jointly, shall meet when so required by either Central Minister for the satisfactory implementation of this Agreement.

(3) Each Commission shall appoint such staff as it deems necessary for the proper discharge of its functions and shall determine its own procedure.

(4) Each Commission shall maintain contact with the minorities in Districts and small administrative headquarters, through Minority Boards formed in accordance with the Inter-Dominion Agreement of December, 1948.

(5) The Minority Commissions in East Bengal and West Bengal shall replace the Provincial Minorities Boards set up under the Inter-Dominion Agreement of December, 1948.

(6) The two Ministers of the Central Governments will, from time to time, consult such persons or organisations as they may consider necessary.

(7) The functions of the Minority shall be :

(a) To observe and to report on the implementation of this Agreement and, for this purpose, to take cognizance of breaches or neglect.

(b) To advise on action to be taken on their recommendations.

(8) Each Commissions shall submit reports, as and when necessary, to the Provincial and State Governments concerned. Copies of such reports will be submitted simultaneously to the two Central Ministers during the period referred to in (E).

(9) The Governments of India and Pakistan, and the State and Provincial Governments, will normally give effect to recommendations that concern them, when such recommendations are supported by both the Central Ministers. In the event of disagreement between the two Central Ministers, the matter shall be referred to the Prime Ministers of India and Pakistan, who shall either resolve it themselves or determine the agency and procedure by which it will be resolved.

(10) In respect of Tripura, the two Central Ministers shall constitute a Commission and shall discharge the functions that are assigned under the Agreement to the Minority Commissions for East Bengal, West Bengal and Assam. Before the expiration of the period referred to in (E), the two Central Ministers shall make recommendations for the establishment in Tripura of appropriate machinery to discharge the functions of the Minority Commissions envisaged in respect of East Bengal, West Bengal and Assam.

(G). — Except where modified by this Agreement, the Inter-Dominion Agreement of December, 1948, shall remain in force.

JAWAHARLAL NEHRU
*Prime Minister of
India*

LIAQUAT ALI KHAN
*Prime Minister of
Pakistan*

New Delhi.

April 8, 1950.

ECHOES OF EVENTS IN THE NEAR EAST

The handing over to the United Nations of the functions of the Commisariat for Relief to Palestine Refugees has not brought the work of the International Committee of the Red Cross to an end in the Near East.

There has been a great improvement in the situation since the signature of the Armistice between Arabs and Jews, but it still is confused in many respects. The line of demarcation between Israeli territory and the Arab Zone in Palestine has military guards on both sides and is crossed with difficulty: it is hard to move about even in Jerusalem, where the Old Town is controlled by Jordan, the New Town by Israel.

There are accordingly humanitarian problems which can be dealt with only by a neutral intermediary, recognised and accepted by both sides. The International Committee has three Delegates in the Near East, two accredited to Arab States, one to Israel. The Delegates arrange the transmission of family messages, tracing of missing persons, forwarding of individual relief, and they facilitate the reunion of Arab and Jewish families broken up by events. Charitable institutions of all denominations in the New Town of Jerusalem are regularly supplied by convoys which cross the line of demarcation once a month; authorisation for this transport, requiring the consent of both Arabs and Jews, was recently confirmed, thanks to the intervention of the Committee's Delegates.

Geneva, June 14, 1950

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

July, 1950

Vol. III, No. 7

CONTENTS

	Page
The International Committee of the Red Cross and the Refugee Problem	114
Events in Korea	127
The ICRC gets in touch with Washington . .	128
The ICRC in Korea	129

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

*THE INTERNATIONAL COMMITTEE
OF THE RED CROSS AND THE REFUGEE PROBLEM*

I. INTRODUCTION

Of all victims of the recent War, none, since the Armistice, have endured greater hardships than the refugees, and none have been more hardly dealt with. Up to the present they had, like civilians in general, the protection of no international Convention, and their number alone, which still runs to millions, made it particularly difficult to assist them.

During recent years, the refugee problem has been the responsibility of a number of specialised agencies, such as the Inter-Governmental Committee for Refugees, the United Nations Relief and Rehabilitation Administration (UNRRA) and the International Refugee Organisation (IRO).

The International Committee of the Red Cross (ICRC) did not receive any such mandate and was consequently not competent to intervene. Nevertheless, for humanitarian reasons, it could not disavow its interest in these persons, deprived as they were of protection because they would, or could, not claim it from their own Governments, and was accordingly led to act in their favour and make certain attempts to better their conditions.

The important fact, however, was not alone the absence of a mandate which would have facilitated the ICRC, but the lack of funds which could be earmarked; certain categories only of refugees could be helped by gifts provided for the purpose by welfare organisations.

It is for this reason that the ICRC has not a comprehensive picture of the present conditions of refugees. Lists and figures in its possession are incomplete, because Delegates can transmit only the complaints and requests refugees give them, and are not in a position to draw up general reports.

What follows is therefore fragmentary, and not in any sense a complete study of the vast and complicated problem which the presence of such large numbers of refugees represents in Europe. It has, however, seemed useful to summarize what the ICRC has done since 1945, and show how it has constantly striven to adapt itself to a situation which circumstances and immediate needs has caused to vary incessantly.

II. SPECIFIC EXAMPLES

I. Practical Measures

(a) — *Travel Documents.*

After the Armistice, Governmental Authorities, faced with so many urgent problems, could not devote much attention to certain classes of war victims. Refugees and Displaced Persons who had lost their identity papers and who would, or could, not have their passports renewed, were a particular example.

It was to meet this situation that the ICRC established its Travel Document, originally intended to allow the holder either to return to his homeland, or to continue living in the country where he happened to be.

It had been decided in the beginning that ICRC Travel Documents would be issued for only a short period, sufficient to allow authorities to establish their own official identity papers for refugees. Accordingly, when the London Agreement of October 15, 1945, under the auspices of the Inter-Governmental Committee for Refugees, was signed by sixteen States, the ICRC believed that it would be able shortly afterwards to suspend the issue of its own Document. The signatory Powers undertook to deliver Travel Documents to refugees without identity papers, and to recognise the validity of papers issued by the other signatory Powers. Nevertheless, in spite of the adhesion of several other Governments to the London Agreement, the ICRC has not even yet been able to withdraw. The delay in the ratification and entry into operation of the Agreement, and the increasing number of refugees wishing to emigrate

overseas, obliged the Committee to continue. But even before the London Agreement, the wording of the ICRC Travel Document had to be somewhat modified, so that it could serve as an identity paper for persons wishing to emigrate.

The Document is issued only when the following three conditions are fulfilled :

- (a) — Absence of a valid passport and inability to procure a new one.
- (b) — Authorisation to leave the country in which the applicant finds himself.
- (c) — Promise of a visa from the Diplomatic or Consular Representative of the country to which the applicant wishes to go.

The principal characteristic of the Travel Document is, that it is issued free to every applicant, providing that the above conditions are fulfilled, and irrespective of the refugee's race, religion, language or political convictions. The ICRC in this way affirms its neutrality: a refugee from East Europe who has been deprived of his nationality and who does not want to return to his homeland but wishes to emigrate overseas, may have the Document in the same way as, for example, a citizen of the same country, interned perhaps in Spain, who is anxious to return home.

Moreover, it is important to note that the Document is not a " Red Cross passport ", as it is often erroneously called, but a Travel Document whose validity is strictly limited (generally, six months to one year). As its issue might give the impression that the ICRC thereby accepted a certain responsibility, the text makes it quite clear that the Committee cannot in any way vouch for the identity of the bearer, and that the Document merely reproduces the declaration he has made to a Delegate. As it is not an official paper, Governmental Authorities and Consular and Diplomatic Representatives may, as they choose, recognise its validity, or refuse to do so.

Up to now, over 100,000 Travel Documents have been issued at Prague, Vienna, Salzburg, Innsbruck, Paris, Cairo, Shanghai, Madrid, Genoa, Naples, and, particularly, Rome.

Efforts are being made in Geneva to have the competent national authorities take over this work from the ICRC which, in any case, ceases to issue the Documents as soon as the Government in a particular country provides special papers for refugees. However, the fact should be stressed that the principal document created for refugees, namely the Governmental or "London" Travel Document, is given only to refugees eligible for IRO assistance. Those who are not eligible, being without papers, find it absolutely impossible to travel, and the ICRC is therefore obliged to continue the issue of its Document.

The countless services which the Document has rendered to those who had lost everything, can easily be imagined.

(b) — *Capture Certificates.*

In order to be eligible for the assistance, administrative and especially material, of IRO, Displaced Persons have to undergo several tests to show that their attitude and activities during the War were such as to entitle them to IRO protection. It is for this reason that former prisoners of war frequently apply to Geneva; in the absence of other documents, only a Capture Certificate, issued by the ICRC and based on the information in its card-index, can help such persons to prove their eligibility and their right to the support of IRO in emigrating.

The ICRC has established close on 20,000 Capture Certificates; these have been sent either direct to the applicants, or to IRO representatives in the Occupation Zones in Germany and Austria. Unfortunately, lists of persons in enemy hands were not always forwarded during the War, and it is sometimes impossible to establish a Certificate, even though the applicant appears to have really been a prisoner of war. This is the case, for example, with Soviet and Rumanian prisoners. It is purely accidental that certain Rumanian names were not communicated to Geneva and accordingly are not included in the relevant card-index; the names of Soviet prisoners of war are absent, because Soviet Russia failed to sign the 1929 Prisoners of War Convention and did not transmit the name of any prisoner of

war in its power. In consequence, the German Government did not make up any lists of Soviet prisoners of war in German hands.

(c) — *Tracing.*

Between 1939 and 1945 the Central Agency established an index of all prisoners of war whose names were communicated to it, and was thus able to supply information to the relatives. As well as this vast index of military personnel, the ICRC began to collect information about civilians dispersed by war, in the hope that, when hostilities ended, it might put the persons sought in touch with those who were looking for them. In 1945, however, the Allied Authorities made it known that they themselves intended to take the matter in hand. With this end in view they set up an International Tracing Service in Germany, which was the responsibility successively of UNRRA, the Occupation Authorities, and IRO.

After detailed examination, the ICRC replied affirmatively when IRO, in the Autumn of 1949, asked if the Committee would be prepared to undertake the work actually being done by the International Tracing Service. Later, however, IRO changed its mind and did not proceed with the proposal.

We may recall, as an example, that the problem of liaison between families arose again in connection with refugees of Russian origin transferred by IRO from Shanghai to Samar in the Philippines. Relatives who had remained in China complained that they had no news from them. The Committee got in touch with IRO, asking that, if necessary, lists should be at once sent from Samar to Shanghai. Thanks to the efforts made by IRO, the applicants were given satisfaction.

2. Study of Problems

(a) — *Legal assistance.*

By a Resolution of the XVIIth International Red Cross Conference (Stockholm, 1948), the ICRC was requested to

examine jointly with the League of Red Cross Societies the possibility of creating an organisation to give legal assistance to refugees. The Resolution was :

The XVIIth International Red Cross Conference,

recommends that National Societies include in their activities, should the necessity arise, legal and social assistance to stateless persons, refugees and war victims,

requests the League of Red Cross Societies and the International Committee of the Red Cross to establish a standard programme in this field.

To implement this Resolution, the ICRC addressed, jointly with the League of Red Cross Societies, a letter to all National Societies. Unfortunately, only a small number of replies, mostly negative, were received.

Nevertheless, now that IRO is soon to cease operations, it is increasingly urgent to contribute to any attempt to solve the refugee problem. It was for this reason that the ICRC decided to send to Governments, Red Cross Societies and all interested organisations, the message reproduced in the *May Supplement*¹.

(b) — *Convention on Declarations of Death.*

The United Nations decided to establish a Convention which would enable refugees to obtain official Declarations of Death for relatives who died during the war, and the ICRC was invited to draft a Memorandum of its views and proposals on this particular point. After careful examination the ICRC responded ; account was taken of its proposals in drawing up the Convention which was established after a Conference held recently at Lake Success, at which, unfortunately, the ICRC was unable to be represented. Note was taken in particular of the most important suggestion—to extend the benefit of the Convention without discrimination to all persons concerned.

¹ See *Revue internationale*, English Supplement, May 1950, p. 82.

(c) — *Conference of Non-Governmental Organisations interested in Emigration Problems.*

This Conference, convoked by the United Nations, was held at Geneva in January 1950. It allowed the ICRC once more to draw the attention of the United Nations and of all Organisations represented, to the necessity of taking the word "Refugee" in its widest sense. The ICRC supported proposals tending to give refugees legal and spiritual assistance.

(d) — *Relations with the International Refugee Organisation.*

IRO being the most important of those organisations which deal with refugees, it was natural that the ICRC should frequently co-operate with it in questions connected with Displaced Persons. There were joint meetings and expert consultations. Letters addressed by refugees, or groups of refugees, to the ICRC were often within IRO's competence, and were at once referred to it.

In certain countries in which IRO is not represented, the ICRC looks after the work which would normally be done by IRO.

3. Protection and Assistance

There are two classes of Refugees on whose behalf the ICRC assumes functions which are normally those of a Protecting Power :

- (a) — Refugees, whatever their nationality, who cannot or do not wish to have the protection of their home Government.
- (b) — German nationals who, while not being properly speaking refugees, were not until recently protected by a Government and who had no Diplomatic or Consular protection.

The ICRC was also called upon by Governments to assist in dealing with some particularly delicate problems, as for example, the repatriation of Polish and Jugoslav children. (See below.)

(a) — *Refugees of all nationalities.*

During 1949, a certain number of Displaced Persons of different nationalities who were working in Belgium addressed themselves to the ICRC. Having broken their working contract, they found themselves unemployed ; the ICRC limited itself at the time to transmitting their letters to the Belgian authorities.

However, at the end of 1949, these refugees made collective applications to Geneva. Their contracts had expired and they were in a very difficult position. The ICRC made enquiries about the real position of these aliens, to find out if and how they might be assisted, should their complaints be founded.

Enquiry with IRO and the Belgian Ministry of Power and Fuel showed that the Belgian Government had been one of the first to enlist miners amongst the Displaced Persons in Germany. Following an agreement between the Belgian authorities and the Inter-Governmental Committee, some thousands of refugees agreed to work in Belgium as miners for two years. They had been informed that at the expiration of the contracts they could : (a) accept employment in some other branch of the Belgian economy ; (b) return to Germany ; or (c) emigrate to some other country. Two months before the expiration of the contracts, they made known their intention of not renewing them, and learned then that the only course open to them was to continue working in the mines.

The Occupying Authorities were opposed to their return to Germany ; owing to the economic situation, apart from agriculture and work in quarries, no occupation except that of miner was open to them in Belgium ; finally, they could not emigrate, except at their own expense, because IRO considered that persons who had already emigrated once were no longer eligible under its mandate.

In spite of the requests of the ICRC, neither the Belgian Government nor IRO could change their attitude. The Belgian Government, however, as the ICRC was able to see for itself, made every effort to provide the best possible working and living conditions. Pay was high and living quarters excellent. IRO on its side has done all it could to organise transport to

other countries (particularly France and certain South American states) of small groups chosen from amongst the men who wished to leave Belgium.

A somewhat similar case referred to the ICRC was that of a group of Polish workers, who broke their labour contracts in Holland. Their application was transmitted to the Netherlands Red Cross and to IRO representatives at the Hague.

In Italy, the principal work of the ICRC for refugees was for those interned in Italian camps and considered as not entitled to IRO assistance.

In spite of the great efforts of the Italian authorities, living conditions for refugees were not always satisfactory. The Committee's Delegates therefore undertook camp visits and, as in the case of prisoners of war, drew up reports. These were sent to the Italian Government, which was always most willing to help alien refugees, and in spite of the heavy burden on the Italian exchequer, made all possible attempts to improve their condition. The authorities responded favourably to the Delegates' suggestions and granted certain facilities to the refugees, including free correspondence with their families, legal assistance for those prosecuted, and improvements in the camps.

The reports also led to negotiations with relief organisations such as the International Union for Child Welfare, whose assistance the ICRC called upon to help children interned with their parents.

There were originally four camps: Lipari, Alberobello, Fraschette di Alatri, and Farfa Sabina. Two are now closed, while Fraschette di Alatri, for men, and Farfa Sabina, for women and children, still operate.

Fraschette di Alatri was visited for the last time by a mission which went to Italy in December 1949. It reported that the Italian Government will continue to assist alien refugees; no definite solution can be expected, however, until the refugees can emigrate, i.e., when they shall have received their visas and been assured employment. These questions are obviously outside the competence of the Italian Government.

Other countries in which ICRC Delegates had to look after refugees were: (1) China, which harbours many refugees of

Russian and German origin ; (2) Algeria, through which refugees of all nationalities pass in transit ; (3) Rhodesia, where some hundreds of Poles are living in camps ; (4) Greece, where Russian and Assyrian refugees have for years been living in difficult conditions, and where, since the close of hostilities, many Rumanians, Bulgarians and Jugoslavs have arrived.

The fact that the ICRC was called upon more often in these distant countries than nearer home is easily explained. In Germany, France and Austria, refugees are aware that the resources of the ICRC are restricted, and they can turn to the many relief organisations which are in a position to help them.

(b) *Germans.*

Immediately after the War, the Committee's Delegates were called upon to organise the repatriation of some hundreds of Germans, who were mostly in Tanganyika, the Belgian Congo, Argentina, Brazil and the Portuguese Indies. Thanks to representations made to the Detaining Governments, and the efforts of Delegates on the spot, these Germans were repatriated under very satisfactory transport conditions, and allowed to take property and money with them. At the moment of writing, not all Germans living abroad have yet been able to return home, and the ICRC accordingly continues its efforts in their behalf.

The largest German group due for repatriation lived in Italy. Many former soldiers or civilians have no valid identity papers and are detained in Italian camps. Others, who are at liberty, are anxious to return home, but are unable to pay for the journey and do not know to whom they should turn. For some years, the ICRC has been trying to have these Germans sent home, but operations were seriously delayed for several reasons.

The Allies were unwilling to grant entry permits ; the German authorities too, because of over-population and widespread distress, declined to issue the necessary authorisation (*Zuzugsgenehmigung*), upon the possession of which issue of the Allied entry permit depended.

The Italian authorities, for their part, favour repatriation and make no objection to the departure of these people, who are a charge on the country.

According to information received, all the authorities concerned—the responsible Department of the Bonn Government, the Italian Ministry of Foreign Affairs, the Italian Minister at Francfort, the Inter-Allied Commission in Germany, and the Allied Permit Office in Rome—have now at last agreed on a common policy. The final stages are thus approaching, and all Germans detained under Italian control will shortly leave Italy for home.

In addition to what it has done to facilitate repatriation, the ICRC has also tried to assist Germans in other countries.

Thus, a group of Germans were serving prison sentences at Ankara. The ICRC drew the attention of the Turkish Red Crescent to their situation and that Society agreed to hand them clothing, relief in kind, and the raw materials and tools which would allow them to manufacture articles they could sell for their own benefit. The Red Crescent also informed the ICRC that it was willing to transmit any further relief that might be sent.

While it is true that material conditions for Germans living in camps in Italy were hard, it appears that there have been abuses. Certain internees started writing numbers of begging letters, and the gifts they obtained served to organise a sort of black market. The ICRC, to stop such unfair dealings, secured the help of the Social Service of the Italian Red Cross. The Service agreed to make an enquiry about applicants for aid, and to hand relief parcels to the most needy cases. German Red Cross Committees who had indicated their wish to help Germans in Italy were informed.

Other work for Germans included correspondence with the Australian Emigration Department, at Canberra. The latter had informed the ICRC in 1948 that the Australian Government had given permission to the Germans interned during the War in Australia and who had remained there, to bring out their families to live with them. The Committee discussed matters with IRO and a French shipping company with a view to

securing rebates on the ordinary passenger rates for these people.

(c) — *Aid for Children.*

Early in 1948, the ICRC Delegate at Warsaw took up the question of organising the transfer to Germany of German children who had been brought to Poland during the War and had not been able to return. While supporting the efforts of the ICRC in this connection, the Polish Government and Red Cross expressed the hope that Polish children who had been taken away by the German authorities should likewise be brought home.

The Committee, anxious to assist the Polish Authorities also, accorded certain practical facilities (loan of railway wagons, gifts of food, blankets, etc.), and instructed the Delegation in Germany to give full support to the Polish liaison officers. In Geneva, IRO was asked to give detailed information on what had been done in tracing and repatriating Polish children, and to continue its efforts.

A similar problem arose at the end of 1949, when the Yugoslav Government asked the ICRC to take up the question of the return of Yugoslav children in Austria and Germany. The Delegates in Vienna and Berlin were instructed to consult the Occupying Authorities, the Austrian and German authorities and the local IRO representatives. The ICRC thus succeeded in giving the Yugoslav authorities, through the Red Cross at Belgrade, information about some of the missing children; the Yugoslav Red Cross was also given details of what had been done up to then in both Austria and Germany. This matter is being followed up.

Here are some further examples of what the ICRC has recently been doing for children:

In conjunction with its Prague and Berlin Delegations, it has studied the possibility of transferring German orphans coming from Czechoslovakia to homes managed by the Swiss Red Cross in the Black Forest.

