DRAFT REVISED OR NEW CONVENTIONS
FOR THE PROTECTION OF WAR VICTIMS

INTERNATIONAL COMMITTEE OF THE RED CROSS
GENEVA, MAY 1948
XVIIth INTERNATIONAL RED CROSS CONFERENCE
(STOCKHOLM, AUGUST 1948)

DRAFT REVISED OR NEW CONVENTIONS
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ESTABLISHED BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS
WITH THE ASSISTANCE OF GOVERNMENT EXPERTS, NATIONAL RED CROSS SOCIETIES
AND OTHER HUMANITARIAN ASSOCIATIONS

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No. 4a
ABBREVIATIONS:

ICRC = International Committee of the Red Cross.
PW = Prisoner(s) of War.
DP = Detaining Power.
MMC = Mixed Medical Commission(s).


Draft PW Convention = Convention of July 27, 1929, relative to the Treatment of Prisoners of War, in its revised form.
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INTRODUCTION

Since its foundation the International Committee of the Red Cross (ICRC) has worked constantly in view of the development of the humanitarian Conventions (Geneva Conventions and Agreements relating thereto). Its endeavours have aimed at adapting these treaties to present day conditions, and also at establishing new ones.

The main task of the ICRC in the interval between the two World Wars was the establishment of draft Conventions, and in particular of the Convention relative to the treatment of Prisoners of War, which was signed in the year 1929 and served during the last War to safeguard the lives of millions of prisoners. Other draft Conventions, either revised or newly created, were drafted by the Committee in co-operation with Government Experts and National Red Cross Societies, and should have been formally approved by a Diplomatic Conference which the Swiss Federal Council had summoned for that purpose, at the beginning of 1940. This meeting was unfortunately postponed owing to the outbreak of hostilities.

During the recent war, the chief part of the Committee's activities was devoted to numerous and urgent relief undertakings; it never lost sight of the fact, however, that as soon as peace was once more established the experience gained during these critical years should serve for the development and perfecting of the rules of international law in the humanitarian field. In view of this task, the ICRC classified in its records all the documents that might prove useful.

In a memorandum dated February 15, 1945, before the close of hostilities, the ICRC informed Governments and National Red Cross Societies of the world that it was undertaking the work of preparing the revision of the Conventions and the conclusion of new humanitarian agreements, as it had already done after the year 1918. In so doing, the ICRC felt it a duty to supply the contribution which its practically universal activities, past experience, and comprehensive records enabled it to do. In the same memorandum the ICRC requested the assistance of Governments and National Red Cross Societies, and recommended that they should assemble, classify and summarize all useful data on the above subjects.

These proposals were favourably received by numerous Governments and Red Cross Societies, and the ICRC at once started upon its task. To this end it adopted methods similar to those employed after the first World War, namely:

(1) The assembling of preliminary documentation, as complete as circumstances allowed, showing in what respects public international law required confirmation, addition or amendment.

(2) The establishment, with the help of Red Cross Societies and Governments, of draft revised Conventions or of new agreements, these drafts to be submitted to the XVIIth International
Red Cross Conference, and in the last resort, should Governments approve, to a Diplomatic Conference.
The above undertaking bore generally on the four following subjects.

(1) Revision of the Geneva Convention of July 27, 1929, for the relief of Wounded and Sick of Armies in the field;
(2) Revision of the Xth Hague Convention of October 18, 1907 for the adaptation to Maritime Warfare of the principles of the Geneva Convention;
(3) Revision of the Convention signed at Geneva on July 27, 1929, relative to the treatment of Prisoners of War;
(4) Drafting of a new Convention for the protection of Civilians in time of war.

In October 1945, the ICRC began by consulting in their expert capacity the neutral members of the Mixed Medical Commission (MMC), who during the War had undertaken to examine sick and wounded prisoners of war and decide on their possible repatriation.

The ICRC then submitted its proposals and first drafts to the “Preliminary Conference of National Red Cross Societies for the study of the Conventions and of various Problems relative to the Red Cross”, which met in Geneva at the invitation of the ICRC from July 26 to August 3, 1946. This meeting comprised one hundred and forty-five Delegates from fifty countries, among whom were sixteen Chairmen of National Societies. The ICRC duly noted the numerous important suggestions made by National Societies relating to questions which are of their peculiar competency, and pursued its studies during the following months; it prepared very full reports, covering on this occasion the entire field and dealing with all the treaty stipulations to be established. Thus in March 1947, the Committee consulted the representatives of religious and non-sectarian associations which had co-operated in supplying spiritual and intellectual relief to the victims of the war.

This meeting was followed by the session in Geneva, from April 14 to 26, 1947, of the “Conference of Governments Experts for the study of the Conventions for the protection of war victims”. This Conference comprised seventy representatives of fifteen Governments having extensive knowledge of the matters placed on the Agenda. On the basis of the proposals submitted by the ICRC, of the opinions expressed by the National Red Cross Societies, and of drafts prepared by several Governments, the Conference established revised drafts of the three existing Conventions (Geneva Convention of 1929 relating to the sick and wounded; Xth Hague Convention of 1907 concerning maritime warfare, and lastly, Geneva Convention of 1929 relating to prisoners of war). The Conference further adopted a preliminary draft of a new Convention for the protection of civilians in time of war.

The ICRC then sought the opinion of several Governments who had not been in a position to participate in the April meeting. Some of these Governments sent their expert representatives to Geneva and discussed the above subjects with the ICRC from June 9 to 12, 1947.

The drafts thus gradually elaborated were finally submitted by the ICRC to the “Commission of National Red Cross Societies for the study of the Conventions”. This body had been appointed by the Preliminary Conference of July 26, 1946, and the thirteen member Societies were nominated by the Executive Committee of the League. The Commission sat in Geneva on September 15 and 16, 1947, and gave its general approval to the drafts submitted by the ICRC; it also made a certain number of suggestions which were duly noted.

The ICRC now submits its final draft in the annexed document, to all National Red Cross Societies and to all Governments signatory to the Geneva Convention, in view of discussion and adoption by the XVIth International Red Cross Conference. However, in view of the importance and complexity of the subject, the ICRC reserves the option of introducing into this draft, until it is submitted for final decision to a Diplomatic Conference, the amendments which continued study may show to be required.
These drafts—the outcome of two years of constant labour—aim at offering to possible victims of future wars the most extensive humanitarian safeguards, to which every State may feel at liberty to subscribe. The fact that the great majority of the proposals made by the ICRC have been approved by Commissions of experts, in successive meetings, justifies the hope that these drafts will meet with the approval of the Stockholm Conference, and will thereupon be favourably considered by Governments.

* * *

Each Article of the revised draft Conventions given in the present document is followed by the corresponding Articles of the years 1929 or 1907, printed in smaller type.

Since it is obviously impossible to reproduce in each particular case the commentary given in previous drafts, references have been added, enabling the reader to find the relevant passages in the principal reports already published in Geneva by the ICRC. The reports are the necessary complement to the present document and supply to some extent a statement of the grounds underlying each treaty stipulation. These publications are as follows:


Lastly, under the heading “Remarks” the reader will find included, wherever required, further suggestions submitted by experts since the publication of these three Reports 4. The ICRC also takes advantage of this heading to stress important points in which it has been led to abandon or modify the views expressed in previous drafts.

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1 Indicated by the abbreviation RC 1946.
2 Indicated by the abbreviation SAIN 1947.
3 Indicated by the abbreviation GE 1947.
4 The Government Experts who had not participated in the April meeting and who met the ICRC in Geneva, are referred to under the abbreviation “June Experts”. The Commission of National Red Cross Societies for the study of the Convention is referred to as “RC Commission”.
REVISION OF THE GENEVA CONVENTION
OF JULY 27, 1929,
FOR THE RELIEF OF THE WOUNDED AND SICK
IN ARMIES IN THE FIELD

TITLE

GENEVA CONVENTION (date)
FOR THE RELIEF OF THE WOUNDED AND SICK IN ARMIES
IN THE FIELD

CHAPTER 1

General Provisions

Remarks

The ICRC has thought it useful to assemble all stipulations of a
general nature and to place them at the head of each of the new or
revised Conventions. This procedure is logical and might facilitate
later amalgamation of these Conventions, if as the Government Experts
have recommended, that course is followed. This merging is a task
of great difficulty, but will in any case be simplified if the general prin-
ciples common to all the Conventions are brought together and expressed
in identical wording. Should it be decided to draft a single Convention,
the general stipulations could, after slight adaptation, be placed at the
head of the text.

With the same end in view the ICRC has attempted to give to those
stipulations which, in the drafts of the various Conventions, treat of
similar matters, a wording identical in each case.

GE 1947, p. 332.

ARTICLE 1

Respect
of the Convention

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

1929 Convention, Art. 25, Sec. 1:
The provisions of the present Convention shall be respected by the High
Contracting Parties in all circumstances.

1 All changes or amendments introduced are shown in italics.
Remarks

The ICRC believes that this Article, the scope of which has been widened, should be placed at the head of the Convention. The new wording covers three points:

(1) The undertaking subscribed to by High Contracting Parties to respect the Convention in all circumstances.

(2) The undertaking subscribed to by the High Contracting Parties to ensure respect for the Convention in all circumstances.

(3) A formal declaration stating that the two above undertakings are subscribed to by Governments in the name of their peoples.

Re (1) This stipulation corresponds to Art. 25, Sec. 1, of the 1929 Convention.

Re (2) The ICRC believes it necessary to stress that if the system of protection of the Convention is to be effective, the High Contracting Parties cannot confine themselves to implementing the Convention. They must also do everything in their power to ensure that the humanitarian principles on which the Convention is founded shall be universally applied.

Re (3) By inviting the High Contracting Parties to make formal declaration of their undertaking, in the name of their peoples, the ICRC aims at associating the peoples themselves with the duty of ensuring respect for the principles on which the present Convention is founded, and of implementing the obligations which result therefrom. Another advantage of the present wording will be to facilitate the implementing of the present Convention, especially in case of civil war.

(See similar provisions under Art. 1, Draft PW Convention and Art. 1, Draft Civilian Convention.)

ARTICLE 2

Application of the Convention

Beyond the stipulations to be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even should the state of war not be recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even should the said occupation meet with no armed resistance.

Should one of the Powers in conflict not be party to the present Convention, the Powers who are party thereto shall, nevertheless, be bound by it in their mutual relations.

In all cases of armed conflict which are not of an international character, especially cases of civil war, colonial conflicts, or wars of religion, which may occur in the territory of one or more of the High Contracting Parties, the implementing of the principles of the present Convention shall be obligatory on each of the adversaries. The application of the Convention in these circumstances shall in nowise depend on the legal status of the parties to the conflict and shall have no effect on that status.
1929 Convention, Art. 25, Sec. 2:

If, in time of war, a belligerent is not a party to the Convention, its provisions shall, nevertheless, be binding as between all the belligerents who are parties thereto.

RC 1946, pp. 14 and 70.

Remarks

The general observations made by the Government Experts concerning the Civilian Convention (GE, p. 270) and Art. 1 of the Committee's Draft, have led the ICRC to adopt a wording which differs materially from previous drafts.

