

# CENTENARY CONGRESS OF THE INTERNATIONAL RED CROSS

Geneva. 28 August - 10 September 1963

## COUNCIL OF DELEGATES

### INTERNATIONAL HUMANITARIAN LAW COMMISSION

#### Minutes of Meetings on Monday, 2nd September

##### Morning Session, at 10.45 a.m.

Mr. Pilloud, Assistant Secretary to the Council of Delegates, opened the meeting and invited the Commission to nominate its Chairman.

After several suggestions had been put forward, the Commission unanimously elected as Chairman Mr. Sloper, General Delegate of the Brazilian Red Cross in Europe and Acting Governor of the League. Mr. Keola of the Lao Red Cross, Minister of Public Health, was elected Vice-Chairman.

Mr. Reid, Assistant Secretary General of the British Red Cross, was appointed Rapporteur and Mr. Wilhelm, Legal Adviser to the ICRC, Secretary to the Commission.

After adopting the provisional Agenda submitted to it, the Commission proceeded to discuss item 2 (Implementation and Dissemination of the Geneva Conventions). The Report prepared on this subject by the ICRC was presented by Mr. Pictet, its Director for General Affairs, who also submitted two draft resolutions.

Discussion opened with consideration of the ICRC's Report. Several National Societies spoke on the subject; they congratulated the Committee on its Report, described the action taken in their countries for the dissemination of the Conventions, and emphasized the need for increased activity in this direction.

The two draft resolutions were then discussed, and several Red Cross representatives put forward proposals for the resolution relating to the application of the Geneva Conventions by the United Nations Emergency Forces to be worded in stronger terms.

In the light of these various proposals, the Chairman considered it useful to appoint a small Drafting Group to bring these amendments into line.

Afternoon Session, at 3 p.m.

As the Drafting Group appointed in the morning had not yet finished its work, consideration of its proposals was postponed until the Meeting on Tuesday morning. The Commission then expressed its opinion on the second resolution of the ICRC, which asked National Societies to approach their Governments in order to ensure in particular as wide a dissemination as possible of the Geneva Conventions. This resolution was unanimously approved after a slight amendment to the last paragraph had been made.

The Commission then examined a Yugoslav resolution requesting the International Committee to assemble information from Governments on the legislation introduced to suppress violations of the Geneva Conventions.

In the course of the ensuing discussion it was proposed to make it clear that this resolution did not prevent the ICRC from conducting an inquiry on other legislation; on this understanding the resolution was adopted without amendment.

The Commission then took up Item 3 of its Agenda (Protection of civil populations) and Colonel (Corps Commander) Gonard (a member of the ICRC) made comments on the Report submitted by the ICRC on Item 3 a) (Legal Protection against the Danger of Indiscriminate Warfare).

After these comments the representative of the Yugoslav Red Cross stressed the importance of the question and the need for the ICRC to continue its work in this field; the representative of the Japanese Red Cross expressed the wish that a possible declaration of principles should emphasise that the spirit of the Geneva Convention already applied in peacetime. The Commission thanked the ICRC for its Report on this Item and approved it.

The Commission then studied Item 3 b) of the Agenda: Status of Personnel of Civil Defence Services. Mr. Wilhelm (ICRC) submitted the ICRC's Report on this Item and added that his organisation had also given Delegates - for their information - a document emanating from the Federal Political Department. The Commission then discussed the ICRC's Report. The representative of the Netherlands Red Cross thought that there was a certain confusion in one passage of this Report and made a reservation with regard to the attitude of his Government. The French Red Cross, for its part, expressed the wish that the ICRC, in its efforts to provide regulations, should safeguard the position of the personnel of National Societies, which, without being incorporated in civil defence, come to the assistance of populations in the event of armed conflicts.

Following an observation by the Japanese representative concerning the term "Civil Defence", the representative of the Norwegian Red Cross, referring to the document prepared by the Swiss Authorities, emphasized the advantages of restricting the granting of a special status to a certain category of civil defence personnel. The Philippine Red Cross submitted

the conclusions reached by a group of legal experts whom it had consulted on the subject and stressed the need for non-military civil defence. Finally, the British Red Cross representative pointed out a slight divergence between the ICRC's Report and the resolution submitted by the Swiss Red Cross on the point under discussion and expressed the hope that, in view of the complexity of the problem, the ICRC would pursue more widely its consultations with Governments.