At the request of German mothers who had children by Americans of the Occupation Armies, it got in touch with the

American Red Cross and the American Command in Germany, to obtain the addresses to which the women could turn for alimony.

In many cases the ICRC was, it is true, unsuccessful, but these serve to illustrate the difficulties which have to be overcome. These difficulties are particularly great in attempts to reunite families whose members are dispersed in different countries. Like IRO, the International Union for Child Welfare, UNICEF, the International Social Service, and other organisations, the Committee finds it often impossible to overcome so many obstacles.

(d) — *Individual requests.*

We may mention, to conclude, that apart from the group requests mentioned, the ICRC receives large numbers of individual applications from all over the world. Most of the applicants are refugees anxious either to return home or to emigrate, but without the necessary documents or money. The Committee is asked about the status to which refugees are entitled, or the nationality they may claim. There are questions about the adoption of children, about the means for finding children who were lost during the War, or who have meanwhile been adopted by third parties.

* * *

The variety and complexity of the problems which the ICRC is daily called upon to solve, is evidence not only of the present tragic world situation, but of the necessity for a neutral organisation, guided by Red Cross principles, and ready in all circumstances to act.

E. de R.

EVENTS IN KOREA.

Following its long tradition, and in conformity with the provisions of the Geneva Conventions, the International Committee of the Red Cross has offered its services as a neutral intermediary to the two parties in Korea.

In a telegram addressed to the two Governments, at Pyongyang (North Korea), and at Seoul (South Korea), the International Committee has referred to Article 3, common to the four Geneva Conventions of August 12, 1949, which deals with conflicts not international in character. In such cases, it is provided that an impartial humanitarian organisation such as the International Committee may offer its services to the parties in conflict.

The International Committee has also pointed out that although Korea is not party or signatory to the 1929 Conventions for the protection of the wounded and sick, and relative to prisoners of war, nor of the 1949 Conventions, this fact should not prevent the *de facto* application of the humanitarian principles which protect all war victims.

The International Committee has already given instructions to its Delegate on special mission in Hongkong to go immediately to Korea.

Geneva, June 26, 1950.

*THE I.C.R.C. GETS IN TOUCH WITH
WASHINGTON*

In view of the position taken up by the United States in the conflict in Korea, the International Committee of the Red Cross has offered its services, in its traditional capacity of neutral intermediary, to Washington, as it has already done to North and South Korea. This offer makes reference to the provisions of the 1929 Geneva Conventions, to which the United States is party, and the new Geneva Conventions of August 12, 1949, which, up to the present, have been signed by sixty-one governments.

It should be understood that the Committee's offer is not, as a press report seems to imply, an offer of mediation—in other words, of a political nature—but simply a declaration that the Committee is ready, as is its duty under the Conventions, to assume the humanitarian task of ensuring protection for the victims of conflicts of whatever kind.

Geneva, June 28, 1950.

THE ICRC IN KOREA

A Delegate of the International Committee of the Red Cross, M. Frederick Bieri, arrived by air in South Korea on July 3. He was immediately received by the President of the Republic, Syngman Rhee, who expressed full agreement to the proposal that the ICRC should aid victims of the conflict and gave his adhesion to the essential principles of the 1929 and 1949 Geneva Conventions.

The ICRC has nominated M. Jacques de Reynier, formerly head of the Delegation in Palestine, as Delegate to North Korea ; he has been ready to leave since last week and is only awaiting the necessary travel authorisations to leave.

Geneva, July 7, 1950.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

August, 1950

Vol. III, No. 8

CONTENTS

	Page
Frédéric Siordet, <i>Counsellor to the International Committee of the Red Cross. The Geneva Conventions and Civil War</i>	132
Visitors to the International Committee	145
The International Committee in Israel	146
News of North Korean Prisoners	147
News of American Prisoners in North Korea	148
The Conflict in the Moluccas	149

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

FRÉDÉRIC SIORDET

Counsellor to the International Committee of the Red Cross

THE GENEVA CONVENTIONS AND CIVIL WAR¹

Amongst the Articles common to the four Geneva Conventions is Article 3 which reads as follows :

“ In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions :

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons :

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture ;
 - (b) taking of hostages ;
 - (c) outrages upon personal dignity, in particular humiliating and degrading treatment ;
 - (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognised as indispensable by civilised peoples.
- (2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

¹ Reference : *Revue internationale*, 1950, February, pp. 104-122 ; March, pp. 187-212.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict."

This Article is one of the most important of the new Conventions, and the most revolutionary. In plenary meetings of the Geneva Diplomatic Conference, in the Mixed Commission which dealt with the Common Articles and its Special Committee, and in successive Working Groups, it gave rise to the most protracted discussions. This does not imply that there was irreducible opposition to the principle of extending the Conventions to civil war and other non-international conflicts. On the contrary, the length of time taken is an index of the effort made by the Delegates, in a remarkable spirit of collaboration, to arrive at the most satisfactory formula. It meant finding in advance, if and how an international treaty could bind, inside a country, parties, groups, and provisional governments not yet in existence.

As the provisions of the above Article are entirely new and untried in practice, it is scarcely possible to put forward in a commentary the interpretation which could be accepted as being authoritative. Such is not our object. But it does seem worth while to recall the origin of these clauses, to survey what the Red Cross has done to extend the basic principles of the Conventions to conflicts not covered by any of these agreements. Moreover, it will be interesting to summarise the discussions and show the principal stages in the elaboration of Article 3. We give the text of various formulae put forward—not as aids towards the interpretation, since only the official text is valid and offers a basis for discussion. But previous drafts are interesting as a help in appreciating the difficulties Delegates had to face. A summary of the discussions and the stages through which the text passed, will convince critics who may find the final text either too definite or, on the contrary, inadequate or even inoperative, that the problem was regarded under all its aspects. It will be seen that no issue was side-tracked; the

actual wording was in reality the best compromise between humane requirements and the maintenance of security on the territory of sovereign States.

Civil wars are notoriously merciless. Even if less destructive of human life than international wars, they are the occasion of even more frequent violations of humanitarian principles. There is certainly more hatred in conflicts between those of the same stock than in wars against a foreign enemy, and fighting in a war waged for or against certain principles is often more bitter than a war of conquest, or one fought in the defence of material interests. The recent War, leaving millions of dead and wounded and endless ruin in its wake, was admittedly an unexampled outburst of hatred, but it was so for the reason that it was as much a sort of universal civil conflict as an international war. The parties to it were fighting for the conquest or the defence of living space, but also, and above all, for or against the inauguration of a new order in the relations between men, or between governments and governed.

There is no fundamental difference between a soldier who defends his country against an invader and one who, in a civil conflict, takes one side or the other. Why should the first alone be regarded under his uniform as a human being, and alone be entitled, if wounded or made prisoner, to care or assistance? Shall it be said that a conflict between two parties in the same country deprives women and children of the protection an invader is bound to grant them? A soldier, obedient to his oath, may defend his Government against insurgents, another may mechanically accept the orders of his superiors and find himself in rebellion against his own Government—are they criminals to whom all assistance should be denied if they are sick, wounded or prisoners, simply because the conflict in which they are engaged does not take on the character of a declared international war? In other words, is the principle of respect for the human person valid in all times and places; did it precede the Conventions, which are no more than its expression; or, in reality, does it exist only in virtue of the texts and signatures that go to make up these agreements?

Not all civil wars known to history have been equally brutal. Some ended before they caused great loss ; in others, the humanity of the leaders greatly reduced the number of victims. One of these is of particular interest for the Red Cross and the Conventions—the civil war of the *Sonderbund*, which divided Switzerland in 1847. Several confederated Cantons having formed a separate alliance—the *Sonderbund*—which imperilled the union of Switzerland, the Federal Government had recourse to arms to dissolve it¹. General Dufour, Commander of the Federal Army, led his campaign with exemplary wisdom. He reduced the adverse party with really insignificant loss, through a combination of military ability, political acumen, and sense of humanity. He succeeded so well that what might have been a disastrous fratricidal war left neither bitterness nor hate when peace was restored, and he himself, the conflict once over, was saluted by his late opponents.

In accepting the command of the Federal Army, Dufour had publicly declared that he would never forget that he was fighting against his countrymen. All his orders were informed by the humane spirit which he communicated to his troops and made them respect. In his *Recommendations to Divisional Commanders on the treatment of the population and of the Sonderbund forces*, dated November 4, 1847, he wrote : “ If the enemy is beaten, care for the wounded as for our own, and have for them all the regard due to the unfortunate.” The following day, he said in his Proclamation to the Army :

“ Confederates... I place in your keeping the children, the women, the aged, and the ministers of religion. He who raises a hand against an inoffensive person dishonours himself and tarnishes his flag. Prisoners, and the wounded above all, are entitled to your respect and compassion, the more so because you have often been with them in the same camps ”.

Some years later, in 1863, General Dufour, appointed Chairman of the Committee of Five which was to become the International Committee of the Red Cross, opened the Inter-

¹ A like situation arose in America in 1861, when the eleven seceding States attempted to form a separate Union.

national Conference that gave birth to the Red Cross ; in 1864, he was elected President of the Diplomatic Conference from which came the first Geneva Convention.

Not until 1949 was the attitude which General Dufour and others before and after him spontaneously adopted, translated into an obligation in International Law ; in 1949, it marked the culmination of the persevering efforts of the Red Cross.

THE RED CROSS AND CIVIL WAR

The International Conventions, those of Geneva and others, are the concern of Governments. It is Governments which discuss and sign Conventions, and theirs is the duty of applying them. Nevertheless, it is impossible to speak of the Geneva Conventions, and especially of their application to civil war, without recalling the part of the Red Cross.

The Red Cross has always been the precursor. For it, there is only one possible reply to the question, raised above, about the nature of the principles it defends. These principles are anterior to the Conventions and independent of them, and they are not the less indivisible because the Conventions express them only in regard to a given category of persons. They apply to the individual, irrespective of his uniform or clothing, and irrespective of any engagements the State of which he is a citizen may or may not have taken in his regard. In 1859, Henry Dunant had done Red Cross work before the Red Cross existed, and had applied in practice the principle which the Red Cross was afterwards to sponsor. The 1864 Convention did no more than, in response to Red Cross advocacy, express the principle in writing and give it legal executive force, side by side with the moral authority which had sufficed for Henry Dunant and his assistants. And again, this was done to the extent indicated by the practical experience from which the idea of an international Convention arose, namely, for the military wounded and sick of armies in the field only.

The Red Cross soon outstripped the original intention and, disregarding the limited character of the 1864 Convention, extended the application of the principle in succeeding wars.

It adapted to prisoners what Dunant had done for the wounded and sick. Such were its achievements in this field, and so remarkable was the success of the ICRC in camp visiting, co-ordination of relief, and, above all, the creation of Prisoner of War Information Agencies, that these, in turn, were written into International Law in the 1929 Prisoners of War Convention. Before this Convention was signed, the Red Cross had gone still further and had taken up the question of civilians—also affected by war. Something is known of what was done in this direction. In 1934 a Draft Convention for the protection of civilians—the fruits of the International Committee's work, and approved by the Tokyo International Red Cross Conference—was submitted to Governments. Today, many provisions in the new Conventions, covering various categories of war victims, give sanction to what the Red Cross, true to its principles but lacking any recognised legal basis, had already put into action, with its own limited means, through one or other of its constituent bodies.

The same applies in the case of civil war. It is no new interest of the Red Cross. For a very long time, in the course of various local conflicts, National Societies and the ICRC have done their utmost to bring relief¹. But to the difficulties the Red Cross must expect whenever it operates outside the limits of existing Conventions, there was added the serious obstacle of the domestic politics of the State concerned. In civil war the legal Government—or that which considers itself to be the legal Government—is tempted to regard its adversaries as criminals simply, whose hostile acts fall, not under the provisions of the laws of war, but of the ordinary criminal code.

Thus, Government authorities have, at different times, considered Red Cross relief to the adverse party as indirect aid to "law-breakers". Attempts of foreign Red Cross Societies to assist have, on occasion, been taken as inadmissible interference in domestic affairs. This conception, which seriously

¹ See Report of the ICRC to the XVIth International Red Cross Conference, London, June 1938, Document No. 10: *The Role and Work of the Red Cross in time of Civil War.*

limited Red Cross intervention, was still prevalent in 1912. During the IXth International Red Cross Conference in Washington (1912), the American Red Cross Delegation had submitted a Report on "The role of the Red Cross in civil war or insurrection", which went so far as giving a draft for an international Convention. The representative of the then Russian Government objected even to the discussion of the Report, considering, as he said, that "Red Cross Societies can have no duty to fulfil with respect to insurgent bands or revolutionaries, whom the laws of my country cannot regard otherwise than as criminals". He was merely expressing the general opinion of the time. The Commission, which was asked to specify what should be the functions of the Red Cross in case of civil war, approved this point of view by a majority vote, and the Conference ended without even having discussed the subject.

Thereafter, during various civil wars and disturbances, Red Cross interventions, having no legal sanction, were necessarily limited and very often met with official opposition. Far from being discouraged, the ICRC seized every opportunity to defend its principles in action and to propagate them in writing. Thus, for instance, the ICRC and the National Societies of neutral countries collaborated with the Russian Red Cross during the Revolution; at the time of the Hungarian Revolution in 1919, ICRC Delegates intervened with the new Government to allow the National Red Cross to carry on its work without hindrance; they also looked after political prisoners and hostages and protected foreigners¹.

The problem of civil war was therefore placed on the Agenda for the Xth International Red Cross Conference in 1921 (Geneva). This time, the question was widely discussed; a Resolution was passed, which marked a step forward. There was no question as yet, in the Resolution, of proposing the text of a Convention; but at least the Red Cross proclaimed its right and duty to give relief in civil war and in social or revolutionary disturbances, and the right of all the victims of civil war and of such disturbances, without exception, to be assisted in accord-

¹ See *Revue internationale*, Dec. 15, 1919, pp. 427 et seq.

ance with general Red Cross principles. The Resolution furthermore laid down the duties of the National Red Cross Society of the country in question and, should it be unable to act, the procedure to be followed by the ICRC and other National Societies to ensure that relief might be given.

Two months only after its adoption, the 1921 Resolution was put to the test in the disturbances which broke out in the plebiscite territory of Upper Silesia. On the strength of the Resolution, ICRC Delegates obtained authorisation from the leaders on both sides to carry out their mission, to visit prisoner and internee camps, and to assist children, women and old people. Better still, they induced both sides to agree that the protection of the Geneva Convention should extend to the medical units organised by the combatants. Both sides undertook to have their forces respect enemy personnel wearing the Red Cross armband stamped by the ICRC, and to apply in full the provisions of the Geneva Convention, for the duration of the disturbances. For the first time in history, thanks to Red Cross intervention, the two parties in a civil war explicitly declared themselves bound—even if only temporarily—by the Geneva Convention.

The ICRC had less success during the civil war in Ireland. Its attempts to have the International Conventions respected were at first rejected as an “unfriendly act”¹. The Spanish War was to mark a new step towards the application of the Conventions in civil war. The ICRC Delegate sent to the adverse parties, at Madrid and at Burgos, obtained the most encouraging declarations from both Red Cross Committees, and from the governmental authorities on both sides. The Madrid Government replied as follows:

“The Spanish Government, having received and heard Dr. Marcel Junod, representing the International Red Cross Committee, agreed

¹ It is only fair to say that this refusal by the Irish Free State Government, on January 26, 1923, was followed by negotiations which led to the arrival in Dublin, in April, of an ICRC Delegation. The Committee's representative was able to visit prisons and camps where several thousand members of the Republican Party were detained. The Delegate's Report was published by the ICRC in the *Revue internationale de la Croix-Rouge*, May 1923, pp. 607-616.

to the latter sending two Delegations, one to act in Madrid and Barcelona, and the other at Burgos and Sevilla. Their mission shall be to protect the Red Cross emblem and have it respected by both sides, and to facilitate the humanitarian work of the organisation.

"The Government is pleased to see the creation, under the responsibility of the said Delegations, of a Prisoners of War and Civilian Information Section, and admits the possibility of an exchange of certain non-combatants, especially women and children."

The following was the Burgos declaration :

"The Burgos National Defence Council, after having received and heard Dr. Marcel Junod, representative of the International Red Cross Committee, and having taken note of the agreement made with the Red Cross of Madrid and the Government of that city, thanks the International Committee for its action and acknowledges the high ideals which motivate its intervention.

"The Burgos National Defence Council approves the complete and immediate entry into action of the agreement between the National Red Cross and the International Red Cross Committee at Geneva.

"It accepts with the deepest gratitude, all relief in money or in kind from foreign Red Cross Societies, and particularly relief in the form of medical equipment.

"Its declares itself ready to observe and respect the Geneva Convention concerning the war wounded, the sick and prisoners, as it has always done and as it continues to do at all times."

There was therefore, on the part of the Madrid Government an implicit recognition of the Geneva Convention on the Wounded and Sick, and for the creation of an Information Agency, as provided for in the 1929 Prisoners Convention ; while, on the part of the Burgos Council, there was an explicit intention to observe and respect the Geneva Conventions.

These agreements provided the ICRC with a sufficient basis for its work. We cannot here go into details about what was done for the victims on both sides in the Spanish war. The reader is referred to the reports published on the subject¹.

¹ See : XVIth International Red Cross Conference, London 1938, Documents No. 12 and 12 B : *General Report of the ICRC for the period August 1934 to March 1938*, pages 100 et seq. — *Complementary Report of the ICRC on its Activities in Spain*. — Furthermore : XVIIth International Red Cross Conference, Stockholm 1948 : *Complementary Report on the Activity of the ICRC in the Civil War in Spain (June 1, 1938, to August 31 1939) and its consequences*.

Let us simply note that its activity saved many and permitted thousands of families to remain in communication, in spite of battle fronts.

The war in Spain, still continuing at the time, naturally led the XVIth International Red Cross Conference (London, 1938) to take up and go deeply into the question of the role of the Red Cross in civil war. Paying tribute to the work spontaneously undertaken by the ICRC and expressing confidence that the Committee, assisted by the National Societies, would continue its action with the object of ensuring, in case of civil war, respect for Red Cross principles, the London Conference, in its XIVth Resolution,

“ Request[ed] the International Committee and the National Red Cross Societies to endeavour to obtain :

- (a) The application of the humanitarian principles which were formulated in the Geneva Convention of 1929 and the Xth Hague Convention of 1907, especially as regards the treatment of the wounded, the sick, and prisoners of war, and the safety of medical personnel and medical stores.
- (b) Humane treatment for all political prisoners, their exchange and, so far as possible, their release.
- (c) Respect of the life and liberty of non-combatants.
- (d) Facilities for the transmission of news of a personal nature and for the re-union of families.
- (e) Effective measures for the protection of children.”

This time, the Conference aimed expressly at the application by the parties to a civil war, if not of all the provisions of the Geneva Convention, at least of the principles they contain. Results obtained on two occasions—in Upper Silesia and in Spain—and the invitation in the above Resolution encouraged the ICRC to continue its study of the question. Already, a Commission of Government Experts, convoked in 1937 by the ICRC, had unanimously advised that the Geneva Convention should apply in all cases of armed conflict between States, even if not preceded by a declaration of war, and that its humanitarian principles should be respected in all circumstances, even when there was no legal obligation. The Commission

recommended the introduction of this idea into the Final Act of the Diplomatic Conference, fixed for 1940, which was to revise the Conventions. The ICRC accordingly took up the idea of the 1937 Commission and also that which had been unsuccessfully put forward at the 1912 Washington Conference, of inserting an obligation in the Conventions with regard to the parties to a civil war. When the National Red Cross Societies met at Geneva in the Preliminary Conference of 1946, the ICRC emphasised in its documentation the necessity of finding a solution to this problem.

It suggested the following formula :

“The present Convention shall be applicable between the combatants as soon as hostilities actually break out, even if there has not been a declaration of war, and irrespective of the form the armed intervention may take.

“In the case of civil war inside a State, the interested parties are invited to declare that they will, under reserve of reciprocity, apply the principles of the Convention.”

As can be seen, this suggestion was still very cautious. Eighty years experience had taught the ICRC that while it should always aim high, it must at the same time be realist, and, as far as the Conventions were concerned, it must proceed step by step, if anything was to be achieved. The object was to procure legal recognition for what the ICRC had done, on its own initiative, to obtain the application of the principles of the Convention. In asking that the parties in conflict should make such explicit declaration, the ICRC hoped they would range themselves on the humanitarian side.

The 1946 Conference did not limit itself to approving the suggestion, but went much further¹. The first Recommendation voted reads as follows :

“The Commission recommends the introduction at the beginning of the Geneva Convention of an Article on the following lines :

¹ See *Report on the Work of the Preliminary Conference of National Red Cross Societies for the study of the Conventions and various problems connected with the Red Cross. (Geneva, July 26 to August 3, 1946.)* — International Committee of the Red Cross, Geneva, January 1947, pp. 14 et seq.

“The present Convention shall be applicable between the Contracting Parties as soon as hostilities actually break out, even if there has not been a declaration of war and irrespective of the form the armed intervention may take.