The Conference of Government Experts approved the wording which stated that in case of civil war the principles of the Convention should be applied by the contracting Party, on condition that the adverse Party did likewise. After due consideration the ICRC did not think it possible to keep this wording. The condition of reciprocity might indeed render this stipulation valueless, as one Party could always allege that its adversary disregarded some specific clause of the Convention.

During the said Conference one Delegation pointed out that the Convention should clearly state that its application to cases of internal conflict must in no way affect the legal status of the two Parties concerned. This view was shared by the June Experts (1947) and by the RC Commission. The ICRC has therefore thought proper to amend the wording of the Article accordingly.

The Committee has also inserted in Sec. 3 the clause non si omnes, which up till now was embodied in Art. 25, Sec. 2, of the 1929 Convention.

Finally, the clause appearing at the beginning of the Article, “beyond the stipulations to be implemented in peace time” was inserted in obedience to a suggestion made by the June Experts.

(See similar provisions under Art. 2, Draft PW Convention and Art. 2, Draft Civilian Convention.)

ARTICLE 3

Neutral Powers shall apply the stipulations of the present Convention by analogy to the wounded and sick, as also to members of the medical personnel and to chaplains, who are members of belligerent armies and who may be interned in their territories.

Remarks

The Fifth Hague Convention, of 1907, Art. 15, respecting the rights and duties of neutral Powers, rules that the Geneva Convention shall apply to wounded and sick who are interned in neutral territories. The
ICRC has thought useful to insert here a stipulation of this kind. The wording is, however, more precise and covers also the medical personnel and chaplains.

ARTICLE 4

Special agreements  

Besides the agreements expressly foreseen by Articles 12, 18 and 24, the Parties to the conflict may conclude special agreements on all matters for which they may consider it desirable to make particular provision. These agreements shall in no case adversely affect the situation of the wounded and sick, or of the members of medical personnel and of chaplains, as defined by the present Convention, nor impair the rights which it grants them.

Wounded and sick, as also members of medical personnel and chaplains shall benefit by these agreements as long as the Convention is applicable to them, subject to express stipulations to the contrary in the said or subsequent agreements, or again subject to more favourable measures taken in their behalf by one or other of the Parties to the conflict.

1929 Convention, Art. 2, Sec. 2:

Belligerents shall, however, be free to prescribe, for the benefit of wounded or sick prisoners, such arrangements as they may think fit beyond the limits of the existing obligations.

GE 1947, p. 259.

Remarks

The ICRC has thought opportune to give a wider scope to Art. 2, Sec. 2 of the 1929 Convention. It has also adopted a more detailed wording, suggested by the texts recommended by the Government Experts for the corresponding stipulations of the PW Convention.

(See similar provisions under Art. 5, Draft PW Convention and Art. 5, Draft Civilian Convention.)

ARTICLE 5

Acquired rights  

Wounded and sick, as also members of the medical personnel and chaplains may in no circumstances be induced by constraint or by any other means of coercion, to abandon partially or wholly the rights conferred on them by the present Convention, and, should the case arise, by the special agreements foreseen in the preceding Article.

(See similar provisions under Art. 6, Draft PW Convention and Art. 6, Draft Civilian Convention.)
ARTICLE 6

Protecting Powers

The present Convention shall be applied with the co-operation and under the control of the Protecting Powers, whose duty it is to safeguard the interests of the Parties to the conflict. To this end, the Protecting Powers may appoint, besides their diplomatic staff, delegates among their own nationals, or among nationals of other neutral Powers. These delegates shall be subject to the approval of the Power in whose territory they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

Remarks

Taking account of the fact that the status of members of medical personnel and of chaplains is modified by the present Draft, as compared to the status granted to these categories by the 1929 Convention, the ICRC has thought it necessary to introduce into the text of the Geneva Convention the above Article relating to the Protecting Powers, as well as the two following Articles. This course is in harmony with the principles stated at the head of the present Draft, namely, that the wording of the general provisions of the humanitarian Conventions should, as far as possible, agree.

(See similar provisions under Art. 7, Draft PW Convention and Art. 7, Draft Civilian Convention.)

ARTICLE 7

Activities of the International Committee of the Red Cross

The provisions of the present Convention do not constitute an obstacle to the humanitarian activities which the International Committee of the Red Cross may undertake for the protection of wounded and sick, of members of the medical personnel and of chaplains, and for their relief, subject to the consent of the Parties to the conflict who may be concerned.

(See Remarks on the preceding Article, and similar provisions under Art. 8, Draft PW Convention and Art. 8, Draft Civilian Convention.)

ARTICLE 8

Substitutes for Protecting Powers

The Contracting Parties may, at all times, agree to entrust to a body which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

Moreover, if wounded and sick, or members of the medical personnel and chaplains do not benefit, or cease to benefit by the activities of a Protecting Power or of the said body, the Party to the conflict in whose hands they may be, shall be under the obligation to make up for this lack of protection by inviting either a neutral State or an impartial humanitarian
agency, such as the International Committee of the Red Cross, to assume in their behalf the duties devolving by virtue of the present Convention on the Protecting Powers.

 Whenever the Protecting Power is named in the present Convention, such reference also designates the bodies replacing it under the terms of the present Article.


(See Remarks on Art. 6 and similar provisions under Art. 9, Draft PW Convention, and Art. 9, Draft Civilian Convention.)

ARTICLE 9

Whenever they consider it desirable in the interest of wounded and sick, and of members of medical personnel and chaplains, especially if the Parties to the conflict do not agree regarding the application of the provisions of the present Convention, the Protecting Powers shall lend their good offices with the object of facilitating such application.

To this end, each of the Protecting Powers may, either at the invitation of one Party, or of its own motion, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for wounded and sick, and for members of medical personnel and chaplains, eventually on suitably chosen neutral territory. The Parties to the conflict shall be required to give effect to the proposals made to them in this sense. The Protecting Powers may, if necessary, submit to the approval of the Parties to the conflict the name of a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to participate in this meeting.

(See similar provisions under Art. 10, Draft PW Convention and Art. 10, Draft Civilian Convention.)

CHAPTER II

Wounded and Sick

ARTICLE 10

Members of the armed forces and persons designated in Article 3 of the Convention relative to the treatment of Prisoners of War who are wounded or sick, shall be respected and protected in all circumstances.

They shall be treated with humanity and cared for by the belligerent in whose power they may be, without any discrimination of race, nationality, religion or political opinions, or any other distinction founded on similar criteria. Discriminatory treatment is permissible only for medical reasons. Women shall be treated with all consideration due to their sex.
Nevertheless, the belligerent who is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a portion of his medical personnel and material to assist in their care.

1929 Convention, Art. 1:

Officers and soldiers (Members of the armed forces) and other persons officially attached to the armed forces who are wounded or sick shall be respected and protected in all circumstances; they shall be treated with humanity and cared for medically, without distinction of nationality, by the belligerent in whose power they may be.

Nevertheless, the belligerent who is compelled to abandon wounded or sick to the enemy shall, as far as military exigencies permit, leave with them a portion of his medical personnel and material to help with their treatment.


Remarks

Re Section 1. — In order to define to which persons the Convention should apply, it appeared necessary to refer to the PW Convention (revised), which includes a very detailed enumeration, applicable also in the present case.

Re Section 2. — The June Experts considered that the text suggested by the Government Experts (1947) “without any distinction of nationality, race, religion or political opinion... Women shall be treated with all the consideration due to their sex” was inadequate, since distinctions might be drawn with regard to membership of certain forces, rank, age, etc. They advised to replace it by a statement that no distinction may be drawn between any human beings, except for medical reasons.

The Committee considered that both principles could be satisfactorily combined.

ARTICLE 11

Subject to the provisions of the preceding Article, the wounded and sick of a belligerent, who fall into enemy hands, shall be prisoners of war, and the provisions of international law concerning prisoners of war shall be applicable to them.

1929 Convention, Art. 2, Section 1:

Except as regards the treatment to be provided for them in virtue of the preceding article, the wounded and sick of the army who fall into the hands of the enemy shall be prisoners of war, and the general provisions of international law concerning prisoners shall be applicable to them.


Remarks

The word “general” has been deleted. Henceforward, the PW Convention will be applicable to captured wounded and sick. The
ICRC thought preferable, however, to leave a wide margin in this instance, to meet the case of States being signatories to the present Convention, but not to the PW Convention.

**Article 12**

At all times, and particularly after an engagement, belligerents shall without delay take all possible, steps to search for and collect the sick and wounded, protect them against pillage and ill-treatment and ensure their adequate care, and to search for the dead and prevent their being despoiled.

Whenever circumstances permit, a local armistice or a suspension of fire shall be arranged to permit the removal and transport of the wounded.

Likewise, local arrangements may be concluded between belligerents for the removal of wounded and sick from a besieged or encircled area, and for the passage of medical personnel and equipment bound for the said area.

1929 Convention, Art. 3:

After each engagement the occupant of the field of battle shall take measures to search for the wounded and dead, and to protect them against pillage and maltreatment.

Whenever circumstances permit, a local armistice or a suspension of fire shall be arranged to permit the removal of the wounded remaining between the lines.


**Article 13**

Belligerents shall communicate to each other, as soon as possible, according to the procedure described in Art. 77 of the 1929 Convention relative to the treatment of Prisoners of War, the names of the wounded, sick and dead discovered and collected, together with any indications which may assist in their identification.

They shall establish and transmit to each other, by the same channel, certificates of death or, in lieu thereof, duly authenticated lists of the dead.

They shall likewise collect and exchange, by the same channel, all articles of a personal nature having an intrinsic or sentimental value which are found on the dead, especially one-half of their identity discs, which should be of a standard pattern, the other half to remain attached to the body.

Bodies shall not be cremated except for imperious reasons of hygiene, or for religious motives. In case of cremation, the circumstances and motives shall be stated in detail in the death certificate of the cremated person.

Belligerents shall ensure that burial or cremation of the dead is preceded by a careful, and if possible medical examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that
their graves are respected, *assembled if possible and marked so that they may always be found*. To this end, at the commencement of hostilities, they shall organize an official graves registration service, in order to allow ultimate exhumations and to ensure the identification of bodies, whatever the subsequent site of the graves, and the possible transportation to the home country. *These stipulations also apply, as far as may be, to the ashes, which shall be kept by the graves registration service until the close of hostilities.*

*As soon as circumstances permit, and at latest at the end of hostilities, they shall exchange a list of graves and of dead interred in their cemeteries and elsewhere.*

1929 Convention, Art. 4:

Belligerents shall communicate to each other reciprocally, as soon as possible, the names of the wounded, sick and dead, collected or discovered, together with any indication which may assist in their identification.

They shall establish and transmit to each other the certificates of death. They shall likewise collect and transmit to each other all articles of a personal nature found on the field of battle or on the dead, especially one half of their identity discs, the other half to remain attached to the body.

They shall ensure that the burial or the cremation of the dead is preceded by a careful and, if possible, medical examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made.

They shall further ensure that the dead are honourably interred, that their graves are respected and marked, so that they may always be found.

To this end, at the commencement of hostilities, they shall organize officially a graves registration service, to render eventual exhumations possible and to ensure the identification of bodies whatever may be the subsequent site of the grave.