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Minutes of Meetings held on Tuesday, 3rd September, 1963

Addendum to the Minutes of the first two Meetings held on Monday,  
September 2nd, 1963

P.1. para. 3:

Add: "Mr. Seevaratnam, Assistant Director of the Development Programme, was also nominated to act as Secretary for the Commission."

P.2. para. 2:

In front of the word "Yugoslav", add the words "Czechoslovak and".

P.2. end of para. 6:

Add: "In conclusion, the representative of the League of Red Cross Societies recalled the importance of the rôle played by the National Societies and their Federation in the event of natural disasters, a rôle made possible by international solidarity but which could not be replaced by civil defence. He further expressed the wish that the Resolution of the Swiss Red Cross should also provide for consultation with experts from National Societies".

### Morning Session, (Tuesday, 3rd September)

On resumption of its deliberations, the Commission took up the examination of the draft resolution relating to the application of the Geneva Conventions by the United Nations. The Rapporteur read and commented on the text prepared by the Special Drafting Group. The ICRC fully endorsed the text, whilst at the same time suggesting the addition of a further consideration relating to the undertaking of States party to the Geneva Conventions to ensure their respect in all circumstances. With this additional clause, the Resolution (Document DD/2/4) was unanimously adopted.

The Commission then proceeded to study Item 3(b) of the Agenda, i.e. Status of Personnel of Civil Defence Services. The representative of the Swiss Red Cross commented upon the Resolution, emphasized the main arguments for the granting of special status to civil defence services and commented on the Resolution submitted by the Society with a slight modification taking account of the observations made by the British Red Cross.

This Resolution was then put to the meeting for debate. It received full support from several delegations whereas others, whilst approving of the Resolution in principle, wished the Committee to continue its consultations on a wider scale and to bear in mind the complexity of the problem. Finally one delegation, that of the Netherlands, considered that the question did not fall within the competence of the Red Cross but saw no objection to its being referred to Governments. The ICRC representative explained why, in preparing a first draft of Rules with the assistance of experts, the ICRC had considered that active co-operation from only a limited number of Governments was adequate, but stated that the Committee would give careful consideration to the recommendation which had been made concerning the widening of its consultations and the inclusion therein of the personnel of National Societies who, while not incorporated in the civil defence services, gave assistance to civilian victims of armed conflicts.

Following discussion on this point a vote on the Swiss Resolution was deferred until the afternoon, so that delegates might have before them the amended version.

The Commission then proceeded to consider Item 3(c) "Protection of Civil Medical and Nursing Personnel". Mr. Schoenholzer presented the report which the ICRC had submitted to the Council of Delegates on this question, and general discussion followed. The Netherlands Red Cross representative explained that the reason his Society was opposed to the Draft Rules prepared by the ICRC was that it considered that it was not for the Red Cross to concern itself with relations between doctors and the Authorities; it was moreover illogical to institute another sign, and the Draft Rules were liable to remain a dead letter. He therefore tabled a Resolution under the terms of which the ICRC draft would simply be referred back for further study with the assistance of Government experts.

On the other hand, the other delegates who spoke approved the Draft Rules in principle. The Norwegian Red Cross emphasized the need to grant full protection to medical personnel not covered by the Geneva Conventions. The representative of the Australian Red Cross described the approach made in Australia to the National Medical Association with a view to obtaining approval of the staff of Aesculapius, and recalled, as proof of the need for the protection under discussion, the experiences of Red Cross medical teams in the Congo. In the view of the representative of the South African Red Cross the adoption of the staff of Aesculapius would in short serve to protect the Red Cross emblem, but the most important point, in regard to both the Red Cross and the new sign, was that they should be made as widely known as possible so that they were recognised by everyone. Finally, the Yugoslav Red Cross representative reminded the meeting of the work being carried out by the International Law Association in this field and of the liaison which existed between this organisation and the ICRC.

Afternoon Session (Tuesday, 3rd September)

After Mr. Sierdet (ICRC) had pointed out with regard to the comments of the Netherlands Red Cross representative that the ICRC in its Draft Rules only aimed at safeguarding the interests of victims and not those of doctors, the Commission began its study of the actual Draft Rules submitted by the ICRC; Mr. Schoenholzer explained and commented on each of the provisions. The representative of the British Red Cross indicated that in his country Rules 1 to 6 had met with full approval, but that this was not so for the emblem of the staff of Aesculapius. The Canadian and Ceylon Red Cross Societies also stressed the difficulty of adopting this staff. The Swiss Red Cross on the other hand expressed the wish that this emblem should only have a provisional character whilst waiting for Governments to agree on extending the sign of the red cross to other categories of civilians. The ICRC representative took the opportunity of emphasizing that the Draft Rules did not aim at creating a new protective emblem but merely at standardizing the distinctive sign of the medical and para-medical professions.