“*In the case of armed conflict inside a State, the Convention shall automatically be applied by each of the adverse parties, unless one of them should expressly refuse to do so.*”

It was difficult to go any further ¹. It might even have been said that a text of this sort had no chance of being accepted by any Diplomatic Conference. Nevertheless, the 1946 Conference is to be congratulated for having voted this Recommendation. As we have said above, the Red Cross must know how to be realist; the engagements in current legislation which it asks Governments to undertake should not be exaggerated. At the preliminary stage of simple recommendations (as it was in 1946), the Red Cross should sometimes affirm to the full the principles to which it is attached.

The above Recommendation was therefore useful, in that it showed the objectives to be aimed at: complete application of a principle—which, as we have said, is indivisible—and modification in the very character of the Conventions. The Conventions are not, and should not, as are commercial treaties, be founded on reciprocity. In 1864—and even in 1906—Governments could not, it is true, be asked to engage themselves beyond what was entered into by the other Contracting Parties. If it was still natural at that time to make the Conventions subject to the *clausula si omnes*, it was the duty of the Red Cross to bring Governments, step by step, to consider the Conventions as solemn declarations of principle, rather than as reciprocal engagements. When it is a question not of commercial exchanges but of human lives; when it is a question of expressing a vital principle, it should be possible some day for Governments to engage themselves unconditionally. The Contracting Parties will then be less reciprocating partners than witnesses of a solemn and irrevocable engagement.

¹ The Conference also expressed the opinion that the provisions of the Prisoners of War Convention should be applied “in principle” in case of civil war (*loc. cit.*, pp. 70 et seq.).

The 1929 Conventions were thus, in renouncing the *clausula si omnes*, a great improvement on those of 1906. Under them, the Contracting Parties involved in a conflict remain engaged as between themselves, even if one or several of their allies or adversaries are not party to the Conventions. The Recommendation of the 1946 Conference showed the way which was still to be travelled, even if it had to be done in several stages. The Recommendation was therefore excellent, even if not feasible. It had the advantage of replacing the suspensive condition by a resolute condition: instead of making the application subject to the ordinary reciprocity clause, which often makes treaties inoperative—each Party waiting until the adversary first carries out his obligations—it binds each until the other expressly refuses to apply the Conventions. In doing so, the Conference considered that no regular Government and no insurrectionary party would dare to proclaim in the face of the civilised world its refusal to observe universally recognised humanitarian principles, and that thus the victims of the conflict would be better protected.

(To be continued)

VISITORS TO THE INTERNATIONAL COMMITTEE

On June 29, the International Committee was visited by Mr. Thomas J. Watson, President of the International Business Machines Corporation, who was accompanied by some of his principal associates. The party was received by the President of the ICRC and Mme Ruegger, and members of the Committee.

In greeting the guests, M. Ruegger recalled the invaluable services to the Central Prisoners of War Agency and to the ICRC Relief Division which have been given through the generosity of Mr. Watson in loaning a number of machines during the War; these had greatly speeded up the tracing, enquiry and recording of information about victims of the War.

The same day, a Japanese delegation of 70 members, who had taken part in an industrial Conference organised by the Moral Rearmament Movement at Caux, was also received at ICRC headquarters.

The delegation included the Mayors of Osaka, Hyogo, Hiroshima, Nagasaki and Nagano, who are also acting as honorary Presidents of Japanese Red Cross Sections in these towns. This is the first time since the War that official representatives of the Japanese Red Cross have visited the ICRC.

The President of the ICRC and senior members of the staff welcomed the Japanese delegation and Dr. Frank Buchman, founder of the Moral Rearmament movement, who had accompanied them to Geneva.

Geneva, June 30, 1950.

*THE INTERNATIONAL COMMITTEE OF THE
RED CROSS IN ISRAEL*

The political situation existing between Israel and the Arab States remains unsettled. Diplomatic relations have not been established, and there are still incidents at the frontier, which is guarded on both sides. Moreover, there are military prisoners and civilians in both Israel and the Arab States who are without normal diplomatic protection. For these various reasons, the offices of the Committee's Delegates are often required.

The Delegate in Israel, for instance, is frequently called upon in cases where Arab civilians have clandestinely crossed the frontier in an attempt to regain the dwellings and lands they abandoned during the conflict. The Tel-Aviv Delegate, with the consent of the Israeli authorities, tries to give them what assistance he can.

Another important part of this Delegate's duties consists in bringing together or repatriating families, Israeli and Arab, dispersed during the fighting. His work is helpful in preparing actual repatriation, which is also one of the functions of the United Nations Armistice Commissions.

Geneva, August 3, 1950.

NEWS OF NORTH KOREAN PRISONERS

The Central Prisoners of War Agency, Geneva, has just received the first capture cards for North Korean Prisoners in American hands — thirty-one cards which have arrived by air-mail from South Korea. Each card is filled in by the prisoner in Korean; the same details are repeated in English. The usual items are given, following the model introduced by the International Committee, and include information about the prisoner's health at the time of capture, and his present address in a prisoner of war camp. Of the thirty-one cards, fourteen refer to civilians, seventeen to military.

We may recall that, at the beginning of the war in Korea, the International Committee offered its services to the parties concerned, and opened a new Service in the Central Agency (which has remained in existence since the Second World War) for civilians and military taken on either side.

Geneva, August 6, 1950.

*NEWS OF AMERICAN PRISONERS
IN NORTH KOREA*

The Central Prisoners of War Agency, Geneva, has received from Pyong-Yang the first list of American prisoners of war captured by North Korean Forces.

The telegram to the International Committee of the Red Cross is signed by Mr. Pak Heung Young, Minister of External Affairs of the People's Democratic Republic of Korea. It states that the fifty names given constitute a first list of military personnel captured by the People's Army of the Democratic Republic, and gives the usual details about the prisoners—date of birth, rank, service number, etc. The prisoners are at present in a camp in Pyong-Yang itself.

Following usual practice, the list was at once transmitted to the United States Government at Washington.

Geneva, August 18, 1950

THE CONFLICT IN THE MOLUCCAS

Differences which have existed for several months between the central authorities in Djakarta of the United States of Indonesia, and those of the Southern Moluccas at Ambon, have recently developed into armed conflict.

The International Committee of the Red Cross at Geneva has therefore asked the Djakarta Government to authorise its Delegate there, Dr. Lehner, to proceed to Ambon in order to see to what extent the good offices of the International Committee may be necessary to protect any civilian or military victims of the present troubles. Such intervention would come under new clauses in the 1949 Geneva Conventions, which make provision for such humanitarian action by the Committee, not only in case of war, but also of civil war or disturbance.

Geneva, August 7, 1950.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE

ET

BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

September, 1950

Vol. III, No. 9

CONTENTS

	Page
International Committee of the Red Cross : Recent Activities	152
Lucie Odier, R.N., <i>Member of the International Committee of the Red Cross.</i> Some Advice to Nurses	155
The International Committee of the Red Cross and Events in Korea	158
The International Committee of the Red Cross and the Conflict in Korea	164
Frederic Siordet, <i>Counsellor to the International Committee of the Red Cross.</i> The Geneva Conventions and Civil War (Continued)	166

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

INTERNATIONAL COMMITTEE OF THE RED CROSS

RECENT ACTIVITIES

During August the attention of the ICRC was particularly directed to the following matters.

Korea. — The Central Prisoners of War Agency in Geneva received further nominal rolls of North Korean prisoners in American or South Korean hands. The information contained in these lists is regularly forwarded to the authorities at Pyongyang.

A first list of about fifty American prisoners of war in North Korean hands reached Geneva and was transmitted to Washington.

At the end of July the Delegate of the Committee in South Korea visited two camps for North Korean prisoners of war in South Korean and American custody respectively.

The Committee pursued its endeavours to obtain the North Korean Government's approval for the appointment of an ICRC Delegate in that area.

Bengal. — The hospitals, policlinics and milk centres opened by the Committee's Delegation for Bengal refugees are now in full working order.

Pakistan. — Two mobile radiographic and radiosopic units, valued at some 18,000 Swiss francs, have reached Karachi, and will be used for Kashmiri refugees.

Indonesia. — An ICRC Delegate sailed for the Southern Moluccas on August 31, on board a vessel chartered by the Indonesian Red Cross, for Ceram and Buru Islands. Arrangements are being made for him to visit Amboina on his return from this initial journey.

Iraq. — During the first fortnight in August the ICRC Delegate for the Arab States, M. de Cocatrix, was on a mission to Iraq. It will be recalled that President Ruegger and M. de Cocatrix visited Bagdad last Spring. The object of the Delegate's recent journey was to develop working contacts with the Iraqi Authorities and the Iraqi Red Crescent.

Round table discussions and informal talks were held and touched upon various problems, including the accession of Iraq to the 1949 Geneva Conventions, the financing of the ICRC and of its work in Palestine, and the setting up, through the Committee's intermediary, of an exchange of family messages between Jews in Iraq and their families who have emigrated to Israel, or intend to do so.

M. de Cocatrix was received by Premier Tewfik Pacha El Souedi and by the Secretary of the Iraqi Red Crescent, Ibrahim Bey Shabandar, acting as substitute for the Chairman who was in Istanbul.

The Delegate reported on the most courteous and cordial reception he received in Bagdad.

Israel. — The ICRC Delegation in Israel is further concerned with the exchange of family messages, particularly between the Arab minority in Israel (160,000 persons) and their relatives who have sought refuge in Jordan and other Arab States. The average number of messages handled by the Delegation is about 3,000 monthly. Following the recent decision of the Iraqi authorities to allow an exchange of messages between residents in Israel and the Jewish minority in Iraq, the above figure will increase.

France. — Pursuing its relief work for German prisoners of war detained in France, the Paris Delegation places funds at the disposal of prison visitors, for the purchase of toilet requisites and other articles of which the prisoners are in urgent need.

It was thought preferable to leave the responsibility of such purchases to the prison visitors themselves, as they are better informed of the men's requirements and can satisfy them immediately.

A sum of 8,470 Swiss francs has been handed to the Paris Delegate concerned with German ex-prisoners of war who are now civilian workers. These funds are for the relief of deserving cases (unemployed, cases of illness, etc.). Accommodation is found for them at Salvation Army Hostels ; applications are made in their name to the authorities ; doctors' fees, railway tickets, etc., are paid for, and the Delegate issues free relief parcels and is available for advice and consultation.

Refugees. — The replies received from various Governments to the Committee's appeal for Refugees and Stateless Persons, issued on May 1, 1950, have been published. Further replies will be published later.

Visits to refugee camps. — Two refugee camps in Italy, Farfa Sabina and Fraschette di Alatri, which are under the Italian authorities, have been visited by ICRC Delegates. These camps hold refugees of various nationalities who are interned for administrative reasons.

Repatriation of German nationals. — Following negotiations with the authorities responsible in Madrid and Berlin, the ICRC secured the necessary consent for the repatriation of some hundreds of German nationals from Spain. These Germans are now being sent home.

German minorities ("Volksdeutsche") — Germans from Eastern Europe — Reuniting of Families. — The reunion of families, many of them dispersed since transfers of populations first started after the war, continued during August. According to preliminary information received, between three and four thousand such persons have arrived in Eastern Germany, where their families reside. Other Germans from Poland passed in transit through Friedland Camp ; whilst those from Czechoslovakia passed through Furth i/ Walde Camp.

In these camps the German Red Cross has continued to issue clothing, toilet requisites, etc., bought with funds received from the ICRC. At Furth i/ Walde cash donations from the ICRC were also handed to the most necessitous.

LUCIE ODIER, R. N.

Member of the International Committee of the Red Cross

SOME ADVICE TO NURSES

In time of war, a Nurse's first duty is to give her services to her country and to observe its regulations. If you do not know your legal obligations, find out what they are, as it is essential you should know.

Your country has signed certain international agreements known as the *Geneva Conventions*. As a member either of the Medical Personnel of the Armed Forces, or of a Red Cross Unit assisting them, these Conventions give you certain rights; they also impose on you the duty of respecting their clauses and seeing that they are applied.

The *emblem* which you bear, whether Red Cross, Red Crescent, or Red Lion and Sun, gives you the right in time of war to the respect and protection of civil and military authorities of all belligerents; but this protection implies certain obligations.

Whatever your rank and duties, no one has the right to make difficulties for you, for having spontaneously nursed the wounded and sick—whatever their nationality. All the wounded and sick, both friend and foe, must be looked after with the same care, and only reasons of medical urgency justify giving priority in any particular case.

The emblem you wear on your left arm—an armlet bearing the stamp of the military command—must be accompanied by an *identity card*. This card must be countersigned by the military authority under whose command you will be placed in time of war, even if you are enrolled in a Red Cross unit. Never leave for any destination without taking your identity card, with photograph, signature and all necessary visas; you must never be without it when you are in the fighting zone.

Should you be taken prisoner, this card will certify you as a member of the medical personnel, entitled to protection by the enemy command. In no circumstances whatever may a Red Cross nurse be deprived of her identity card, her badges and the right to wear her armband.

The Red Cross *emblem* of large size is used, in time of war only, to denote hospitals, personnel and equipment protected by the Conventions ; it may not be displayed on any premises without the permission of the military command.

If you work in a Red Cross hospital, remember that wounded and sick combatants must be *disarmed* on arrival, if this has not already been done. Able-bodied and armed combatants must not enter ; it is the Nurse's duty to refuse them entrance to an establishment under Red Cross protection, no matter to which side they belong.

Red Cross *hospitals*, which the enemy is bound to respect, may not be used for military purposes, nor serve as cover for acts harmful to the enemy— for instance, spying, observation of movements of troops, aircraft or shipping, for the information of the military command, cannot be tolerated.

No *arms* or *munitions* may be stored in hospitals, infirmaries, ships, trucks, motor-ambulances or premises which are under the protection of the Red Cross emblem.

Disregard of these regulations may compromise the security of the wounded and sick, as the enemy is then no longer obliged to respect such hospitals, vehicles or premises. The Geneva Convention does not, however, prohibit a Nurse carrying arms exclusively for her own defence and that of the wounded and sick in her charge.

Should the hospital or medical unit to which you belong be *captured* by the enemy, remember that a Nurse, like all Medical Personnel, must carry on until the enemy military command has taken steps to give the wounded and sick the care they require. You may possibly be kept back for a certain period for such work, should the number of prisoners of war and their state of health so require. If so, you must continue your nursing duties, but you may not be obliged to perform any non-professional work.

You will not be a "prisoner of war", although subject to camp or hospital discipline, but you will enjoy all the privileges granted to prisoners of war by the Geneva Conventions, with certain additional advantages and facilities. Further, when your professional services are no longer essential, you will be sent home as soon as a route is open and military consideration allow. You will then have the right to take all your belongings, valuables and personal property.

Serving the Red Cross, the Red Crescent, or the Red Lion and Sun, you must remain calm and dignified in all circumstances. You have a mission which is noble but which carries heavy responsibilities, requiring not only thorough professional knowledge, but also the strict execution of your duties and the full sum of your devotion. By giving to others you will find a richer meaning in your work.

* * *

We have tried to give above, simply and concisely, the elements of what all Nurses, Voluntary Aids and Medical Personnel in the service of Armed Forces in war-time should know. We strongly advise, in addition, study of the Geneva Conventions of July 27, 1929, for the Relief of the Wounded and Sick in Armies in the Field (which is still in force) as well as the Geneva Conventions of August 12, 1949—the First Convention (Wounded and Sick on Land) in particular. The 1949 Conventions have been signed by sixty-one States and come into force for each State six months after it ratifies.

Reference may also be made to the "Analysis" of the Geneva Conventions of 1949, published by the International Committee of the Red Cross, Geneva, for the use of the Red Cross Societies.

*THE INTERNATIONAL COMMITTEE
OF THE RED CROSS AND EVENTS IN KOREA*

*To the Central Committees
of the National Societies of the Red Cross
(Red Crescent, Red Lion and Sun)*

Dear Mr. Chairman,

We have felt it may interest the National Societies to know what measures the International Committee has taken in relation to the war in Korea.

I. NOTIFICATIONS

Following its usual practice, the International Committee addressed itself, as soon as news of the outbreak of hostilities arrived, to the two Governments at Pyongyang and Seoul. A first telegram on June 26, 1950, offered the Committee's services for humanitarian purposes, and in accordance with its Statutes, on strictly neutral and non-political lines¹. Referring to the Geneva Conventions of 1929 and 1949, the Committee underlined that, in its view, the fact that Korea was neither party to, nor a signatory of these agreements, was no obstacle to the *de facto* application of their humanitarian principles for the benefit of the victims of war. The Committee declared its readiness to send a Delegate to each Government, who would examine the conditions under which the principles of the Convention could be given practical effect.

¹ Noting that this offer had been interpreted as an attempt at mediation, the International Committee emphasized, in a telegram to the Secretary-General of the United Nations and in a Press communiqué, the nature of its intervention which, in accordance with the Geneva Conventions, was purely humanitarian in character.

The attention of the Ministers for External Affairs at Pyongyang and Seoul was drawn to the fact that the notifications to each were absolutely identical¹.

Wishing to inform the Security Council of these first steps, the Committee cabled, on June 26, 1950, the full text of its message to the two Parties to the Secretary-General of the United Nations, asking him to be good enough to bring it to the attention of all members of the Council; this was done two days later.

During the next few days, the Committee addressed similar communications to the Governments of Australia, the United Kingdom, and the United States of America, and later, to Canada, the Netherlands and New Zealand—all of which had taken military decisions which called for such communications on our part.

The National Red Cross Societies in these countries also received copy of the text.

* * *

The first reply to these notifications was communicated on July 3, 1950, by our Delegate in South Korea, M. Frederick Bieri, who had just been assured by the President, M. Rhee, that our proposals were accepted.

Replies from several States followed; that of the United Kingdom added, that as far as the humanitarian Conventions were declaratory of accepted principles of International Law, the British Government would consider them as applicable in the existing situation in Korea.

The Committee kept the North Korea Government informed. The latter, in a communication to the Secretary-General of the United Nations, announced its intention of conforming strictly to the Conventions relative to the treatment of prisoners of war.

¹ As the postal authorities could not guarantee that its cables would reach North Korea directly, the Committee, as an additional precaution (North Korea having diplomatic representation in Moscow) asked the Soviet Ministry for Foreign Affairs to be kind enough to reforward copies of the communications, which we had addressed to it for the purpose.

The Committee advised the States concerned, in a new communication of July 7, 1950, that the Central Prisoners of War Information Agency (set up in 1939 at the beginning of the second World War and still continuing) was at their disposal. The Central Agency is provided for in Articles 77 and following (particularly Article 79) of the 1929 Geneva Convention relative to the Treatment of Prisoners of War.

II. APPOINTMENT OF DELEGATES

As soon as fighting had started, the Committee nominated M. Frederick Bieri, who was then in Hong Kong, and instructed him to go at once to South Korea. He arrived there, via Tokyo, on July 3, 1950.

At the same time, as the most direct route to North Korea was by Soviet Russia, the Ministry for Foreign Affairs at Moscow was asked to accord the necessary transit visa as soon as a Delegate had been appointed.

M. Jacques de Reynier, formerly head of the Committee's Delegation in Palestine, was designated as Delegate to the Pyongyang Government. Soviet visas were requested from the Russian Legation at Berne, and Moscow was informed of the application. The Committee underlined the urgency of this second request in announcing the impending arrival of M. Bieri in South Korea.

The Committee also asked for the support of the Alliance of Red Cross and Red Crescent Societies of the U.S.S.R., and gave it all necessary details about M. de Reynier's mission.

The North Korean Government was at the same time duly informed of the appointments of MM. Bieri and de Reynier. The Committee gave full information about their missions, indicating that M. de Reynier was ready to start for North Korea, awaiting only the necessary visas.

Meanwhile, M. Bieri, who had returned to Japan after a short stay in South Korea, came to an agreement with the military authorities about his work for prisoners in American hands. He made the necessary arrangements for his Delega-

tion, including those for camp visiting and the transmission of lists of prisoners, inquiries and messages.

On July 21, 1950, M. Bieri received confirmation of the agreement by the United States Government, and decided to leave for Korea on July 25, to open the Delegation there.

III. SPECIAL REQUESTS

On July 11, 1950, the United States Government asked the Committee to obtain confirmation that a number of American prisoners had been captured by armed forces of the Pyongyang Government. The Committee immediately made contact with the latter, asking that the usual information about captured military personnel be transmitted to the Central Agency in Geneva. The United States Government was notified of this démarche.

The Minister of External Affairs of the People's Democratic Republic of Korea replied to the Central Agency by a telegram dated August 16 (received in Geneva on August 17) giving a first nominal roll of fifty American soldiers captured by the North Korean army. The Committee at once transmitted this list to the United States Government at Washington.

Meanwhile, the Central Agency had received from the American authorities 51 capture cards of North Korean military and civilian personnel; the essential information on these cards was cabled to the Pyongyang Government.

* * *

By letter dated July 11, 1950, the Czechoslovak Red Cross asked the International Committee to protest immediately to the United States against the bombing of the civilian population of the People's Democratic Republic of North Korea.

