COMMISSION OF GOVERNMENT EXPERTS

for the Study of Conventions for the Protection of War Victims,

GENEVA

April 14 to 26, 1947

PRELIMINARY DOCUMENTS SUBMITTED BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS

Volume III

Condition and Protection of Civilians in Time of War.
# CONDITION AND PROTECTION OF CIVILIANS IN TIME OF WAR

## INTRODUCTION

### Part I

**Enemy Civilians and Civilian Aliens in the Hands of a Belligerent Power.**

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**Protection of Civilian Populations in War Time**

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INTRODUCTION

The terrible sufferings endured by Civilians during the Second World War have brought to light the tragic insufficiency of international treaty law in this particular field.

Public opinion in every land clearly expects that Governments will take all necessary steps to make up this deficiency. During the Preliminary Conference of National Red Cross Societies, held in Geneva in July - August 1946, a recommendation was unanimously passed "that all Governments should agree, as soon as possible, to adopt treaty stipulations with the object of affording protection to Civilians".

Whatever decision may be arrived at by the Commission of Government Experts with regard to the form of future treaty stipulations 1), the International Committee, mindful of experience gathered during the inter-war period, cannot emphasize too strongly the fact that the problem of Civilian Protection and its study should not be postponed to a later date, but that the matter must be considered of the same urgency at least as the revision of existing provisions (Geneva Convention for the Relief of Wounded and Sick, and Prisoners of War Convention).

* * *

When drafting Part I of the present volume, the International Committee took as a model the general arrangement of the Draft Convention, called the "Tokyo Draft" 2), in which it is now proposed to introduce the following fundamental changes:

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1) See below, p. 50 sqq., Possible Amalgamation.
2) See below, p. 57.
(1) Besides the idea of Enemy Civilians (Art. 1), we must consider that of other Alien Civilians who are not nationals of belligerent States (see p. 1 sqq.).

(2) The reference in Art. 18 to Chapter III of the Hague Regulations to be deleted and replaced by precise stipulations (see p. 13 sqq.).

(3) The treatment of Civilian Internees to form a separate Chapter and, without deleting the reference in Art. 17 to the Prisoners of War Convention, certain regulations relevant to Civilians only to be included.

Apart from the stipulations contained in Part I, which aim especially at protecting the individual against arbitrary treatment by the States under whose authority he may be, the International Committee consider that a Convention relative to Civilians in war time would not be complete unless it included all possible measures to relieve certain categories of the civilian population, who are most worthy of consideration, namely those who are exposed to the blindly destructive effects of modern mass warfare. This consideration forms the argument of the Report on pages 40 sqq.

Reference to the stipulations concerning the application of the Convention, control, sanctions, etc., was considered unnecessary, since these matters have been dealt with in Vol. II of the present Reports, p. 207 and following.

* * *

For the sake of clarity, the various points raised in Part I of this Volume III have been set out in the following order:

I.- Basic Texts (Hague Convention and Tokyo Draft);
II.- Experience gathered;
III.- Conclusions and Suggestions.

The proposals made by the National Red Cross Societies during the Preliminary Conference of 1946 have been of great assistance to the Committee. The drafters of this Report have made constant reference to the most interesting suggestions and memoranda submitted on that occasion by the Belgian, Bolivian, Bulgarian, Norwegian and Jugoslav Red Cross Societies.
PART I

ENEMY CIVILIANS AND CIVILIAN Aliens IN THE HANDS OF A BELtLLtERENT POWER

CHAPTER I. - DEFINITION OF CIVILIANS PROTECTED BY THE PROVISIONS OF PART I.

I.- Tokyo Draft, Article 1: "Enemy civilians in the sense of the present Convention are persons fulfilling the two following conditions:

(a) that of not belonging to the land, maritime or air armed forces of the belligerents, as defined by international law, and in particular by Articles 1, 2 and 3 of the Regulations attached to the Fourth Hague Convention, of October 18, 1907, concerning the Laws and Customs of War on Land;

(b) that of being the national of an enemy country in the territory of a belligerent, or in a territory occupied by the latter,"

II.- The experience of the second World War has shown that Enemy Aliens were not alone in suffering through lack of protection by international law; the same remark applies to Civilians of other nationalities who were in the power of a belligerent State. When, for some reason, the interests of this latter category were not defended by regular diplomatic representatives, or when such representatives were accredited by "co-operating" authorities (in defeated and occupied States considered as "allied"), or by a government strictly subordinate to the Detaining Power (in so-called "satellite" States), the position of Civilians of other nationalities was still less satisfactory than that of Enemy Nationals having the benefit of a Protecting Power. In illustration of the above, we quote the case of Italian nationals deported into Germany and in whose behalf no neutral organisation could act, seeing that an Italian diplomatic representative appointed by the Government of the Italian Social Republic was accredited to the Reich Government,
and supposedly in a position to take action in favour of his compatriots in Germany.

Mention should also be made of the position of nationals of occupied States which the victorious Power claims to have annexed. This was the case in Western Poland, which was incorporated in 1940 by the "Greater Reich". On several occasions the German Government declared that "Poland no longer existed", and that, consequently, the treatment of Polish nationals by the German authorities was a matter which was regulated by German law.

III.- In view of these experiences, the double definition given in Art. 1 of the Tokyo Draft should be amended as follows:

(1) The negative definition of clause (a) would be kept in principle. The question should however be considered, whether the reference to Art. 1, 2 and 3 of the Hague Convention should be maintained. This evidently depends on the decision made as to the revision of Art. 1 of the PoW Convention, which itself embodies this reference to the Hague Convention. If the reference is kept, it should logically be also maintained in Art. 1 of the new treaty stipulations concerning Civilians. If, on the contrary, the PoW Convention gives a full definition of the persons to whom it applies, it would be simpler to refer to it in Art. 1 of the provisions for Civilians. Consideration of the question must not lose sight of a possible amalgamation of both subject-matters in a single text. (See discussion of this question at the close of the volume).

(2) We have seen, under II above, the reasons which call for wider interpretation of the term "Protected Civilians" in the new treaty stipulations. The International Committee believe it would be expedient to maintain the idea of "Enemy Civilians" (See para. (b) above), while adding that other civilians, non-nationals of the belligerent State under whose authority they stand, should benefit by treatment at least as favourable as that granted to Enemy Civilians.

(3) It should be clearly stipulated that partial or total annexation of occupied territory by the occupying State should in no way deprive
the nationals of the occupied State of the rights conferred upon them by the treaty stipulations concerning Civilians, such ruling to be valid until the signature of definite peace treaties.

To assist discussion on this point, the International Committee submit the following draft text to the consideration of the meeting:

**Article 1.**—Enemy Civilians in the sense of Part I of the present Convention are persons fulfilling the following conditions:

(a) that of not belonging to, .... etc (the exact wording cannot be indicated before a decision has been reached for Art. 1 of the PoW Convention);

(b) that of being nationals of an enemy country and of living in the territory of a belligerent, or in a territory occupied by the latter.

In case of annexation of the whole or part of an occupied State by the occupying Power, the civilian population of the occupied country shall, until the signature of the peace treaties, enjoy the rights stipulated by the present Convention.

**Article 2.**—Other Civilians who are not nationals of the belligerent State under whose authority they are, should in any case enjoy as favourable treatment as that granted to Enemy Civilians.
CHAPTER II.—CIVILIANS IN THE TERRITORY OF A BELLIGERENT

I. Permission to leave; administrative evacuation; cases of detention and detainees.

Tokyo Draft, Article 2: "Subject to the provisions of Article 4, Enemy Civilians who may desire to leave the territory at the outset of military operations shall be granted, as rapidly as possible, the necessary authorisations, as well as all facilities compatible with such operations.

They will have the right to provide themselves with the necessary funds for their journey and to take with them at least their personal effects."

Tokyo Draft, Article 3: "In the event of the departure of civilians being administratively organised, they shall be conducted to the frontier of their country or of the nearest neutral country.

These repatriations shall be effected with due regard to all humanitarian considerations.

The manner of such repatriations may form the subject of special agreements between belligerents."

Tokyo Draft, Article 4: "Only civilians falling within the following categories may be held:

(a) Those who are eligible for immediate mobilisation or mobilisation within a year, under the laws of their country of origin or of the country of residence;

(b) those whose departure may reasonably be opposed on grounds involving the security of the Detaining Power.

In either case, appeal to the Protecting Power shall always be admitted. This Power shall have the right to demand that an inquiry be opened and the result communicated to it within three months of its request."
Tokyo Draft, Article 5: "Those who are in preventive imprisonment or condemned to a sentence depriving them of liberty shall, on their liberation, benefit by the provisions of the present Convention.

The fact that they belong to an enemy State shall not increase the severity of the régime to which they are subjected."

II.- Since the Tokyo Draft was not applied during the last War, it is difficult for the International Committee to judge in what shape the principles embodied in Art. 2 to 5 of this Draft should be maintained in the new treaty stipulations relative to Civilians. The International Committee have but few and disconnected data on the subject, and would be grateful if the representatives of States that were involved in the War could give them the benefit of their experience in this field.

III.- With regard to cases of detention in particular, the Committee would like to emphasise the following points:

(1) Since the Tokyo Draft was set up considerable changes have taken place in respect of eligibility for mobilisation (or enlistment). It would therefore be expedient to determine the limits of such eligibility. The necessities of modern war, which demands a constantly increasing flow of armed personnel towards the front line and over the whole of the territory, involve the "mobilisation" of all active elements, even those not affected formerly, such as women, children, the physically unfit, etc. A great number of these persons, in some countries nearly the entire population, were thus "mobilised" in factories, on the land, etc.

The International Committee consider that the right of detention by the Detaining Power could be made applicable to certain classes of "eligibles" only, for instance to persons whose functions are directly concerned with the conduct of warlike operations. Otherwise, the term "eligible for mobilisation", which at present covers nearly the whole of the population of a country, would allow a State to detain all Enemy Civilians, thus invalidating the general principle laid down in Art. 2 of the Tokyo Draft.
(2) The idea of "security of the Detaining Power" is essentially variable and subjective; it seems impossible to determine it, even within extremely wide limits. It could however be provided — and this also applies to point (1) — that regular enquiries shall be instituted by certain authorities of the Detaining Power, whose considered decisions would be conveyed to the Protecting Power.

2. — Treatment of Enemy Civilians remaining in Belligerent Territory

A) General Remarks

I. — Tokyo Draft, Article 6: "Enemy aliens who have remained in the territory, as those who have been held in application of Article 4, shall receive the treatment to which aliens are usually entitled, except for measures of control or security which may be ordered, and subject to the provisions of Section III.