At the end of the discussion two draft resolutions were laid before the Commission: that of the Netherlands delegation and that of the ICRC, inviting the International Committee to continue with the study of the problem and make a report to the next International Conference of the Red Cross (Document DD/3/5). The Netherlands delegation withdrew its resolution as that of the ICRC had been amended to bring it into line with the wishes of this delegation (the problem to be studied if possible in cooperation with Government experts). With this amendment the ICRC resolution was unanimously adopted.

The Commission was then called upon to vote on the final text of the draft resolution submitted by the Swiss Red Cross on the subject of the Status of Civil Defence personnel (Doc. DD/3b/4). This resolution was approved with one vote against and two abstentions.

A draft resolution (Doc. DD/3a,b,c/3) was submitted by the Red Cross Societies of Latin America. As this resolution dealt at the same time with several items of the Agenda, the Chairman pointed out that it was difficult to consider it and that he would get in touch with its authors. As regards the resolution (Doc. DD/3/4) submitted by the Argentine Red Cross, its author would be asked to get in touch with the ICRC on this subject.

The Commission then took up the study of item 4 of its Agenda "Protection of Victims of non-international Conflicts". Mr. Sierdet (ICRC) presented the report which the ICRC had submitted to the Council of Delegates on this item.

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#### MINUTES

Session on Wednesday morning, 4th September

At the opening of the session, the Commission heard a declaration by the representative of the Alliance of Red Cross and Red Crescent Societies of U.S.S.R. who, with the permission of the Chairman, reverted to item 3 as a whole, and more particularly to indiscriminate warfare. His Society was opposed to all regulations which could make nuclear warfare, in any form whatsoever, lawful. In present world conditions war could be prevented, and everything should be done to prohibit nuclear weapons, since only a total ban on such arms could constitute the most effective protection of civilian populations. Taking note of this declaration, the Chairman recalled that the Red Cross had expressed its opinion in several resolutions regarding non-directed and mass destruction weapons.

The Commission then reverted to item 4 (Victims of non-international conflicts) and there was general discussion of the report submitted by the ICRC, which had been presented the previous day by Mr. Siordet.

The representative of the German Red Cross in the Federal Republic of Germany congratulated the ICRC on its report and stressed the importance of this question. He did not entirely agree with the experts' opinion on the respective authority of National Societies and the ICRC in cases of internal conflict since, in his opinion, the actual nature of the ICRC enabled it to be still more neutral. He would also like to know from the ICRC just how far Red Cross work could be extended to the consequences of internal conflicts, which could last much longer than the actual conflict.

The representative of the Philippine Red Cross described the conclusions of a group of lawyers his Society had consulted on this point. These conclusions had been distributed to the members of the Commission. The representatives of the Pakistan and British Red Cross Societies also had certain reservations to make on the role of National Societies in the matter under consideration. The former was of the opinion that the task of the Red Cross Societies was primarily to make known in peace-time the principles to be drawn from this movement; the latter made reservations regarding the obligation of governments to accept the ICRC offers of service and the advisability of an international organisation determining when it was a question of armed conflict.

These observations led the Chairman to point out that National Societies could only be really effective in internal conflict if they were completely independent and autonomous, according to Red Cross principles.

After having pointed out that the views of the experts set forth in the ICRC report only represented their opinion the representative of the ICRC presented a draft resolution requesting the ICRC to continue its efforts for the extension of humanitarian aid to victims of non-international conflicts, and recommending National Societies to support these in their respective countries. This draft resolution was unanimously approved.

The Commission went on to examine item 5 of its agenda "Draft Regulation on the use of the emblem of the red cross by National Societies". Mr. Schoerholzer (ICRC) introduced this report at length referring to the Prague resolution and to the reasons and purpose of this work. A general discussion took place on this question.

The representative of the Yugoslav Red Cross stressed the difficulties and complexity. In their endeavours to regulate the use of this emblem, the Red Cross and in particular the ICRC find themselves faced with two rather contradictory requirements. On one hand the use of the emblem should be restricted to maintain its full value; on the other hand, the tendency to extend the use of the emblem replied to the desires of National Societies and the expansion of Red Cross activities. The draft rules rather sacrificed other considerations to the first requirement, since they were based mainly on the Geneva Conventions and the clear distinction they made between war and peace. However, there were conflicts in the world today where such a distinction was no longer so valid, thus justifying some extension in the use of the emblem particularly to those giving first aid. In any event, a sufficiently flexible interpretation of the proposed regulations seemed desirable.