The Committee, following the procedure it has always adopted in such cases (see *Report on Activities during the Second World War*, Vol. I, p. 173 et seq.) transmitted this Note to the American Red Cross. Replying to the Czechoslovak

Red Cross, the Committee pointed out that it had already addressed a telegram to the Minister for External Affairs at Pyongyang on July 7, informing him that the South Korea Government had given its agreement to the proposals concerning the protection of all victims of the fighting, submitted to both Governments on June 26, 1950. The Committee added that its Delegate appointed for North Korea would, as soon as he had received the necessary authorizations—which was not yet the case—leave for Pyongyang; there he would study, in agreement with the Authorities, what measures could be taken to protect the victims of the conflict, including the possible creation of a safety zone in which non-combatants—women, children and old people—could be withdrawn from bombing attacks.

IV. RELIEF

We draw attention to the fact that President Rhee had made requests for material relief to our Delegate, M. Bieri; the Korean Red Cross would be able to take charge of distribution.

On his return to Tokyo on July 4, 1950, M. Bieri considered the setting up of a neutral centre from which relief could be sent to all parts of Korean territory, for distribution under the Committee's control. The question was submitted for examination to the Foundation for the Organization of Red Cross Transport.

The Committee has since continued to work on this problem of relief, and asked the Delegate for detailed information about needs in South Korea. Several National Societies which had declared their readiness to participate in relief actions, were informed of what had been done and told that similar information about North Korea would be given as soon as it was available.

The Committee, in accordance with its traditional principle of impartiality, and in order to be able to afford help where it appeared most needed, had meanwhile requested the Pyong-

yang Government for its opinion about the necessity for relief in territory under its control. It likewise asked for details about the principal needs of the civilian population, and gave particulars of the requests received from South Korea. The Committee declared its willingness to try to collect the relief needed, which would be distributed where necessary throughout the territory of Korea, with the assistance of its Delegates.

The National Societies will be kept informed of developments and given any information on the subject likely to be of interest to them.

I am, dear Mr. Chairman,

Very truly yours,

*For the International Committee
of the Red Cross:*

Paul RUEGGER

President

Geneva, August 25, 1950

(Translation)

*THE INTERNATIONAL COMMITTEE
OF THE RED CROSS AND THE CONFLICT
IN KOREA*

The United Nations Security Council recently took note of a message regarding the situation in Korea which was addressed on August 29, 1950, by the President of the International Committee to the Chairman of the Security Council. The International Committee therefore considers it should itself make public the essence of this message.

On several occasions the International Committee had requested the Government of the People's Democratic Republic of Korea to accept Delegates designated for North Korea, where they could carry out traditional Red Cross services for prisoners of war and study measures for the protection of non-combatants, women, children, and old people, under the terms of the Geneva Conventions.

Reference was made to the repeated applications addressed to the Minister for External Affairs at Pyong-Yang, and to a telegram sent by the President of the International Committee on August 5, 1950, to Mr. Kim Ir Sen, Prime Minister of the People's Democratic Republic of Korea. This telegram stressed the increasing urgency, six weeks after the outbreak of hostilities, of a full application in all respects of the Geneva Conventions, signed in 1949 by sixty-one nations ; it recalled that on July 13, 1950, the Government of Northern Korea had expressly stated its intention of observing the principles of the Conventions. This implied the issue by the said Government of the entry visas requested by the International Committee for its Delegates.

The President of the International Committee therefore appealed, personally and in the most urgent manner, to the Prime Minister of the People's Democratic Republic of Korea, to give instructions for the issue of the visas in question. On

arrival at Pyong-Yang, the Committee's Delegation would examine with the Government how best they could carry out their mission for prisoners of war and civil internees, and, further, discuss ways and means of bringing to Korea medical and material aid, to which the Red Cross organizations of the world, as neutral agents, would certainly contribute.

Although the International Committee has up to now received two first lists of prisoners of war from Pyong-Yang, the representations referred to have not yet had the desired result, and the Committee is unable to carry out in North Korea the humanitarian work it has been doing for several weeks in South Korea. In spite of this delay, the Committee is ready and no less anxious to operate on the entire territory of Korea, as soon as the necessary facilities are granted by the North Korean Government.

Geneva, September 19, 1950.

FRÉDÉRIC SIORDET

Counsellor to the International Committee of the Red Cross.

THE GENEVA CONVENTIONS AND CIVIL WAR

*(Continued)*¹

After the Preliminary Conference (1946), the ICRC again took up the work. It gathered accounts of their experiences from National Societies, and adding them to its own, sought the advice of Governments—since in the last analysis, it is on Governments that the adoption of the Conventions depends. An international conference of Government Experts' was therefore called and met in Geneva from April 14 to 26, 1947.

It was hardly to be expected that Government Experts would accept without question the text approved in the 1946 Recommendation: they would doubtless put forward all the objections which had so often caused Governments to refuse Red Cross intervention in civil war. Above all was it to be feared, that they would deny that Governments could, by international convention, bind parties, groups, or provisional Governments which did not as yet exist. It was, therefore, gratifying to see that the Experts also recognized the necessity of having provisions which would apply in civil war. The Conference adopted the following provisions, recommending their introduction, not only in the Convention for the Wounded and Sick, but also in the revised Prisoner of War Convention and in the new Civilian Convention.

"The present Convention is applicable between the Contracting Parties, from the outbreak of any armed conflict, whether the latter is or is not recognized as a state of war by the Parties concerned.

"In case of civil war, in any part of the home or colonial territories of a Contracting Party, the principles of the Convention shall also be

¹ See *Supplement*, Vol. III, No. 7, August 1950, pp. 132-144.

applied by the said Party, subject to the adverse Party also complying therewith.

“The Convention is applicable likewise in the event of territorial occupation, without any state of war existing¹.”

Thus there was no longer question of applying the Convention as a whole, but its principles only. The Experts had seen, as had the ICRC before 1946, that many provisions of the Conventions were peculiar to international war, and not materially applicable in civil war. Furthermore, the reciprocity clause has been reversed: the Contracting Party, i.e. the legal Government at the time civil war breaks out, is not bound unless the insurgents respect the principles of the Convention. Much weaker than the text recommended by the Red Cross in 1946, this was nevertheless a considerable improvement on the 1929 Convention. For the first time, Government representatives, who might later be called upon to discuss and sign the definitive Conventions, agreed that Governments might enter into international agreements applicable even to civil war.

One Delegation at the above Conference wanted it clearly understood that the humanitarian obligations of the Article under discussion did not imply any legal recognition of an authority claiming to be a Government, but not recognized as such by another Government. In other words, no Government would agree to apply the Convention in civil war, if the reciprocal application would lead to recognition of the rebel party as a legitimate authority. There was good reason for this reserve. It was taken into account in the later drafts, because the fear it expressed was stated repeatedly. It seems probable that Article 3 (quoted above, page 132) was accepted largely because of the insertion of the reserve in the final Conference draft.

In the light of experience and preliminary work, the suggestions of National Societies and the advice of Government Experts, the Committee finally drew up the definitive draft, presented in August 1948 to the Stockholm Red Cross Con-

¹ See *Summary Report* of the Conference. ICRC, Geneva, June 1947. Pp. 6, 37 and 105-106.

ference. The draft did not reproduce the terms of the 1946 Recommendation, which went too far, nor take the exact wording proposed by the 1947 Conference. It read :

“ In every case of armed conflict not international in character, and especially in the case of civil wars, colonial conflicts, or wars of religion which may break out on the territory of one or more of the High Contracting Parties, each of the adversaries shall be bound to apply the provisions of the present Convention. The application of the Convention in these circumstances shall not in any way depend on the legal status of the Parties to the conflict, and shall not have any effect on such status.”

The following therefore remains from 1946 and 1947.

(1) From 1946, the idea that all the provisions of the Convention shall be applicable and must be applied, not only by the Contracting Party, i.e. the legal Government, but by both sides. The text thus seeks to bind a rebel party, as such not signatory to the Convention. This may be legal heresy but, for the reasons given above, necessary heresy from the Red Cross point of view.

Moreover, to make the heresy less blatant and to show, firstly, that the principles preceded the Convention, and secondly, that Governments in undertaking to respect the Conventions, bind not only the State as such, but each individual citizen, the ICRC suggested the following wording for Article 1 :

“ The High Contracting Parties undertake, *in the name of their peoples*, to respect and to ensure respect for the present Convention in all circumstances.”

Thus, a party in rebellion against the legal Government and perhaps against laws promulgated by it, would nevertheless consider itself bound to respect provisions held to be superior to national legislation.

(2) From the Experts' proposal, the reserve referred to above has been retained. In expressing the reserve in the

Article itself, the ICRC thought to counter the fears of legal Governments. Moreover, as the Convention binds the insurgent as well as the legal Government, the reciprocity clause might, purely and simply, be suppressed.

Discussions at the Stockholm Conference—where Governments and National Societies were both represented—were, as expected, extremely long. We need not go into detail about the arguments, taken up again at the 1949 Conference. We may note that the ICRC draft emerged from the discussions practically unchanged, as far as the First and Second Conventions are concerned. The Conference simply deleted the words :

“... and especially in the case of civil wars, colonial conflicts, or wars of religion...”

With overmuch definition, there was the risk that, on the pretext that a given conflict did not come under one of the specified headings, the Convention would not have been applied.

The Stockholm Conference maintained the Committee's text in the Third and Fourth Conventions, but introduced the reciprocity clause as follows :

“ Each Party to the conflict shall be bound to apply the provisions of the present Convention, on condition that the adverse Party likewise applies them.”

Thus, the drafts slowly elaborated by the ICRC, and amended and definitively approved by the Stockholm Conference, were submitted as working document to the 1949 Geneva Conference. It will be interesting at this last stage, which involved not only the elaboration of texts but also their official adoption, to see how the plenipotentiaries of sixty-one different nations reacted to a proposal to include in an International Convention, a clause affecting the sovereignty of States vis-à-vis their own citizens.

THE DISCUSSIONS AT THE DIPLOMATIC CONFERENCE

The texts submitted to the Diplomatic Conference were therefore the following, appearing as Article 2, Paragraph 4, of each of the four Draft Conventions approved at Stockholm¹:

First and Second Conventions:

“ In all cases of armed conflict not of an international character which may occur in the territory of one or more of the High Contracting Parties, each of the *adversaries* shall be bound to implement the provisions of the present Convention. The Convention shall be applicable in these circumstances, whatever the legal status of the Parties to the conflict and without prejudice thereto.”

Third and Fourth Conventions:

“ In all cases of armed conflict not of an international character which may occur in the territory of one or more of the High Contracting Parties, each of *the Parties to the conflict* shall be bound to implement the provisions of the present Convention, *subject to the adverse party likewise acting in obedience thereto*. The Convention shall be applicable in these circumstances, whatever the legal status of the Parties to the conflict and without prejudice thereto.”

The differences between the two texts are italicised. The first is of slight importance. “Adversaries” and “the Parties to the conflict” both mean the opponents in a non-international conflict governed by the provision.

The second difference is vitally important. In the first two drafts, the adversaries are bound without qualification; in the second two, there is the condition of reciprocity. It may be asked why the Stockholm Conference did not harmonize all four texts. The reason is that Governments, as well as National Societies, were represented at Stockholm, and Governments in general are very adverse to unconditional engagements. It is already difficult enough for them to undertake such engagements towards a partner with whom they can discuss on a basis

¹ See “Revised and New Draft Conventions... approved and amended by the XVIIth International Red Cross Conference”. ICRC, Geneva, 1948.

of equality ; there is all the more reason for refusing, if the adversary who will be a rebel to their authority is not yet known, and, in their view, has no right to any legal status. It was found possible to drop the reciprocity condition in respect of the wounded and sick—where the principle has been universally admitted since 1864—but it was re-introduced in the other two Conventions, where the problems of application are much more complicated.

Paragraph 4 of Article 2 was, as all the draft common Articles, discussed by the Joint Committee of the Diplomatic Conference. All Delegations, and consequently all points of view, were represented on this body, so that it at once gave an idea of the attitude of the entire Conference. The different points of view became more clearly marked during discussion, and a number of criticisms were put forward.

According to one body of opinion, the Stockholm text would cover all forms of anarchy, breaking up of the State, and even crime pure and simple. The drafters, becoming over-preoccupied with the protection of the individual, had forgotten the no less legitimate rights of the State. A balance could be found in a standard which would allow a distinction to be made between lawless banditry and real armed conflict. In support, examples were quoted where the full application of the Conventions would give rise to unforeseen situations : common law criminals, anxious to escape punishment, might side with revolutionaries, or take up arms against the Government and claim protection under the Conventions, and even the assistance of a Protecting Power. Captured rebels—even outlaws—would have to be released at the end of police operations, in virtue of the Article which provided for the immediate repatriation of prisoners of war at the close of hostilities. Finally, Delegates feared that, in general, insurgents would be given legal status and consequently excessive power, even if guilty of the worst crimes.

The supporters of the Stockholm drafts replied that their conception was the courageous one. The sufferings to which

non-international conflicts give rise are as bitter as those which led Henry Dunant to suggest the humanitarian regulation of war. Too often, they said, people who are patriots fighting for the independence and dignity of their country, are treated as if they were criminals. According to others, the reciprocity conditions in two of the drafts should allay all fears: if the rebels conformed to the Conventions, which make generous and humanitarian principles dominant, it seems unreal to speak of disorder, terrorism and anarchy. Parties in conflict would themselves show whether they were common law criminals, or else prepared to fight as soldiers, meriting to have the benefit of the Conventions. Other speakers defended the drafts on the grounds that they in no way hindered legal governments from repressing, in accordance with their legislation, acts judged dangerous to the order and security of the State.

The subject was too important and there were too many points of view, to make it reasonable to expect a satisfactory text from so large a body. The question was referred to a Special Committee, where the different points of view were represented, with instructions to draft a text that could usefully be discussed by the Joint Committee. A number of amendments had been proposed, ranging from one extreme to the other. The Canadian Delegation suggested the deletion of the Paragraph under discussion in each of the four Conventions; a Hungarian amendment wished to reinforce the Stockholm text by omitting the reciprocity clause.

Between the two extremes, there were several propositions to regulate conditions under which the Conventions should apply. The Australian Delegation put forward the criterium that the legal Government should have recognized the adverse party as a belligerent, or that the conflict should have been placed on the agenda of the United Nations Security Council, as constituting a menace to peace, a breach of the peace, or an act of aggression. The French Delegation required that the party opposed to the legal Government should have an organized military force, a responsible authority operating on a given

part of the national territory, and the means of ensuring respect for the Convention. The United States Delegation made a somewhat similar proposition, adding that the civilian authorities of the insurgent party should expressly recognize that they were bound by the Conventions.

The Italian Delegation suggested that in cases not covered by the French amendment, the Parties in conflict should be bound at least to respect the humanitarian principles of the Conventions, and referred in this connection to the draft Preamble adopted by the Stockholm Conference for the Civilian Convention.

It will be noticed that most of these propositions tended to limit the application of the Conventions to conflicts which, although domestic, have the characteristics of a real war ; they reflected the fear of Governments that too liberal a text would hinder them in the suppression of rebellion, and even perhaps encourage common law criminals.

Taking into account both the many objections and the fact that several Delegations had unreservedly approved the Stockholm draft, the Special Committee decided to deal first with the question of principle : was it desirable to introduce provisions applicable to non-international conflicts ?

By ten votes to one, and one abstention, the vote was affirmative. By the same majority, the Committee decided against the Stockholm draft, considered too wide.

A text had now to be found which would eliminate the objections and win approval. Would it be better to limit the cases in which the Conventions would apply, or the provisions which would be applicable ?

A Working Party made the first draft, as follows :

(1) In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to implement the provisions of the present Convention, provided :

- (a) that the *de jure* government has recognised the status of belligerency of the adverse party, without restrictions, or for the sole purposes of the application of the present Convention, or
- (b) that the adverse party presents the characteristics of a State, in particular, that it possesses an organized military force, that it is under the direction of an organized civil authority which exercises *de facto* governmental functions over the population of a determinate portion of the national territory, and that it has the means of enforcing the Convention, and of complying with the laws and customs of war. Application of the Convention in these circumstances shall in no wise depend upon the legal status of the parties to the conflict.

(2) This obligation presupposes, furthermore, in all circumstances, that the adverse party declares itself bound by the present Convention, and, as is the *de jure* government, by the laws and customs of war (and that it complies with the above conditions in actual fact).

(3) The provisions relating to the Protecting Powers shall, however, not be applicable, except in the instance of special agreement between the parties to the conflict. An impartial humanitarian body, such as the ICRC, may offer to the parties to the conflict, to undertake the duties conferred by the present Convention on the Protecting Powers.

(4) In the case of armed conflicts which do not fulfil the conditions as determined above, the parties to the conflict should endeavour to bring into force, by means of special agreements, all or part of the provisions of the present Convention, or, in all circumstances, to act in accordance with its underlying humanitarian principles.

(5) In all circumstances stipulated in the foregoing provisions, total or partial application of the present Convention shall not affect the legal status of the parties to the conflict.

(To be continued.)

REVUE INTERNATIONALE
DE LA CROIX-ROUGE

ET

BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

October, 1950

Vol. III, No. 10

CONTENTS

	Page
Activities of the International Committee during September	176
Henri Coursier, <i>Member of the Legal Service of the International Committee of the Red Cross.</i> Respect for the Human Person in the Geneva Convention of August 12, 1949, relative to the Protection of Civilian Persons in time of War	178
The International Committee and Burma . . .	193
Reunion of Displaced Families	194

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

ACTIVITIES OF THE INTERNATIONAL COMMITTEE DURING SEPTEMBER

The following were amongst the Committee's main activities during September :

Korea: The Delegate in South Korea visited the following camps, where he saw North Korean prisoners of war and civilians: ROK Processing Centre, September 2 ; EUSAK POW CAMP No. 1, September 5 ; Pow Transit Stockade, September 30 ; MAPO Collecting Station, October 1 ; Pow 64th Section Field Hospital, October 2,

In view of the increase in the work of the South Korea Delegation, a second Delegate, M. Jacques de Reynier, was designated and left Geneva for Korea on September 23.

Indonesia: The Committee's Delegate in Indonesia sailed on board a vessel transporting Indonesian Red Cross relief supplies for the Islands of Celebes, Ceram and Buru. Possible ways were examined of sending this Delegate to Amboina, where hostilities broke out at the end of September. If he succeeds in reaching Amboina, the Delegate will begin his work of assisting prisoners of war, civil internees, and in general, the victims of the conflict on both sides.

Bengal: After a short visit to Geneva for consultation, Dr. R. Marti, head of the Committee's mission in India and Pakistan, went back to Bengal. Accompanied by Mr. Hoffmann, Delegate, he visited the Governments and Red Cross Societies of Pakistan and India, at Karachi and New Delhi. From that town he proceeded to Calcutta, and will leave to inspect the Committee's missions in West Bengal, Tripura State and East Pakistan.

Greece: The ICRC Delegate visited two refugee camps in Greece: Syra, for Albanians, Bulgarians, Yugoslavs and Rumanians, and Della Grafia, in the Island of Syros, where refugees from Rumania are living.

Greek children: On September 18, the International Committee and the League of Red Cross Societies sent to the Secretary-General of the United Nations Organisation a joint report, for consideration by the General Assembly, on their work in connection with the Greek children.

Germany: The Delegate in the French zone visited camps (including Ehrenbreitstein and Ober-Thalhain) sheltering refugees of all nationalities. These camps are under German control.

Relief to Children in East Germany: Thanks to gifts of milk powder and fats from the Danish Red Cross, the American Friends Service Committee, and *Aide Suisse à l'Europe*, the Berlin Delegation was enabled to help 105 convalescent homes, children's villages and orphanages in the five provinces of the German Democratic Republic.

The Delegation has the following goods on hand :

Milk powder (Danish Red Cross gift). . . . 12,500 kilos

Fats (gift of the American Friends and *Aide*

Suisse à l'Europe 2,100 kilos

Germany: With funds provided by the Committee, the Bavarian Red Cross purchased clothing, underwear and footwear to the value of 10,000 Swiss francs. A local Section of the Bavarian Red Cross issues this relief, on behalf of the International Committee, at Furth im Walde, on the arrival of convoys of German-speaking evacuees from Czechoslovakia.

France: The Delegation in France completed the programme of relief provided by Geneva for German detainees in France by purchases in France to a total value of 800,000 francs. This brings to more than 100,000 Swiss francs the value of the relief supplies given this year to German detainees in France.

War-Disabled: The War-Disabled Section sent forty Braille watches to French war-blind, and acted as intermediary for the Australian Red Cross in buying in Switzerland fifty Braille watches for Australian blind persons.

Medical articles difficult to obtain in Vienna were sent to hospitals there for the use of war-invalids. Material for apprentices in technical designing were sent to Germany as part of the scheme for equipping workshops for the training of German war-disabled.

Refugees and Displaced Persons:

The Committee recently sent relief supplies to Polish and Hungarian refugees in Germany, Lithuanian refugees in Austria, and to refugees of various nationalities who are detained in Italy. The goods included second-hand clothing, streptomycin, sports gear and games, for those living in camps.

HENRI COURSIER

Member of the Legal Service of the International Committee of the Red Cross

RESPECT FOR THE HUMAN PERSON IN THE GENEVA CONVENTION OF AUGUST 12, 1949, RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR

The idea of respect for the human person is at the origin of humanitarian legislation.