With these reservations, and in so far as military operations permit, they will have the possibility of carrying on their occupations."

II. — At the beginning of the War, large numbers of Enemy Civilians were left in freedom and most liberally regarded by the Detaining Powers. Such civilians were treated like nationals of the Detaining Power. Later, this civilian status was maintained in some belligerent States, whereas in others internment became general.

III. — As pointed out in respect of Articles 4, 13 and 15, the treatment of civilians depends upon the interpretation by the Detaining Power of the terms "measures of control or security".

If taken in too wide a sense, there is a danger of the general principle set out in Art. 6 remaining without effect.

In this case also, it would seem advisable to provide certain guarantees, to avoid possible abuses by the Detaining Power. This question will again come up when dealing with internment.
I. Tokyo Draft, Article 7, Section 1: "Subject to the measures applied to the population in general, enemy civilians shall have the possibility of giving news of a strictly private character to next of kin, and of receiving such news."

II. From the outset of the War, all non-interned civilians, like the nationals of the Detaining Power themselves, were cut off from all communication with abroad.

In September 1939 the International Committee set up a department of the Central PoW Agency to deal with "Civilian Messages". At first, letters arriving in Genova were copied for transmission to the addressees, but the scheme reached full development only after the issue of special Message Forms, with space for 25 words each, and of cable messages.

From September 1939 to June 1945, the total number of these Messages sent by post was over 23 millions, and the Civilian Message Department received close on 125,000 cables.

Free postage was not allowed in respect of these Civilian Messages.

III. All future treaty stipulations with regard to civilians should maintain their right to receive and to send news, without going any further into the matter. It is essential that the detailed application of this principle can be adapted to circumstances and, particularly, that it may benefit by the progress achieved in modern technique. Authority should, however, be obtained for such family messages to be sent free of charge.

C) Relief

I. Tokyo Draft, Article 7, Section 2: "With the same reservation they shall also have the possibility of receiving relief."
II.— During the War, the Joint Relief Commission of the International Red Cross, the Relief Department of the International Committee, and other relief organisations sent supplies to the civilian populations of occupied countries, to interned civilians, to those in forced residence etc. Non-interned civilians resident in belligerent territory were not assisted in this manner.

III.— The principle embodied in the Tokyo Draft should therefore be maintained for all future agreements. More precise wording is not desirable, in view of the empirical nature of all relief action.

D) Financial Means and Possibilities of Work

I.— Tokyo Draft, Article 6, Section 2: "With these reservations, and in so far as military operations permit, they shall have the possibility of carrying on their occupations."

II.— Experience during the last War showed that living conditions for civilians remaining in belligerent territory and left at liberty were most unfavourable, and that many among them were worse off than the internees. Some of them asked to be interned, and internees due for discharge (on account of age, for instance) were anxious to stay on in camp, as they had no means of existence, if released.

Owing to their enemy status, these people lost their jobs and were unable to find other occupations. When the head of the family only was interned, his dependents were placed in an extremely difficult position. Such civilians received assistance from the Detaining and Home Powers, the latter acting through the intermediary of the Protecting Power. Some belligerents allowed non-interned Enemy Civilians to benefit by social insurance schemes, on the same footing as their own nationals; others granted them monthly allowances, or found them occupations.

In some cases, the Home Power provided funds for their nationals through the intermediary of the Protecting Power. This measure was
not generally adopted and in many of the countries at war, thousands of non-interned Enemy Civilians became completely destitute.

For similar reasons, "isolated", "confined" and "accommodated" Civilians were in the same precarious situation as the non-interned.

III.- Experience gained in the War has taught us that financial relief to non-interned civilians was usually insufficient and was very often entirely lacking. The principle that non-interned civilians should be given work by the authorities of the Detaining Power deserves close consideration. These people would thus be able to earn their living by work provided by the State, and would be paid on the same basis as national workers of the Detaining Power.

E) Acts of Violence, Reprisals, Hostages

I.- Tokyo Draft, Article 9: "Enemy civilians shall be protected against measures of violence, insults and public curiosity."

Tokyo Draft, Article 10: "Measures of reprisal directed against them are prohibited."

Tokyo Draft, Article 11: "The taking of hostages is forbidden."

II.- No information has reached the Committee about non-interned civilians in belligerent territory being subjected to any particular acts of violence, such as those inflicted on civilians in occupied territories.

III.- Art. 9, 10 and 11 of the Tokyo Draft embody principles which the Committee consider should be maintained in any new treaty stipulations concerning civilians,
3. Compulsory residence and internment

I. - Tokyo Draft, Article 13: "Should a belligerent country judge the measures of control or security mentioned in Article 6 as inadequate, it may have recourse to compulsory residence or internment, in conformity with the provisions of the present Section."

Tokyo Draft, Article 11: "As a general rule, the compulsory residence of enemy civilians in a specified district shall be preferred to their internment. In particular, those who are established in the territory of the belligerent shall, subject to the security of the State, be thus restricted."

Tokyo Draft, Article 15: "The internment of enemy civilians in fenced-in camps may only be ordered in one of the following cases:

(a) where civilians eligible for mobilisation under the conditions set forth in Article 4(a) of the present Convention are concerned;
(b) where the security of the Detaining Power is involved;
(c) where the situation of the enemy civilians renders it necessary."

II. - During the War, the position of Enemy Civilians in belligerent territories was regulated in three ways:

(1) More or less complete liberty;
(2) Compulsory residence;
(3) Internment.

These three methods were applied either simultaneously or successively, in a spirit which was sometimes liberal and sometimes extremely severe.

At the beginning of the War, large numbers of Enemy Civilians remained at liberty, with the exception of those "eligible for mobilisation", or able to imperil the security of the Detaining Power.

As the war became more and more "total", the number of internees
increased and that of civilians at liberty fell to zero. It should be noted that in certain countries even the "eligible" were not interned; this was due either to the geographical situation of the Detaining Power, or because Enemy Civilians resident in such States were already largely absorbed by the native population.

In some countries, internment was a matter of chance; in others, Enemy Civilians were brought before special courts. While the tendency towards general internment grew, civilians were set at liberty in some very special cases, as a result of the combined endeavours of Governments, Protecting Powers and the International Committee. A number of belligerents discharged the internees who were aged, and the women and children. Besides internment in camps, some belligerents placed Enemy Civilians under compulsory residence. This measure, recommended by the Tokyo Draft, is more lenient than internment, but the financial situation of these people was worse than in the camps.

III.- The term "eligible for mobilisation" of Art. 15 (a) should also be defined in the limitative sense mentioned above.

Cases for internment in fenced-in camps provided by Art. 15 (b) and (c) appear too vaguely defined. The terms "security of the Detaining Power" and "where the situation of the enemy civilians renders it necessary" may lead, by extensive interpretation, to the inclusion of all civilians without exception. A special procedure - parallel to that provided for cases of detention - should be made preliminary to any compulsory residence or internment of civilians.

In this respect, the experiences made in English-speaking countries appear sufficiently conclusive, and any new treaty stipulations should provide for rapid hearing by special courts of all civilians enjoying treaty protection. Here again the results might be communicated to the Protecting Power.

As a corollary to the activity of the Protecting Power, authority to control such proceedings could be given, to a certain extent, to the Legal Section of the National Red Cross Societies, the creation of which was suggested by the Preliminary Conference of National Red Cross Societies in 1946, (1)

4. Assimilation of Civilians brought into the Territory of a Belligerent during Hostilities

I.—Tokyo Draft, Article 12: "Enemy civilians who for any reason may be brought into the territory of a belligerent during hostilities shall benefit by the same guarantees as those who were in the territory at the outset of military operations."

II. III.—The International Committee have no comment to offer with regard to this Article, but consider that the principle contained therein should be maintained in future treaty stipulations.

Such provisions would certainly help to ensure the equal treatment which a belligerent State should grant all Alien Civilians in their power, either in the home territory or in that occupied by its forces.
CHAPTER III.- CIVILIAN POPULATION IN TERRITORY OCCUPIED BY A BELLIGERENT

General Remarks

As the new treaty stipulations must be applicable to all civilians in the power of a belligerent, the heading of Chapter III of the Tokyo Draft should be amended as follows: "Civilian Population in Territory occupied by a Belligerent".

This extension of treaty protection to cover the whole population in an occupied territory is the necessary consequence of the tragic experiences of the last War. It was the subject of a unanimous recommendation of the Preliminary Conference of Red Cross Societies (1946), on the basis of the reports submitted by the Belgian, Yugoslav and Norwegian Red Cross Societies.

I.- Tokyo Draft, Article 18: "The High Contracting Parties undertake to observe, as regards the condition and protection of enemy civilians in territory occupied by a belligerent, the provisions of Section III of the Regulations annexed to the Fourth Hague Convention, of 1907."

II.- The experience of the War has shown that the Hague Regulations of 1907 did not give adequate treaty protection to civilians in occupied territory. The vagueness of its clauses allowed belligerents to circumvent some of the prohibitions they contained. Situations arose which the Convention had not foreseen; gaps in the stipulations prevented indispensable measures from being taken, since they had no legal foundation. Lastly, certain stipulations were violated by belligerents who disregarded both the spirit and the letter of the Regulations, no sanctions having been foreseen in the event of violations. To take an example: Articles 46, 50 and 52 were clearly disregarded; certain clauses were too vague and condensed, and allowed interpretations contrary to the spirit of the Convention.
This led to the most deplorable abuses.

III.— The question arises whether the new treaty stipulations relating to Civilians should refer back to the provisions of the Hague Regulations and provide for additional clauses, as did the Tokyo Draft; or whether they should embody entirely new and complete rules.

In the opinion of the International Committee, it would be preferable to draft an entirely new and independent Convention, which would not refer back to the Hague Regulations of 1907, but would form a complete and separate document. The new Convention should be made known and familiar to the whole world, as the Yugoslav Red Cross proposes in its memorandum. A Convention is certainly more easily accessible when it embodies full and clear provisions, than when it refers back to other treaties that are less widely known. Moreover, the text of 1907 is out of date and should be amended or completed in many respects; this might lead to errors or uncertainty in the case of inexperienced persons who might have occasion to appeal to the Convention. Moreover, the provisions adopted at the Hague are due for revision, in view of the profound changes which have taken place in the nature of war since 1907. It would be undesirable to refer back to a document which may undergo important changes in the near future.