The delegations of the British and American Red Cross Societies were of the opinion that these rules might have an influence on national legislation; they should therefore not be approved without the agreement of governments even if, as the ICRC representative had specified, they were established within the framework the provisions of the Geneva Conventions, which themselves were at the basis of national laws on the use of the emblem. In reply to the representative of the Norwegian Red Cross, who recalled that in his Society the use of the armlet by nurses was a longstanding tradition which it would be difficult to relinquish the ICRC representative pointed out that the draft rules advised against the use of the armlet in peacetime; the National Societies nevertheless remained free to do what they thought best in this respect. But, if they allowed their members to wear the armlet in peacetime, they should in advance take the necessary steps for it to be withdrawn in the event of an armed conflict.

Finally there was a short discussion on the results of examining these rules. Some hesitated to "approve" the draft even if it only constituted a temporary measure pending final approval, which could only be given by the International Conference. It was suggested that the Commission confine itself to "accepting" the draft. It was decided to revert to the matter in the afternoon after studying the actual terms of the draft rules.



Session on Wednesday afternoon, 4th September

After the morning's general discussion the Commission took up the detailed study of the draft rules and the principles involved; Mr. Schoenholzer commented on each of the main points. The League Secretary General confirmed that the Federation of National Societies had taken an active part in drafting these rules; he informed the meeting of the various reactions of National Societies notified to the League. Generally speaking, the latter were aware of the need to prevent abuses and standardise its use to some extent; account should, however, be taken of established traditions, attachment to certain uses and the difficulty of submitting varied use to over strict rules.

The Norwegian Red Cross wished to know the exact meaning of the sentence relating to the armband at the end of principle No 2. In the light of this comment by the Norwegian representative, the ICRC delegate proposed drafting this sentence as follows: "The wearing of the red cross armband, which is exclusively a protective sign, is not advised". The Yugoslav Red Cross considered that the second paragraph should be revised or deleted. However, as the ICRC representative recalled, this paragraph was in line with a provision of the Geneva Conventions and, furthermore, the words "as a general rule" in the text freed the rule from any too binding character.

The Commission then studied the rules themselves, the ICRC representative having pointed out that their conception was very flexible and that they represented rather the most that could be admitted in the use of the emblem. National Societies were therefore free to restrict their application if they so wished.

With regard to rule No 2, the Guatemalan representative expressed the wish that honorary members also be mentioned. In reply it was explained that the rules concerning active or non-active members also applied to honorary members. The South African Red Cross suggested replacing the word "brooch" in rules 1 and 2 by "brooch, lapel button or tie-pin" to take account of its own and others' custom. This amendment was referred to this ICRC with the request to bear it in mind.

With regard to rule 5, the French Red Cross representative advised great caution in permitting members of affiliated Societies to display the emblem.

A discussion ensued concerning the exact meaning of the second paragraph of rule 7 relating to the name of the National Society on buildings which are its own property; it was finally decided to delete this paragraph which might lead to confusion, since the question was already sufficiently covered in the other rules on this subject.

With regard to rule 15, the British Red Cross found it somewhat in contradiction with rule 5. It was therefore decided to make it clearer

than at present that rule 15 was intended for entirely independent organisations, whereas rule 5 referred to Societies which came under the International Red Cross.

In connection with rule 17, the South African Red Cross proposed that National Societies might also use the emblem during transportation of relief supplies being sent to victims of armed conflicts or natural disasters. This addition was unanimously accepted.

In reply to a question from the Philippine Red Cross for specification of the authorities referred to in rules 22 and 24, the ICRC representative emphasised that in the Geneva Conventions themselves it had been preferred simply to use the term "the authorities".

The Commission then voted on the resolution presented by the ICRC, to which three amendments had been suggested: add at the end of the first paragraph "as amended by the International Humanitarian Law Commission"; in the second paragraph replace "approves" by "accepts"; finally, in the third paragraph, following the suggestion of the French Red Cross, add after "as far as possible" "and on an experimental basis".

The resolution as amended was unanimously approved.

In conclusion, the representative of the Norwegian Red Cross, warmly thanked the Chairman in the name of the Commission for the manner in which he had led the discussions. The Chairman in turn thanked the delegates and stressed the value of the work done by the ICRC, the reports of which had to a large extent provided a basis for the discussions of the Commission.

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