It is in virtue of the principle that a disarmed adversary must still, as a man, be respected, that the Geneva and Hague Conventions extended protection to the wounded and sick of armies in the field, and later, to prisoners of war.

Civilians remained ; the Hague Regulations on the Laws and Customs of War—drawn up before the transformation of war in later years—left them practically without defence against the dangers of “ total war ”.

The military wounded and sick, and prisoners of war were covered by specific treaties, which in general gave them, during the two World Wars, adequate protection and the humane treatment to which they were entitled. Millions of the civil population, on the other hand, suffered direct attacks on their persons.

Murder, outrages on women, deportations, the taking of hostages, reprisals, torture—there is a long list of crimes which revolted humanity, and especially during the second World War.

It is thus, that, when the International Committee presented a draft Convention for the Protection of Civilians in Time of War to the XVIIth International Red Cross Conference (Stockholm, August 1948), the Conference, in order to outlaw such

crimes, proposed that the Convention should be introduced by a statement of the regulations which constitute the foundation of universal human law.

The Conference proposed the following draft Preamble with this one object in view :

The High Contracting Parties, conscious of their obligation to come to an agreement in order to protect civilian populations from the horrors of war, undertake to respect the principles of human rights which constitute the safeguard of civilisation and, in particular, to apply, at any time and in all places, the rules given hereunder :

- (1) — Individuals shall be protected against any violence to their life and limb.
- (2) — The taking of hostages is prohibited.
- (3) — Executions may be carried out only if prior judgment has been passed by a regularly constituted court, furnished with the judicial safeguards that civilised peoples recognize to be indispensable.
- (4) — Torture of any kind is strictly prohibited.

These rules, which constitute the basis of universal human law, shall be respected without prejudice to the special stipulations provided for in the present Convention in favour of protected persons.

When the 1949 Diplomatic Conference took up this proposal, with the draft Conventions established at Stockholm, a long discussion arose as to whether this statement of the principles that are indispensable to ensure respect for the human person, should not be placed conspicuously at the head of the Civilian Convention, and of the other three Conventions also.

Delegates were unanimously in favour of the affirmation, in principle. They were even inclined, on the proposition of the French Délégation, to complete the Stockholm formula by adding to the acts solemnly prohibited :

- (1) — Deportations.
- (2) — Attacks against the dignity of persons, in particular humiliating or degrading treatment or discriminatory treatment based upon differences of race, colour, nationality, religion, beliefs, sex, birth or social status.

The Conference was, however, divided as to the form the Preamble should take. It was natural that those who derived the dignity of man from the idea of God, creator of man in His image, should wish to evoke this Divine principle, and that those who denied this principle should be opposed. Agreement proved impossible. The draft Preamble was abandoned, not, however, without affirming that all the essential prohibitions, referred to at Stockholm and Geneva, should be expressly mentioned in the text of the Civilian Convention.

This is actually done in Articles 27 (Treatment: General observations), 31 (Prohibition of Coercion), 32 (Prohibition of Corporal Punishment, Torture, etc.), 33 (Individual Responsibility, Collective Penalties, Pillage, Reprisals), 34 (Hostages), 49 (Deportations), 71 to 76 (Judicial Safeguards). Moreover, the discussions at Geneva gave these provisions an exceptional value, and they may well be considered henceforth as the "universal principles of human law" to which the Stockholm Conference had referred.

In commenting the Articles, we shall see how far they do in fact complete the general principles for the protection of civilians, as established by the Hague Regulations on the Laws and Customs of War. This will lead to certain considerations on the application of the Conventions and, going beyond the domain of the laws relating to war, on the application of the Universal Declaration of Human Rights.

Articles 27, 31, 32, 33 and 34, embodying general principles, occur amongst the provisions which refer both to the territory of the Parties in conflict and to occupied territories (Part III, Section I)—in other words, they apply on the territory of each of the belligerents from the opening of hostilities, as well as on territory under enemy occupation afterwards. Article 49 only, referring to deportations, is placed in the Section which deals exclusively with occupied territories (Part III, Section III), because the forced transfers which it implies can hardly take place except under enemy occupation.

Judicial guarantees are included in Part III, Section III, dealing with occupied territories.

Article 27 has four paragraphs ; the first is as follows :

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence and threats thereof and against insults and public curiosity.

This text is faithful to the Stockholm Draft, with the addition, largely on the initiative of the Irish Delegation, of the mention of family rights, religious convictions and practices, and manners and customs ; it should be compared with Article 46 of the Hague Regulations, reading

Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected. Private property can not be confiscated.

Except that references to property and to persons¹ are separate in the new Convention, the above Paragraph 1 reproduces, in slightly more detail, the principle of Article 46 of the Hague Regulations, and proclaims the fundamental idea of respect for the human person.

During discussions of the Conference, the Mexican Delegation drew attention to the fact that the Article evoked the Universal Declaration of Human Rights, and expressed satisfaction that the text was unanimously approved.

Paragraph 2 of Article 27 reads :

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

¹ See especially Article 53, one of the Articles dealing with occupied territories, which provides : " Any destruction by an Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to the other public authorities, or to social or co-operative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations ".

This Article, discussed at length, adapts the idea of property to the evolution which has taken place since the Hague Regulations were drawn up. With this reserve, it reproduces the same principles and provisions.

There is no precise equivalent in the Hague Regulations, and this text opportunely enlarges the general terms of the latter: "Family honour and rights... must be respected.

The clause refers to practices set up during the War which, apart from outrages during actual fighting, forced thousands of women into prostitution. The International Alliance of Women and the International Abolitionist Federation protested against such practices and proposed to the Committee the wording of the Paragraph which, incorporated in the Stockholm text, was accepted unchanged by the Geneva Conference.

Paragraph 3 is as follows :

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

There is no equivalent in the Hague Regulations. The Paragraph aims at a final prohibition of those discriminations which, particularly during the recent War, led to suffering not imagined as possible at the time the Hague Conventions were signed. The clause is carefully worded so as to exclude discrimination only in so far as it is "adverse"—women for example, should clearly not, on the plea of establishing absolute equality, be deprived of the privileges their sex allows them to claim. Except for this *nuance*, Paragraph 3 is as in the Stockholm draft.

Paragraph 4 is different both from the Stockholm text and the Hague Regulations :

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

This clause was adopted at Geneva on the proposal of the United States and is a reserve which is repeatedly expressed in the Convention. The object is to recall the control and security measures which are permitted in the vital interests of the State, provided they do not attack the principle of respect for the human person.

Article 31 runs as follows :

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

This text, unchanged from the Stockholm draft, should be compared with Article 44 of the Hague Regulations :

A belligerent is forbidden to force the inhabitants of territory occupied by him to furnish information about the army of the other belligerent, or about his means of defence.

The new wording is more general, and is a marked improvement in International Law. The prohibition is no longer limited to the population of an occupied territory, but applies also to persons who are not citizens of a State, but happen to be on its territory at the outbreak of hostilities. Again, the prohibition is absolute, while in the Hague text it referred only to "information about the army of the other belligerent, or about his means of defence". One may conclude that the practice admitted up to now of an invading army forcing the inhabitants to act as "guides" is thus abolished. The practice is in any case officially discountenanced : the French "Officers' Manual", for example, considered it as difficult to reconcile with the respect due to the individual¹.

The prohibition of coercion was adopted by the Diplomatic Conference in the same terms as it had been accepted at Stockholm.

Article 32 is as follows :

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not

¹ "Peu conciliable avec le respect dû aux personnes". See 1884 edition, p. 110 ; quoted by Fauchille, *Traité de droit international public*, Vol. II, p. 207.

necessitated by the medical treatment of a protected person, but also to any other measure of brutality whether applied by civilian or military agents.

Discussion of this important Article was opened at Geneva by the Soviet Delegation which declared in substance: "The crimes committed against the civil population during the last World War will remain indelibly in the memory of mankind as one of the worst stains on the history of humanity".

The Delegation estimated the number of civilians exterminated in Europe alone during the War at more than twelve million, and proposed that the Article should name all breaches as "grave crimes" and provide for their rigorous punishment. The United States Delegation, while agreeing with the spirit of the Russian proposal, proposed that the question of punishment should be confined to the Section of the Convention which deals with the matter of application; this was the course adopted. (See Part IV, Section I).

Discussion of the text—designed with the idea of preventing similar cruelties in future—none the less expressed unanimous reprobation of the acts condemned.

The text does much to complete the vitally important but too brief reference in Article 46 of the Hague Regulations: "... the lives of persons... must be respected". It also enlarges upon the Stockholm formula: "Torture and corporal punishment are forbidden", because it also covers biological experiments, which, under the guise of scientific research, are really an attempt to use human beings as guinea-pigs.

An Indian amendment proposed to delete the words "in their hands" from the end of the first sentence. According to the Indian Delegation, bombardments which, from a distance, strike down individuals who are not "in the hands" of belligerents, can cause death and suffering in the same way as brutality practised on persons actually held; accordingly, no limitation should be introduced. The proposal follows logically from that which the Soviet Delegation had presented, to the effect that all other methods of extermination of the civilian population should be prohibited. The Conference rejected both amendments, not for any lack of appreciation of the humani-

tarian idea involved, but because the question was posed in such a way as to exceed its terms of reference. International Conventions on the use of arms are quite distinct from the body of law represented by the Geneva Conventions.

The same argument was applied in the case of a Soviet proposal to prohibit the use of atomic weapons ; as a political agency was already dealing with this problem within the framework of the United Nations, the Conference did not consider that it came within its particular field.

The protection of civilians against the effects of bombardments raises questions very different from those which relate to the treatment of men by other men—the subject of the Article under discussion. The point at issue was to ensure that every person arrested, for whatever reason, by a civil or military authority, should be humanely treated. In this respect, Article 32 is as general as possible and mentions only, for the sake of example, the principal categories of offence committed during the War and henceforth prohibited.

Article 33 deals in three Paragraphs with collective penalties, pillage and reprisals. The first Paragraphs reads :

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

This is much more comprehensive than the corresponding Article 50 of the Hague Regulations :

No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they can not be regarded as jointly and severally responsible.

As the Italian Delegation remarked, a Latin conception—in questions of punishment, responsibility must be considered individually—was substituted for the Germanic conception in the Hague Regulations, that in certain cases collective responsibility can be considered to exist.

The latter conception is particularly dangerous, because it allows the prosecuting authority to decide whether or not all

persons accused must be considered as sharing in the responsibility. The authority thus becomes to some extent both judge and prosecution, and the worst abuses may follow.

The question is bound up with that of reprisals (Art. 33, Par. 3), and was not dealt with expressly by the Hague Regulations. This Paragraph reads :

Reprisals against protected persons and their property are prohibited.

Reprisals—meeting one injustice with another—are admitted in International Law ; an unfortunate exception, as the *Oxford Manual* puts it, to the principle of equity that the innocent shall not be made to suffer for the guilty. But humanitarian organizations, and the Committee at all times, have invariably protested against reprisals on the victims of war, and especially on prisoners.

The 1929 Conventions, adopting a text proposed by the Committee, said that “ measures of reprisals against them (i.e. prisoners of war) are forbidden ” (Art. 2, Par. 3). The clause under discussion corresponds, and extends the safeguard, stipulated for prisoners, to civilians who likewise are victims of war.

Article 33, Paragraphs 1 and 3, thus considerably extend the scope of Article 50 of the Hague Regulations. They are a decided advance in affirming human rights, and the Italian Delegation especially, very rightly underlined their importance at the Conference.

Paragraph 2 states, very concisely

Pillage is prohibited.

The Hague Article 47 ran : “ Pillage is formally forbidden ”. The Conference considered it better to drop the word “ formally ”, in order not to weaken other prohibitions in the Convention which are not similarly qualified. As these prohibitions are all absolute, what may appear to be expressions of degree are superfluous.

Article 34 runs :

The taking of hostages is prohibited.

This did not give rise to any discussion at the Conference, and was adopted in the form suggested by the Committee at Stockholm.

The text is new in International Law. There was no corresponding express statement in the Hague Regulations, although certain authorities considered that Articles 46 and 50 of the Regulations (mentioned above) indirectly condemned the practice. It is none the less true that, in the recent War, hostages were often taken, and even executed.

This important question will be the subject of a separate paper in a forthcoming issue of the *Supplement*.

To the number of prohibitions dealt with above, deportation is now added ; it is the subject of *Article 49*, Paragraph 1.

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.

This new text will be greeted with the greater satisfaction, in view of the physical and moral sufferings of the millions of displaced persons for whom the War, and particularly the system of forced labour, were responsible. Forcible transfers were already discountenanced in theory and are condemned by all manuals relating to the laws of war.

In spite of unanimity on the principle, the wording of the first Paragraph of Article 49 gave rise to some difficulty. The Hague Regulations were silent on the subject ; the Stockholm draft proposed :

Deportations or transfers of protected persons out of occupied territory are prohibited, whether such deportations or transfers are individual or collective, and regardless of their motive.

Certain Delegations pointed out that transfers might be beneficial to the people concerned, and they should be given the option of agreeing ; hence the word "forcible" in the first line.

Articles 71 to 76, dealing with judicial guarantees, occur in the part of the Convention which deals with occupied territories but, in the terms of Article 126, they apply "by analogy" to proceedings against internees who are in the territory of belligerents, when war breaks out or during hostilities.

Article 71 (Penal Procedure) states the principle (Par. 1) :

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Article 72 establishes the right of defence. Its provisions include (Par. 1 and 3) :

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during the preliminary investigation and during the hearing in court. They shall have at any time the right to object to the interpreter and to ask for his replacement.

Article 73, Par. 1, deals with the right of appeal :

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Article 74 refers to assistance by the Protecting Power.

Article 75 provides for the right of petition for pardon or reprieve, and stipulates that a period of at least six months must elapse before execution. It is true that this period may be shortened in case of grave emergency, but only after communication with the Protecting Power.

Article 76 (Treatment of Detainees) deals with medical and spiritual assistance, relief, the provision of separate quarters for women, under the supervision of women, visits from Delegates

of the Protecting Power and of the Committee—the various elements which go to make up “humane” treatment.

All these safeguards were contained by implication in the Hague Article 43, obliging the occupant to take “all the measures in his power to restore and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country”.

But this text, with its two reserves, left far too much latitude to the occupant, and carried a great temptation to interpret the wording against the interests of the persons on trial.

The new text is completely different in being detailed and precise, and it provides adequate guarantees in law.

Penal sanctions applicable to these various provisions are given in *Articles 146 and 147*.

The importance of the stipulations in Articles 27, 30 to 34, 49 (Par. 1), and 71 to 76, is shown by the fact that their violation brings into operation the clause for the repression of “grave breaches”—in other words, what are usually referred to as “war crimes”.

Article 147 reads :

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

It will be noted that this passage contains elements of the various Articles commented upon. Moreover, persons prosecuted for grave breaches are given the benefit of the legal safeguards stated in *Article 146*, Paragraph 4 :

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Thus, the safeguards which proved themselves in the especially delicate case of prisoners of war, constitute a minimum which remains due, in virtue of the fact that they are men, even to those who violate the Convention.

In this way, the regulations which contribute to safeguarding the human person in spite of war and its dangers, are built up into a coherent system.

It should be noted, however, that in civil war or any other conflict which is not "international" in character, only the provisions of Article 3 will become applicable. These, in principle, do not bring the other Articles (which, according to Art. 2, are applicable only in international war) into operation. But Article 3 provides at least, that persons shall be "treated humanely without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria".

There follows a list of acts which "are and shall remain prohibited at any time and in any place whatsoever :

- (a) — Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture.
- (b) — Taking of hostages.
- (c) — Outrages upon personal dignity, in particular humiliating and degrading treatment.
- (d) — The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples.

The obligation of treating persons "humanely" is accompanied by precisely the same prohibitions as are stated in the Articles which we have examined. The result is that, in case of need, the wording of these same Articles can be invoked by one or another of the adverse Parties to complete the provisions of Article 3. This would be a logical consequence of the close

analogies which exist between the list in Article 3 and the draft Preamble, the principles of which have been translated, as had been intended (see page 181), by the essential Articles commented above ¹.

We may say in conclusion that the substance of what in time of war would constitute "humane treatment" has been defined, and the respect due to the human person becomes an article of law in those circumstances where it is most endangered.

The vicissitudes of recent years have shown that even what were once considered self-evident principles of "natural law" must now be stated in black and white, not only in the regulations relating to war, but also in International Law, if they are to be respected in all times and places. The Universal Declaration of Human Rights, approved and proclaimed by the General Assembly of the United Nations on December 10, 1948, affirms in the opening lines of the Preamble that "Recognition of the inherent dignity and of the equal, inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world". But the Declaration is as yet only "a common ideal to be attained by nations and peoples". The translation of the ideal into practice depends on International Conventions which are being drafted at Lake Success, the headquarters of the United Nations, and Strasburg, where the Council of Europe holds its sessions. Once again, on this vital question of respect for human dignity, the law formulated in the Geneva Conventions has led the way.

Already, the fundamental rights of the person have been written into a Convention signed by sixty-one nations—including all the Great Powers—who, divided in their general policies, have nevertheless been able to find agreement in this first statement of "human rights". There is no apparent reason why nations should hesitate to write into Conventions, which will be valid for all men and in all places, that which they have already agreed upon in regard to war and in respect to their enemies.

¹ Deportations (Article 49) are not, however, covered by this remark; although mentioned in the Preamble, they are omitted from the list in Article 3.

Thus, once again, the excellence is proved of the idea put forward by Henry Dunant, when he proposed in *Un Souvenir de Solferino* that a Congress should set forth a statement of principle, by international Convention, which, once agreed and ratified, would serve as a basis for Relief Societies to aid the wounded in the various countries of Europe. It was a vision of the future. His hope has been realised, not only in Europe, but throughout the world; not only for the wounded, but for all victims of war—prisoners yesterday, and now civilians. The creative idea of humanitarian law has been thus fulfilled in practice; it seems reasonable to hope that it should be the forerunner also of the effective application of the Universal Declaration of Human Rights.

THE INTERNATIONAL COMMITTEE AND BURMA

As has also happened in other areas in the Far East, accession to independence in Burma has been accompanied by political difficulties which on occasion have led to bloodshed. The rebellion of the Karens and other political groups opposed to the central Government, especially, has brought about widespread population movements; at present, more than half-a-million displaced persons are on the hands of the Rangoon authorities, who are trying to provide reasonable living conditions for them.

A Delegate of the International Committee of the Red Cross, Dr. Marti, who studied conditions in Burma a year ago, has returned to Geneva after a further short visit. He brought back details of needs, especially in medical equipment and supplies. Thanks to certain funds made available to it for relief, the Committee has been able to send out four tons of medical supplies—sufficient to enable the Burmese Red Cross to set up four completely equipped clinics for refugee relief.

Dr. Marti was also able to visit groups of Karens in assigned residence and satisfy himself that they were being treated in

conformity with the Geneva Conventions (which henceforth apply also in case of civil war and disturbances).

A further object of Dr. Marti's mission was to examine with the Burmese authorities the question of repatriating certain Japanese prisoners of war still interned in Burma. This matter is now settled, and the remaining prisoners were leaving shortly for Japan.

REUNION OF DISPLACED FAMILIES

On October 6, 1950 German-speaking children coming from Jugoslavia crossed the Austro-Jugoslav frontier where a delegate of the International Committee awaited them. Seventy of the children were rejoining relatives in Austria, the others, relatives in Germany. This group brings to 201 the number of German-speaking children who, following representations made by the Committee, have, since last Spring, been enabled to rejoin their families.

Negotiations undertaken by the Committee in collaboration with the National Red Cross Societies concerned have also led to the reunion in Western Germany of a number of dispersed families. Since last Spring and up to September 9, 1950, 18,260 German-speaking residents from Poland were regrouped in the British Zone, and 9,794 from Czechoslovakia in Bavaria.

Geneva, October 6, 1950.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

November, 1950

Vol. III, No. 11

CONTENTS

	Page
Visit of the President of the International Committee to the Alliance of Soviet Red Cross and Red Crescent Societies	196
Principal Items of Interest in October	197
Frédéric Siordet, <i>Counsellor to the International Committee of the Red Cross. The Geneva Conventions and Civil War (Concluded)</i> . . .	201

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

*VISIT OF THE PRESIDENT
OF THE INTERNATIONAL COMMITTEE
TO THE ALLIANCE OF SOVIET RED CROSS
AND RED CRESCENT SOCIETIES*

The President, accompanied by Mme Ruegger, left for Moscow on November 8, 1950, with an International Committee mission.

This important first personal contact took place in the capital of the Soviet Union with the President and Council of the Alliance of Soviet Red Cross and Red Crescent Societies.

The other members of the mission headed by M. Ruegger were : Dr. Ernest Gloor, Vice-President, M. Rodolfo Olgiati, Member of the Committee, MM. Frederick Siordet and Max Wolf, Counsellors, and M. David de Traz, Deputy Executive Director.

A special Swiss airplane took the party to Prague, and from there on, they travelled in a Soviet Aeroflota machine.