It appears therefore necessary to draft a new Convention, whose convenience in use and clearness would help to make it known. This Convention might include in fine an Article similar to Art. 89 of the PoW Convention. 1)

1) Article 89 of the PoW Convention: "In the relations between the Powers who are bound either by the Hague Convention concerning the Laws and Customs of War on Land of July 29, 1899, or that of October 18, 1907, and are Parties to the present Convention, the latter shall be complementary to Chapter 2 of the Regulations annexed to the above-mentioned Conventions of the Hague."
The Problem of Hostages

I. - The Fourth Hague Convention of 1907 does not prohibit expressis verbis the taking of hostages. It is only by interpretation that one can assume that it forbids their being put to death. The Tokyo Draft prohibited the taking of hostages in the case of Enemy Civilians in the territory of a belligerent, but tolerated it, exceptionally, in the case of Enemy Civilians in occupied territory.

Tokyo Draft, Article 19, (a) : "In the event of it appearing, in an exceptional case, indispensable for an occupying Power to take hostages, the latter shall always be treated humanely. Under no pretext shall they be put to death or submitted to corporal punishments."

II. - During the War, the number of hostages taken by the enemy in occupied countries was very high. The hostages were harshly treated and subjected to very hard living conditions. A large number were deported. Numerous executions took place.

This question aroused the deepest concern of the International Committee, who repeatedly attempted to approach the responsible authorities with a view to preventing the execution of hostages and to their being treated humanely. Among these steps, we quote the appeal addressed by the Committee to belligerent Governments on July 24, 1943, pleading for respect, "even in face of military considerations, of man's natural right to be treated with justice, and not to be charged with responsibility for acts which he has not committed".

Experience shows that the practice of taking hostages seldom hinders the carrying-out of the actions it is intended to prevent. It did not ensure the safety of the occupying troops; murders and sabotage continued in spite of arrests and executions. The practice does not seem to have intimidated the population, nor weakened their spirit of resistance; it sometimes even had the opposite effect.

1) By "hostages" are understood all persons arrested and detained by the occupying Power, in order to guarantee the execution of its orders and the security of its forces and administrative officers against acts of hostility committed by the inhabitants.
III.- Should not the practice of taking hostages be absolutely and publicly prohibited?

That was the view expressed by the Preliminary Conference of National Red Cross Societies, in August 1946. International law, in its present form, embodies the principle that it is illegal to execute hostages, but it does not say so categorically. It is indispensable to lay down precise rules in this respect, and this should be the effect of the new treaty stipulations. The best course would be that recommended by the National Red Cross Societies and the International Committee (see also the memorandum of the Norwegian Red Cross): clear and straightforward prohibition of the practice of taking hostages.

If this course should prove impracticable, it would then be indispensable to stipulate that hostages shall be treated in accordance with the principles of humanity.

(2) Reprisals and Collective Penalties

I.- Art. 50 of the Regulations annexed to the Fourth Hague Convention of 1907 stipulates: "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".

II.- This provision was not respected during the War. Severe penalties were inflicted on the population by the occupying Power for individual acts. Groups of harmless people were executed; very heavy fines imposed, massacres perpetrated, villages burnt down. The rules embodied in the Hague Convention were thus clearly violated.

III.- The Norwegian Red Cross proposed that the new Convention should prohibit not only the practice of taking hostages, but also the imposition of collective penalties; and the Preliminary Conference shared
this point of view.

The usefulness of such a clause in the new treaty seems obvious; the terms of the Hague Regulations could be taken up once more. The question arises, however, as to the limits of such a prohibition of collective penalties. Should it also apply to measures of lesser importance, such as the imposition of a curfew? In any case, measures which infringe the essential rights and dignity of man should be absolutely forbidden.

Certain measures, intended rather to terrorise the population than to punish it, in the exact sense, should be clearly prohibited. The prohibition might be worded as follows: "Preventive measures which are contrary to the laws of civilised humanity and which are intended to intimidate or to terrorise the civilian population are also forbidden."

Reprisals against next-of-kin for acts of which individual are guilty, must also prohibited expressis verbis. Further, measures taken against next-of-kin, as means of investigation or intimidation during the course of an enquiry, must be absolutely forbidden.

(3) Questions relating to Civilians arrested and imprisoned, or interned by the Occupying Power

I.- When a belligerent occupies a territory, he may be led to arrest and intern numerous civilians who endanger, or might endanger, its security, or who commit acts covered by its jurisdiction. Neither the Hague Regulations of 1907, nor the Tokyo Draft of 1934 forbid the occupying Power to arrest civilians for reasons of security. Neither of these agreements defines the treatment applicable to detainees. The Tokyo Draft confines itself to prohibiting deportations, except such evacuations as the security of the inhabitants demands.

II.- During the War, some belligerents deported hundreds of thousands of civilians from the territory they occupied, and interned them in prisons or concentration camps abroad, on the strength of false accusations
or the reverse of having imperilled the security of the occupying forces, or for racial motives. Owing to the absence of international legislation on the subject, the detaining Powers treated their prisoners as they chose. The prisoners had no guarantee of their essential rights, and there was no supervision of their treatment. (The attempts of the International Committee to induce the German authorities to improve the position of political detainees are described in: "Document sur l'activité du Comité international de la Croix-Rouge en faveur des civils détenus dans les camps de concentration en Allemagne", (Geneva, Feb. 1946).

In all countries, the International Committee endeavoured that all civilians arrested for political or racial motives, or who were guilty or accused of plotting against the occupying Power should be granted a minimum treatment, in accordance with the dictates of humanity.

III.- The civilians arrested by the occupying Power include two categories:

(a) Civilians suspected or convicted of definite breaches of the law, who are due to appear before a tribunal or who have been sentenced by a court of justice;

(b) Civilians suspected owing to their political opinions and arrested for reasons of security.

(a) It is understandable that an occupying State should arrest and imprison civilians who are suspected, or convicted, of acts harmful to its military forces or administration. But the treatment of the accused should obey the dictates of humanity. On this point the wording of the Belgian draft could be adopted, as follows:

Article 20: "Any (enemy) civilian arrested by the occupying Power on the charge of a breach covered by its jurisdiction shall enjoy, throughout the period of preventive detention, a scale of food and hygienic comfort corresponding to the essential conditions for life, and similar at least to the administrative standard of the prisons in the country where such detention takes place".
Art. 21: "Any (enemy) civilian who has been sentenced to a penalty depriving him of liberty shall serve his sentence either in his home country, or in his country of residence before the outbreak of hostilities. The prison regime shall be that of the country of detention, and shall correspond at least to the conditions laid down in Article 20".

Furthermore, the accused must be informed immediately of the charges brought against him; his case must be investigated within a minimum time; and he must have the benefit of legal assistance.

The opening of proceedings shall be communicated to the Protecting Power, which shall supervise them and verify their conduct. The Legal Sections of National Red Cross Societies, whose creation was suggested by some delegations to the Preliminary Conference of Red Cross Societies, could share in this task.

In any case, all forms of torture must be categorically forbidden, both during preliminary investigation, and when sentence is carried out.

Finally, the necessity arises of prohibiting prosecutions or penalties against civilians for military or political action undertaken before the occupation, or during its temporary interruption. This precludes the punishment of the population for assistance given to their own forces or to their allies, during an invasion, long or short, of their territory. The application of criminal law provisions that can be enforced abroad must be excepted.

(b) Civilians arrested for "political" motives.

This problem refers to civilians not arrested in consequence of a judicial decision, but because they are considered dangerous to the security of the occupying forces. (Civilians arrested for indeterminate reasons).

May the occupying Power arrest and intern persons for "political" reasons? This raises the question of prosecutions and penalties for "illegal opinions". The Second Commission of the Preliminary Conference held that, seeing the principles laid down in the preamble to the United Nations Charter guaranteeing the basic rights and dignity of man, detention for reasons of political opinions should be forbidden. They proposed
the following text for the approval of the Plenary Conference: "The Commission proclaims the principle that prosecutions and penalties for "illegal opinions" must be abolished".

The Conference did not adopt this view; it considered that it was a matter for Governments to settle, since it involved the difficult problem of the military security of belligerents. Governments will therefore have to decide whether civilians in occupied territory can be arrested and interned because of their opinions, or whether they are exempt from prosecution on this count.

If the principle of internment for indeterminate reasons is admitted, Internees must then enjoy treatment at least as favorable as that granted to Prisoners of War. The conditions under which civilian "political" prisoners are interned shall be the same as those of alien civilian internees alluded to in Chapter II of the present Report. These conditions are defined in Chapter IV (see below).

Finally, the new Convention must categorically forbid arrests for purely racial reasons. This prohibition could be inferred from the wording of Art. 46 of the Hague Regulations, but it will have to be stated with all due emphasis, in order to avoid a repetition at any future time of the distressing events that marked the recent War.

(4) Deportations

I.— Tokyo Draft, Article 19, (b); "Deportations outside the territory of the occupied State are forbidden, unless they are evacuations intended, on account of the extension of military operations, to ensure the security of the inhabitants."

II.— There is no relative clause in the Hague Regulations of 1907. During the War, certain belligerents deported very large numbers of civilians, away from the territories of residence, either for political or racial reasons, or with a view to forced labour. The deportees included
women, children, old people, and invalids. In April 1945, there were in German territory approximately 18 million enemy civilians, both deportees proper and civilian workers. In the absence of any international legislation on the subject, the deportees were treated at the discretion of the detaining Power.

III.- Should deportations be prohibited, as provided for in the Tokyo Draft?

(a) As regard civilians imprisoned for acts covered by the jurisdiction of the occupying Power, the provisions of the draft submitted by the Belgian Red Cross could be applied: Article 21: "Any enemy civilian who has been sentenced to a penalty which curtails his liberty shall serve his sentence either in his country of origin, or in his country of residence before the outbreak of hostilities." This category of prisoners should, therefore, not be liable to deportation, as this would constitute an aggravation of the sentence, especially in countries with extreme climates.

(b) The case of civilians arrested for indeterminate reasons is more difficult. The best course would be purely and simply to prohibit deportations and internment in the occupied country. A clause to this effect might however not be respected by the belligerents. For reasons of convenience and security, they prefer to detain on their own territory the civilians they have arrested. In any case, it should be ensured that the conditions of internment of civilians arrested and detained for reasons of security (whether in occupied territory or as deportees), should be equal to the conditions granted to civilians of enemy nationality resident in the territory of the belligerent since the outbreak of hostilities. Civilian Internees, properly so-called, and "political internees", wherever they may be, will thus enjoy identical treatment; they will form a single category, that of "civilian internees", whose situation will not depend on the place of arrest.