After the cessation of hostilities they shall exchange the list of graves and of dead interred in their cemeteries and elsewhere.


Remarks

*Re Section 3.* — During the June meeting, one delegation objected to the insertion of the words "having an intrinsic or sentimental value", on the grounds that the sorting of personal belongings should not be left to the appreciation of the Detaining Power.

*Re Section 6.* — The addition of the words "and their possible transportation to the country of origin" was suggested by the June Experts.

**ARTICLE 14**

Role of the population

The military authorities may appeal to the charity of the inhabitants in order to collect and care for, under their direction, the wounded or sick of armed forces, and may grant persons who have responded to this appeal special protection and certain facilities. *In case of occupation, the adverse belligerent shall grant these persons the same protection and the same facilities.*

*In no circumstances may inhabitants and relief societies, even in occupied regions, be prohibited from collecting and caring, of their own accord, for*
wounded or sick members of the armed forces, of whatever nationality, on condition that the latter shall not be withheld from the possible control of national or occupying authorities. It is the duty of the civilian population to protect these wounded and sick, and to abstain from offering them violence.

1929 Convention, Art. 5:

The military authorities may appeal to the charitable zeal of the inhabitants to collect and afford medical assistance, under their direction, to the wounded or sick of armies, and may accord to persons who have responded to this appeal special protection and certain facilities.


Remarks

As regards Section 2, the ICRC has adopted a wording resembling more closely that recommended by the Preliminary Conference (1946). The suggestion to mention relief societies, at the beginning of Section 2, was made by the June Experts (1947).

CHAPTER III

Medical Units and Establishments

ARTICLE 15

Protection

Fixed establishments and mobile hospital units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the belligerents. Should they fall into the hands of the adverse party, they shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick who may be in such establishments and units.

The responsible authorities shall ensure that the medical establishments and units mentioned above are located in such a manner that attacks against military objectives cannot endanger them.

1929 Convention, Art. 6:

Mobile medical formations, that is to say those which are intended to accompany armies in the field, and the fixed establishments of the medical services shall be respected and protected by the belligerents.


Remarks

Section 2 has been added by the ICRC, following on Art. 15 of Draft Civilian Convention.

The June Experts (1947) suggested a possible stipulation that no military installation shall be placed within from 500 metres from fixed establishments, in order to protect the latter. The ICRC leaves discussion of this point to the military experts.
ARTICLE 16

End of protection

The protection to which medical units and establishments are entitled shall cease only if they are used to commit acts harmful to the enemy, and after due warning, naming a reasonable time limit and remaining without effect.

1929 Convention, Art. 7:

The protection to which medical formations an establishment are entitled shall cease if they are made use of to commit acts harmful to the enemy.


Remarks

The words “naming a reasonable time limit” were suggested by the June Experts (1947).

ARTICLE 17

Facts not cancelling protection

The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Art. 15:

(1) The fact that the personnel of the unit or establishment is armed, and that they use the arms in their own defence, or in that of the sick and wounded in charge.

(2) That in the absence of armed medical orderlies, the unit or establishment is protected by a picket or by sentries.

(3) That small arms and ammunition taken from the wounded and sick, and which have not yet been transferred to the proper service, are discovered in the unit or establishment.

(4) That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part of it;

(5) That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

1929 Convention, Art. 8:

The following conditions are not considered to be of such a nature as to deprive a medical formation or establishment of the protection guaranteed by Article 6:

(1) that the personnel of the formation or establishment is armed, and that they use the arms in their own defence or in that of the sick and wounded in charge;

(2) that in the absence of armed orderlies the formation or establishment is protected by a picket or by sentries;

(3) that small arms and ammunition taken from the wounded and sick, which have not yet been transferred to the proper service, are found in the formation or establishment;

(4) that personnel and material of the veterinary service are found in the formation or establishment, without forming an integral part of the same.

ARTICLE 18

Already in peace-time, the Contracting Powers and, in case of hostilities, the Parties to the conflict shall make every endeavour to set up, in their own territory and in occupied territories, hospital zones and localities so organized as to shield from the effects of war both the wounded and sick, and the personnel entrusted with the organization and administration of these zones and localities, and with the care of the persons therein assembled.

From the outset of a conflict and throughout its duration, the parties concerned shall agree on mutual recognition of the zones and localities they have set up, and may, for this purpose, implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross shall lend their good offices to facilitate the setting up and recognition of these hospital zones and localities.


Remarks

In order to facilitate the creation of hospital localities and zones, the ICRC considered it advisable to draw up, in the form of an Annex to the Convention, a Draft Agreement between States. This Draft Agreement which is also applicable to the establishment of security localities and zones intended to shelter certain sections of the civilian population, thus constitutes also an Annex to the Convention for the protection of Civilians. (See below).

CHAPTER IV

Personnel

ARTICLE 19

Protection

The medical personnel exclusively engaged in the search, collection, transport and treatment of the wounded and sick, and in the prevention of disease, further, the personnel exclusively engaged in the administration of medical units and establishments, and the chaplains attached to armed forces, shall be respected and protected in all circumstances.

1929 Convention, Art. 9:

The personnel engaged exclusively in the collection, transport and treatment of the wounded and sick, and in the administration of medical formations and establishments, and the chaplains attached to armies, shall be respected and protected under all circumstances. If they fall into the hands of the enemy they shall not be treated as prisoners of war.

Soldiers specially trained to be employed, in case of necessity, as auxiliary nurses or stretcher-bearers for the collection, transport and treatment of the
wounded and sick, and furnished with a proof of identity, shall enjoy the same treatment as the permanent medical personnel if they are taken prisoner(s) while carrying out these functions.


Remarks

The question of keeping back PW medical personnel and the status to be granted to its members detained in camps to care for PW, gave rise to thorough study and debate during the sessions of experts. (Refer, particularly on this point, to the Reports on the meetings of the experts.)

The draft Article tabled by Government Experts stated that if persons mentioned in Clause 1 fell into the hands of the adverse party, they should be treated as PW, subject to the provisions of the Article relative to their regimen.

It seems that both Government and Red Cross experts finally agreed that the status of detained medical personnel should be similar to that of PW, but that they should enjoy certain important facilities. The RC Commission considered that it was not desirable to describe the status of detained personnel as "PW status", since detained personnel enjoyed a special status, which was carefully defined in the following Articles. The adoption of such a terminology would tend to lessen the scope of the facilities granted to this personnel. Furthermore, a statement of this kind would be out of place in Art. 19. The ICRC agreed with this point of view.

ARTICLE 20

Red Cross Societies

The personnel of National Red Cross Societies and that of other Voluntary Aid Societies, duly recognized and authorized by their Governments, who may be employed on the same duties as the personnel named in Article 19, are placed on the same footing as the said personnel, provided that the personnel of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace, or at the commencement of, or during hostilities, in any case before any actual employment, the names of the societies which it has authorised, under its responsibility, to lend assistance to the regular medical service of its armed forces.

1929 Convention, Art. 10:

The personnel of Voluntary Aid Societies, duly recognised and authorised by their Governments, who may be employed on the same duties as the personnel mentioned in the first paragraph of Art. 9, are placed on the same footing as the personnel contemplated in that paragraph, provided that the personnel of such societies are subject to military laws and regulations.

Each High Contracting Party shall notify to the other, either in time of peace or at the commencement of, or during the course of hostilities, but in every case
before actually employing them, the names of the Societies which it has authorised, under its responsibility, to render assistance to the regular medical services of its armed forces.


Remarks

The ICRC thought it useful to make express mention here of National Red Cross Societies. The RC Commission agreed.

ARTICLE 21

Neutral Societies

A recognized Society of a neutral country can only lend the assistance of its medical personnel and units to a belligerent with the previous consent of its own Government and the authorization of the belligerent concerned. The neutral Government shall notify this consent to the adversary of the State which accepts such assistance.

The belligerent accepting such assistance is bound to notify the adverse party thereof before making any use of it.

Under no circumstances shall this assistance be considered as interference in the conflict.

The members of the personnel named in Section 1 shall be duly furnished, before leaving the neutral country to which they belong, with the identity cards provided for in Article 33.

1929 Convention. Art. 11:

A recognized society of a neutral country can only afford the assistance of its medical personnel and formations to a belligerent with the previous consent of its own Government and the authorization of the belligerent concerned.

The belligerent who accepts such assistance is bound to notify the enemy thereof before making any use of it.

RC 1946, p. 33 — GE 1947, p. 35.

ARTICLE 22

Retained personnel

The members of personnel named in Art. 19 and 20, and taken prisoner by the adverse party, shall be held in captivity only in so far as the state of health, the spiritual needs and the number of prisoners of war demand. Under the authority of the Detaining Power, and particularly of its medical service, they shall continue to carry out their medical or spiritual duties, in accordance with their professional ethics, for the benefit of prisoners of war, preferably those of their own nationality.

The above stipulation does not relieve the Detaining Power of its obligations to provide medical and spiritual care to prisoners of war.

Members of personnel mentioned in Section 1 of the present Article shall enjoy all the rights of prisoners of war. To allow them to carry out their humanitarian duties under the best possible conditions, the detaining
authorities shall grant them, as far as is necessary, certain privileges, especially as regards accommodation, food, correspondence relating to their particular duties, the election of a spokesman among themselves, and such travel facilities, with or without escort, as may be necessary for their work.

At the outbreak of hostilities, belligerents shall come to an agreement as to corresponding ranks of medical personnel, including those of the societies mentioned in Article 20.

1929 Convention. Art. 12:

The persons designated in Articles 9, 10 and 11 may not be retained after they have fallen into the hands of the enemy.

In the absence of an agreement to the contrary, they shall be sent back to the belligerent to whom they belong as soon as a route for their return shall be open and military considerations permit.

Pending their return, they shall continue to carry out their duties under the direction of the enemy; they shall preferably be engaged in the care of the wounded and sick of the belligerents to whom they belong.

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

RC 1946, p. 34 — SAIN, p. 6 — GE 1947, p. 36 sqq.

Remarks

The wording of the first clause, which differs slightly from that of the Government Experts, is that of the RC Commission. This also applies to the last section, which includes and completes the last clause of Article 13 (1929).

ARTICLE 23

Members of personnel named in Articles 19 and 20, whose retention in captivity is not made indispensable by the exigencies mentioned in Article 22, shall be returned to the belligerent to whom they belong, as soon as a route is open for their return and military considerations permit.

Pending their return, they shall enjoy at least all the rights of prisoners of war.

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

Members of this personnel shall not be repatriated against their will.


Remarks

The new Section 3 meets a suggestion made by the June Experts, some of whom agreed with one Delegation to the April 1947 meeting
that the categories of personnel to be repatriated should be restricted to medical officers and orderlies.

**ARTICLE 24**

Selection of repatriates

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

As from the outbreak of hostilities, belligerents may determine by special arrangement the percentage of personnel to be retained in captivity, in proportion to the number of prisoners.


Remarks

The words “and their state of health” were added in obedience to the suggestion of the June Experts (1947).

**ARTICLE 25**

Return of neutrals

The persons designated in Article 21 may not be retained after they have fallen into the hands of the adverse party.