Consultations, which continued for a week, gave ample opportunity for a detailed exchange of views, and discussions of present plans and objectives on each side. The mission exposed its lively satisfaction of the spirit in which the talks were conducted ; M. Ruegger and his colleagues were especially appreciative of the cordial welcome extended to them by the President of the Alliance, M. Holodkof, and the members of his Executive Committee.

On November 17, the President of the International Committee, and Dr. E. Gloor, Vice-President, were received by the Soviet Vice-Minister for Foreign Affairs, M. Gromyko.

The mission left Moscow on November 18, but was held up for two days by bad weather at Minsk, capital of the Soviet Republic of Bielorussia. Advantage was taken of the occasion to visit the President of the Bielorussian Red Cross, by whom the members of the mission were again received with the utmost courtesy.

PRINCIPAL ITEMS OF INTEREST IN OCTOBER

Korea. — The Delegate in Korea visited North Korean prisoners of war held by United Nations Forces, in the following camps: Eusak Camp No. 1 (October 14), Eusak Camp No. 2 and Fusan POW Hospital (October 15).

Relief sent by the Committee to North Korea included one ton of medical supplies (vaccines, serums, surgical instruments and drugs). The goods were handed to the Hungarian Red Cross, which undertook to arrange forwarding.

Indonesia. — The Delegate in Indonesia, accompanied by an Indonesian Red Cross mission, made a series of visits to the Southern Molucca Islands. Covering a distance of some 3000 miles, he was present at issues of relief in the main islands of the Archipelago, and at Macassar visited Amboinese prisoners of war.

Greece. — Delegates in Greece have completed a further tour of internee camps in the Greek Islands, including those of Ghiura, Aghios-Efstratios and Trikeri. Relief was given to the internees.

Greek children. — At the end of October, a Delegate, representing both the Committee and the League, went to Athens to discuss various matters connected with the repatriation of Greek children at present in Jugoslavia.

Bengal. — The hospital for Moslem refugees at Chittagong (East Pakistan) was closed in October 31, following decrease in the number of refugees in the camps. Elsewhere in Bengal, the work of the ICRC mission continued without change.

North Africa. — M. R. Vust, Delegate at Algiers, who still has often to help persons who have neither identity papers nor means, was recently in Geneva, to report on his work.

East Germany. — Child relief in the Soviet Sector of Berlin continued unchanged during October.

Jerusalem. — Since the Palestine conflict, Jerusalem has been divided between two States. Certain Christian religious institutions, situated in the Israeli section, have sometimes difficulty in obtaining foodstuffs.

The Committee, at the request of the communities concerned, got the Jordan and Israeli authorities to agree to the passage each month of consignments of food provided by Christian institutions in the Old Town for those in the New Town; consent was made conditional on Red Cross escort.

For now almost a year, the monthly convoy—usually two lorries, under the Red Cross flag and escorted by a Delegate—has crossed the boundary line in Jerusalem. The October convoy carried 3900 kilos of food—eggs, olive oil, potatoes, onions, cereals, vegetables, fruit—for various religious institutions, including those of the Poor Clares, the Franciscans, the Salesians, the Carmelite and Benedictine Brothers, the Saint Vincent de Paul Hospice, the Terra-Sancta College, and the French and German Hospitals.

*Reunion of Families*¹. — After a Conference in December 1949 had decided on the general lines to be followed, operations were begun in the Spring of 1950, and have been continued with success. According to latest reports, 27,023 *Volksdeutsche* from Poland, on their way to join relatives in Germany, passed through Friedland Camp up to November 4, 1950, and 11,419 from Czechoslovakia through Furth-im-Walde Camp. The Committee provides both camps with clothing and articles of daily use for the poorest of these refugees.

¹ See *Supplement*, April (p. 80) and June (p. 96), 1950.

Publications. — A brochure containing an additional fifteen replies from Governments to the Committee's Appeal in behalf of Refugees and Stateless Persons was sent to all Governments, Red Cross Societies and organizations to whom the Appeal was originally addressed.

A new leaflet, "Some Advice to Nurses" gives, in simple language, the principal rights and duties under the Geneva Conventions of nurses serving with the Medical Services in wartime ¹.

Published in English, French, German and Spanish, copies have been sent to all National Societies; several have had the leaflet translated into the national language and are issuing it to all nurses on their rolls. It is of topical interest to note that copies in Swedish have been sent to the Swedish team operating in Korea.

Information. — The War-Disabled Section loaned the International Labour Office four films dealing with rehabilitation of the disabled, to illustrate a series of lectures given in Italy by the ILO Medical Adviser on Vocational Training. Shown in Milan and Rome before specialists, the films aroused a very lively interest.

A reel made between 1946 and 1948 by the Berlin Delegation, showing how the Committee organized its relief in Berlin, was sent to the Danish Red Cross.

Legal Assistance to Refugees. — A meeting called by the International Centre for Relief to Civilian Populations (Centre d'Entr'aide) to discuss the question of legal assistance to refugees, took place on October 25, with M. Rodolfo Olgiate, member of the ICRC, in the Chair.

After a general discussion, it was decided that a provisional Committee would study the advisability of setting up, in Geneva, a Central International Legal Assistance Bureau. The present composition of the Committee is: M. Olgiate, member

¹ The text, prepared by M^{lle} Odier, member of the Committee, appeared in the *Supplement*, September, 1950.

of the ICRC; M. S. Horneffer, representing the Genevese Bar Council; M. Buensod, Pax Romana; M^{me} Silberschein, Comité international pour le placement d'intellectuels réfugiés, and M. H. Coursier, ICRC.

The Committee is open to all groups which have wide experience of refugee questions (e.g. Caritas Internationalis, World Council of Churches, Jewish and other agencies). Members act as individuals, without committing the organizations they represent. M. de Preux, Centre d'Entr'aide, is responsible for the Secretariat.

Tibet. — In view of the events in Tibet, cables were sent on November 3 to the Peking and Lhasa Governments, drawing attention to the humanitarian principles of respect for the human person and relief to war victims—principles again underlined recently by the 1949 Geneva Conventions. Particular attention was drawn to Article 3, common to the four Conventions. The Governments were requested to acquaint the troops in action with these principles. The Committee stated its readiness, in these circumstances, to carry out its traditional work, in so far as the necessary facilities were made available.

*Missions*¹. — As part of the general policy of the Committee to make periodical contacts with the National Societies, Dr. Gloor, Vice-President, and M. de Weck, of Geneva headquarters, went to Belgrade early in October. Useful conversations took place with leading members of the Yugoslav Red Cross and with M. Mattes, Deputy Minister for Foreign Affairs. Questions of common interest were discussed, including the return of Yugoslav children from Germany and Austria, the repatriation of children of German stock still resident in Jugoslavia, and the bearing of the new Geneva Conventions on the work of the Societies and the Committee.

¹ See also p. 196.

FRÉDÉRIC SIORDET

Counsellor to the International Committee of the Red Cross

THE GENEVA CONVENTIONS AND CIVIL WAR (Concluded ¹)

In spite of—or perhaps because of—the care taken by the Working Party to examine all the suggestions made, this first Draft gave rise to numerous criticisms.

After three meetings, the Working Party was asked to establish a new Draft, taking into account as far as possible the observations made on the first. It submitted, not one, but two Drafts. The first, somewhat detailed, referred to the first three Conventions; the second, much shorter, to the Civilian Convention only. At the opening discussion, several speakers remarked that the strict application of the Conventions to civil war would, in many cases, be materially impossible, too many provisions applying to situations which could occur only in international war. This objection, largely true, referred with greater force to the Civilian than to the other three Conventions.

The new Drafts read as follows :

FIRST, SECOND AND THIRD CONVENTIONS

(I) — In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply the provisions of the present Convention, provided :

- (a) that the *de jure* Government has recognized the status of belligerency of the adverse party, even for the sole purpose of the application of the present Convention, or

¹ See *Supplement*, Vol. III, No. 7, Aug. 1950, pp. 132-144; No. 8, Sept. 1950, pp. 166-174.

(b) that the adverse party possesses an organized civil authority exercising *de facto* governmental functions over the population of a determinate portion of the national territory, an organized military force under the direction of the above civil authority, and the means of enforcing the Convention and the other laws and customs of war; application of the Convention in these circumstances shall in no wise depend on the legal status of the Parties to the conflict.

(2) — This obligation presupposes, furthermore, that the adverse Party likewise recognizes its obligation, in the conflict at issue, to comply with the present Convention and the other laws and customs of war.

(3) — The provisions relating to the Protecting Powers shall, however, not be applicable, except in the instance of special agreement between the Parties to the conflict. In the absence of such agreement, an impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

(4) — In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, but which does not fulfil the conditions as set out above, the Parties to the conflict should endeavour to bring into force, by means of special agreements, all or part of the provisions of the present Convention, and in all circumstances shall act in accordance with its underlying humanitarian principles.

(5) — In all cases foreseen in the foregoing provisions, total or partial application of the present Convention shall not affect the legal status of the Parties to the conflict.

FOURTH CONVENTION

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, the Parties to the conflict should endeavour to bring into force, by means of special agreements, all or part of the provisions of the present Convention, and in all circumstances shall act in accordance with its underlying humanitarian principles.

In these Drafts, the first three Conventions would maintain the conditions (less rigidly stated) which a non-international conflict should present, if all the provisions of the Conventions (except those which refer to the Protecting Power) are to

apply¹. For other conflicts, the Parties would be requested to conform at least to the humanitarian principles underlying the Conventions, complete freedom being left to make the other provisions applicable by special agreement.

In the Fourth Convention, the latter formula is taken, irrespective of the nature of the non-international conflict.

Even before the Draft was discussed in the Special Committee, amendments were put forward. The Italian Delegation proposed to make the application of the principles of the Conventions in conflicts of the second category subject to *de facto* reciprocity. A British Delegate suggested appeal to the International Court of Justice in case of dispute about the existence of the required conditions. A French amendment wished to limit the application of the four Conventions to the principles only, with an express reference to the draft Preamble to the Civilian Conventions; but the Parties in conflict would be recommended to apply all or part of the other provisions by special agreements.

Study of the Working Drafts and the amendments show the trend of opinion clearly. It shows also that the idea of restricting the application of the Conventions to the principles only had made progress. A new difficulty then arose: what are the fundamental principles? They were, in reality, insufficiently defined; no Chapter in the drafts bore the title "Principles". Only in the Preamble to the Draft Civilian Convention were there certain summary rules, namely:

"The High Contracting Parties, conscious of their obligation to come to an agreement in order to protect civilian populations from the horrors of war, undertake to respect the principles of human rights which constitute the safeguard of civilization and, in particular, to apply, at any time and in all places, the rules given hereunder:

¹ The reserve was justified. The automatic application of the provisions regarding the Protecting Power would not only have encouraged, but rendered unavoidable, the interference of a foreign Power in the domestic affairs of the State. It is unthinkable that citizens should be represented with their own authorities by a foreign Government.

- (1) — Individuals shall be protected against any violence to their life and limb.
- (2) — The taking of hostages is prohibited.
- (3) — Executions may be carried out only if prior judgment has been passed by a regularly constituted court, furnished with the judicial safeguards that civilized peoples recognize to be indispensable.
- (4) — Torture of any kind is strictly prohibited.

These rules, which constitute the basis of universal human law, shall be respected without prejudice to the special stipulations provided for in the present Convention in favour of protected persons”.

The ICRC had also been occupied with this question. It had thought that, by virtue of the decision made at Stockholm, each of the Conventions might be given a Preamble. Whilst the Stockholm draft Preamble sets forth certain principles which derive from the principles of International Law, the ICRC considered that what was needed was rather a definition of these principles. In its *Remarks and Proposals*, submitted to the Diplomatic Conference—but not as a working document—it suggested the following formula¹:

“ Respect for the personality and dignity of human beings constitutes a universal principle which is binding even in the absence of any contractual undertaking.

Such a principle demands that, in time of war, all those placed *hors de combat* by reason of sickness, wounds, capture, or any other circumstance, shall be given due respect and have protection from the effects of war, and that those among them who are in suffering shall be succoured and tended without distinction of race, nationality, religious belief, political opinion or any other quality.

The High Contracting Parties solemnly affirm their intention to adhere to this principle. They will ensure its application, by the terms of the present Convention, to the wounded and sick of armed forces in the field, and pledge themselves to respect, and at all times to ensure respect for, the said Convention”.

To stipulate that, in case of non-international conflict, each of the Parties is bound to apply the principles of the

¹ See *Remarks and Proposals submitted by the ICRC*. Geneva, Feb. 1949, p. 8.

Conventions would have been too vague ; it would have allowed endless divergences on what was to be understood by " principles ". Fortunately, the French Delegation, in its amendment, again took up the idea of defining these principles. It did so by a simple reference to a text which had not yet been voted —and which was in fact never accepted. But the underlying idea was right.

The amendment immediately attracted attention. The second draft of the Working Group excited almost as much criticism as the first ; the principal objection was that it would lead to protracted debate about the nature of a conflict, as soon as it had begun : there was no authority to decide whether or not the required conditions had been fulfilled. It was pointed out that rarely would the conditions be really found together, and that, in fact, the application of the Convention, and consequently the character, inhuman or otherwise, which the conflict took on, would depend solely on the whim of the legal Government. A majority therefore thought it necessary to follow the line indicated by the French amendment, whereas a simple reference to the Stockholm draft Preamble would not suffice. The Special Committee finally considered that a definition of the principles and certain essential rules should be inserted in the Article itself ; the definition was based on the International Committee's draft, and the rules on the Stockholm Preamble.

A second Working Group was invited to draw up a text and proposed the following :

" I. — In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each party to the conflict shall be bound to apply, as a minimum, the following provisions :

- (1) — Persons taking no active part in the hostilities, and those placed *hors de combat* by sickness, wounds, captivity or any other cause, shall be treated humanely in all circumstances, and without any discrimination.

To this end, the following acts are and shall remain prohibited with respect to the above-mentioned persons :

- (a) Violence to life and person, in particular homicide of all kinds, mutilation, cruel treatment and torture ;

- (b) Taking of hostages ;
 - (c) Outrages upon personal dignity, in particular, humiliating and degrading treatment ;
 - (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
- (2) — The wounded and sick shall be collected and cared for.
- (3) — No discrimination shall be practised on the basis of differences of race, colour, religion or faith, sex, birth or wealth.

II. — An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

III. — The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

IV. — The application of the preceding provisions shall not affect the legal status of the parties to the conflict ”.

This Draft was discussed, word by word. Certain Delegations were not sure that the enumeration in sub-paragraph (1) covered all non-combatants, and wondered if the proposed wording would not allow the extermination of surrendered combatants, as they could not be said to have taken “ no active part in the hostilities ”, and had not been “ placed *hors de combat* ”. It was also suggested that it should be made more clear that the condition in sub-paragraph (3) applied to sub-paragraph (1).

The Working Group revised the text and produced the following substitute for sub-paragraph (1).

“ Persons taking no active part in the hostilities, including members of armed forces, who have laid down their arms, and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any discrimination on a basis of race, colour, religion or faith, sex, birth or wealth “.

This new Draft marked a decisive step in solving the problem. It did not meet with unanimous acceptance ; certain Delegations continued to reject the idea of an automatic application,

even simply of the principles of the Convention, to every non-international conflict. Others, on the contrary, suggested that provisions as important as those of the four Conventions could not reasonably be condensed to this extent, since their applications was, for the most part, as much justified in civil war as in international conflict.

Nevertheless, in spite of some objections and criticisms of detail, this last Draft seemed most likely to reconcile the different tendencies. As the rapporteur of the Working Group emphasized, it had the advantage of allowing an automatic application of definite provisions which summarize what is essential in universally recognized humanitarian regulations. Again, it had the merit of not requiring any political or military condition which might give rise to dispute. Unanimity proving impossible, an attempt was made to take up again the second Draft of the first Working Party, but it seemed even less likely to secure majority approval.

In extremis, a new Draft was presented by the Soviet Delegation. Four texts were proposed, identical in the first part and adapted in the second to each of the four Conventions. We give the text of the First and Second Conventions, with the variations for the Third and Fourth between brackets :

In the case of armed conflict not of an international character occurring in the territory of one of the States parties to the present Convention, each Party to the conflict shall apply all the provisions of the present Convention, guaranteeing :

humane treatment for the wounded and sick (III—*for prisoners of war*) (IV—*for the civilian population*).

(III—*compliance with all established rules connected with the prisoners of war regime*); (IV—*prohibition on the territory occupied by the armed forces of either of the Parties, of reprisals against the civilian population, the taking of hostages, the destruction and damaging of property which are not justified by the necessities of war*);

prohibition of all discriminatory treatment of wounded and sick; (III—*of prisoners of war*); (IV—*of the civilian population*), practised on the basis of differences of race, colour, religion, sex, birth or wealth.

This Draft made no allusion to the possibility of special agreements, nor to the intervention of the International Committee. In reply to questions on this subject, however, the Soviet Delegation declared themselves ready to include both. Apart from this, the Soviet Draft followed the same general idea as that of the second Working Party, aiming at the application not of the Conventions as a whole, but of their essential principles. The difference was one of method. Whilst the Working Party set out fundamental principles and rules which should be respected, the Soviet Draft referred, through a general definition, to those provisions which should be applied. This very interesting conception was based on the following idea: it was generally agreed that integral application of all the Conventions was impossible. As it was not feasible to summarize the 429 Articles of the Conventions, or even the most important, in a few lines, it was better to refer to existing Articles, on which the Conference would agree.

The formula put forward, however, still allowed divergent interpretations and more discussion. Apart from certain Articles obviously referred to, how many of the others should apply? Must one, each time, go through the 429 Articles? This last-minute proposal therefore, though attractive, did not convince those who favoured the second Working Group text, and still less those who wished to revert to the Draft of the first Group.

It was decided to submit the three Drafts to the Joint Committee, where arguments for and against each were again put forward. There was even a request to delete the Article altogether. In the voting there was a clear majority: twenty-two were in favour of the second Working Group Draft, which had arisen out of the French amendment; five voted for the first Working Group Draft, and nine for the Russian proposal.

Even so, the discussion was not yet closed. The subject was too delicate and important for the Conference, in plenary session, to decide at once (as it did for other provisions) on the recommendation of the appropriate Committee. Not only was the text, approved by the Joint Committee, critically examined once more, but the Russian Draft was again put

forward, commented and supported. Moreover, a further amendment was proposed, this time by Burma, to delete every Article dealing with the application of the Conventions in non-international conflicts. Finally, after protracted debate, there was again a majority—even larger—in the Joint Committee for the Draft of the second Working Group. The Draft was adopted, as Article 3 in each of the Conventions, by 34 votes to 12, with one abstention. The final text was given at the head of this paper and we reproduce it here :

Article 3:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions :

- (1) — Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons :

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture ;
 - (b) taking of hostages ;
 - (c) outrages upon personal dignity, in particular humiliating and degrading treatment ;
 - (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilised peoples.
- (2) — The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

* * *

We have thus traced the idea of extending the Conventions to civil war, through its various transformations from the Resolution of the Preliminary Conference in 1946 to the hybrid Stockholm text, which provided for total and unconditional application of the first two Conventions, and total but conditional application of the other two. Finally, we have seen how the two extremes—complete absence of provision for the case of civil war, or the Stockholm formula (First Convention)—were both dropped at the beginning of the Geneva discussions, and a practical solution patiently worked out.

It now remains to examine the Article as a whole and in detail, to see how far it has achieved its object, while eliminating the fears to which its principle had given rise.

As a Delegate expressed it, Article 3 is a “Convention in miniature”. Giving up the idea of an integral application of the Conventions as a whole, it requires the application of their principles only. But it defines these principles and adds certain formal obligations. Two drawbacks are thus eliminated:

(a) controversies as to what are “the principles of the Convention”;

(b) the material impossibility of applying all provisions of the Conventions in non-international conflicts.

“ In the case of armed conflict not of international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions: ».

There were difficulties about the expression “armed conflict not an international character”, which some considered would cover all forms of anarchy, disintegration of the State, and banditry. It was alleged that the Conventions, or their principles, would become applicable if even two or three individuals should revolt against the State, and that their application would confer the status of belligerents on groups not capable of making war.

Every Government has the right to suppress domestic rebellion : the exercise of this right would be curtailed. Therefore, non-international conflicts would have to be defined, or the application of the Convention made subject to precise conditions.

We believe that the Conference did well not to impose definitions and conditions ; they would have led to endless discussions at the outbreak of any conflict, during which time many helpless people would have been without protection. Moreover, such a solution would have been useless. Article 3, even if it has the appearance of a miniature Convention, is not in itself a separate agreement relating to non-international conflicts. It is only one provision, amongst others, of four Conventions which have a very definite object : to protect the victims of *war*. The very titles of the Conventions eliminate doubt as to when any of their provisions—including Article 3—apply. The first two refer to the wounded and sick of *forces in the field on land, or at sea*. The third concerns *prisoners of war*, the fourth deals with civilians *in time of war*.

Taken in this light, it would be clearly absurd to regard police forces in pursuit of criminals or rioters, who retaliate their fire, as “ forces in the field ” ; or to look upon demonstrators arrested by the police and released after questioning, as “ prisoners of war ”. There is no reason why the adoption of Article 3 should change the value of words, and why every-day crimes should henceforth be considered as “ non-international armed conflicts ”.