The treatment of civilian internees is discussed in Chapter IV below.
I.- Article 52 of the Hague Regulations of 1907 states: "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

"Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied."

II.- During the War, the German authorities in occupied territory endeavoured to recruit large numbers of civilians for work in industry or agriculture in the Reich. Recruitment was pursued by various methods:

(A) Voluntary basis. Persons who agreed of their own free will to work in Germany were assured by contract of normal living and working conditions, similar to those for local labour and workers from other countries. The position of these workers offered no problems until, in the autumn of 1944, the trend of military operations precluded direct communication between them and their next-of-kin.

(B) Forcible recruiting. In all European countries, thousands of civilians were arrested and deported to Germany to work there, either in factories, in building fortifications, or to a lesser degree, on the land. Labour was also obtained in the shape of civilians convicted on various charges; they were sent to Germany to serve their sentence there and then kept back as workers.

(C) "Conversion" (or "Transformation") of Prisoners of War. The German authorities used as workers PoW who agreed, more or less willingly, to relinquish their status of PoW in return for certain material facilities ("converts").

Owing to the insufficient protection given to Civilians by international law, the workers depended entirely on the detaining authorities, who tolerated no outside intervention of any sort. They alleged that the workers in Germany were "free" and "voluntary", and that their
treatment was based solely on agreements reached between the German Go-
vernment and the authorities set up in the occupied territories. The
regulations governing civilian workers varied largely, according to the
method of recruitment (volunteers, forced labour, defaulters, etc.), the
type of work and the skill required. They were lodged in camps and hut-
ments or quartered on the inhabitants. Treatment in the camps was often
very severe and showed scant respect for human dignity; the work was
extremely hard.

The International Committee could only intervene in behalf of
civilian workers from the moment when military operations cut them off
from their home countries. The Committee's efforts covered all possible
fields: news, enquiries, repatriation, general relief, etc. The problem
of workers arose also in other countries, but in a less acute form. In
certain districts occupied by them, the Allies also employed civilians
as workers (e.g. Italians of Slovene origin in Corsica and Sardinia).

III.- "Civilian Workers" do not constitute a special category; they
are civilians who are non-nationals of a belligerent State and who find
themselves on territory belonging to or occupied by that State. They
should enjoy the benefit of the general regulations laid down for alien
civilians, e.g. mail, relief, prohibition of deportation, etc. The
principle which should be embodied in the new Convention is that already
laid down, in too hesitating a form, in the Hague Regulations of 1907,
namely, that no compulsion whatsoever should be exercised over the popula-
tion to make it do work beyond the right of requisition specified in
Article 52. Civilians in occupied territory should not be forced to under-
take work for the enemy against their country. The type and condition
of work should be defined in precise rules, which might be based on the
PoW Convention (Articles 27 to 35): the work shall be in no way directly
connected with the operations of war, and be neither unhealthy nor dan-
gerous; the workers shall receive fair wages for their work and only be
asked to do work which they are physically capable of performing.

As regards "converted" prisoners of war, a rule in the draft
revision of the PoW Convention lays down that in no case may a PoW re-
linquish his status nor can he be forced to do so. (See Vol. II, p. 11)
(6) Food Supplies; Fight against Epidemics

I.- Article 43 of the Hague Regulations of 1907 specifies: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall 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".

II.- During the war, many occupied countries suffered severely from starvation or undernourishment. Fatal epidemics swept vast territories, due to shortage of medicaments and lack of hygiene, bad living conditions, poverty and cold. The distress of the inhabitants was further aggravated by the requisitions of belligerents. Other belligerents, however, tried to ensure adequate food supplies to the countries they occupied (e.g., Italian territories in Africa, where the population always had sufficient food). They were also concerned with the health of the population, opening hospitals, dispensaries, examination and disinfection centres; they also strove to combat epidemics according to the most modern methods, improving health conditions, enforcing preventive measures, etc.

III.- The disastrous food and health situation during the War in some countries, e.g., Poland, Greece, Holland and Yugoslavia, makes it essential to adopt provisions which will, as far as possible, prevent the repetition of such calamities. It is thus indispensable, as the Yugoslav Red Cross demanded 1), to embody explicitly in the new Convention the obligation of the occupying Power to supply food to the territories it occupies, so as to give the population the minimum necessary to maintain life, and furthermore, to take all measures in its power to combat epidemic disease. The obligation in respect of supplies should include food, heating, housing of the homeless, and clothing.

1) In the shape of a recommendation of the Preliminary Conference of the Red Cross Societies: "The Commission recognises the obligation of the occupying Power to ensure the food-supply to all persons living in the territory under their control, and to take all measures necessary for combating epidemics".
The fight against epidemics implies that the occupying Power will carry out all preventive measures necessary, as well as supply medicaments, vaccines, serums, etc.

(7) Relief for Civilian Populations

I.- Article 43 of the Hague Regulations of 1907 specifies: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall 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."

Tokyo Draft, Article 19, Section (c), par. 3: "With the same reservation enemy civilians shall have the possibility of receiving relief."

II.- During the War, great difficulties were experienced in carrying out relief schemes in behalf of war-stricken populations. The work which had to be done was immense, both from a geographical and a material point of view, and relief undertakings were rendered still more arduous by the absence of any legal basis, and by obstacles of a technical nature.

In 1940, the International Committee and the League of Red Cross Societies, acting conjointly, set up the "Joint Relief Commission of the International Red Cross", and this body was made responsible for relief work in behalf of the populations suffering from the war. The Joint Relief Commission employed the funds and supplies put at its disposal by the donors, with or without special designation, to forward large quantities of relief to the occupied countries. Departments were set up for the study of markets, purchasing possibilities, means of transport and distribution. A special department examined the needs of bombed areas. In this way, relief consignments of food, vitamins, footwear, medicaments, etc. were sent where they were most needed. In addition to the work done by the Joint Relief Commission, a vast relief scheme was started.
in Greece by the International Committee, and carried through jointly with the Swedish Red Cross, the Swedish Government, the Swiss Red Cross, etc. Relief work was also done by the Committee in some Dutch provinces (1944 - 1945), in the Channel Islands (1945), and the "pockets" of the French coast.

The persons benefited thereby were the inhabitants of the occupied territories who were not nationals of the occupying Power, or of its allies. The supplies were issued to the civilian war victims in greatest need, chosen either for geographical reasons (distressed areas: Greece, Dodecanese, Channel Islands, Holland, Warsaw), or for social motives (children, women, old people, invalids, disabled, etc.). The shipments were sent through the Joint Relief Commission and kept their character of "relief supplies", since they were not part of the general provisions to the country; the goods sent were a supplement given to the categories of people in greatest need.

All distributions were carefully checked by the Red Cross, the methods varying according to circumstances and local conditions.

III.- The problems which arise in connection with relief to civilian populations depend on circumstances and resolve into questions of fact. It is not possible to provide beforehand for a set of detailed regulations. A few general principles only should be established, drawn up in sufficiently elastic terms to allow relief work to be undertaken in all circumstances.

It would be advisable to provide for the following:

(a) The obligation for every occupying Power to allow the carrying out of relief undertakings in behalf of the civilian population in occupied territories, whether such action concerns certain named categories, or the population as a whole;

(b) The carrying out of such relief undertakings can in no way affect the duty of the occupying Power to ensure the normal supply of food to the occupied country;

(c) Relief shipments undertaken under the control of the Red Cross or of other recognised relief organisations shall benefit by free transport
and postal facilities, and be exempt from customs duties;

(d) The organisations doing relief work in behalf of the population shall be given every facility for the settling of administrative formalities;

(e) States responsible for the blockade of a belligerent shall allow the passage of relief shipments in behalf of the civilian population of the territory occupied by that belligerent, regardless of military or political considerations. 1)

(8) Correspondence

I.- Tokyo Draft, Article 19, Sec. (c) : "Enemy civilians shall have the possibility of giving news of a strictly private character to next-of-kin in the interior of occupied territory and of receiving such news.

The same possibility shall be granted them for correspondence with the exterior, subject to the measures applied to the population of the occupying Power, in general."

II.- From the moment war breaks out, all postal communications are broken off between enemy countries; thousands of people are then without news of one another. As from 1939, the International Committee, despite the absence of any legal basis in international law, acted as intermediary for the transmission of messages between civilians who were thus separated.

1) The Preliminary Conference of Red Cross Societies adopted the following recommendation : "The Commission recognises the obligation for every occupying Power to permit the carrying out of relief schemes in behalf of the civilian population in occupied territories,

"The majority of the Commission recommended that Blockade Authorities should permit the import of relief goods into the blockade zone, irrespective of military or political considerations".
Within the framework of the Central PoW Agency, the Committee set up the so-called "Civilian Messages" Department. This section started by copying out original letters, but very soon, owing to the rising tide of correspondence, a special form had to be introduced, leading to a system of messages between next-of-kin which was universally adopted. The German and British Red Cross Societies were the first to accept this "Civilian Message Scheme". They arranged for the transmission of the messages in both directions, in cooperation with the International Committee, who acted as intermediaries. Later, all the Red Cross Societies adopted this system. These messages did not, however, benefit by free postage facilities.

The Central PoW Agency also opened a department for "civilian telegraphic messages".

From September 1939 to June 1945, the number of "civilian messages" sent by post totalled over 23 millions.

III. It is obvious that any new Convention should mention the right of the inhabitants of an occupied territory to correspond. They should be able to correspond without any restriction, subject of course to censoring arrangements made by the occupying Power.

The matter becomes more difficult in the case of postal service between civilians living in an occupied zone and civilians in the unoccupied part of the same territory; the same remark applies to correspondence between civilians in occupied territory and those abroad. In this connection, the principle of the next-of-kin message should be agreed to, though without going into practical details of application, thus always permitting adaptation of the scheme to circumstances. What should be provided for is the right of civilians to send and receive news; further, the exchange of family messages through the intermediary of the Red Cross should start working as soon as postal communications are severed between belligerent countries, between an occupied country and the exterior, or between occupied and unoccupied zones of the same territory. Free postal facilities should be granted for these messages, and certain priorities in respect of transmission and censoring. Such a course would preclude the difficulties of international payment which arose during the War in connection with the settlement of expenses, and it would offer...
the widest as well as the quickest possible means for exchange of news.

(9) Right of Civilians in occupied Territory to apply to recognised Relief Organisations

I.- Tokyo Draft, Article 19, Sec. (d) : "Enemy civilians shall also benefit by the provisions of Article 8 of the present Convention."