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

Pending their return, they shall continue their work under the direction of the adverse party; they shall preferably be engaged in the care of the wounded and sick of the belligerent in whose service they were.

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

Belligerents shall secure to this personnel, while in their power, the same food, lodging, allowances and pay as are granted to the corresponding personnel of their armed forces.

1929 Convention. Art. 12:

See above.

Art. 13:

Belligerents shall secure to the personnel mentioned in Articles 9, 10 and 11, while in their hands, the same food, the same lodging, the same allowance and the same pay as are granted to the corresponding personnel of their own armed forces.

At the outbreak of hostilities, the belligerents will (shall) notify one another of the grades of their respective medical personnel.

GE 1947, p. 38.
Buildings, material and stores of fixed medical establishments and of mobile medical units of the armed forces shall remain subject to the laws of war, but may not be diverted from their purpose, as long as they are required for the care of wounded and sick.

Nevertheless, the commanders of forces in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are nursed in them.

1929 Convention. Art. 14:

Mobile medical formations of whatsoever kind shall retain, if they fall into the hands of the enemy, their equipment and stores, their means of transport and the drivers employed.

Nevertheless the competent military authorities shall be free to use the equipment and stores for the care of the wounded and sick; it (they) shall be restored under the conditions laid down for the medical personnel and as far as possible at the same time.

1929 Convention. Art. 15:

The buildings and material of the fixed medical establishments of the army shall be subject to the laws of war, but may not be diverted from their purpose as long as they are necessary for the wounded and sick.

Nevertheless the commanders of troops in the field may make use of them, in case of urgent military necessity, provided that they make previous arrangements for the welfare of the wounded and sick who are being treated therein.

Remarks

When the Government Experts proposed to merge Art. 14 and 15 of the 1929 Convention—a course which was justified by the fact that medical units will no longer be restored, as before, to the Powers to whom they belong—they were not perhaps fully conscious of the fact that the protection due to mobile medical units is to some extent impaired thereby. In the 1929 text, it is clearly stated that mobile medical units falling into enemy hands shall keep their equipment, means of transport and drivers. The 1929 Convention however stipulates especially that the captor State may only use such equipment for the care of the wounded and sick, whereas the buildings, equipment and means of transport of fixed establishments are spoils of war, and may therefore be diverted to other and even military purposes. According to the revised text, the equipment of mobile units would also be liable to be regarded as spoils of war.

The ICRC merely recommends here that this question should be examined by the Governments in the light of the above facts. (See also Draft Civilian Convention, Art. 17.)
Material of Relief Societies

The buildings of aid societies which are admitted to the privileges of the Convention shall be regarded as private property.

The material of these societies, wherever it may be, shall similarly be considered as private property.

The right of requisition granted to belligerents by the laws and customs of war shall be exercised only in case of urgent necessity, and only after the welfare of the wounded and sick has been ensured.

1929 Convention. Art. 10:
No change.


CHAPTER VI

Medical Transports

Protection

Transports of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units. The same shall apply to vehicles temporarily employed for the above purposes, as long as they are so used.

Should such transports or vehicles fall into the hands of the adverse party, they shall be subject to the laws of war, on condition that the belligerent who captures them shall in all cases ensure the care of the wounded and sick they contain.

The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.

1929 Convention. Art. 17:
Vehicles equipped for the evacuation of wounded and sick, proceeding singly or in convoy, shall be treated as mobile medical formations, subject to the following special provisions.

A belligerent intercepting vehicles of medical transport, singly or in convoy, may, if military exigencies demand, stop them and break up the convoy, provided he takes charge in every case of the wounded and sick who are in it. He can only use the vehicles in the sector where they have been intercepted, and exclusively for medical requirements. These vehicles, as soon as they are no longer required for local use, shall be given up in accordance with the conditions laid down in Article 14.

The military personnel in charge of the transport and furnished for this purpose with authority in due form, shall be sent back in accordance with the conditions prescribed in Article 12 for medical personnel, subject to the condition of the last paragraph of Article 18.

All means of transport specially organised for evacuation and the material used in equipping these means of transport belonging to the medical service shall be restored in accordance with the provisions of Chapter IV. Military means of transport other than those of the medical service may be captured with their crews.
The civilian personnel and all means of transport obtained by requisition shall be subject to the general rules of international law.


ARTICLE 29

Medical aircraft

Aircraft defined in the present Article and used as a means of medical transport may not be the object of attack, but shall be respected by belligerents, on condition that they are exclusively employed for the removal of wounded and sick, or the transport of medical personnel and material.

They shall be painted white and bear, clearly marked, the distinctive emblem prescribed in Article 31, together with their national colours, on their lower, upper and lateral surfaces.

Unless otherwise agreed, flights over land or maritime war zones, military objectives or units, whether on land or sea, and over territories belonging to the enemy or occupied by him, shall be prohibited.

Medical aircraft shall obey every summons to land.

In the event of landing thus imposed, or of an involuntary landing in enemy territory, or in territory occupied by the enemy, the wounded and sick, as well as the crew of the aircraft shall be prisoners of war. The medical personnel shall be treated according to Articles 22 and following.

1929 Convention. Art. 15:

Aircraft used as means of medical transport shall enjoy the protection of the Convention during the period in which they are reserved exclusively for the evacuation of wounded and sick, and the transport of medical personnel and material.

They shall be painted white and shall bear, clearly marked, the distinctive emblem prescribed in Article 19, side by side with their national colours, on their lower and upper surfaces.

In the absence of special and express permission, flying over the firing line, and over the zone situated in front of clearing or dressing stations, and generally over all enemy territory occupied by the enemy, is prohibited.

Medical aircraft shall obey every summons to land.

In the event of a landing thus imposed, or of an involuntary landing in enemy territory or territory occupied by the enemy, the wounded and sick, as well as the medical personnel and material, including the aircraft, shall enjoy the privileges of the present Convention.

The pilot, mechanics and wireless telegraph operators captured shall be sent back, on condition that they shall be (are) employed until the close of hostilities in the medical service only.

RC 1946, p. 40 — GE 1947, p. 44.

Remarks

The June Experts (1947) proposed that medical aircraft should be obliged to fly low (maximum 700 metres, for instance) and at low speed (maximum 150 kilometres per hour, for instance).

The RC Commission recommended that medical aircraft should be better protected.
Article 30

Flight over neutral countries

Medical aircraft shall have free passage over the territories or territorial waters of neutral countries, on condition that such passage be previously notified to the latter.

The aircraft shall obey every summons to land.

In the event of a thus imposed or involuntary landing, the wounded and sick shall be detained by the neutral State, so that they may not be able to take part again in military operations. The medical personnel and material, as well as the aircraft and crew, shall be subject to the general rules of international law.

The costs of accommodation and treatment shall be borne by the State to which the wounded and sick belong.

GE 1947, p. 47.

Chapter VII

The Distinctive Emblem

Article 31

Emblem of the Convention

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

Nevertheless, in the case of countries which already use as a distinctive sign, the Red Crescent or the Red Lion and Sun, in place of the Red Cross, on a white ground, these emblems are also recognized by the terms of the present Convention.


Remarks

The emblem of the red lion and sun on a white ground is employed only by one country, Iran. It might seem highly desirable that this State should adopt the red cross or red crescent in its place, in which case the latter emblem would be the only exception. Further, the Powers would thus show their constant determination not to furnish an argument for the use of other exceptional emblems.

Article 32

Use of the Emblem

The emblem shall be displayed on the flags, armlets and on all equipment belonging to the Medical Service, with the consent of the responsible military authority.

1929 Convention. Art. 20. No change.

Identification of medical personnel

The personnel named in Articles 19, 20 and 21 shall wear, affixed to the left arm, a water-resistant armlet, bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel shall also carry an identity card attesting their status, which can be put in the pocket. It shall be water-resistant, bear the photograph and finger-prints of the holder, and be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces and, as far as possible, of similar type in the armed forces of the Contracting Parties. At the outbreak of hostilities, belligerents shall inform each other of the model in use in their armed forces.

All identity cards shall be established at least in duplicate, one copy being issued to the owner and the other kept by the Power of origin.

In no circumstances may the said personnel be deprived of their armlets or identity cards. In case of loss, they are entitled to duplicates.

1929 Convention. Art. 21:

The personnel protected in pursuance of Articles 9 (paragraph 1), 10 and 11 shall wear, affixed to the left arm, an armlet bearing the distinctive sign, issued and stamped by the military authority.

The personnel mentioned in Article 9, paragraphs 1 and 2, shall be provided with a certificate of identity, consisting either of an entry in their small book (paybook) or a special document.

The persons mentioned in Articles 10 and 11 who have no military uniform shall be furnished by the competent military authority with a certificate of identity, with photograph, certifying their status as medical personnel.

The certificates of identity shall be uniform and of the same pattern in each army.

In no case may the medical personnel be deprived of their armlets or of the certificates of identity belonging to them.

In case of loss they have the right to obtain duplicates.

RC 1946, p. 48 — GE 1947, p. 49.

Remarks

During the Conference of April, 1947, one delegation reserved their Government’s opinion as regards finger-prints. The June Experts proposed, should Governments object, that the words “or in default of the latter his autograph signature” should be added after the words “finger-prints of the holder”.

The ICRC believes that it would be regrettable not to make compulsory the apposing of finger-prints on the identity card.

ARTICLE 34

Medical units

The distinctive flag of the Convention shall be hoisted only over such medical units and establishments as are entitled to be respected under the Convention, and with the consent of the military authorities.

In mobile units, as in fixed establishments, it may be accompanied by
the national flag of the belligerent to whom the unit or establishment belongs.

Nevertheless, medical units which have fallen into the hands of the enemy shall fly no other flag than that of the Convention.

Belligerents shall take the necessary steps, so far as military considerations permit, to make clearly visible to the enemy land, air or sea forces the distinctive emblems indicating medical units and establishments, in order to avoid the possibility of any offensive action.

1929 Convention. Art. 22:

The distinctive flag of the Convention shall be hoisted only over such medical formations and establishments as are entitled to be respected under the Convention, and with the consent of the military authorities. In fixed establishments it shall be, and in mobile formations it may be accompanied by the national flag of the belligerent to whom the formation or establishment belongs.

Nevertheless, medical formations which have fallen into the hands of the enemy, so long as they are in that situation, shall not fly any other flag than that of the Convention.

Belligerents shall take the necessary steps, so far as military exigencies permit, to make clearly visible to the enemy forces, whether land, air or sea, the distinctive emblems indicating medical formations and establishments, in order to avoid the possibility of any offensive action.


**ARTICLE 35**

Neutral units

The medical units belonging to neutral countries, which may have been authorized to lend their services under the conditions laid down in Article 21, shall fly along with the flag of the Convention, the national flag of the belligerent to whom they are attached, should the latter make use of the faculty conferred on him by Article 34.

Subject to contrary orders by the responsible military authorities, they may, on all occasions, fly their national flag, even if they fall into the hands of the adverse party.

1929 Convention. Art. 23:

The medical units belonging to neutral countries which shall have been authorized to lend their services under the conditions laid down in Article 11, shall fly, along with the flag of the Convention, the national flag of the belligerent to whose army they are attached.