The very place of Article 3 in the four Conventions, the titles of the latter, and the other provisions, all show that events only are in mind which, without constituting international war, have all the characteristics of war and produce comparable suffering. During the first discussion at the Conference, a suggestion was made that armed conflict should be held to exist in the sense of the Convention, from the moment when the police no longer sufficed and the Government was obliged to call upon the military, while the rebels themselves had armed and more or less organized units. It is surprising that this formula, which has the merit of simplicity, was not retained when the first Working Group was looking for a defini-

tion of an armed conflict, and was trying to fix the conditions which rebels should fulfil. Even this criterion would, however, have been useless. The provisions that the Parties in conflict are called upon to respect are such that no civilized Government should have to worry about deciding whether circumstances obliged it to conform, or whether it had the right to ignore them. We shall return later to this question.

“Each Party to the conflict shall be bound...”

These words show how much International Law has evolved in a few years. We noted above how unconceivable, from a legal point of view, the idea appeared to be, of binding by international Convention a Party not signatory and not even yet existing. Strangely enough, although this objection was raised at the Conference, it did not constitute a major obstacle, and comparatively little attention was devoted to it. There was, from the outset, a clear majority who considered that both parties should be bound in case of domestic conflict. Much more important and difficult to refute was the argument, that to bind a rebel party through the Convention would be to give it the legal status of a belligerent, and thereby enhance its prestige. This thesis was the most often quoted against the Stockholm Draft—providing for the application of all clauses of the Convention—and used against each of the later Drafts, and against the final text.

The argument was certainly founded when the integral application of the Convention was under discussion—which would have empowered rebels to appeal to a Protecting Power. Since Article 3 requires only the observation of certain rules and does not mention Protecting Powers, the argument loses its force—the more so, because care was taken to stipulate, in answer to the disquiet of the Government Experts in 1947, that *“the application of the preceding provisions shall not affect the legal status of the Parties to the conflict”*. Therefore, the legal Government is in no way bound, by the fact that insurgents respect Article 3, to recognize them as belligerents, nor may the insurgents legitimately plead their respect for the said Article to obtain recognition by foreign States.

The wording of Article 3 should thus dispel the apprehension that it would give legal status to insurgents, or even to criminals. This is not, however, to say that the Article prevents a third Power from recognizing the rebel party as the only legal Government. In the present state of International Law, Governments may do so, and have repeatedly done so during the last twenty years, on the outbreak of non-international conflicts. What they could do before the 1949 Conventions they can still do today. But if Article 3 does not prohibit this course, it certainly does not facilitate it.

What are the obligations of the Parties in conflict ?

“(1) *Persons taking no part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria*”.

The formula referred to above¹, suggested by the International Committee in its *Remarks and Proposals*, is here taken up and developed. It is fortunate that, as the Conference abandoned the idea of a Preamble or preliminary Article, which would have defined the essential principles of the Conventions², these principles should be defined in some other place, even if for international war only. The wording seems comprehensive : every person who is not combatant, even if he had recourse to arms only the moment before, must be treated humanely.

There is, however, a gap in the list of adverse distinctions : “nationality” was deliberately omitted. This does not imply the right of refusing humane treatment to aliens, who have taken part in the rebellion, or on the contrary to treat only aliens humanely and refuse such treatment to nationals. Such a conception would be the negation of the principles first proclaimed in 1864—those precisely which the new Conventions are designed to extend.

¹ See above, p. 204.

² See *Revue internationale*, July 1949, p. 477.

But the Conference had a reason for this surprising decision. It had been impressed by the idea that in the case of disturbance or revolt, the State, responsible for order in its own territory, is entitled to punish an alien, who rebels against the authority of his country of residence, more severely than a citizen. In itself, the idea is to some extent justified, but it came at an inopportune moment. The clause in question has nothing to do with the repression of criminal acts. The "treatment" which is referred to, is not concerned with the severity of punishment—fine, imprisonment, or death sentence—which the tribunal may legally inflict on the ringleaders. If the criterion of nationality had been added, as in the other clauses, it would still not have prevented the court from judging freely of the alien's guilt, and passing a heavier sentence than on nationals. "Humane treatment" here means only the minimum of respect owed to the human person, regardless of any judicial punishment his acts may entail.

Thus, because of a remark which, although justified, was untimely, the literal application of the Conventions could lead to most unexpected situations. Theoretically, one or other of the Parties may treat victims of the conflict, because of their nationality, in ways which it is precisely the purpose of the Conventions formally to prohibit. There is, however, no reason for alarm; the very enormity of the paradox nullifies it. No Government, or belligerent could suggest so literal an interpretation, and nationality will, by common consent, be included amongst the "other similar criteria".

"To this end the following acts are and shall remain prohibited"

The imperative stipulations here stated flow from the general principle laid down at the beginning of the Article. It will be noted that the Article proceeds solely by prohibitions. The acts forbidden are those which, committed on a wide scale during the War, most deeply shocked the public conscience. The list may be regarded as incomplete: it was suggested that reference to biological experiments—a sinister memory—should be added. The addition would have been useless: such acts are included under sub-paragraph (a), which is sufficiently

explicit. Lists which are over-full are always dangerous, as they give the appearance of being limitative—there has been sufficient evidence of this.

(2) “ *The wounded and sick shall be collected and cared for...*”

No long commentary is needed. The principle, basic to the Red Cross and the First Geneva Convention, is reaffirmed and generalized. The brief provision, which bears the number (2), is independent of the first, and thus has particular force. No doubt is possible: there cannot be two interpretations of a categorical imperative which admits of no restriction.

“ *An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.*”

This reference may appear meagre and without much practical value. It is nevertheless sufficient, and the Committee did not ask for more. To act usefully, it must be wholly independent. Moreover, the Committee cannot bind itself in advance to undertake specific actions: the nature of its intervention will be decided by circumstances, and the means available to it. Therefore, a too explicit text could only compromise its independence, or limit its power of initiative—if the clause did not indeed raise false hopes, by requiring tasks impossible to carry out when moment came. The 1929 Prisoner of War Convention did not give the Committee any more definite basis of action; it was nevertheless sufficient during the last war to permit eleven thousand camp visits, to relieve millions of prisoners, and to transport and issue supplies worth 3,400 million Swiss francs in the camps. The reference in Article 3 will, therefore, allow the Committee to act quickly in case of civil war and organize indispensable relief, as far as means are available.

“ *The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.*”

This clause gives the advocates of an integral application in civil war, if not all they were looking for, at least a measure

of satisfaction. A civil war, if it continues, may come to resemble genuine international war. The situation of thousands, whether military or civilians, is then such, that respect for Article 3 is not enough, and it becomes desirable to make detailed arrangements to govern their treatment and relief.

There is no reason for a legal Government to fear that this clause would strengthen the rebel party by implicitly according it belligerent status. The legal Government is free to conclude or refuse such agreements, and it may specify that its adhesion does not imply any recognition of the adversary's legality.

In addition, this clause is, as the preceding ones, covered by the last clause of Article 3, which we have already discussed :

“ The application of the preceding provisions shall not affect the legal status of the Parties to the conflict. ”

* * *

What, finally, is the practical value of Article 3 ? It is difficult to say ; experience alone can show, and no one is anxious to witness a practical demonstration. We may safely assume, however, that if a civil war were to break out after the new Conventions have come into force, Article 3 would save much human life.

Doubt has been repeatedly expressed—so often that we must refer to it once more—that Article 3 could be binding on a rebel party that is not yet in existence ; it is also feared that the legal Government may be hindered in its task of repression. We have said that Article 3 had in view non-international conflicts presenting certain analogies with war, and not the sort of police action which happens almost daily in all great cities. But even taking the widest application, the formula adopted offers all the advantages and has none of the drawbacks suggested. If a number of people try to foment revolution, they will have reason to respect Article 3, to distinguish themselves from criminals. This, surely, is not a cause of complaint, either to the victims, the population at large, or the Government. Even if the latter considers the rebels as

ordinary law-breakers, it is in no way hindered by the observation of Article 3. No civilized Government is authorized by its own legislation to apply the treatment which the Article prohibits: torture, and execution without trial. One can only subscribe to the declaration made by a Delegate, who said in substance: "My Government is in no way dismayed by the prospect of applying Article 3 to rebels, even should they be law-breakers, because its provisions are no more than the minimum of humanitarian law, universally admitted and respected every day even in regard to the worst criminals." It should not be forgotten, too, that Article 3 in no way limits the right of prosecuting and condemning rebels in accordance with municipal legislation, for infractions of the said law.

Whatever its imperfections, Article 3 still has great moral importance, insofar as it recognizes the universality of the principles on which the Geneva Conventions are based. It is not a compromise text. The idea from which it derives has been slowly developed. It had its enthusiastic supporters, but so many opponents also that at one moment it seemed that time was not yet ripe for it. In spite of all obstacles, however, the Conference doggedly continued to search for a solution. Discussion and amendment of the text occupied no less than twenty-five meetings of the Conference in plenary session, the Joint Committee responsible for the common Articles, its Special Committee, and two successive Working Groups—not counting the days and evenings spent by Delegations, working independently and in groups, drawing up amendments or suggestions, searching for improvements in the substance or the wording. In view of so many opinions and difficulties, it would not have been surprising, had sheer weariness led to a facile solution, or some vague and empty formula. It was not so, however, and the earnestness of the work has brought its own reward. The problem was examined under all its aspects, and if the final text does not satisfy everyone, at least no other would have secured a majority.

The spirit of the discussions must also be mentioned. In spite of the length of the Conference and the number of meetings

devoted alone to Article 3, there was no break in the spirit of friendly co-operation. The most impassioned supporters of an opinion were always entirely open to argument, and even those whose suggestions had been dropped completely, and who persisted up to the last moment in trying to convince others of their views, helped none the less constructively in the search for an acceptable formula. This attitude was so remarkable, that it is not out of place, in this impartial account, to pay a special tribute to the members of the twelve Delegations which formed the Special Committee of the Joint Committee, and to its Chairman, Dr. Plinio Bolla, the Swiss Federal Judge.

Finally, it is noteworthy that the Article was not alone accepted, but that none of the sixty States which signed all four Conventions made any reserve on it ¹. We said in the first part of this paper, that the Conventions should gradually lose the character of reciprocal treaties, and become more and more unconditional engagements. In Article 3 we have already arrived at this point. In it, Governments bind themselves individually without any *per contra*. None of the other signatory Governments is, or will be, party to the contract when it is due for execution. The party will be a group, a political party, a military faction, still anonymous, who may refuse to apply agreements that they have not signed. In signing the new Conventions, Governments have to some extent made the following proclamation: "The provisions of Article 3 represent a minimum which civilization requires every man to observe in regard to his fellow-men. For our part, we respect this condition at all times and in all circumstances".

At the beginning of this paper we called this a revolutionary Article. Revolutionary it certainly is, but it is also a triumph of lasting principles over material considerations.

¹ The Argentine representative signed "under the reserve that the common Article 3, to the exclusion of all the others, shall be the only one applicable in the case of armed conflicts which are not of an international character". This declaration in no way limits the scope of the Article: it confirms it.

REVUE INTERNATIONALE
DE LA CROIX-ROUGE
ET
BULLETIN INTERNATIONAL
DES SOCIÉTÉS
DE LA CROIX-ROUGE

SUPPLEMENT

December, 1950

Vol. III, No. 12

CONTENTS

	Page
Principal Items of Interest in November . . .	220
Relief Scheme for the Poor of Jerusalem . . .	224
Repatriation of Greek Children	238
The President of the Republic of India visits an ICRC Delegation	239
Table of Contents. Vol. III (1950)	240

Published by
Comité international de la Croix-Rouge, Genève
Editor: Louis Demolis

PRINCIPAL ITEMS OF INTEREST IN NOVEMBER

Korea. — The Delegates in South Korea visited North Korean prisoners of war in the following camps :

Inchon-Base POW Transit Stockade (November 2):
POW Enclosures, Pyong-Yang (November 11)
U.N. POW Camp No. 1, Pusan (November 20)

and issued relief of different kind.

The names of 3,810 North Korean prisoners in United Nations hands were officially communicated to the Central Prisoners of War Agency. By the end of the month, 10,489 names of North Korean Prisoners were received at Geneva and transmitted to the Korean People's Democratic Government.

Continuing efforts to carry out its traditional work in territory held by the North Korean Forces, the Committee again approached the Red Cross Society of the People's Democratic Republic of Korea. In a telegram addressed to the President of that Society, M. Ruegger recalled the essential humanitarian principles of the Geneva Conventions and gave a summary of what had been done to aid North Korean prisoners since the outbreak of hostilities; he once again stressed the Committee's desire to establish contact with the Society or with the Government, so that ways and means of allowing the Committee to carry out its normal functions in Korea could be examined.

Greece. — The Committee's Delegates visited the following camps :

Pediki Estia, Kifissia November 24
Averoff Prison (women) November 24
Sotiria Sanatorium November 29
and eight penitentiaries in the Peloponnese.

Amboina. — The Delegate in Indonesia, Dr. Lehner, successfully completed a mission to the Island of Amboina during November. He left Djakarta on November 13, and through the good offices of the Indonesian Government and Red Cross, reached Amboina on the 19th, where he made contact with the civil and military authorities. As a result of the heavy fighting which had taken place, the town of Amboina was in ruins and some thirty thousand persons homeless. Dr. Lehner visited the hospitals, and the prisoner of war and refugee camps, including those at Halong, Latery and Tulehu. He also made contact with foreigners living in Amboina, and left the Island on November 25, after having made arrangements for the arrival of the Committee's relief plane.

A Delegate accompanied this machine, a Dakota placed at the Committee's disposal and painted in its colours. The aircraft left Geneva on November 18 with a cargo of 1,200 kilos of medical supplies, to the value of some 50,000 Swiss francs. The Delegate looked after distribution on the arrival of the plane at Amboina on December 3, and took off again for Singapore, from which town 1,300 kilos of milk were brought back for further relief.

Greek Children. — A first convoy of twenty-one Greek children from Jugoslavia arrived in Greece on November 25. Colonel L. de Meyer, joint Delegate of the International Committee and the League of Red Cross Societies, took part, with the Committee's Delegate in Greece, in this repatriation. Jugoslav Red Cross Delegates informed Colonel de Meyer that more Greek children would shortly be repatriated.

*Reunion of Families.*¹ — Attempts to reunite dispersed families were continued. Up to November 18th, 28,839 *Volksdeutsche* from Poland had passed through Friedland Camp. On November 10, the thirtieth convoy from Czechoslovakia bringing total numbers of 11,818 crossed the frontier at Furth

¹ See *Supplement*, April (p. 80), June (p. 96) and Nov. (p. 198).

im Walde. Meanwhile, the Committee had discussions with the Austrian authorities on an exchange of *Volksdeutsche* now living in Austria and Germany, with a view to bringing members of the same families together.

The War-Disabled. — The necessary material and tools to set up four workshops for apprentice cobblers, and four for apprentice carpenters, were sent to Western Germany. Each workshop will enable ten German war invalids at a time to learn a trade which will help them earn their living.

The Delegation in Berlin sent 112 Braille watches for the use of blinded persons in the Eastern Zone.

Social Assistance. — Following a request made by the Social Welfare Department of the United Nations, the non-Governmental organizations interested in emigration questions met at a working session on November 1. Each organization represented undertook to inquire into the assistance given to the local population in countries in which there are large numbers of aliens. The International Committee's inquiry will be in Spain.

Visits of Delegates. — The Rev. Henri P. Junod, Delegate in South Africa, and M. G. Senn, Delegate for British Central Africa (Northern Rhodesia, Nyasaland, Southern Rhodesia) were in Geneva during the month. Neither had been back in Switzerland since early in 1939. They gave interesting details about their work, and on present-day conditions in Africa.

Memorial to Henry Dunant. — On the initiative of the Austrian *Komitee zur Ehrung des Hilfswerkes der Nationen*, founded to convey the gratitude of the Austrian people for assistance given by international organizations, a commemorative tablet in honour of Henry Dunant was unveiled at the end of October in the courtyard of the *Landesbank* Building in Vienna, formerly the War Ministry. The Delegate in Austria was present at the ceremony.

Visitors. — During November, the Committee had the pleasure of receiving visits from Mr. B. M. Jolly, Assistant Secretary to the Indian Red Cross; Dr. von Brochowsky, Chairman, and Mr. A. Kirchner, Secretary-General of the Saar Red Cross, and Mme de Ocampo, President of the German Ladies' Committee, Buenos Ayres. On December 4, Judge Emil Sandström, Chairman of the Board of Governors, M. de Rougé, Secretary-General and Hon. Vice-President of the League of Red Cross Societies, and Signor Pilotti, President of AGIUS (Italian Red Cross), were received by the President and Members of the Committee.

Repatriation of German Nationals from China. — The Committee's Delegates in Berlin and Shanghai have been informed that the West German Government has arranged with a Bremen Steamship Company for the repatriation of some 800 German nationals still in China. Persons about whom inquiries were made to the ICRC will thus be enabled to return to Germany before the end of the year.

The Universities and the Conventions. — As part of its policy to make the Geneva Conventions better known, the Committee has sent copies of the 1949 Conventions, in Spanish, to the Universities of Spanish-speaking countries, suggesting that study of the Geneva Conventions be included in the University law courses.

*RELIEF SCHEME FOR THE POOR
OF JERUSALEM*

I.

PRELIMINARY OBSERVATIONS

A few remarks are necessary to situate the subject of this report in its relation to events in Palestine, and to distinguish the Relief Scheme for Indigent Residents in Jerusalem from the other activities of the ICRC in Palestine, namely :

- (1) — Traditional activities, during and after hostilities ;
- (2) — Distribution of United Nations relief to Refugees by the Committee's Commissariat.

(1) — *Delegation Activities.*

Early in January 1948, the British Government, fearing that an open conflict between Arabs and Jews would break out when it withdrew as Mandatory Power on May 15, 1948, requested the International Committee to take over hospitals and medical establishments in Palestine.

A medical mission was sent out from Geneva to make a survey. In May, 1948, formal assurances were given by both parties that they would respect the fundamental principles of the 1929 Geneva Convention in the event of war. A regular Delegation was set up with a large medical team. On May 14, 1948, with the departure of the last British troops, fighting began openly ; a number of regional Delegations were formed to carry out the customary activities of the ICRC in time of war—visits to prisoner of war and civilian internment camps, transmission of messages, distribution of relief, protection and maintenance of hospitals.

During the months that followed, some half million Arabs and between eight and ten thousand Jews fled from their

homes, the former into Arab-held Palestine and the neighbouring countries, the latter into the newly-proclaimed State of Israel.

Hostilities ceased towards the end of the year, and an armistice between Israel and the Kingdom of Jordan was signed in February, 1949, followed by armistices with the other Arab states involved. Israel held the Negev, the coastal plains of Palestine, and the New City of Jerusalem, the Arabs the Old City and the barren highlands.

Meanwhile, the plight of the refugees—especially the Arabs, many of whom had left their homes with nothing but the clothes they stood in—had become so desperate at the approach of Autumn, 1948, that it was beyond the means of private charity and the resources of local Arab authorities to supply their needs. Many were sheltering at altitudes up to 3000 feet, under trees and in caves. In September 1948, the United Nations decided to come to their aid and voted funds to provide food, shelter, blankets and medical assistance.

This decision was implemented by the creation of an agency called United Nations Relief for Palestine Refugees (UNRPR), whose functions were limited to administrative supervision and purchasing. The actual distribution was entrusted to the three following organizations :

International Committee of the Red Cross :

Israel and Arab-held Palestine (West of the Jordan river).

League of Red Cross Societies :

Lebanon, Syria, Transjordan (East of the Jordan river) and Irak.

American Friends Service Committee :

Gaza Sector.

(2) — *Commissariat.*

The character of this mandate led the International Committee to set up an autonomous agency, the ICRC Commissariat for Relief to Palestine Refugees. Its headquarters were in Beirut, where all UNRPR relief was unloaded. The

Commissariat's distributing agencies in the field (called Regional Commissariats) were : Haifa, for the territory of Israel ; and Jericho, Nablus, Jerusalem, Ramallah, Bethlehem and Hebron for Arab-held Palestine. Each Regional Commissariat was responsible for the refugees in its own district.

The establishment of the Commissariat at the beginning of 1949 did not lead to the closing of the Delegations in Beirut, Amman, Ramallah, Tel-Aviv and Gaza. These still had important duties : protection of medical establishments ; distribution of relief not provided by the United Nations ; visits to prisoner of war and civil internment camps ; exchange and repatriation of prisoners ; transmission of civilian messages ; inquiries about missing persons, etc. The Delegations and the Commissariat were entirely separate agencies, but operated under the same flag, and naturally worked in close contact.

The International Committee has published detailed reports on the activities of its Delegations in Palestine, as well as on those of the Commissariat.

There being no access to Arab-held Palestine from the sea, supplies had to be conveyed by truck over the Lebanese mountains and then via Damascus and Amman, some 320 miles in all.

Distribution of UNRPR relief began in December, 1948, and was temporarily done by local Arab Committees, under the supervision of United Nations officials. On January 1, 1949, the three distributing agencies took over.