Tokyo Draft, Article 8 : "Enemy civilians shall have every facility for application to duly recognised Relief Societies, whose object is to act as intermediaries in welfare activities. These Societies shall receive, for this purpose, all facilities from the authorities, within the limits compatible with military necessities."

II.- These provisions should be inserted in the new Convention, the term "enemy civilians" being replaced by "members of civilian population".
CHAPTER IV.- RULES FOR THE INTERNMENT OF CIVILIANS

Field of Application

The following rules are an attempt at establishing a general statute for all civilians interned by a belligerent, whatever the place where they may be arrested and the qualification the Detaining State may see fit to give them. (This statute would not, however, be applicable to civilians subject to judicial prosecution for definite offences: see above, Chapter III, No 3). Civilians arrested in the territory of a belligerent, and civilians in occupied territories arrested for indeterminate reasons (see above p.19) should benefit by the same conditions of internment. Civilians of both these categories are interned for reasons of security, and they should therefore be treated alike. The International Committee are of opinion that the principle laid down in Art. 17 of the Tokyo Draft and applied de facto during the recent War to Enemy Civilians interned in the territory of a belligerent, should be retained in future treaty stipulations relative to civilians and applied to the above categories.

It will not, however, suffice to refer simply to the Convention relative to Prisoners of War. It is obvious that if some stipulations of the Convention are applicable to military prisoners only, there are also specific civilian problems which must be solved independently. Finally, certain stipulations should be given greater precision, on the grounds of experience gained in connexion with Civilian Internees. Consequently, in addition to the general reference to the PoW Convention, certain complementary stipulations should be adopted.

(1) Reference to the Stipulations of the Convention relative to

Prisoners of War

I.- Tokyo Draft, Article 16: "Internment camps for enemy civilians shall be separate from internment camps for prisoners of war."
These camps cannot be set up in unhealthy districts, nor where the climate would be harmful to the internees' health."

**Tokyo Draft, Article 17**: "Furthermore, the Convention of July 27, 1929, concerning the treatment of Prisoners of War is by analogy applicable to Civilian Internees.

The treatment of civilian internees shall in no case be inferior to that laid down in the said Convention."

II.— At the outset of the War, the International Committee approached Governments with a view to ensuring protection of Enemy Civilians overtaken by the war in belligerent territory. Failing the anticipated application, for the duration of the War, of the Tokyo Draft, or the conclusion of bilateral agreements, the Committee successfully obtained that the stipulations of the Convention relative to Prisoners of War should be applied by analogy to Civilian Internees.

The Committee wish to emphasize that this application by analogy should never represent more than a minimum treatment, which is always open to improvement.

Obviously, the stipulations of the 1929 Convention based on the military character of Prisoners of War were not applied. Most of the Convention Articles formed no obstacle to the treatment by analogy of Civilians; some points only created difficulties, such as employment, repatriation, and financial resources. These will be gone into below.

III.— The principle of the application by analogy of the articles of the PoW Conventions to Civilian Internees (C.I.) should be maintained in the new treaty stipulations. Identical treatment should be granted to PoW and to C.I., with the exception of such details in the PoW Convention as are peculiar to military status; certain rules particular to Civilians should also be added. Thus, all the articles of the PoW Convention might be applied by analogy except the following (subject to amendments which might be made to the said Convention):
Article 4, Sec. 2: (Differences of treatment according to military rank)

Article 5: (Information to be given by PoW on capture)

Article 6: (Specifically military effects)

Article 7: (Evacuation from the fighting zone)

Article 11: (Food ration of PoW equivalent to that of depot troops)

Article 18: (Saluting)

Article 19: (Wearing of badges of rank)

Article 21 and 22: (Officers—and persons of equivalent status)

Article 23: (Officers’ pay)

Article 43, Sec. 4: (Senior Officer)

Article 46, Sec. 2 and Art. 55, Sec. 1: (Penalties)

Article 49: (Suppression of prerogatives attaching to rank)

As regards the clauses of Art. 16 of the Tokyo Draft, the principles there laid down were followed by the belligerents in the great majority of cases. This Article (Sec. 2 of which moreover corresponds to Art. 9 of the PoW Convention) might be kept in the new treaty stipulations.
(2) Supplementary Provisions

(a) Rations of Civilian Internees

I.— Article 11 of the PoW Convention: "The food ration of prisoners of war shall be equivalent in quantity and quality to that of the depot troops.

Prisoners shall also be afforded the means of preparing for themselves such additional articles of food as they may possess.

Sufficient drinking water shall be supplied to them. The use of tobacco shall be authorised. Prisoners may be employed in the kitchens.

All collective disciplinary measures affecting food are prohibited."

II.— The question of the food rations of C.I. should be the subject of a special Article in the new Convention. In this respect it is hardly feasible to place civilians and military on the same footing. It is, for instance, impossible to treat women or children like members of forces, since their dietary requirements are wholly different.

The principle which should be laid down is as follows: The food ration of C.I. should be equivalent to that of the civilian population of the Detaining State. Thus, public discontent would be obviated wherever there is objection to Internees receiving larger rations than the nationals.

However, the general principle laid down above needs certain qualifications: the food should be sufficient to keep the C.I. in a normal state of health. It should also be varied and take into account, as far as possible, the Internees' customary diet. (In the Far East, for example, the population live almost entirely on rice, which is inadequate for white people). Climatic conditions should also be borne in mind when considering Internee dietary. These problems are the same which arise regarding Prisoners of War. (See the suggested amendments to Art. 11). The regulations thus envisaged would not preclude special measures in behalf of children and expectant mothers, which will be discussed in Part II, Chapter II.
Finally, for working C.I., food rations should be equal to those received by civilian workers of the district engaged in the same work. Art. 11, Sec. 2, 3 and 4 of the PoW Convention might be applied by analogy, without amendment.

(b) Work of Civilian Internees

I. See Article 27 of PoW Convention.

II. Work was not usually made compulsory in C.I. camps during the War. It was compulsory only in the French territories in Africa and in Syria. In the Belgian Congo, Italian internees who agreed to work, were discharged, but were not paid full wages. Generally speaking, C.I. who worked were paid a small salary.

III. The question of work by C.I. is linked with that of financial resources and of morale, which is lowered by idleness. Destitute internees unable to work are in a difficult situation (see below).

Should the Detaining Power be allowed to compel C.I. to work, as it may PoW who are physically fit? If it is agreed in principle that Internees should work, the regulations on working conditions and the type of work applicable to PoW (Art. 27-35) should also be inserted here. Internees should not be compelled to do work having direct relation with warlike operations or which are unhealthy or dangerous. They should be employed only on work for which they are physically suited, and be placed under medical supervision. They should receive from the Detaining Power wages corresponding to their work. The Protecting Power should verify working conditions.

(c) Resources of Civilian Internees

I. See PoW Convention, Art. 23 and 24.

II. During the War C.I. were frequently in a critical position, as they received no pay, like officers and were unable to work and receive
wages, like PoW. Internees who had property in their country of residence were privileged in comparison with others. As a rule, the Detaining State allowed them to draw monthly amounts from their sequestrated property. In many cases, the home country, acting through the Protecting Power, paid small allowances to its nationals interned in enemy countries.

Lastly, belligerents sometimes granted C.I. a small monthly sum to cover their most urgent needs. This was the case, for example, in British India, Tanganyika and Iran. Sometimes payment took the shape of vouchers.

III.- The best course appears to be the obligation on the Detaining Power of making monthly allocations to the civilians it has interned. Such payments would be reimbursed by the home country at the close of the war.

Supervision of property owned by C.I. in the detaining country might be undertaken by the proposed Legal Section of the National Red Cross Society, which has already been several times alluded to.

The stipulations might also embody as an alternative the payment of allocations by the home countries, acting through the Protecting Power. Administrative facilities for transfer of funds would then have to be provided for.

(d) Repatriation of Civilian Internees

I.- See Articles 68 and following of the PoW Convention.

II.- During the War, C.I. did not benefit regularly by Convention clauses on repatriation for reasons of health. It must be remembered that their situation differed from that of PoW, since they were usually resident in the detaining country before the War and their next-of-kin had often settled there. Repatriation was not desirable in their case, especially for those who had become attached to their country of residence and had lost all contact with their home country. Invalids preferred to be discharged or sent to hospital in the detaining country. This was sometimes granted.
In some countries, Mixed Medical Commissions examined C.I. with a view to repatriation, which was carried out in a number of cases. As regards repatriation after prolonged captivity (Art. 72), C.I. also frequently prefer to be discharged and to remain in their adopted country. The same applies to repatriation at the close of the war.

III.— The principle of repatriating cases of serious illness should be applied to C.I. as it is to PoW. C.I. entitled to repatriation should, however, not be sent home unless they expressly desire. Those who prefer to stay in their country of residence should be sent to hospital or discharged, subject to their accepting such police supervision as may be considered necessary by the detaining country. C.I. who have been detained for a long time might be repatriated under the same circumstances as PoW; if they object to repatriation, they might be released, subject to the same restrictions as the seriously ill.

Finally, application of Art. 75 (Repatriation at the close of hostilities) should depend on the situation of the C.I. Those detained in a country where they resided before hostilities, and who do not ask for repatriation, should not be compelled to leave the country except for reasons entailing expulsion, according to the law of the land. Those interned in a country where they did not reside before the war should only be repatriated if they have no possibility of returning to their former country of residence, or of settling in the detaining State.

(e) Family Camps

I.— The PoW Convention contains no stipulations to the effect that PoW who are next-of-kin should as far as possible be assembled in the same camps.

II.— During the War, a fairly large number of C.I. camps comprised internees assembled by families. The International Committee held this practice desirable and endeavoured to induce belligerents make it general. It is distressing to see interned members of the same family separated and sent to different camps. The Committee stress that by "family camps"
they understand camps where the members are not only assembled, but can lead a family life. "Mixed" camps, where men and women are simply detained together, cannot be described as family camps; still less so adjacent compounds where men and women meet for a few hours daily and are then sent back to their respective sections.

Genuine family camps were started by the Allies in British India, Rhodesia, Kenya, Uganda, Tanganyika, and Erythrea. In 1943, internees were transferred from the camp at Compiègne (occupied France) to Vittel, to be assembled in families. In Germany itself, the International Committee failed to secure the establishment of genuine family camps. There were only joint, mixed or adjacent camps.

Such family camps have had excellent results; the internees' morale was usually better than elsewhere; a family life on a community basis could be established. Children benefited by living with their parents and attending schools inside the camps. In one camp in British India each family even had a separate bungalow.