They shall also have the right, so long as they shall lend their services to a belligerent, to fly their national flag.

The provisions of the second paragraph of the preceding article are applicable to them.


**ARTICLE 36**

Restrictions and exceptions

With the exception of the cases mentioned in the last three Sections of the present Article, the emblem of the red cross on a white ground and the words “Red Cross”, or “Geneva Cross” may not be employed, either
in time of peace or in time of war, except to protect or to indicate the medical units and establishments, the personnel and material protected by the Convention. The same condition shall apply to the emblems mentioned in Article 31, Section 2, in respect of the countries which use them.

The Societies named in Article 20 shall have the right to use the distinctive emblem conferring the protection of the Convention, for all activities defined in the said Article.

National Red Cross Societies may at all times, in accordance with their national legislation, make use of the emblem for their other activities. In the latter case, the conditions for the use of the emblem, and in particular its size, shall be such that it cannot be considered as conferring the protection of the Convention.

Under the conditions fixed by the preceding paragraph, the International Red Cross organizations and their duly authorized personnel shall be similarly allowed to make use, at all times, of the emblem of the Red Cross on a white ground.

As an exceptional measure, in conformity with national legislation and with the express authority of one of the National Red Cross (Red Crescent, Red Lion and Sun) Societies, use may be made of the emblem of the Convention in time of peace to identify ambulances and to mark the position of aid stations exclusively reserved for the purpose of giving free treatment to the wounded or sick.

1929 Convention. Art. 24:

The emblem of the red cross on a white ground and the words “Red Cross”, or “Geneva Cross” shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical formation and establishments and the personnel and material protected by the Convention.

The same shall apply, as regards the emblems mentioned in Article 19, paragraph 2, in respect of the countries which use them.

The voluntary Aid Societies mentioned in Article 10 may, in accordance with their national legislation, use the distinctive emblem in connection with their humanitarian activities in time of peace.

As an exceptional measure, and with the express authority of one of the National Societies of the Red Cross (Red Crescent, Red Lion and Sun), use may be made of the emblem of the Convention in time of peace to mark the position of aid stations exclusively reserved for the purpose of giving free treatment to the wounded and sick.

1929 Convention. Art. 24:

The emblem of the red cross on a white ground and the words “Red Cross”, or “Geneva Cross” shall not be used, either in time of peace or in time of war, except to protect or to indicate the medical formation and establishments and the personnel and material protected by the Convention.

The same shall apply, as regards the emblems mentioned in Article 19, paragraph 2, in respect of the countries which use them.

The voluntary Aid Societies mentioned in Article 10 may, in accordance with their national legislation, use the distinctive emblem in connection with their humanitarian activities in time of peace.

As an exceptional measure, and with the express authority of one of the National Societies of the Red Cross (Red Crescent, Red Lion and Sun), use may be made of the emblem of the Convention in time of peace to mark the position of aid stations exclusively reserved for the purpose of giving free treatment to the wounded and sick.

RC 1946, p. 52 — GE 1947, p. 54.

Remarks

The RC Commission pointed out that the wording of the previous drafts of this Article was not clear, and the ICRC has endeavoured to make it more precise. It has, in particular, thought proper to insert a new clause (Art. 36, Sec. 2) which confirms that Voluntary Aid Societies attached to the Army Medical Service may use the distinctive emblem and thus enjoy treaty protection in respect of their work under the Convention. This stipulation is implied in Section 1. Nevertheless, in view of the wording of Section 3, which grants the use of the emblem to Red Cross Societies, without carrying protection, for their other
activities, it appeared necessary to stipulate clearly the case where they may use the emblem as a means of protection.

The words “and their duly authorized personnel” in Section 4 were added at the suggestion of the June Experts.

CHAPTER VIII

Execution of the Convention

ARTICLE 37

Details of execution

The belligerents, acting through their commanders-in-chief, shall ensure the detailed execution of the preceding Articles, and provide for unforeseen cases, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.

In no case shall reprisals be taken against the wounded and the sick, the buildings, personnel or equipment protected by the Conventions.

1929 Convention. Art. 26:

The Commanders-in-Chief of belligerent armies shall arrange the details for carrying out the preceding Articles, as well as for cases not provided for, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.


Remarks

Although Section 2 merely confirms an uncontested rule, this Section might be inserted in Chapter I of the Convention, thus giving it more weight.

ARTICLE 38

Publication of the Convention

The High Contracting Parties undertake to give the widest publicity in their respective countries, both in time of peace and in time of war, to the text of the present Convention, and especially to include the study of the latter among the subjects of the military and civilian syllabus, in order that its principles may be familiar to the entire population, and in particular to the armed fighting forces, the medical personnel and the chaplains.

1939 Convention. Art. 27:

The High Contracting Parties shall take the necessary steps to instruct their troops, and in particular the personnel protected, in the provision of the present Convention, and to bring them to the notice of the civil population.

GE 1947, p. 59.
CHAPTER IX

Repression of Abuses and Infractions

ARTICLE 39

Legislation

The legislation of the Contracting Parties shall repress all acts contrary to the stipulations of the present Convention.

The Contracting Parties shall communicate to one another, through the Swiss Federal Council, the provisions relating to such repression, not later than one year from the ratification of the present Convention.

1929 Convention. Art. 29:

The Governments of the High Contracting Parties shall also propose to their legislatures, should their penal laws be inadequate, the necessary measures for the repression in time of war, of any act contrary to the provisions of the present Conventions.

They shall communicate to one another, through the Swiss Federal Council, the provisions relative to such repression, not later than five years from the ratification of the present Convention.


Remarks

The ICRC have come to the conclusion that Art. 29, Sec. 1 of the 1929 Convention is redundant, in view of Art. 33, Sec. 2 of the draft established by the Government Experts in April 1947. This draft has been inserted in the present text, in a somewhat more imperative form; it replaces the wording of 1929 and will therefore not be reproduced in the following Article.

The time limit mentioned in Section 2 has been reduced from five years to one, as suggested by the RC Commission (1947).

ARTICLE 40

Penal sanctions

The Contracting Parties shall be under the obligation to search for persons charged with breaches of the present Convention, whatever their nationality. They shall further, in accordance with their national legislation or with the Conventions for the repression of acts considered as war crimes, refer them for trial to their own courts, or hand them over for judgment to another Contracting Party.

GE 1947, p. 63-64.

Remarks

The ICRC adopted here a somewhat different wording than that proposed by the Government Experts (1947). The ICRC considered that it was not sufficient merely to state that acts contrary to the Convention would be considered as war crimes, but that the means of repres-
sion should be foreseen. The solution advised here leaves the States entirely free to punish infractions, in obedience to the law of the land, and also allows reference of such cases to an International Penal Court, should the latter be established.

ARTICLE 41

Procedure

Indepedently of the procedure foreseen in Article 9, any High Contracting Party alleging a violation of the present Convention may demand the opening of an official enquiry.

This enquiry shall be carried out as soon as possible by a Commission instituted for each particular case, and comprising three neutral members selected from a list of qualified persons drawn up by the High Contracting Parties in time of peace, each Party nominating four such persons.

The plaintiff and defendant States shall each appoint one member of the Commission. The third member shall be designated by the other two, and should they disagree, by the President of the Court of International Justice or, should the latter be a national of a belligerent State, by the President of the International Committee of the Red Cross.

As soon as the enquiry is closed, the Commission shall report to the Parties concerned on the reality and nature of the alleged facts, and may make appropriate recommendations.

All facilities shall be extended by the High Contracting Parties to the Commission of enquiry in the fulfilment of its duties. Its members shall enjoy diplomatic privileges and immunities.

1929 Convention. Art. 30:

On the request of a belligerent, an enquiry shall be instituted in a manner to be decided between the interested parties, concerning any alleged violation of the Convention; when such violation has been established the belligerents shall put an end to and repress it as promptly as possible.

RC 1946, p. 54 — GE 1947, p. 64.

Remarks

Two adjunctions have been made to previous drafts, on the suggestion of the RC Commission (1947). The first was the nomination of the President of the ICRC as a substitute for the President of the Court of International Justice, should the latter be a national of a belligerent country. The second was to stipulate, in the last Section that members of commissions of enquiry should enjoy diplomatic privileges and immunities.

ARTICLE 42

Abuse of the Emblem

The High Contracting Parties whose legislation is at present not adequate for the purpose, shall take the necessary measures to prevent at all times:

(a) The use of the emblem or of the designation "Red Cross" or "Geneva
Cross” by private individuals, societies, firms or companies other than those entitled thereto under the present Convention, as well as the use of any sign or designation constituting an imitation, whatever the object of such use.

(b) By reason of the compliment paid to Switzerland by the adoption of the reversed Federal colours, the use by private individuals, societies, firms or companies of the arms of the Swiss Confederation or marks constituting an imitation, whether as trade-marks or commercial marks, or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment.

The States not party to the Convention of July 27, 1929 for the Relief of the Wounded and Sick in Armies in the Field, which may subsequently ratify the present Convention or adhere thereto, shall take the measures necessary to prevent at all times the acts mentioned under (a) and (b), in such a manner that the prohibition may become operative five years at latest after the said ratification or adhesion.

The prohibition to adopt a trade or commercial mark which is contrary to the above interdictions, already enacted by the Convention of July 27, 1929, is maintained.

In States not party to the present Convention, and which may subsequently ratify it or adhere thereto, it shall no longer be lawful as from the filing of the act of adhesion, to adopt a trade or commercial mark contrary to these prohibitions. Within five years, at most, from the coming into effect of the Convention, the trade-marks, commercial titles and names of associations or firms which are contrary to these prohibitions shall be amended, whatever the previous date of their adoption.

1929 Convention. Art. 28:

The Governments of the High Contracting Parties whose legislation is not at present adequate for the purpose, shall adopt or propose to their legislature the measures necessary to prevent at all times:

(a) The use of the emblem or designation “Red Cross” or “Geneva Cross” by private individuals or associations, firms or companies, other than those entitled thereto under the present Convention, as well as the use of any sign or designation constituting an imitation, for commercial or any other purposes;

(b) By reason of the compliment paid to Switzerland by the adoption of the reversed Federal colours, the use by private individuals or associations, firms or companies of the arms of the Swiss Confederation, or marks constituting an imitation, whether as trade-marks or as parts of such marks, or for a purpose contrary to commercial honesty, or in circumstances capable of wounding Swiss national sentiment.

The prohibition indicated in (a) of the use of marks or designations constituting an imitation of the emblem or designation of “Red Cross” or “Geneva Cross”, as well as the prohibition in (b) of the use of the arms of the Swiss Confederation or marks constituting an imitation, shall take effect from the date fixed by each legislature, and not later than five years after the coming into force of the present Convention. From the date of such coming into force, it shall no longer be lawful to adopt a trade-mark in contravention of these rules.

RC 1946, p. 52 — GE 1947, p. 60.
Remarks

The ICRC considered it more logical to place this Article, combating abuses in the commercial field, after the Articles condemning violation of major humanitarian principles.