UNRPR had directed that its relief was for refugees only, to the exclusion of all other victims of the Palestine conflict. A refugee was defined as a person who had fled from his home on account of the war. The indigenous poor and destitute were considered a government responsibility, and were not entitled to UNRPR relief.

The UNRPR definition of a refugee obliged each Regional Commissariat to check the lists supplied by the local Arab Committees and eliminate those ineligible, including fictitious refugees. Many thousands of names were thus struck off. Up-to-date records of all refugee movements from one region to another had to be kept, because it was on the basis of these lists

that monthly allotments were made. Such checking accounted for over half the clerical work of the Commissariats, and was resented, often violently, by the refugees.

The above explanation is necessary in order to have a clear picture of the difficulties encountered by the Jerusalem Commissariat and the circumstances which led the ICRC to open a separate office in Jerusalem for distribution of relief to the poor and destitute inhabitants of the Old City.

From the outset, the situation which faced the Jerusalem Commissariat was difficult. In its sector, there were some 20,000 refugees and as many destitute. Of the latter, 14,000 were inhabitants of the Old City of Jerusalem, totally impoverished by the war and its consequences. Formerly, many lived on the tourist and pilgrim traffic, which was completely suspended. Others resided in the Old City, but were cut off from their business or work in the New City.

The Jerusalem Commissariat, in checking the lists it had been given when taking over, soon discovered that about half the destitute of the Old City were included. Rations per head were correspondingly reduced. Comparison with the rations distributed by the other Regional Commissariats, in areas where the problem of the indigenous poor was relatively negligible, gave rise to dissatisfaction. In addition, the poor not on the lists received nothing, and they naturally considered this to be unjustifiable discrimination.

Inception of the Jerusalem Delegation Scheme.

M. Paul Ruegger, President of the ICRC, while on a tour of the Middle East, passed through Jerusalem in mid-February 1949. He called a meeting to study ways and means of assisting the needy of the Old Town.

It was decided to initiate a scheme, independent of the Commissariat, to provide food and, if possible medical assistance, to the poor and destitute.

A Distribution Centre was to be opened in Jerusalem, managed by Delegates and personnel directly responsible to Geneva. Members of the Gaza Delegation (about to close down)

were to be sent to Jerusalem to organize the first bi-monthly distributions, to be made with relief then available to the ICRC in Palestine, and consisting of :

- (1) — 200 tons of foodstuffs, considerable medical supplies, and some clothing stored at Ramallah— all ready for immediate use.
- (2) — 35 tons foodstuffs, and miscellaneous supplies at Port Said, awaiting shipment to Gaza.

These supplies, which it was estimated would last about two months, were what remained of donations received by the ICRC following its initial appeal of May 12, 1948, addressed to all Red Cross and Red Crescent Societies, the YMCA, the UNICEF, the World Health Organisation, and calling for medical supplies, foodstuffs, clothing, blankets and funds. This relief was to be given to all the victims of the conflict in Palestine.

To ensure the continuance of the Scheme after the reserves were exhausted, it was decided that upon the return of M. Ruegger to Geneva, the Committee would launch an appeal for funds.

II.

ORGANIZATION OF THE SCHEME

The Scheme started as a stop-gap. The ICRC could, at the time, undertake no financial responsibility for it ; what resources were available had to be utilized to the fullest, and overheads eliminated in the hope that appeals, meanwhile, would bear fruit.

Active preparations began early in March, 1948, to enable the first distribution to take place around the 25th. An ICRC Swiss nurse from Gaza had been placed in charge ; the Delegate in Beirut was responsible for general administration and was to purchase, if and when funds came in. A part of the Indian Hospice building was rented for offices, stores, and distribution. The Indian Hospice is situated near Herod's Gate, within the

City walls, and was convenient for the handling of incoming goods.

Three employees were engaged for the office ; others, mostly needed on distribution days, were paid in kind.

Lists of the poor in the Old City were drawn up, quarter by quarter. Initial lists were obtained from the Jerusalem Social Welfare Department, and most of the clerical work was done by the staff of the Jerusalem Commissariat. Four social assistants, with first-hand knowledge of Jerusalem, were engaged for home investigation. The Municipal Authorities and the *Mukhtars* of the various quarters were very helpful and co-operative.

Individual ration cards, easily distinguishable from those of the Commissariat, were issued for the first distribution.

Relief supplies stored in Ramallah were brought to the Indian Hospice.

The first fortnightly distribution began on March 27, 1948, and lasted five days ; it was made by district, and ran very smoothly. Identity was again checked when ration cards were being handed out, causing inevitable delay. Later, it became possible to make the complete distribution in one day.

We deal with each main aspect of the Scheme under a separate heading.

Administration and Staff.

Geneva took major decisions and issued appeals for funds. The ICRC Delegates in Beirut and Jerusalem were responsible for general administration, purchases and distribution.

At the beginning, a single ICRC nurse was in charge in Jerusalem ; she was assisted by Arab personnel—three salaried and about twenty remunerated in kind. In June, 1949, a Milk Centre and a Dispensary were opened, demanding additional administrative staff. At the same time, the ICRC Delegation to Jordan, at Amman, was transferred to the Indian Hospice, Jerusalem. The Delegate then took charge of the scheme, while continuing his other activities, and the nurse became responsible mainly for the Dispensary and the Milk Centre. Purchases were made in Beirut by another Delegate, who, when his colleague

was appointed to Israel in September, 1949, took the heavy responsibility of both the Jerusalem Delegation and the Beirut Office.

Two fully-trained Arab nurses were engaged in June and July 1949, because of the increase in the number of serious cases.

In August, 1949, the number of salaried employees had risen to eight, and there were between 35 and 40 assistants. Many of the latter were needed only on distribution days.

Administrative Costs.

Costs were covered by the « Palestine Tax ». Whether the gift was in cash or kind, each donor was asked to contribute one-tenth to the ICRC, to cover distribution charges, the administrative expenses of the Beirut and Jerusalem offices, storage, transport, salaries, etc. A separate report will be made on this subject.

Transport.

The Jerusalem Scheme relieved the Commissariat as a whole of a problem that would undoubtedly have had serious repercussions. With the consent of UNRPR, the Commissariat accordingly undertook to transport its provisions from Beirut, Damascus, etc.; the increase on the Commissariat's transport budget was probably not more than two per cent.

It will be seen from the attached chart that distributions were not always carried out at regular intervals; for example, there was no second distribution in December, 1949. Irregularities were due to transport difficulties, e.g. heavy snowfalls in the Lebanese mountains which compelled drivers to take the longer route, and rivalries between forwarding agents, which, in one case, led to the temporary closing of the Syria-Jordan frontier to relief traffic.

Finance and Purchasing.

Throughout, the Jerusalem Scheme worked on a hand-to-mouth basis and was often almost forced to close down. Thanks to the success of the ICRC's appeals, it was able to continue

for thirteen months, make 25 fortnightly distributions, and operate a Milk Centre and a Dispensary.

Stocks were almost exhausted at the fourth distribution. By then, important donations had become available. Finances were thus ensured for at least another two months, making it possible to look a little ahead and draw up plans. It was decided, therefore, to maintain the system of fortnightly distributions and to open the Dispensary and Milk Centre.

The decision to end the Commissariat's activities in Palestine on March 31, 1950—later extended to April 30, 1950—was taken in Autumn, 1949. This decision implied for the ICRC that it should also continue the Jerusalem Relief Scheme until April 30, 1950. As a precautionary measure, a 25% reduction of costs was decided upon, to make funds last as long as possible. The reduction took effect with the thirteenth distribution, at the beginning of October, 1949. Fortunately, crops, especially wheat, had been exceptionally abundant and there was a sharp drop in prices. It was, therefore, unnecessary to reduce rations in the same proportion as expenses, and the monthly ration of flour was maintained at six kilos—a most important decision, as bread is the Arab staple diet. Each distribution now cost about 24,000 Swiss francs, instead of 32,000.

Ninety per cent of supplies were purchased in Syria and Lebanon, where prices were well below those in Jordan. Oil and some rice were obtained locally. The Delegate in Beirut took advantage of the market and currency fluctuations, while paying close attention to quality and the balance of diet. Every effort was made to provide the accustomed diet, namely, special flour for Arab bread, olive oil, pulses, rice, sugar, etc. The calorific value of the ration was estimated at 1,100.

Registration.

The card-index, set up when the Scheme started, served throughout. It contained particulars of all the eligible poor. Every ration card handed out had its counterpart in the card-index, and arrivals and departures were carefully noted.

Much weeding-out was necessary, and considerable investig-

ation. Some applicants tried to draw rations both from the Commissariat and the Delegation. It was not uncommon to find, on investigation, that a family which claimed twelve members had in reality eight. Neighbour's children were hired to inflate numbers. Some tried to come one day under one name and the next under another. Ingenious tricks for obtaining extra rations were discovered. Extra rations thus obtained were usually either bartered or sold.

In June, 1949, numbers rose by 1256, on the return to Jerusalem of persons who had fled to Amman and Jericho.

In July, 1949 there was a re-allocation of over 1000 rations. These were mostly withdrawn from children up to the age of three (who were instead given one litre of milk daily) and issued to deserving cases on the waiting list.

Monthly rations were also given, for their own use and for issue, to a number of Convents, Orphanages, Hospices and Schools which had lost all resources and had been responsible for feeding certain poor persons. About 1,500 rations were issued in this way.

Of all the poor fed under the Scheme, 70% were Moslems and 30% Christians.

Relief Distributed.

After local stocks had been exhausted at the fourth distribution (see under *Finance and Purchasing*), fortnightly rations were standardized more or less as follows :

3	kilos	flour
200	gr.	sugar
200	gr.	rice
200	gr.	oil
200	gr.	pulses (lentils, dried peas or dried beans)

From March 27, 1949 to the end of April, 1950, twenty-five fortnightly distributions were made to an average of 13,640 persons. The following quantities of goods were distributed during this period :

Flour	1,072,100	kilos
Sugar	71,340	"
Rice	35,050	"
Olive oil	50,900	"
Dried beans	30,500	"
Dried peas	5,850	"
Lentils	28,750	"
Oatmeal	33,700	"
Raisins	6,700	"
Dried figs	5,350	"
Dates	3,820	"
Almonds and nuts	4,400	"
Macaroni	1,470	"
Dehyd. potatoes	3,080	"
Semolina	1,130	"
Chocolate	10,080	pcs.
Coffee	4,870	tins
Corned beef	5,040	"
*Pork	960	"
Beans	2,010	"
Butter and cheese spread	4,210	"
Soap	11,440	pcs.

* Issued to Christian Arabs only.

Dispensary.

The Dispensary was opened on June 17, 1948. Medical supplies, including surgical instruments, bandages, and disinfectants had been taken from stocks in Ramallah. They were obtained from donations received from the Government of Egypt, the Turkish Red Crescent, the Red Lion and Sun of Iran, the American Red Cross, and the ICRC itself.

The Dispensary was installed in a room in the Indian Hospice, and an annex was added later.

During the first week, between 150 and 200 patients came daily. With the increase of serious cases a second nurse had to be engaged in July. The Dispensary opened at 7 a.m. and

closed at 1 p.m. During the afternoon, the nurse visited bed-patients in the Old City.

Many factors tended to spread contagious diseases: the effect of previous under-nourishment, ignorance of even the most elementary rules of hygiene, flies (allowed to propagate unhindered), scarcity of water, etc. Eye-diseases (trachoma and acute conjunctivitis) were very frequent; so were diseases of the scalp, caused mainly by dirt. In Spring and Autumn, worms were a common ailment. There were many cases of amoebic infections, pleurisy and pneumonia. As Summer advanced, the incidence of typhoid increased; serious cases, including typhoid and pneumonia, were nursed in the Austrian Hospice. The Clinic treated children for chilblains, and dealt with festering sores and many other minor ailments.

Refugees also came to the Indian Hospice, because the Commissariat had no dispensary in the Old City. In July, 1949, the Commissariat agreed to make a monthly contribution towards the expenses of the Indian Hospice Dispensary, as long as refugees were accepted there. In December 1949, the number of serious cases requiring advice had increased to such an extent that the services of a doctor became necessary. Accordingly, in January, 1950, an Arab doctor was engaged; he was paid by the Commissariat. This arrangement gave the ICRC nurse enough free time to organize the Child Welfare Centre.

Milk Centre.

The Milk Centre was opened at the beginning of June, 1949, in a room in the Indian Hospice. The ICRC had sufficient milk powder and condensed milk to last throughout the entire period.

Until December, 1949, daily attendance at the Milk Centre was approximately 1300. In January, 1950, in view of the severe weather, children up to five were admitted, bringing the total number up to 2357. Water, which is scarce in Summer and Autumn, was supplied free by the Municipality—a decision which was much appreciated.

Preparation of the milk (heating of water, mixing and bottling) started at 3.30 a.m. Distribution began at 7 a.m. and

ended towards 8.30 a.m. Elder brothers and sisters usually came to fetch the milk. Cleanliness was insisted upon. The children had to turn up washed, with their hair combed, and the bottle they brought had to be clean; otherwise they were sent away. Bottles were rinsed again at the Milk Centre.

Pregnant women were allowed one litre of milk daily from their fifth month. Sick adults were given one litre a day on dispensary recommendation; tuberculosis patients received two. No single family, however, was given more than four litres.

Each beneficiary had a Milk Card. On several occasions it was discovered that parents had sold the milk given for their children—sold it generally in the form of *leben*.

Once a week, children's heads were inspected and, when necessary, deloused with DDT.

In addition to milk, the Centre also made special distributions to children. At Bairam, a Moslem religious feast at the beginning of October, chocolate given by the Dutch Red Cross was issued. At the end of the year, the contents of American Red Cross boxes turned over by the Commissariat were distributed. At Easter 1950, each child was given an American Red Cross toy.

From January, 1950, on Tuesdays and Fridays, semolina with milk and chocolate added (rations of about 250 grs.) were served to the children of the Milk Centre Group, and to sick adults. Distribution took place in a tent in the grounds of the Indian Hospice. Only those with a bowl and spoon were served, the Delegation having none to lend. It often happened that more than a dozen children shared a bowl and a spoon. Cod liver oil was given to those who could digest it, and some children managed to put on as much as one kilo a month. In mid-February 1950, children were told that if they came to the Centre washed during the latter half of the month, they would each be given an American Red Cross romper suit.

Infant Welfare Centre.

The Centre was opened in January, 1950, in a room of the Indian Hospice. The children were bathed and washed there,

and their rags exchanged for new clothing. Many were dirty because their parents were too poor to buy soap.

Water was heated in the Centre on kerosene stoves ; soap was obtained from American Red Cross gift boxes. Cotton diapers were issued for infants. From February, 1950, six girls from the Secondary Schools of Jerusalem came to help in the mornings, the work counting as part of their school training.

Clothing.

A general distribution of clothing, footwear, and sleeping-bags was made to families just before Christmas, 1949, the quantity given to each family varying according to numbers. The clothing and footwear came from the second consignment of old clothing (9,000 kilos) donated by the Belgian Mission to Palestine, the first one having been distributed in April, 1948, at the Indian Hospice by Mission personnel. Of the sleeping-bags, which were ICRC property, the Indian Hospice received 6,200. Four thousand were given out at the same time as the above distribution ; 700 were made into coats for children from four to ten years of age and handed out through the Milk Centre ; the balance was given to religious institutions and repatriated prisoners of war. The children's coats were manufactured very cheaply. The sleeping-bags were taken apart by old women, to whom the work was given out, and cut by Jerusalem tailors, who gave up half an hour of their time daily for the job ; the coats were then sewn by various girls' schools and religious institutions.

Transfer to United Nations Relief and Works Agency for Palestine Refugees (UNRWAPR).

On May 1, 1950, the International Red Cross and the American Friends Committee ceased all relief work for the United Nations in the Near East. The work was taken over by the UNRWAPR, the new United Nations organization for Relief and Resettlement. As explained above, the ICRC also withdrew from the Indian Hospice. However, before handing over responsibility for refugees to the new organization, the ICRC

requested the United Nations to waive their ruling in respect to non-refugees in the case of the poor and destitute of Jerusalem. The final solution was : the World Lutheran Federation took responsibility for three thousand, and the UNRWAPR the major portion of the rest—eight thousand persons. The latter are being treated on the same footing as frontier inhabitants who were left entirely without resources, their villages being in Jordan and their lands in Israel.

Jerusalem Headquarters of UNRWAPR were set up in the Indian Hospice, with more or less the same staff. The new organization now operates the Dispensary and the Milk Centre, while the Jordan Government has taken responsibility for the Child Welfare Centre.

REPATRIATION OF GREEK CHILDREN

Twenty-one Greek children were repatriated to Greece from Yugoslavia on Saturday, November 25.

Colonel de Meyer, Delegate representing the International Committee of the Red Cross and the League of Red Cross Societies, was present at Thermalna Banja (Yugoslavia), where the children were handed over. He reports that they were brought the same evening to a home at Salonika, prepared for them by the Greek Red Cross, whose representatives were also present to welcome the children. The parents had been invited to Salonika to receive back their children, certain of whom, however, are with the parents' consent remaining for the moment at the home, for treatment or observation for suspected contagious infections.

The International Red Cross representative will remain with them until they return home.

Jugoslav Red Cross delegates informed Colonel de Meyer that other Greek children would shortly be repatriated also.

Geneva, November 27, 1950.

*THE PRESIDENT OF THE REPUBLIC OF INDIA
VISITS AN ICRC DELEGATION*

Rajendra Prasad, President of the Republic of India, recently paid an official visit to Dhubalia Camp, which houses some 150,000 refugees who fled from the disturbances in Bengal. An ICRC Delegation has set up there a Dispensary, a Children's Hospital and a Child Welfare Centre.

The President warmly congratulated the Delegate, Dr. Bessero, and Nurses Fischer and Köpffi, on their work for children, many hundreds of whom they have undoubtedly saved from death.

Three other Delegations are operating in various parts of Indian and Pakistani Bengal, on the invitation of the New Delhi and Karachi Authorities. Besides medical work, they are teaching refugees the elements of hygiene, and instructing them in child welfare. In addition, their presence has done much to allay the panic caused by events in the recent past.

TABLE OF CONTENTS

Vol. III (1950)

Jean S. Pictet, *Director-Delegate of the International Committee of the Red Cross*. The New Geneva Conventions: Retention of Members of the Army Medical Services who have fallen into the hands of the Enemy, 2, 30, 46. — The International Committee of the Red Cross and Aid to Palestine Refugees, 18, 63. — The ICRC in India and Pakistan: The Kashmiri Refugees, 38. — Displaced Greek Children, 43. — Reunion of Dispersed Families, 43. — Signature of the four Geneva Conventions of August 12, 1949, 44. — Foundation for the Organisation of Red Cross Transport, 61. — Repatriation of Greek Children, 68. — International Committee of the Red Cross. — To the High Contracting Parties signatory to the Geneva Conventions for the Protection of the Victims of War: Atomic Weapons and Non-Directed Missiles, 70. — The Geneva Conventions of August 12, 1949 (Signatures, Ratifications and Adhesions), 74. — The Central Prisoners of War Agency, 78. — Reunion of Dispersed Families, 80. — International Committee of the Red Cross Refugees and Stateless Persons, 82. — Relief to Palestine Refugees, 86. — Relief from abroad for Berlin and Eastern Germany, 88. — Notes and Documents. A Page of History: The ICRC and Political Prisoners in Germany, 88. — Standing Commission of the International Red Cross, 94. — Regrouping of Families, 96. — International Committee of the Red Cross: Report on the annual Audit of Accounts for the year ended December 31, 1949, 97. — The International Committee in India (*Bengal, Assam, and the State of Tripura*) and Pakistan. Aid to Moslem and Hindu Refugees. Annex: Agreement between India and Pakistan, 102. — Echoes of Events in the Near East, 112. — The International Committee of the Red Cross and the Refugee Problem, 114. — Events in Korea, 127. — The ICRC gets in touch with Washington, 128. — The ICRC in Korea, 129. — Frédéric Siordet, *Counsellor to the International Committee of the Red Cross*. The Geneva Conventions and Civil War, 132, 166, 201. — Visitors to the International Committee, 145. — The International Committee in Israel, 146. — News of North Korean Prisoners, 147. — News of American Prisoners in North Korea, 148. — The Conflict in the Moluccas, 149. — International Committee of the Red Cross: Recent Activities, 152, 176, 197, 220. — Lucie Odier, R.N., *Member of the International Committee of the Red Cross*. Some Advice to

Nurses, 155. — The International Committee of the Red Cross and Events in Korea, 158. — The International Committee of the Red Cross and the Conflict in Korea, 164. — Henri Coursier, *Member of the Legal Service of the International Committee of the Red Cross*. Respect for the Human Person in the Fourth Geneva Convention of August 12, 1949, relative to the Protection of Civilian Persons in time of War, 178. — The International Committee and Burma, 193. — Reunion of Dispersed Families, 194. — Visit of the President of the International Committee to the Alliance of Soviet Red Cross and Red Crescent Societies, 196. — Relief Scheme for the Poor of Jerusalem, 224. — Repatriation of Greek Children, 238. — The President of the Republic of India visits an ICRC Delegation, 239.