III.— The new Convention should therefore provide for the establishment of family camps, while stressing that these should allow the C.I. to lead a genuine family life and offer them suitable accommodation. Children should be able to attend schools, either inside or outside the camps.

(f) Camp Spokesmen

I.— See Articles 43 et sqq. of the PoW Convention.

II.— During the War, male and female representatives were nominated in C.I. camps for men or women. They represented the internees before the detaining Authorities and the delegates of the Protecting Powers and welfare societies.

This system not always work satisfactorily: difficulties at the time of nomination, lack of discipline due to the very mixed types of internees, jealousy, etc.
III.- In C.I. camps the spokesman might be replaced by a Council, consisting of representatives elected by the internees.

This system would be more suitable for civilians, whose various types might, to a certain extent, be represented in such a Council. The Camp Council would be responsible, within the limits laid down by the Detaining Authorities, for internal management of the camp, and would represent the internees in the same manner and in the same cases as the spokesmen in military camps.

(g) Visits to Civilian Internees by their Next-of-Kin

I.− The P e i o Convention contains no provision of this kind.

II.− During the War, some belligerents allowed C.I. to be visited by next-of-kin. In some camps, such visitors were admitted only exceptionally (in India, for instance); elsewhere, visits took place regularly, at varying intervals. A distinction should be drawn between:

(a) Visits paid to I.C. by relatives at liberty and
(b) Visits by C.I. to relatives interned in other camps.

In the latter case it would suffice to set up family camps - see above sub (e) - which would be a happy solution for the internees.

Next-of-kin not assembled in one camp should be entitled to visit each other. This was the case in Egypt, for instance, where interned wives were allowed to visit their husbands in other camps once a month. Transport was supplied by the detaining Power.

C.I. were allowed by almost all States to receive visits from their next-of-kin. There was usually an interval of a fortnight between visits (United States, South America, Australia, Canada, occupied France, Compiègne, St. Denis). In Egypt there was an interval of one month (or of a fortnight for internees in hospital). In the Isle of Man it was six weeks.

In some camps however no visits were allowed (e.g. Giromagny, occupied France). Visits were suspended for varying periods. Thus, the
Canadians in Germany and in occupied territories were deprived of visits for nearly a year; numerous applications were necessary before they were again allowed early in 1944.

In the United States and in Egypt, internees could leave camp under escort to visit their next-of-kin in cases of extreme urgency.

III.- Treaty stipulations should perhaps embody the right of C.I. to receive visitors. Visits have a powerful effect on internees' morale, which was definitely lower in camps where visits were barred than in those which permitted them. Furthermore, visits by next-of-kin are usually possible in the territory of a belligerent or in occupied territory, where next-of-kin are generally resident.

The new Convention might emphasize that visits should take place at fairly close intervals and that they cannot be suspended, save in exceptional cases.

A stipulation should provide for the right of a C.I. to go out of camp to visit his or her nearest relatives in urgent cases.
PROTECTION OF CIVILIAN POPULATIONS IN WAR TIME

General Remarks

In Part I the attempt was made to secure, through the recognition of certain juridical rules, a certain balance between two parties of unequal strength - the belligerent State and the single individual of enemy or alien nationality, resident on the territory belonging to, or occupied by the said State.

The limits thus set to the liberty of action enjoyed by the belligerent State safeguard the rights of the human personality.

The International Committee have thought that the task of establishing new treaty stipulations in behalf of Civilians should not be limited to what is little more than the modernization of the provisions embodied in the Tokyo Draft. The recent War has revealed in tragic fashion another aspect of the situation of Civilians, for which a remedy must if possible be found. We allude to the blind effects of modern mass warfare, which have inflicted untold and inhuman suffering on the civilian populations of all nations.

We bear in mind the fact that the problem of methods of warfare is a matter of the most careful study by the Governments concerned, and it must be hoped that the latter will reach an agreement to deliver the world of the ruthless weapons which have wasted many countries and massacred so many helpless people. We recall that on two occasions last year, 1) the Red Cross has demanded the interdiction of certain modern methods of warfare.

The International Committee, without wishing to prejudge any decisions that may be arrived at in this field, consider that the problem is too serious to preclude the exploring of all other avenues whereby the protection of the most harmless and pathetic categories at
That is why they consider urgent that the question of security areas and zones should again be brought up. Practical suggestions to this effect will be found below (Chapter I).

Further, the International Committee consider that the measures suggested in favour of civilians of all nations, and consequently the nationals of any belligerent State, should include treaty stipulations regarding:

1. preferential treatment of children (in addition to advantages derived from the setting up of security areas and zones);
2. the principle of the protection of women against every form of outrage;
3. the right for civilians of all nationalities to communicate with members of their family, from whom they are separated through the war, by means of the next-of-kin message scheme, such messages to be conveyed by welfare organisations and to benefit by free postage.

These various questions are set out in Chapters II, III and IV.

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1) The Board of Governors of the League of Red Cross Societies (Oxford, July 1946) made the following recommendation - "Recognising the merit of the wish of the Polish Delegation to render war more humane, and taking into account the experience of the last war with its colossal number of victims among all classes of the population, as well as the consequences of the far-reaching perfection of war technique.

"In pursuance of its humanitarian ideals, requests the next International Conference of the Red Cross, when considering the extension of its Regulations of 1925 relating to gases and aerial warfare, that it consider favourably the addition to this regulation of the atomic bomb and other similar weapons that widely destroy the masses of mankind and the cultural inheritance of nations as well as combatants of the armed forces".

The Preliminary Conference of Red Cross Societies (Geneva, August 1946) made the following recommendation: "The Conference recommends the prohibition of the use of all means of chemical and bacteriological warfare, as well as the employment of atomic energy for the purpose of war".
CHAPTER I.- SAFETY LOCALITIES AND ZONES

The first idea of Safety Zones was due to Henry Dunant who, during the Commune rising of 1871, endeavoured to find a means of protecting the women and children of Paris from the consequences of bombardments by Government troops, and of the explosions and incendiarism planned by the Commune 1).

In 1929, General Georges Saint-Paul, of the French Army Medical Corps, published a plan for ensuring in war-time better protection for children, expectant and nursing mothers, old people, sick persons and invalids by setting up "White Zones". His proposal led to the foundation of the "Association des Lieux de Genève", at Geneva, in 1931.

The question of Safety Areas and Zones was raised at several international meetings. As a result of the recommendation made by the Seventh Congress of Military Medicine and Pharmacy in 1934, a Commission of medical practitioners and legal experts met in Monaco, and prepared a first Draft Convention, which led to no practical result. The Fifteenth International Red Cross Conference, held in Tokyo in 1934, recommended that the International Committee and the National Red Cross Societies "should approach Governments with a view to stimulating their efforts for the early application of all measures for the protection of both wounded and sick combatants and the civilian population".

In 1936, the International Committee convened a Commission of experts, who considered that priority should be given to the creation of Hospital Zones, before attempting with better prospects of success the study of Safety Zones.

In 1938, another Commission of experts prepared the "Draft Convention for the creation of Hospital Localities and Zones in War-time" (called the "1938 Draft"), which was to serve as preliminary document for discussion by the Diplomatic Conference scheduled for 1940, but postponed on account of the War.

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1) It was Henry Dunant also who first imagined the possibility of Hospital Zones (see Vol. 1) during the Franco-Prussian War of 1870/71.
Upon the outbreak of hostilities, the International Committee approached the belligerent Powers, on September 9, September 13, and October 21, 1939, recommending the creation of Safety Localities and Zones for the protection of certain categories of the civilian population. The German Government stated their readiness, subject to reciprocity, to examine the creation of such zones, but their attitude, which was brought to the notice of other Governments, met with no response. On March 15, 1944, in view of the development of aerial warfare, with its daily toll of defenceless children, old people and women, the International Committee made a final appeal to Governments to afford immunity in Safety Zones to defenceless non-combatants who could in no wise contribute to any warlike effort. The reception of this appeal by the Governments concerned, although favourable in principle, precluded any attempt at securing a positive result.

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

While the best means of protecting populations is the absolute prohibition of certain methods of warfare (such prohibition has been shown effective in regard to poison gas and bacteriological warfare), a practical and subsidiary course should be adopted by creating Safety Zones for those who most require protection. These localities or zones could, in practice, be set up in the same regions as the Hospital Zones for wounded and sick combatants and civilians, proposed in Vol. I. The International Committee submit to the meeting certain principles, which should be followed when drafting treaty stipulations in respect of Safety Localities and Zones.

These few guiding principles are in accordance with the general lines of the "1938 Draft", appearing on page 83 and sqq., Vol. I, of the present Reports.
(1) Safety Localities and Zones to be available to:
   (a) - Children up to 16 years of age;
   (b) - Expectant mothers and women with children under 4 years;
   (c) - Persons over 60 years of age;
   (d) - Personnel specially employed for the transport and care of the persons designated under (a), (b) and (c).

(2) Safety Localities and Zones to be situated in regions presenting no interest for the conduct of the war, and especially to contain no military services, civilian administrative departments or factories liable to form military objectives for enemy attack.

(3) In peace-time, each of the High Contracting Parties may submit for the approval of the other Parties a list of the localities or areas which would be designated, in time of war, for exclusive use as Safety Zones for the categories mentioned sub (1).

   At the beginning or in the course of hostilities, each of the High Contracting Parties to inform the enemy of the Safety Zones it proposes to set up.

   Procedure in case of opposition to be also prescribed.

(4) Safety Localities and Zones to be clearly marked with the adopted emblem. The latter to appear also on all vehicles exclusively employed for the conveyance of protected persons to the zones, and for the transport of food supplies.

(5) The boundaries of Safety Localities and Zones to be indicated by all possible means, on the terrain and on maps.

(6) Recognised aid societies to receive all facilities, in case of need, to distribute the required relief to the residents of Safety Localities.

(7) In case of enemy occupation, Safety Localities and Zones to continue to serve their original purpose. No change in their use to be effected by belligerents, unless the protection of the residents is previously safeguarded.

(8) Safety Localities and Zones to be placed under the control of a Commission of neutral members.
CHAPTER II. - OTHER SPECIAL MEASURES FOR THE PROTECTION OF CHILDREN

The tragic experience of the war has emphasized the need of treaty stipulations for the protection of children. Tens of thousands of children were separated from their parents, or were deported, forced to do compulsory work, enrolled in armed forces, and taken prisoners of war. This state of affairs is particularly distressing, for a child is not a responsible being and clearly "neutral", owing to its years. Further, the child is the adult of to-morrow, who may have to suffer the physical and moral consequences of a youth blasted by the horrors of war.