Final Provisions

ARTICLE 43

Languages

The present Convention is established in French and in English. Both texts are equally authentic. In case of doubt as to the interpretation of any particular stipulation the French text shall be considered as authoritative.

ARTICLE 44

Signatures

The present Convention, which bears the date of this day, the . . . . is open to signature for a period of six months, i.e. until . . . . on behalf of all the Powers represented at the Conference which opened at Geneva on . . . . ; furthermore, by Powers not represented at that Conference but which are parties to the Geneva Conventions of 1864, 1906 or 1929 for the Relief of the Wounded and Sick in Armies in the Field.

ARTICLE 45

Ratifications

The present Convention shall be ratified as soon as possible. The ratifications shall be deposited at Berne.

A procès-verbal of the deposit of each instrument of ratification shall be drawn up, one copy of which, certified to be correct, shall be transmitted by the Swiss Federal Council to the Governments of all Powers on whose behalf the Convention has been signed, or whose accession has been notified.

ARTICLE 46

Coming into force

The present Convention shall come into force six months after two instruments of ratification at least have been deposited.

Thereafter, it shall come into force for each High Contracting Party six months after the deposit of its instrument of ratification.

ARTICLE 47

Effects on previous Conventions

The present Convention shall replace the Conventions of August 22, 1864, July 6, 1906, and July 27, 1929, in relations between the High Contracting Parties.

1 As the Final Provisions of the 1929 Convention elicited no criticism, the ICRC has given them below with only slight amendments.
ARTICLE 48

Accession

From the date of its coming into force, the present Convention shall be open to accession duly notified on behalf of any Power in whose name this Convention has not been signed.

ARTICLE 49

Notification of accession

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received.

The Swiss Federal Council shall communicate the accessions to the Governments of all the Powers on whose behalf the Convention has been signed or whose accession has been notified.

ARTICLE 50

Immediate effect

The situations defined in Article 2 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the outbreak of hostilities. The Swiss Federal Council shall communicate by the quickest method any ratifications or adhesions received from Parties to the conflict.

ARTICLE 51

Denunciation

Each of the High Contracting Parties shall be at liberty to denounce the present Convention. The denunciation shall not take effect until one year after the notification thereof in writing has been made to the Swiss Federal Council. The latter shall communicate such notification to the Governments of all the High Contracting Parties.

The denunciation shall have effect only in respect of the High Contracting Party which has made notification thereof.

Such denunciation shall not take effect during a conflict in which the denouncing Power is involved. In such a case, the present Convention shall continue binding beyond the period of one year, until the conclusion of peace, and in any case until the operations connected with the release, repatriation or establishment of the persons protected by the present Convention are terminated.

ARTICLE 52

Communication to the United Nations

A certified copy of the present Convention shall be deposited in the archives of the United Nations by the Swiss Federal Council. Similarly, ratifications, accessions and denunciations which are notified to the Swiss Federal Council shall be communicated by them to the United Nations.
STIPULATIONS FOR INSERTION
IN THE FINAL ACT OF THE FUTURE
DIPLOMATIC CONFERENCE

The two following recommendations, which were approved by the
Government Experts (1947), could be included in the Final Act of the
Diplomatic Conference called upon to give the Geneva Convention
its definite form:

(1) Whereas Article 33, concerning the identity documents to be
carried by the medical personnel, was only partially observed
during the course of the recent war, thus creating serious difficulties
for many members of this personnel, the Conference recommends
that States and National Red Cross Societies should take all neces-
sary steps in time of peace to have medical personnel duly provided
with the badges and identity cards prescribed by Article 33 of the
new Convention.

GE 1947, p. 51.

(2) Whereas many breaches have occurred in respect of the use of the
Red Cross emblem, the Conference recommends that States should
take strict measures to ensure that the said emblem is used only
within the bounds prescribed by the Geneva Conventions, in order
to safeguard its authority and to protect its high significance.

GE 197, p. 58.

The ICRC also considers it desirable that the Diplomatic Conference
should study (in view of a possible recommendation in the Final Act)
the problem which arose during the recent War in connexion with the
voluntary or compulsory enrolment in the medical service or the Red
Cross of an occupying, country, of nationals of occupied or annexed
territories. After the close of the war such persons incurred heavy
penalties by virtue of the penal legislation of their home countries. The
spirit of the Geneva Convention, which demands that relief should be
given to all war victims irrespective of nationality, is opposed to the
assimilation of such persons to those who take up arms against their
country. The question thus arises whether it could not be ensured, by
appropriate means remaining to be found, that these persons shall not
be liable to penalties for having afforded such humanitarian assistance,
at least when they can show that they were not in a position to pursue
their usual work in a national unit.
REVISION OF THE TENTH HAGUE CONVENTION,
OF OCTOBER 18, 1907
FOR THE ADAPTATION TO MARITIME
WARFARE OF THE PRINCIPLES OF THE GENEVA CONVENTION
OF JULY 6, 1906

TITLE
CONVENTION (date...) FOR THE RELIEF OF WOUNDED, SICK
AND SHIPWRECKED OF ARMED FORCES ON SEA

CHAPTER I
General Provisions

ARTICLE 1

Respect of the Convention

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

(See Art. 1, Draft Sick and Wounded Convention, p. 4.)

ARTICLE 2

Application of the Convention

Beyond the stipulations to be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even should the state of war not be recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even should the said occupation meet with no armed resistance.

Should one of the Powers in conflict not be party to the present Convention, the Powers who are party thereto shall, nevertheless, be bound by it in their mutual relations.

In all cases of armed conflict which are not of an international character, especially cases of civil war, colonial conflicts, or wars of religion, which may occur in the territory of one or more of the High Contracting Parties the implementing of the principles of the present Convention shall be
Obligatory character. The application of the Convention in these circumstances shall in no wise depend on the legal status of the parties to the conflict and shall have no effect on that status.

(See Art. 2, Draft Sick and Wounded Convention, p. 5.)

**ARTICLE 3**

In case of warlike operations between land and naval forces of belligerents, the provisions of the present Convention shall apply only to forces on board ship.

Forces put ashore shall immediately become subject to the provisions of the Geneva Convention (date...) for the Relief of Sick and Wounded in Armies in the Field.

ART. 22 (1907). — In case of hostilities between belligerent land and naval forces, the provisions of the present Convention apply only to forces on board.

GE. p. 100.

**ARTICLE 4**

Neutral Powers shall apply the stipulations of the present Convention by analogy to the wounded and sick, as also to members of the medical personnel and to chaplains, who are members of belligerent armies and who may be interned in their territories.

(See Art. 3, Draft Sick and Wounded Convention, p. 6.)

**ARTICLE 5**

Besides the agreements expressly foreseen by Articles 12, 18 and 24, the Parties to the conflict may conclude special agreements on all matters for which they may consider it desirable to make particular provision. These agreements shall in no case adversely affect the situation of the wounded and sick, or of the members of medical personnel and of chaplains, as defined by the present Convention, nor impair the rights which it grants them.

Wounded and sick, as also members of medical personnel and chaplains shall benefit by these agreements as long as the Convention is applicable to them, subject to express stipulations to the contrary in the said or subsequent agreements, or again subject to more favourable measures taken in their behalf by one or other of the Parties to the conflict.

(See Art. 4, Draft Sick and Wounded Convention, p. 7.)

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Acquired rights
Wounded and sick, as also members of the medical personnel and chaplains may in no circumstances be induced by constraint or by any other means of coercion, to abandon partially or wholly the rights conferred on them by the present Convention, and, should the case arise, by the special agreements foreseen in the preceding Article.

(See Art. 5, Draft Sick and Wounded Convention, p. 7.)

Protecting Powers
The present Convention shall be applied with the co-operation and under the control of the Protecting Powers, whose duty it is to safeguard the interests of the Parties to the conflict. To this end, the Protecting Powers, may appoint, besides their diplomatic staff, delegates among their own nationals, or among nationals of other neutral Powers. These delegates shall be subject to the approval of the Power in whose territory they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

(See Art. 6, Draft Sick and Wounded Convention, p. 8.)

Activities of the International Committee of the Red Cross
The provisions of the present Convention do not constitute an obstacle to the humanitarian activities which the International Committee of the Red Cross may undertake for the protection of wounded and sick, of members of the medical personnel and of chaplains, and for their relief, subject to the consent of the Parties to the conflict who may be concerned.

(See Art. 7. Draft Sick and Wounded Convention, p. 8.)

Substitutes for Protecting Powers
The Contracting Parties may, at all times, agree to entrust to a body which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

Moreover, if wounded and sick, or members of the medical personnel and chaplains do not benefit, or cease to benefit by the activities of a Protecting Power or of the said body, the Party to the conflict in whose hands they may be, shall be under the obligation to make up for this lack of protection by inviting either a neutral State or an impartial humanitarian agency, such as the International Committee of the Red Cross, to assume in their behalf the duties devolving by virtue of the present Convention on the Protecting Powers.

Whenever the Protecting Power is named in the present Convention,
such reference also designates the organizations replacing it under the terms of the present Article.

(See Art. 8, Draft Sick and Wounded Convention, p. 8.)

ARTICLE 10

Procedure of conciliation

Whenever they consider it desirable in the interest of wounded and sick, and of members of medical personnel and chaplains, especially if the Parties to the conflict do not agree regarding the application of the provisions of the present Convention, the Protecting Powers shall lend their good offices with the object of facilitating such application.

To this end, each of the Protecting Powers may, either at the invitation of one Party or of its own motion, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the sick and wounded, the medical personnel and the chaplains, ultimately on suitably chosen neutral territory. The Parties to the conflict shall be required to give effect to the proposals made to them in this sense. The Protecting Powers may, if necessary, submit to the approval of the Parties to the conflict the name of a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to participate in this meeting.

(See Art. 9, Draft Sick and Wounded Convention, p. 9.)

CHAPTER II

Wounded, Sick and Shipwrecked

ARTICLE 11

Protection and care

Members of the land, sea and air forces and persons designated in Article 3 of the Convention relative to the Treatment of Prisoners of War who may be on sea and who are wounded, sick or shipwrecked, shall be respected and protected in all circumstances. They shall be treated with humanity and cared for by the belligerent in whose power they may be, without any distinction of race, nationality, religion or political opinions, or any other distinction founded on similar criteria. Discriminatory treatment is permissible only for medical reasons. Women shall be treated with all consideration due to their sex.

(See Art. 10, Draft Sick and Wounded Convention, p. 9.)

1907 Convention. Art. 11:

Sailors and soldiers on board, when sick or wounded, as well as other persons officially attached to fleets or armies, whatever their nationality, shall be respected and tended by the captors.

RC 1946, p. 57. — GE 1947, p. 76.
Remarks

The draft adopted by the Preliminary Conference (1946) and the Government Experts (1947) comprised a section running as follows: "The benefit of the foregoing provisions shall also be extended to wounded, sick and shipwrecked of all vessels which are victims of hazards of war". The ICRC considered it preferable to omit this provision here, with a view to its inclusion in the new Convention for the protection of Civilians.

ARTICLE 12

Subject to the provisions of the preceding Article, the wounded, sick and shipwrecked of a belligerent who fall into enemy hands shall be prisoners of war, and the provisions of international law concerning prisoners of war shall be applicable to them. The captor may decide, according to circumstances, whether they shall be held, sent to a port of his home country, to a neutral port, or even to an enemy port. In the last case, prisoners thus returned to their home country may not serve again for the duration of the war.