The question of child protection has long been the concern of the Red Cross and of the International Union for the Protection of Children. A draft Convention was drawn up in 1938-39 by a Joint Commission of the International Committee and of the said Union.

After the War, the Bolivian Red Cross also prepared a draft, and the Bulgarian Red Cross published a memorandum on the protection of children in war-time.

In view of the experience gained during the War, and of the draft conventions and memorandums submitted to date, the following principles concerning the child could be embodied in the Convention relative to Civilians, without prejudice to what has been said with regard to Safety Localities and Zones.

The persons protected would be children under 14, expectant mothers, women with children under 4, without distinction of nationality, race or creed.

Such protected persons not to be enrolled in armed forces, employed on any work or activity connected with the war, or subjected to work for which they are physically unfit.

Protected persons on no account to be considered as enemies or prisoners, and to escape all penalties, reprisals or persecutions resulting from the conditions created by war. Mothers of children under
4 and expectant mothers not to be interned. Children not to be placed in camps for adults, unless in the company of their mothers.

Facilities to be provided for such protected persons in the shape of priority accommodation, food and medical attendance: special rationing measures to be taken in their behalf.

Relief from abroad intended for protected persons to be forwarded and distributed without hindrance or delay; the passage of relief supplies not to be stopped by blockade. Crèches, homes and day-nurseries to be set up for orphans, waifs, strays, the sick and those having no mothers. The care and education of children to be ensured by qualified staff, if possible of the same nationality.

Expectant mothers to have during pregnancy and confinement, and after child-birth, proper attention to ensure their life and health and that of their children.

The educational value of family life to be recognised and respected.

All appropriate measures to be taken for the identification and registering of protected persons, and for the safeguarding of family rights in accordance with national laws. National Red Cross Societies to do all in their power to assist protected persons.
CHAPTER III.- PROTECTION OF WOMEN

Article 46 of the Hague Regulations of 1907 prescribed the recognition of "family honour and rights, individual rights and the respect of private property, religious beliefs and their observance".

The question of respecting the decency and dignity of women calls for more precise definition in the new treaty stipulations.

Countless women of all ages, and even small girls were the victims of the most abominable outrages during the war. In occupied territories, very many cases of rape occurred, and unheard of brutalities were perpetrated, sometimes accompanied by mutilations and indecent assault upon women and young girls. Wherever troops have passed or been stationed, venereal diseases have increased to an alarming degree.

Thousands of women were placed in disorderly houses against their will, or were obliged to submit to the troops. When contaminated, they were cast out, or sent to concentration camps or prison hospitals.

A principle should be embodied and proclaimed in the new Convention, to provide that the women of all countries of the world, irrespective of nationality, race, religion belief, age, description or social standing, have the right to be treated with unconditional respect to their honour, decency and dignity, in all circumstances whatsoever.
CHAPTER IV.- CORRESPONDENCE AND DISPLACED FAMILIES

(A) Correspondence

Civilians of all countries, wherever they may be and in all circumstances, should be able to correspond. When events make the exchange of mail impossible, civilians of all States should be able to continue corresponding with their next-of-kin, through the intermediary of welfare organisations. The institution of the "Postal Message Scheme" for all civilians might be confirmed in the new Convention. In this respect, the Committee refer to their remarks on the right of communication for civilians in foreign territories or in occupied areas (see above p. 27).

(B) Displaced Families

The events of war forced large numbers of people to leave their usual residence for an unknown destination. The consequences of being thus torn from their homes and of the breaking-up of families were aggravated by the difficulty, and often the impossibility for these displaced persons to give news during an indefinite period. Relatives who remained at home were completely ignorant of the fate of their next-of-kin for months, and even years; and if in turn transported to other areas, all family ties were likely to be wholly and definitely severed.

This dispersal of families was not only the consequence of deportations, evacuations or emigrations to other areas. It even occurred within the boundaries of national State territory. Thus in France, in the year 1940, thousands of persons had to abandon their homes without being able to advise their relatives; members of the same family were sometimes compelled to separate and to take flight in different directions. Families may also be dispersed within their nationals boundaries, following destructions or evacuations due to bombardments.

In April 1944, among the 40 million "displaced persons" (in the international or national sense), there was no means of estimating how many belonged to "dispersed families" and had lost contact with
their next-of-kin. The situation of these people became the concern of the International Committee as far back as 1943, not with a view to their repatriation, but to create fresh links between next-of-kin.

With the help of national tracing and information bureaux and of national and international welfare institutions of all States, they started in January 1944 a card-index recording the names and addresses of persons enquiring for a member of their family, and all data with regard to civilians under enquiry. They printed a large number of "Dispersed Family Cards" (No 10,027), which were distributed all over the world. Dispersed persons could obtain these cards in post offices, local chapters of National Red Cross Societies, research bureaux of refugee welfare organisations etc. The cards were filled in and sent to Geneva, where they were placed in the card-index. When the cards from both sides tallied, the link between next-of-kin was renewed.

The Committee obtained free postage for these cards, whose object was simply to connect up families through combining enquiries, without any search being made. They thus differed from "Enquiry Forms" or "Civilian Message Forms".

In agreement with UNRRA, the International Committee acted as central tracing bureau for Europe. As from the close of 1945, UNRRA took charge of the work and set up its own Central Tracing Bureau.

The new Convention should make provisions for dispersed families in war-time. Every effort should be made to enable Displaced Persons to remain in contact with next-of-kin during hostilities, and for scattered members of the same family to be united. Stipulations could be adopted obliging belligerents to allow national or international organisations to pursue in belligerent territory or occupied areas their attempts to maintain or to re-establish contact between next-of-kin separated by the war.

Correspondence necessitated by activities of such obvious humanitarian interest should be granted free postage.
POSSIBLE AMALGAMATION
of the
TREATY STIPULATIONS FOR THE PROTECTION
OF WAR VICTIMS

I.- Possible Amalgamation of Treaty Stipulations relative to
Prisoners of War and Civilians

The International Committee brought to the notice of the
Preliminary Conference of National Red Cross Societies in 1946, the ques-
tion of amalgamating the treaty stipulations relative to Prisoners of War
and Civilians. The Second Commission, set up by the Conference to examine
both "Prisoner of War" and "Civilian" problems, agreed by a
large majority on a single Convention applicable both to Civilians and
Prisoners of War.

The principal reasons given by the delegates who spoke on this
occasion were as follows:

(1) Owing to the evolution of modern warfare, the position of civilians
and of armed forces tends to become increasingly similar.

(2) The rules of international law embodied in Red Cross Conventions
could be made known and familiar to the public with much greater ease
if they were assembled in a single Treaty.

The Plenary Session decided, however, not to vote on the prin-
ciple of the matter, but considered that it should be left to the judgment
of the Governments and of the Diplomatic Conference called upon to study
the Draft Conventions. It is in this sense, and in the light of the dis-
cussions at the Plenary Session, that the recommendation of the Conference
should be interpreted, to the effect that it "abstained from prejudging
the number and form of the Convention(s) which will regulate the position
of military and civilians war victims".

The International Committee are most anxious that the present
meeting should discuss the point, in order that the drafts of the Revised
Conventions, now under preparation for the Seventeenth International Red
Cross Conference at Stockholm, may be drawn up in obedience to the general trend of opinion shown during the debates.

The study of efficient measures for the protection of civilians being in the preparatory stage, and the decision as to eventual amalgamation remaining uncertain, the International Committee cannot definitely state how far this aim could be achieved. In order to assist discussion on this point, they venture to emphasise the following:

(1) It appears difficult, at first sight, to amalgamate effectively treaty stipulations applying to Prisoners of War, regularly subject to internment, with those concerning Civilians, for whom non-internment should be the rule.

It is obviously possible to conceive a single Convention for Prisoners of War and Civilian Internees only. We recall the fact that for many stipulations relative to the treatment of Civilian Internees reference is to be made to the PoW Convention. Normally, however, such Civilian Internees ought to constitute only a small proportion of the Civilians in belligerent hands, and the above course would have the drawback of dividing the class of Civilians into two categories, whereas the status of non-interned and interned Civilians (in belligerent territory or in occupied areas) does not always differ to any such marked degree. A great many questions arise in connexion with non-interned Civilians, which it is just as urgent to settle as those relating to interned Civilians. For these reasons, the International Committee believe that it is necessary to preserve the unity of all treaty stipulations relative to Civilians.

(2) Nevertheless, in view of the major arguments put forward in favour of the amalgamation into one single Convention of the provisions relative to Prisoners of War and Civilians, the following course might be contemplated:

The detailed provisions relative to Prisoners of War and Civilians could be maintained and assembled in the same Convention; this could be entitled "Convention relative to Combatants or Civilians in the hands of the Enemy or of Authorities they do not recognize". Besides uniting the above stipulations, the Convention could also include a joint General Part, embodying the general principles on which rests the
protection of the fundamental rights of man, and joint General Provisions (application of the Convention, organisation of control, sanctions for non-application, etc.).

(3) - There is a third course possible - to substitute for the detailed provisions referred to in Vols. II and III of the present Reports, a single Convention expressed in very general terms and bearing the same title as the Convention mentioned under (2) above. This "Charter" of the fundamental rights of the human personality could be completed by a series of regulations giving the necessary detail.

II.- Possible Amalgamation of Treaty Stipulations relative to Wounded and Sick Combatants and Civilians, Prisoners of War and Interned and Non-Interned Civilians

The meeting having examined:

(1) The amalgamation of the Geneva Convention relative to the Sick and Wounded (extended to Civilians) and of connected Agreements (Maritime Convention, Aircraft, Hospital Zones, Civilian Hospitals), discussed in Vol. I, page 88.

(2) The amalgamation of stipulations relative to Prisoners of War and Civilians (see above);

There still remains to be studied by the Commission as a whole the possible amalgamation of all these stipulations and their classification. For this, the two following methods should be considered:
First Convention
(Wounded and Sick)

First Method

Second Convention
(Treatment of Alien Nationals)

(a) Combatants

(b) Civilians

(a) Prisoners of War

(b) Interned Civilians

(c) Non-Interned Civilians

Second Convention

(a) Wounded and Sick

(b) Prisoners of War

(a) Wounded and Sick

(b) Interned Civilians

(c) Non-Interned Civilians
ANNEXE I

EXTRACTS FROM THE REGULATIONS ANNEXED TO THE HAGUE CONVENTION
OF 1907 RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND

Section III.—Military Authority over the Territory of the Hostile State.

Art. 42.—Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

Art. 43.—The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall 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.

Art. 44.—A belligerent is forbidden to force the inhabitants of territory occupied by it to furnish information about the army of the other belligerent, or about its means of defence.

Art. 45.—It is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.

Art. 46.—Family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected.

Private property cannot be confiscated.

Art. 47.—Pillage is formally forbidden.
Art. 48.—If, in the territory occupied, the occupant collects the taxes, dues and tolls imposed for the benefit of the State, he shall do so, as far as is possible, in accordance with the rules of assessment and incidence in force, and shall in consequence be bound to defray the expenses of the administration of the occupied territory to the same extent as the legitimate Government was so bound.

Art. 49.—If, in addition to the taxes mentioned in the above article, the occupant levies other money contributions in the occupied territory, this shall only be for the needs of the army or of the administration of the territory in question.

Art. 50.—No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.

Art. 51.—No contribution shall be collected except under a written order, and on the responsibility of a commander-in-chief.

The collection of the said contribution shall only be effected as far as possible in accordance with the rules of assessment and incidence of the taxes in force.

For every contribution a receipt shall be given to the contributors.

Art. 52.—Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country.

Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied.

Contributions in kind shall as far as possible be paid for in cash; if not, a receipt shall be given and the payment of the amount due shall be made as soon as possible.

Art. 53.—An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations.
All appliances, whether on land, at sea or in the air, adapted for the transmission of news or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and, generally, all kinds of munitions of war, may be seized even if they belong to private individuals, but must be restored and compensation fixed when peace is made.

Art. 54.—Submarine cables connecting an occupied territory with a neutral territory shall not be seized or destroyed except in the case of absolute necessity. They must likewise be restored and compensation fixed when peace is made.

Art. 55.—The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of those properties, and administer them in accordance with the rules of usufruct.

Art. 56.—The property of municipalities, that of institutions dedicated to religion, charity and education, the arts and sciences, even when State property, shall be treated as private property.

All seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and sciences, is forbidden, and should be made the subject of legal proceedings.
DRAFT INTERNATIONAL CONVENTION CONCERNING THE CONDITION AND
THE PROTECTION OF CIVILIANS OF ENEMY NATIONALITY IN THE
TERRITORY OF A BELLIGERENT OR IN A TERRITORY OCCUPIED BY IT.

Chapter I.— Qualification of enemy civilian (enemy alien)

Art. 1.— Enemy civilians in the sense of the present Convention are persons fulfilling the two following conditions:

(a) that of not belonging to the land, maritime or air armed forces of the belligerents, as defined by international law, and in particular by Articles 1, 2 and 3 of the Regulations attached to the Fourth Hague Convention, of October 18, 1907, concerning the Laws and Customs of War on Land;

(b) that of being nationals of an enemy country in the territory of a belligerent, or in a territory occupied by the latter.

Chapter II.— Enemy civilians in the territory of a belligerent.

Section I.— General Provisions

Permission to leave.

Art. 2.— Subject to the provisions of Article 4, enemy civilians who may desire to leave the territory at the outset of military operations shall be granted, as rapidly as possible, the necessary authorisations, as well as all facilities compatible with such operations.

They will have the right to provide themselves with the necessary funds for their journey and to take with them at least their personal effects.

Administrative evacuation.

Art. 3.— In the event of the departure of civilians being administratively organised, they shall be conducted to the frontier of their country or of the nearest neutral country.
Those repatriations shall be effected with due regard to all humanitarian considerations.

The manner of such repatriations may form the subject of special agreements between belligerents.

Detention of Civilians.

Art. 4.—Only civilians falling within the following categories may be held:

(a) Those who are eligible for immediate mobilisation or mobilisation within a year, under the laws of their country of origin or of the country of residence;

(b) those whose departure may reasonably be opposed on grounds involving the security of the Detaining Power.

In either case, appeal to the Protecting Power shall always be admitted. This Power shall have the right to demand that an inquiry be opened and the result communicated to it within three months of its request.

Detainees.

Art. 5.—Those who are in preventive imprisonment or condemned to a sentence depriving them of liberty shall, on their liberation, benefit by the provisions of the present Convention.

The fact that they belong to an enemy State shall not increase the severity of the regime to which they are subjected.

Treatment of Civilians.

Art. 6.—Enemy aliens who have remained in the territory, as those who have been held in application of Article 4, shall receive the treatment to which aliens are ordinarily entitled, except for measures of control or security which may be ordered, and subject to the provisions of Section III.

With those reservations, and in so far as military operations permit, they shall have the possibility of carrying on their occupations.
Art. 7.— Subject to the measures applied to the population in general, enemy civilians shall have the possibility of giving news of a strictly private character to next of kin, and of receiving such news.

With the same reservation they shall also have the possibility of receiving relief.

Recognized Relief Societies.

Art. 8.— Enemy civilians shall have every facility for application to duly recognised Relief Societies, whose object is to act as intermediaries in welfare activities.

These Societies shall receive, for this purpose, all facilities from the authorities, within the limits compatible with military necessities.

Protection.

Art. 9.— Enemy civilians shall be protected against measures of violence, insults and public curiosity.

Prohibitions.

Art. 10.— Measures of reprisal directed against them are prohibited.

Art. 11.— The taking of hostages is forbidden.

Section II.— Enemy civilians brought into the territory of a belligerent

Nowcomers.

Art. 12.— Enemy civilians who for any reason may be brought into the territory of a belligerent during hostilities shall benefit by the same guarantees as those who were in the territory at the outset of military operations.
Section III. Compulsory residence and internment

General Principles.

Art. 13. Should a belligerent country judge the measures of control or security mentioned in Article 6 as inadequate, it may have recourse to compulsory residence or internment, in conformity with the provisions of the present Section.

Confinement.

Art. 14. As a general rule, the compulsory residence of enemy civilians in a specified district shall be preferred to their internment. In particular, those who are established in the territory of the belligerent shall, subject to the security of the State, be thus restricted.

Internment.

Art. 15. The internment of enemy civilians in fenced-in camps may only be ordered in one of the following cases:

(a) where civilians eligible for mobilisation under the conditions set forth in Article 4 (a) of the present Convention are concerned;
(b) where the security of the Detaining Power is involved;
(c) where the situation of the enemy civilians renders it necessary.

Separate Camps and Health Conditions.

Art. 16. Internment camps for enemy civilians shall be separate from internment camps for prisoners of war.

These camps cannot be set up in unhealthy districts, nor where the climate would be harmful to the internees' health.

Application of PoW Convention.

Art. 17. Furthermore, the Convention of July 27, 1929, concerning the treatment of Prisoners of War is by analogy applicable to Civilian Internees.

The treatment of civilian internees shall in no case be inferior to that laid down in the said Convention.
Chapter III.—Enemy civilians in territory occupied by a belligerent.

Observation of the Hague Regulations.

Art. 18.—The High Contracting Parties undertake to observe, as regards the condition and protection of enemy civilians in territory occupied by a belligerent, the provisions of Section III of the Regulations annexed to the Fourth Hague Convention, of 1907.

Additional Provisions.

Art. 19.—The High Contracting Parties further undertake to observe the following provisions:

(a) In the event of it appearing, in an exceptional case, indispensable for an occupying Power to take hostages, the latter shall always be treated humanely. Under no pretext shall they be put to death or submitted to corporal punishments;

(b) Deportations outside the territory of the occupied State are forbidden, unless they are evacuations intended, on account of the extension of military operations, to ensure the security of the inhabitants;

(c) Enemy civilians shall have the possibility of giving news of a strictly private character to next of kin in the interior of occupied territory and of receiving such news.

The same possibility shall be granted them for correspondence with the exterior, subject to the measures applied to population of the occupying Power, in general.

With the same reservation enemy civilians shall have the possibility of receiving relief.

(d) Enemy civilians shall also benefit by the provisions of Article 8 of the present Convention.

Chapter IV.

Section I.—Execution of the Convention

Application and Execution.

Art. 20.—The provisions of the present Convention shall be respected by the High Contracting Parties in all circumstances.
In the event that, in time of war, one of the belligerents should not be a party to the Convention, its provisions shall nevertheless remain obligatory between the belligerents parties thereto.

Art. 21. - The text of the present Convention and of the special Conventions foreseen in Article 3 shall be posted up in all civilian internment centers and shall be communicated, at their request, to those who are unable to consult it.

Art. 22. - The High Contracting Powers shall exchange, through the intermediary of the Swiss Federal Council, the official translations of the present Convention, as well as the laws and regulations which they may be called upon to adopt to ensure its application.

Section II. - Organisation of Control

Protecting Power, Dologatos.

Art. 23. - The High Contracting Parties recognize that the full execution of the present Convention implies the cooperation of Protecting Powers; they declare themselves ready to accept the good offices of those Powers.

To this end, the Protecting Powers may nominate dologatos, apart from their diplomatic staff, among their own nationals or among the nationals of other neutral Powers. Those dologatos shall be subject to the agreement of the belligerent to which their mission accredits them.

The representatives of the Protecting Power or its accepted dologatos shall be authorised to visit all places of civilian internment, without exception. They shall have access to all buildings occupied by civilian internees and be allowed to converse with them, as a general rule without witnesses, personally or by the intermediary of interpreters.

The belligerents shall facilitate to the greatest possible extent the task of the representatives or of the recognized dologatos of the Protecting Power. The military authorities shall be informed of their visits.

The belligerents may agree between themselves to allow persons of the same nationality as that of the civilian internees to participate in the journeys of inspection.
Interpretation of the Convention: Conferences.

Art. 24.- In case of disagreement between belligerents concerning the application of the provisions of the present Convention, the Protecting Powers shall, as far as possible, exercise their good offices with a view to settling the difference.

To this end, each of the Protecting Powers may, in particular, propose to the belligerents concerned a meeting of their representatives, possibly on properly selected neutral territory. The belligerents shall be under the obligation to take action on the proposals made to them to this effect. The Protecting Power may, if judged desirable, submit to the approval of the Powers concerned the name of a person belonging to a neutral Power, or of a personality deputed by the International Committee of the Red Cross, who shall be called upon to participate in this meeting.

International Committee of the Red Cross.

Art. 25.- The above provisions do not constitute an obstacle to the humanitarian activity which the International Committee of the Red Cross may exercise for the protection of enemy civilians, with the approval of the belligerents concerned.

Section III

Final Provisions

(The Final Provisions of the Tokyo Draft, Art. 26-33, deal with the signing, ratification and denounced of the Convention. They are similar to those included at the end of all International Treaties; see for instance Art. 89-97 of the Geneva Convention of 1929 relating to Prisoners of War. They need not therefore be reproduced here.)