(See Art. 11, Draft Sick and Wounded Convention, p. 10.)

1907 Convention. Art. 14:

The shipwrecked, wounded, or sick of one of the belligerents who fall into the power of the other belligerent are prisoners of war. The captor must decide, according to circumstances, whether to keep them, send them to a port of their own country, to a neutral port, or even to an enemy port. In this last case, prisoners thus repatriated cannot serve again while the war lasts.

GE 1947, page 78.

ARTICLE 13

All warships of a belligerent Party shall have the right to demand the surrender of the wounded, sick or shipwrecked on board military hospital ships, hospital ships of relief societies or private individuals, merchant vessels, yachts and other craft, whatever their nationality, provided that the state of the wounded and sick permits.

1907 Convention. Art. 12:

Any warship belonging to a belligerent may demand that sick, wounded or shipwrecked men on board military hospital-ships, hospital-ships belonging to relief societies or to private individuals, merchant ships, yachts, or boats, whatever the nationality of these vessels, shall be handed over.

GE 1947, page 79.

Remarks

For medical considerations, the ICRC thought it necessary to add, at the end of this Article, the words "provided that the state of the wounded or sick permits".
ARTICLE 14

If wounded, sick or shipwrecked persons are taken on board a neutral warship, it shall be ensured that they can take no further part in operations of war.

1907 Convention. Art. 13:

If sick, wounded, or shipwrecked persons are taken on board a neutral warship every possible precaution must be taken that they do not again take part in operations of war.

GE 1947, p. 79.

ARTICLE 15

Wounded, sick or shipwrecked persons who are landed by the warships of the belligerents at neutral ports, with the consent of the local authorities, shall, failing contrary arrangements between the neutral and belligerent Powers, be so guarded by the neutral Power that they cannot again take part in operations of war.

The costs of hospital accommodation and internment shall be borne by the Power to whom the wounded, sick or shipwrecked persons belong.

If wounded, sick or shipwrecked persons are landed in a neutral port by neutral and private merchant ships, vessels, yachts or aircraft, which have assumed no obligation towards one of the belligerent Powers, the said wounded, sick or shipwrecked persons shall be free.

All warships arriving in a neutral port shall have the option, with the consent of the neutral Power, of landing wounded, sick or shipwrecked persons who may be on board.

1907 Convention. Art. 15:

The shipwrecked, sick, or wounded, who are landed at a neutral port with the consent of the local authorities, must, unless an arrangement is made to the contrary between the neutral State and the belligerent States, be guarded by the neutral State, so as to prevent them again taking part in the operations of the war.

The expenses of tending them in hospital and internment shall be borne by the State to which the shipwrecked, sick, or wounded persons belong.

GE 1947, page 80.

ARTICLE 16

After each engagement, belligerents shall without delay take all possible measures to search for and collect the shipwrecked, wounded and sick, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead and prevent their being despoiled.

(See Art. 12, Draft Sick and Wounded Convention, p. 11.)
After every engagement, the two belligerents, so far as military interests permit, shall take steps to look for the shipwrecked, sick and wounded, and to protect them, as well as the dead, against pillage and ill-treatment.

GE 1947, page 83.

ARTICLE 17

Belligerents shall communicate to each other as soon as possible, according to the procedure described in Article 77 of the 1929 Convention relative to the treatment of Prisoners of War, the names of the wounded, sick, shipwrecked and dead discovered and collected, together with any indications which may assist in their identification.

They shall establish and forward to each other, by the same channel, certificates of death or, in lieu thereof, duly authenticated lists of the dead.

They shall likewise collect and exchange by the same channel, all articles of a personal nature having an intrinsic or sentimental value found in captured vessels or on the dead, especially one-half of their identity discs, which should be of a standard pattern, the other half to remain attached to the body.

Bodies shall not be cremated, except for imperative reasons of hygiene or for religious motives. In case of cremation, the circumstances and motives which made it necessary shall be stated in detail in the death certificate of the cremated person.

Belligerents shall ensure that burial on land or at sea, or cremation of the dead is preceded by a careful, and if possible medical examination of the bodies, with a view to confirming death, establishing identity and enabling a report to be made.

They shall further ensure that the dead are honourably interred, if possible according to the rites of the religion to which they belonged, that their graves are respected, assembled if possible and marked so that they may always be found. To this end, at the commencement of hostilities, they shall organize an official graves registration service, in order to allow ultimate exhumations and to ensure the identification of bodies, whatever the subsequent site of the grave, and the possible transportation to the home country. These stipulations also apply, as far as may be, to the ashes, which shall be kept by the graves registration service until the end of hostilities.

As soon as circumstances permit, and at latest at the close of hostilities, they shall exchange a list of graves and of dead interred in their cemeteries and elsewhere.

Should wounded, sick, shipwrecked or dead be collected by neutrals, the latter shall assume as regards the belligerents the obligations indicated in the preceding sections.

(See Art. 13, Draft Sick and Wounded Convention, p. 11.)
Appeals to merchant and private vessels

The belligerents may appeal to the charity of commanders of neutral merchant vessels, yachts or other craft, in order to take on board and care for wounded, sick or shipwrecked persons, and to collect the dead.

Vessels responding to this appeal, and those having of their own accord collected wounded, sick or shipwrecked persons shall benefit by special protection and facilities to carry out such assistance.

They may in no case be captured on account of such transport; in the absence of promises to the contrary they shall, however, remain liable to capture for any violations of neutrality they may have committed.

(See Art. 14, Draft Sick and Wounded Convention, p. 12.)

1907 Convention. Art. 9:

Belligerents may appeal to the charity of the commanders of neutral merchant ships, yachts, or boats to take on board and tend the sick and wounded.

Vessels responding to this appeal, and also vessels which have of their own accord rescued sick, wounded or shipwrecked men, shall enjoy special protection and certain immunities. In no case can they be captured for having such persons on board, but, apart from special undertakings that have been made to them, they remain liable to capture for any violations of neutrality they may have committed.

GE 1947, p. 85.

CHAPTER III

Hospital Ships

ARTICLE 19

Military hospital ships, that is to say, ships built or equipped by the Powers specially and solely with a view to assisting the wounded, sick and shipwrecked, and whose names and description have been communicated to the belligerent Powers at the commencement or during hostilities, in any case before they are employed, may in no circumstances be attacked, but shall at all times be respected and protected by the belligerents, and cannot be captured.

(See Art. 15, Draft Sick and Wounded Convention, p. 13.)

1907 Convention. Art. 1, Sect. 1:

Military hospital ships, that is to say, ships constructed or assigned by States specially and solely with a view to assisting the wounded, sick and shipwrecked, the names of which have been communicated to the belligerent Powers at the commencement or during the course of hostilities, and in any case before they are employed, shall be respected, and can not be captured while hostilities last.

GE 1947, page 86.
ARTICLE 20

Hospital ships belonging to the Red Cross or to private persons

Hospital ships utilised by National Red Cross Societies, officially recognised relief societies or private persons shall likewise be respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and notified their names to the adverse Power, at the commencement or during the course of hostilities, and in any case before they are employed.

These ships must be provided with certificates from the responsible authorities, stating that the vessels have been under their control while fitting out and on final departure.

1907 Convention. Art. 2:

Hospital ships, equipped wholly or in part at the expense of private persons or officially recognised relief societies, shall be likewise respected and exempt from capture, if the belligerent Power to whom they belong has given them an official commission and has notified their names to the hostile Power at the commencement of or during hostilities, and in any case before they are employed.

These ships must be provided with a certificate from the competent authorities declaring that the vessels have been under their control while fitting out and on final departure.


ARTICLE 21

Hospital ships belonging to neutral countries

Hospital ships utilised by National Red Cross Societies, officially recognised relief societies, or private persons of neutral countries shall be respected and exempt from capture, on condition that they have placed themselves under the control of one of the belligerents, with the previous consent of their own Governments and with the authorization of the belligerent himself, and that the latter has notified their names to the adversary, at the commencement, or during the course of hostilities, and in any case before they are employed.

1907 Convention. Art. 3:

Hospital ships, equipped wholly or in part at the expense of private individuals or officially recognized societies of neutral countries shall be respected and exempt from capture, on condition that they are placed under the control of one of the belligerents, with the previous consent of their own Government and with the authorization of the belligerent himself, and that the latter has notified their names to his adversary at the commencement of or during hostilities, and in any case, before they are employed.


ARTICLE 22

Employment

The ships mentioned in Article 19, 20 and 21 shall afford relief and assistance to the wounded, sick and shipwrecked of the belligerents, without distinction of nationality.
Governments undertake not to use these ships for any military purpose. These vessels shall in no wise hamper the movements of the combatants. During and after an engagement, they will act at their own risk.

1907 Convention. Art. 4:
The ships mentioned in Articles 1, 2, and 3 shall afford relief and assistance to the wounded, sick, and shipwrecked of the belligerents without distinction of nationality.
The Governments undertake not to use these ships for any military purpose. These vessels must in no wise hamper the movements of the combatants. During and after an engagement they will act at their own risk and peril. The belligerents shall have the right to control and search them; they can refuse to help them, order them off, make them take a certain course, and put a commissioner on board; they can even detain them, if important circumstances require it.
As far as possible, the belligerents shall enter in the log of the hospital ships the orders which they give them.


ARTICLE 23

Rights of belligerents
The belligerents shall have the right to control and search the vessels mentioned in Articles 19, 20 and 21. They can refuse them help, order them off, make them take a certain course, and temporarily put a commissioner on board; they can even detain them for a maximum period of seven days, if the gravity of the circumstances requires.
As far as possible, the belligerents shall enter in the log of the hospital ship, in a language intelligible to the captain of the vessel, the orders they give him.
Belligerents may, either unilaterally or by particular agreements, put on board their hospital ships neutral observers who shall verify the strict observation of the stipulations contained in the present Convention.

1907 Convention. Art. 4:
See above.


ARTICLE 24

Stay in neutral ports
Vessels mentioned in Articles 19, 20 and 21 are not assimilated to warships as regards their stay in a neutral port.

1907 Convention. Art. 1, Sect. 2:
These ships, moreover, are not on the same footing as warships as regards their stay in a neutral port.

GE 1947, p. 91.
Transformation of merchant vessels

Merchant vessels which have been transformed into hospital ships cannot be put to any other use throughout the duration of hostilities.

GE 1947, p. 91.

ARTICLE 26

Withdrawal of protection

The protection to which hospital ships and sick-bays are entitled shall cease only if they are used to commit acts harmful to the enemy, and after due warning, naming a reasonable time-limit and remaining without effect.

In particular, hospital ships provided with wireless or any other means of communication shall not be in possession of a secret code. All their communications shall be made in clear.

The following conditions shall not be considered as justifying the withdrawal of protection:

(1) The fact that the crew of these ships is armed for the maintenance of order and for the defence of the sick and wounded.

(2) The presence on board of apparatus exclusively intended to facilitate navigation or communication.

(3) The discovery on board hospital ships or in sick-bays of portable arms and ammunition taken from the wounded, sick and shipwrecked, and which have not yet been handed to the proper service.

(4) The fact that the humanitarian activities of hospital ships and sick-bays or of the crews extend to the care of wounded, sick or shipwrecked civilians.

(See Art. 16 and 17, Draft Sick and Wounded Convention, p. 14.)

1907 Convention. Art. 8:

Hospital ships and sick wards of vessels are no longer entitled to protection if they are employed for the purpose of injuring the enemy.

The fact of the staff of the said ships and sick wards being armed for maintaining order and for defending the sick and wounded, and the presence of wireless telegraphy apparatus on board, is (are) not sufficient reason(s) for withdrawing protection.


CHAPTER IV

Personnel

ARTICLE 27

Protection and status

The religious, medical and hospital personnel of hospital ships and their crews shall be respected and protected; they may not be captured during
the time they are pursuing their duties, whether or no there are wounded and sick on board.

(See Art. 19, Draft Sick and Wounded Convention, p. 15.)

1907 Convention. Art. 10:

The religious, medical and hospital staff of any captured ship is inviolable, and its members cannot be made prisoners of war. On leaving the ship they take away with them the objects and surgical instruments which are their own private property.

This staff shall continue to discharge its duties while necessary, and can afterwards leave, when the commander-in-chief considers it possible.

The belligerents must guarantee to the said staff, when it has fallen into their hands, the same allowances and pay which are given to the staff of corresponding rank in their own navy.

GE 1947, p. 92.

**ARTICLE 28**

Medical staff of captured ships

The religious, medical and hospital personnel of any captured ship shall be respected and protected; they may continue to carry out their duties as long as this is necessary for the care of wounded and sick.

On landing, they shall be subject to the stipulations provided for captured hospital staff by the Geneva Conventions and by the Eleventh Hague Convention of 1907.

(See Art. 22 and 23, Draft Sick and Wounded Convention, p. 17-18.)

GE 1947, p. 93.

**CHAPTER V**

**Material**

**ARTICLE 29**

Protection of sick-bays

Should fighting occur on board warships, the sick-bays shall be respected and spared as far as possible. Sick-bays and their equipment shall remain subject to the laws of warfare, but they may not be diverted from their purpose so long as they are required for the wounded and sick. The commander into whose power they have fallen may, after ensuring the proper care of the wounded and sick who are nursed there, apply them to other purposes in case of urgent military necessity.

(See Art. 26, Draft Sick and Wounded Convention, p. 20.)

1907 Convention. Art. 7:

In case of a fight on board a warship, the sick ward shall be respected and spared as far as possible.
The said sick wards and the material belonging to them remain subject to the laws of war; they cannot, however, be used for any purpose other than that for which they were originally intended, so long as they are required for the sick and wounded.

The commander into whose power they have fallen may, however, apply them to other purposes, if the military situation requires it, after seeing that the sick and wounded on board are properly provided for.

GE 1947, p. 93.

CHAPTER VI

Medical Transport

ARTICLE 30

Medical aircraft

The provisions of Articles 29 and 30 of the Geneva Convention are applicable in case of hostilities at sea, in particular as regards seaplanes used as medical aircraft.

Belligerents may conclude agreements to ensure the benefit of the said Convention to medical aircraft entrusted with the search and transport of wounded, sick and shipwrecked at sea.

(See Art. 29 and 30, Draft Sick and Wounded Convention, p. 22-23.)

GE 1947, p. 94.

ARTICLE 31

Transport of medical equipment

Hospital ships, and all ships chartered to this end shall be authorized to transport medical equipment, provided their routes and tasks have been notified to the adverse Power. The latter, duly advised, shall keep the right to board, but not to capture them.

In agreement with the belligerents, neutral observers may be placed on board these ships to verify the medical equipment carried.

On their return journey, hospital ships, having neither sick nor wounded on board, may transport only medical personnel or supplies.

(See Art. 28, Draft Sick and Wounded Convention, p. 21.)

GE 1947, page 95.

Remarks

The wording of Section 3, which differs somewhat from previous drafts, is that of the RC Commission (1947).
CHAPTER VII

The Distinctive Emblem

ARTICLE 32

The emblem of the Red Cross shall be displayed on the flags, armlets and all equipment belonging to the Medical Service, with the consent of the responsible military authority.

(See Art. 31, Draft Sick and Wounded Convention, p. 23.)

GE 1947, p. 96.

ARTICLE 33

The personnel named in Articles 27 and 28 shall wear, affixed to the left arm, a water-resistant armlet, bearing the distinctive emblem, issued and stamped by the military authority.

Such personnel shall also carry an identity card attesting their status, which can be put in the pocket. It shall be water-resistant, bear the photograph and finger-prints of the owner, and be embossed with the stamp of the military authority.

The identity card shall be uniform throughout the same armed forces, and, as far as possible, of a similar type in the armed forces of the Contracting Parties. At the outbreak of hostilities, belligerents shall inform each other of the model in use in their armed forces.

All identity cards shall be established at least in duplicate, one copy to be given to the owner and the other kept by the Power of origin.

In no circumstances may the said personnel be deprived of their armlets or identity cards. In case of loss, they are entitled to duplicates.

(See Art. 33, Draft Sick and Wounded Convention, p. 24.)

GE 1947, p. 96.

ARTICLE 34

The ships referred to in Article 19, 20 and 21 shall be distinguished by being painted white outside, with a horizontal red band about a metre and a half in breadth.

The boats of the said ships, as also small craft which may be used for hospital work, shall bear similar markings.

The decks, funnels, and superstructures of the ships mentioned in Section 1 shall be painted white and bear large red crosses, so as to render the distinctive emblem plainly visible to the enemy land, air, and naval forces.

All hospital ships shall, make themselves known by hoisting, besides their national flag, the white flag with a red cross, and further, should they belong
to a neutral State, by flying at the mainmast the national flag of the belligerent whose control they have accepted.

Hospital ships provisionally detained by the enemy in accordance with Article 23, shall haul down the national flag of the belligerent to whom they belong.

The said ships and craft which may wish to ensure by night the privileges to which they are entitled must, subject to the assent of the belligerent they are accompanying, take the necessary measures to render their painting and distinctive emblems sufficiently apparent.

(See Art. 34, Draft Sick and Wounded Convention, p. 24.)

1907 Convention. Art. 5:

Hospital-ships shall be distinguished by being painted white outside with a horizontal band of green about a meter and a half in breadth.

The ships mentioned in Articles 2 and 3 shall be distinguished by being painted white outside with a horizontal band of red about a meter and a half in breadth.

The boats of the ships above mentioned, as also small craft which may be used for hospital work, shall be distinguished by similar painting.

All hospital-ships shall make themselves known by hoisting, with their national flag, the white flag with a red cross provided by the Geneva Convention, and further, if they belong to a neutral State, by flying at the mainmast the national flag of the belligerent under whose control they are placed.

Hospital-ships which, in the terms of Article 4, are detained by the enemy, must haul down the national flag of the belligerent to whom they belong.


CHAPTER VIII

Execution of the Convention

ARTICLE 35

The belligerents, acting through their admirals-in-chief of the fleet, shall ensure the detailed execution of the preceding Articles, and shall provide for unforeseen cases, in accordance with the instructions of their Governments and in conformity with the general principles of the present Conventions.

In no case shall reprisals be taken against the wounded, sick and shipwrecked persons, vessels, personnel or equipment protected by the Convention.

(See Art. 37, Draft Sick and Wounded Convention, p. 27.)

1907 Convention. Art. 19:

The commanders-in-chief of the belligerent fleets must see that the above articles are properly carried out; they will have also to see to cases not covered thereby, in accordance with the instructions of their respective Governments and in conformity with the general principles of the present Convention.
ARTICLE 36

Publication of the Convention

The High Contracting Parties undertake to give the widest publicity in their respective countries, both in time of peace and in time of war, to the text of the present Convention, and especially to include the study of the latter among the subjects of the military and civilian syllabus, in order that its principles may be familiar to the entire population, and in particular to the armed fighting forces, the medical personnel and the chaplains.

(See Art. 38, Draft Sick and Wounded Convention, p. 27.)

1907 Convention. Art. 20:

The signatory Powers shall take the necessary measures for bringing the provisions of the present Convention to the knowledge of their naval forces, and especially to the members entitled thereunder to immunity, and for making them know to the public.


CHAPTER IX

Repression of Abuses and Infractions

ARTICLE 37

Legislation

The legislation of the contracting States shall repress all acts contrary to the stipulations of the present Convention. The abuse of the distinctive markings named in Article 34 by vessels not protected by the present Convention shall be prosecuted as an unlawful adoption of military markings.

The contracting States shall communicate to one another, through the Swiss Federal Council, the provisions relating to such repression, not later than one year from the ratification of the present Convention.

(See Art. 39, Draft Sick and Wounded Convention, p. 28.)

1907 Convention. Art. 21:

The signatory Powers likewise undertake to enact or to propose to their legislatures, if their criminal laws are inadequate, the measures necessary for checking in time of war individual acts of pillage and ill-treatment in respect to the sick and wounded in the fleet, as well as for punishing, as an unjustifiable adoption of naval or military marks, the unauthorised use of the distinctive marks mentioned in Article 5 by vessels not protected by the present Convention.

They will (shall) communicate to each other, through the Netherlands Government, the enactments for preventing such acts, at the latest within five years of the ratification of the present Convention.

Penal sanctions

The contracting Parties shall be under the obligation to search for persons charged with breaches of the present Convention, whatever their nationality. They shall further, in accordance with their national legislation or with the Conventions for the repression of acts considered as war crimes, refer them for trial to their own courts, or hand them over for judgment to another Contracting Party.

(See Art. 40, Draft Sick and Wounded Convention, p. 29.)

Procedure of enquiry

Independently of the procedure foreseen in Article 9, any High Contracting Party alleging a violation of the present Convention may demand the opening of an official enquiry.

This enquiry shall be carried out as soon as possible by a Commission instituted for each particular case, and comprising three neutral members selected from a list of qualified persons, drawn up by the High Contracting Parties in time of peace, each Party nominating four such persons.

The plaintiff and defendant States shall each appoint one member of the Commission. The third member shall be designated by the other two and, should they disagree, by the President of the Court of International Justice, or should the latter be a national of a belligerent State, by the President of the International Committee of the Red Cross.

As soon as the enquiry is closed, the Commission shall report to the Parties concerned on the reality and nature of the alleged facts, and may make appropriate recommendations.

All facilities shall be extended by the High Contracting Parties to the Commission of enquiry in the fulfilment of its duties. The members thereof shall enjoy diplomatic privileges and immunities.

(See Art. 41, Draft Sick and Wounded Convention, p. 29.)

Final Provisions

Here follow Articles 40 to 49 inclusive, which correspond to Articles 43 to 52 of the Draft Sick and Wounded Convention. (See pp. 31-32.) In Article 44 (corresponding to Article 47 of the above Convention) the Conventions quoted shall be replaced by: “The Tenth Convention of the Hague of October 18, 1907, for the adaptation to maritime warfare of the principles of the Geneva Convention of 1906.”